



United Nations
Educational, Scientific and
Cultural Organization

Right to

EDUCATION

Comparative analysis

**UNESCO Convention against
Discrimination in Education and Articles
13 and 14 (Right to Education) of the
International Covenant on Economic,
Social and Cultural Rights**

**UNESCO Convention against Discrimination
in Education (1960) and Articles 13 and 14
(Right to Education) of the International Covenant
on Economic, Social and Cultural Rights:
A comparative analysis**

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Published in 2006
by the United Nations
Educational, Scientific and Cultural Organization
7 place de Fontenoy, 75352 Paris 07 SP, France

(ED-2006/WS/28)

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The Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on Monitoring of the Right to Education in its Second Meeting in May 2004 stated that both the *International Covenant on Economic, Social and Cultural Rights (ICESCR)* and the *Convention against Discrimination in Education (CADE)* needed to be carefully examined in a comparative perspective. This should be guided by the General Comments and the Revised Guidelines of CESCR used for monitoring work and the new guidelines for monitoring the implementation of CADE. The Joint Expert Group noted that 83 States are parties to both the CADE and the ICESCR. There is thus the risk of overlaps in the work of the Committees (CESCR and CR) as well as of the States parties' reports. It was therefore suggested that a document, "which brings out the common features as well as differences in CADE and ICESCR along with a chart of equivalent provisions and the States which are parties to both CADE and ICESCR" be prepared. The present document on the comparative analysis of Articles 13 and 14 of the Covenant and the Convention has accordingly been elaborated.

INTRODUCTION

The right to education is an internationally recognized right. It is an integral part of UNESCO's constitutional mandate. The Constitution of UNESCO expresses the belief of its founders in "*Full and equal opportunities for education for all*" (emphasis added). UNESCO's Convention against Discrimination in Education (CADE, 1960),¹ the first instrument in the field of the right to education², is of prime importance among a number of standard-setting instruments adopted by UNESCO in the field of education, which develop the right to education in its various dimensions.

The right to education is provided for in many standard-setting instruments, ranging from the Universal Declaration of Human Rights³ itself to various conventions, declarations, recommendations, frameworks and programmes of action. Among the United Nations instruments, the *International Covenant on Economic, Social and Cultural Rights* (ICESCR, 1966)⁴ is of special importance. Article 13 of the Covenant drafted at the suggestion of UNESCO's Director-General, covers the right to education comprehensively. The States Parties to the Covenant recognize the right of everyone to education.

The CADE and the ICESCR lay down the international legal obligations for the right to education and serve the same end: the promotion and development of the right of every person to education, without discrimination or exclusion. These instruments bear evidence to the great importance that Member States attach to normative action for realizing this right.

In order to clarify similarities and differences of these two treaties, containing provisions relating to the right to education, the present document compares them by an analysis in three parts. The first part deals with the scope of and the provisions relating to the right to education in the CADE and in Article 13 of the ICESCR; the second part analyses the reporting procedures and monitoring mechanisms; finally, in the third part, questions related to their more effective implementation with a focus on Education for All (EFA) are discussed. Some of the issues that can render the monitoring of the right to education more effective are highlighted by way of conclusions.

1. Henceforth referred to as the CADE.

2. The text of the Convention and the Recommendation, of the General Comment 13 on Article 13 (right to education) of the International Covenant can be consulted on the UNESCO website on the Right to Education.

3. The right to education was proclaimed by the Universal Declaration of Human Rights, adopted by the General Assembly of the United Nations on December 10, 1948. In the Article 26 (1), the Universal Declaration provides 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."

4. Henceforth, referred to as ICESCR.

This comparative analysis emphasizes the areas of synergies and shared interests, and aims to contribute to a better understanding of complementarity as well as contrast between the CADE and Article 13 of the ICESCR.

BACKGROUND

UNESCO Convention against Discrimination in Education (1960)

Standard-setting has always played an important role in UNESCO's activities. Instruments elaborated by UNESCO in the field of education⁵ have their genesis in UNESCO's constitutional mandate for the right to education. In these normative texts, the fundamental principle of equal educational opportunities occupies a prominent place. The Convention against Discrimination in Education (CADE), which occupies the foremost place among UNESCO's normative instruments in the field of education, develops the fundamental principles of non-discrimination and equality of educational opportunities into international norms.

Adopted on 14 December 1960 by the General Conference of UNESCO, the CADE⁶ entered into force on 22 May 1962. As of 31 December 2005, 91 States have adhered to the Convention.

Provisions contained in Article 4 of the Convention relate both to Article 13 of the ICESCR and the Dakar Framework for Action. Article 4 enjoins upon the States Parties to the Convention the obligation to: "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."

International Covenant on Economic, Social and Cultural Rights (1966)

The ICESCR was adopted and opened for signature, ratification and accession by General Assembly resolution 2200 A (XXI) of 16 December 1966, following almost 20 years of drafting debates. It entered into force on 3 January 1976. Articles 13 and 14 of the ICESCR are clearly more comprehensive than other

5. These instruments can be presented mainly in 2 categories: the first is that of the standard-setting instruments having binding force, since they are adopted and ratified by the Member States. The second is that of the standard-setting instruments which, if they do not have binding force, are nevertheless assertive for the States because they embody political and moral authority, which endows them with almost obligatory nature. They often constitute a step toward the formulation of binding instruments and to the creation of customary law.

6. The General Conference also adopted a Recommendation against Discrimination in Education on that same date. Its content is practically the same as that of the Convention. One of the reasons for adopting a recommendation was to enable some States (such as Federal States) to join in the struggle against discrimination whereas they might not be in a position to ratify a convention. The original title of the Convention was ultimately changed in the final version to express clearly the desire to *combat* discrimination. See in this connection the title of the draft contained in document UNESCO/ED/167, Add.1, Annex 2 and the remark contained in document UNESCO/ED/DISC/5 Rev., p. 3.

provisions of the ICESCR. Article 13 of the Covenant has been interpreted as being the most comprehensive article on the right to education.

As of 17 February 2005, 152 States had ratified the Covenant thereby undertaking to implement its norms and provisions.⁷

7. The Covenant contains some of the most significant international legal provisions establishing economic, social and cultural rights, including rights relating to work in just and favourable conditions, to social protection, to an adequate standard of living, to the highest attainable standards of physical and mental health, to education and to enjoyment of the benefits of cultural freedom and scientific progress, and as overlapping provisions, non-discrimination and equal rights of men and women.

PART I

Provisions relating to the Right to Education in the CADE and Article 13 of the ICESCR: A comparative perspective

The CADE provides for the right to education, with a focus on the fundamental principle of equality of educational opportunities. Article 13 of the ICESCR contains provisions similar to those of the CADE. Yet, there are some essential differences in these two instruments.

This chapter deals with the principal features of the right to education, and how they are guaranteed in the text of the CADE and Articles 13 and 14 of the ICESCR.

1.1. Essential features of the Right to Education

The right to education is a fundamental human right. It occupies a central place in human rights and is essential and indispensable for the exercise of all other human rights and for development. None of the civil, political, economic and social rights can be exercised by individuals unless they have received a certain minimum education.

Essential features of the right to education are delineated by the General Comment 13 on the Right to Education (Article 13 of the ICESCR), which was elaborated by the United Nations Committee on Economic, Social and Cultural Rights (CESCR) in cooperation with UNESCO in 1999. This General Comment enounces four essential elements of the right to education: availability, accessibility, acceptability and adaptability.⁸

(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;

(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 in fact, without discrimination on any of the prohibited grounds;

8. General Comment 13 on the right to education (Article 13 of the Covenant), adopted by the Committee on Economic, Social and Cultural Rights at its twenty-first session in 1999. E/C. 12/1999/10, 2 December 1999 (par. 1).

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;

(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;

(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.⁹

When considering the appropriate application of these “interrelated and essential features”, the best interests of the learner shall be a primary consideration.

1.1.1. The Scope of the Right to Education

Both, the CADE and Article 13 of the ICESCR, enumerate essential features of the right to education in a comprehensive manner. Their formulation and the ambit of the right to education covered by both these instruments are comparable, since, as mentioned before, Article 13 of the ICESCR on the right to education was drafted at the suggestion of UNESCO’s Director General. However, a comparative analysis of the provisions in both treaties also shows a number of differences.

► The Scope of the CADE

The CADE refers to the Universal Declaration of Human Rights. It pursues the twin objectives of proscribing any form of discrimination in education and of promoting equality of opportunity and treatment for all in that field, while respecting the diversity of national education systems.

Non-discrimination is essential since it enables disadvantaged or vulnerable groups to benefit equally from the right to education, and here, great obstacles have to be overcome, since there are cultural and sociological constraints that cannot be overlooked and need to be taken into account.

The CADE is the result of a lengthy process involving a great deal of work and numerous studies carried out some years beforehand. A detailed analysis of the scope and significance of the Convention is provided by the Commentary on the Convention.¹⁰

9. Ibid.

10. See *Right to Education: commentary on the Convention against Discrimination in Education, adopted on 14 December 1960 by the General Conference of UNESCO*, Y. Daudet and P.M. Eisemann, UNESCO, Paris, 2005.

The CADE prohibits any “discrimination” or inequality of treatment in education of any kind. It specifies that organizing separate education for the two sexes should not be deemed to constitute discrimination, if the study courses are the same or equivalent and the teaching staff and premises are of comparable quality. Similarly, separate education systems may be established for religious or linguistic reasons if they apply the same principle of equivalence, and participation in them remains optional and is left to the free choice of the interested parties. Private education may coexist with education provided by the public authorities, if the object is not to secure the exclusion of any group but to provide educational facilities in addition to those provided by the public authorities. These principles having been established, the States that have ratified the Convention (and no reservations are permitted) must, under their obligation to execute its provisions, take all necessary domestic legislative and regulatory measures to abrogate any texts that are contrary to the Convention and adopt those that bring their legislation into line with the Convention. Articles 3 and 4 offer the necessary guidelines for this purpose by indicating the measures to be taken in the matters of school fees, the granting of scholarships and other forms of assistance, standards of education, etc. Non-discrimination also has to do with a very important principle of freedom, that of the right of parents to choose for their children the educational establishment of their choice when there exist institutions other than those maintained by the public authorities, and the right to ensure, in a manner consistent with the procedures followed in the State for the application of its legislation, the religious and moral education of their children. And lastly, it has to do with the educational rights of minorities.

► *The Scope of Article 13 of the ICESCR*

The ICESCR states the overall objective of “achieving the full realization of this right” to education.

Article 13 (1) of the ICESCR provides that “the States parties to the present Covenant recognize the right of every one to education”. The Covenant establishes the right of every one to primary education, free of cost.

Article 13 of the ICESCR contains comprehensive provisions on the right to education. The General Comment 13 on the Right to Education, mentioned above, elucidates scope and implementation of the right to education. It refers to several UNESCO’s standard-setting instruments, notably the Convention against Discrimination in Education and the World Declaration on Education for All. It elaborates the obligations of the State.

1.1.2. State Obligations relating to the Right to Education under the CADE and Article 13 of the ICESCR

The right to education, like all human rights, imposes three types or levels of obligations on States parties: the obligations to respect, protect and fulfil.

The obligation to respect requires States parties to avoid measures that hinder or prevent the enjoyment of the right to education. The obligation to protect requires States parties to take measures that prevent third parties from interfering with the enjoyment of the right to education. In turn, the obligation to fulfil incorporates both an obligation to facilitate and an obligation to provide. Thus, the obligation to fulfil (facilitate) requires States to take positive measures that enable and assist individuals and communities to enjoy the right to education. Besides, States parties also have an obligation to fulfil (provide) the right to education.

► Under the CADE

Founded upon the two fundamental principles of non-discrimination and equality of opportunity, the Convention lays down several obligations the nature of which varies depending on whether they are related to one or the other of those principles. Article 3¹¹ accordingly sets forth precise obligations to counter discrimination; Article 4,¹² is aimed at the progressive achievement of equality of opportunity and defines the goals and different stages of national policy-making as a function of the level of education. Thus, Article 4 lays down the scope of the right to education.

11. In order to eliminate and prevent discrimination within the meaning of this Convention, the States Parties thereto undertake:

- (a) To abrogate any statutory provisions and any administrative instructions and to discontinue any administrative practices which involve discrimination in education;
- (b) To ensure, by legislation where necessary, that there is no discrimination in the admission of pupils to educational institutions;
- (c) 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;
- (d) Not to allow, in any form of assistance granted by the public authorities to educational institutions, any restrictions or preference based solely on the ground that pupils belong to a particular group;
- (e) To give foreign nationals resident within their territory the same access to education as that given to their own nationals.

12. Article 4 of the Convention provides that “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”.

► Under the ICESCR

The scope of the right to education, laid down by this Article is comparable to that laid down by the Article 4 of the CADE. General Comment 13 on Article 13 of the ICESCR¹³ gives a clear interpretation on this point, and clarifies the State obligations:

(2) (a) The right to primary education: As formulated in Article 13 (2) (a), primary education has two distinctive features: it is “compulsory” and “available free to all”.¹⁴

(2) (b) The right to secondary education: According to Article 13 (2) (b), 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”. The phrase “generally available” signifies, firstly, that secondary education is not dependent on a student’s apparent capacity or ability and, secondly, that secondary education will be distributed throughout the State in such a way that it is available on the same basis to all. The phrase “every appropriate means” reinforces the point that States parties should adopt varied and innovative approaches to the delivery of secondary education in different social and cultural contexts.

“Progressive 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.

(2) (c) The right to higher education: The third and most significant difference between Article 13 (2) (b) and (c) is that while secondary education “shall be made generally available and accessible to all”, higher education “shall be made equally accessible to all, on the basis of capacity”. According to Article 13 (2) (c), higher education is not to be “generally available”, but only available “on the basis of capacity”.

13. Besides, Article 26 of the Universal Declaration of Human Rights, Articles 28-30 of the *Convention on the Rights of the Child* and Article 10 of the *Convention on the Elimination of All Forms of Discrimination against Women* (1979) also cover specific dimensions of the right to education.

14 For the Committee’s observations on both terms, see paragraphs 6 and 7 of the General Comment 11 (1999), Plans of action for primary education (Article 14): the United Nations Committee on Economic, Social and Cultural Rights (CESCR), Geneva, 26 April-14 May 1999. 10/05/99. E/C.12/1999/4.

6. *Compulsory*. 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. Similarly, the prohibition of gender discrimination in access to education, required also by Articles 2 and 3 of the Covenant, is further underlined by this requirement. It should be emphasized, however, that the education offered must be adequate in quality, relevant to the child and must promote the realization of the child’s other rights.

7. *Free of charge*. The nature of this requirement is unequivocal. 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. Their elimination is a matter, which must be addressed by the required plan of action. 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. Other indirect costs may be permissible, subject to the Committee’s examination on a case-by-case basis. This provision of compulsory primary education in no way conflicts with the right recognized in Article 13 (3) of the Covenant for parents and guardians “to choose for their children schools other than those established by the public authorities”.

It is noteworthy that the CADE uses the term “individual capacity”, rather than “capacity”. The “capacity” of individuals should be assessed by reference to all their relevant expertise and experience.

[...] As already observed, the obligations of States parties in relation to primary, secondary, higher and fundamental education are not identical. Given the wording of Article 13 (2), States parties are obliged to prioritize the introduction of compulsory, free primary education. This interpretation of Article 13 (2) is reinforced by the priority accorded to primary education in Article 14. The obligation to provide primary education for all is an immediate obligation of all States parties.

In relation to Article 13 (2) (b)-(d), a State party has an immediate obligation “to take steps” (Article 2 (1)) towards the realization of secondary, higher and fundamental education for all those within its jurisdiction. At a minimum, the State party is required to adopt and implement a national educational strategy, which includes the provision of secondary, higher and fundamental education in accordance with the Covenant. This strategy should include mechanisms, such as indicators and benchmarks on the right to education, by which progress can be closely monitored.

Such obligations are characteristic of the CADE as well. While the ICESCR provides for progressive realization and acknowledges the constraints due to the limits of available resources, it also imposes on States parties various obligations which are of immediate effect. States parties have immediate obligations in relation to the right to education, such as the “guarantee” that the right “will be exercised without discrimination of any kind” (Article 2 (2)) and the obligation “to take steps” (Article 2 (1)) towards the full realization of Article 13. Such steps must be “deliberate, concrete and targeted” towards the full realization of the right to education.

The realization of the right to education over time, that is “progressively”, should not be interpreted as depriving States parties’ obligations of all meaningful content. Progressive realization means that States parties have a specific and continuing obligation “to move as expeditiously and effectively as possible” towards the full realization of Article 13.

In relation to Article 13 (2), States have obligations to respect, protect and fulfil each of the “essential features” (availability, accessibility, acceptability, adaptability) of the right to education. By way of illustration, a State must respect the availability of education by not closing private schools; protect the accessibility of education by ensuring that third parties, including parents and employers, do not stop girls from going to school; fulfil (facilitate) the acceptability of education by taking positive measures to ensure that education is culturally appropriate for minorities and indigenous people, and of good quality for all; fulfil (provide) the adaptability of education by designing and providing resources for curricula, which

reflect the contemporary needs of students in a changing world; and fulfil (provide) the availability of education by actively developing a system of schools, including building classrooms, delivering programmes, providing teaching materials, training teachers and paying them domestically competitive salaries.

1.2. Similarities and differences

1.2.1. Similarities: common provisions of the CADE and the ICESCR (Articles 13 and 14)

Both the CADE and the ICESCR express objectives of education laid down in the Universal Declaration of Human Rights (Article 26) (Table I).

Table I: Objectives of Education

Article 5 of the Convention against Discrimination in Education	Article 13 of International Covenant on Economic, Social and Cultural Rights
<p>1. The States Parties to this Convention agree that:</p> <p>(a) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms; it shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.</p>	<p>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.</p>

As regards similarities between the CADE and the ICESCR, they are noteworthy with respect to the substantive content of the right to education. Article 4 of the CADE and the clause 2 of Article 13 contain similar provisions (see Table II), however, provisions of Article 4 are formulated in terms of State obligations whereas, the provisions of clause 2 of Article 13, although also designed as State obligation, put the emphasis on achieving the full realization of this right.

As regards similarities, it may also be pointed out that both the CADE and the ICESCR recognize the liberty of parents to choose the education of their children (see Table III).

Table II: Specific Legal Obligations

<p>Article 4 of the Convention against Discrimination in Education</p>	<p>Article 13 of International Covenant on Economic, Social and Cultural Rights</p>
<p>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:</p> <ul style="list-style-type: none"> (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. 	<p>2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:</p> <ul style="list-style-type: none"> (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.

Table III: The Right to Educational Freedom

<p style="text-align: center;">Article 5 of the Convention against Discrimination in Education</p>	<p style="text-align: center;">Article 13 of the International Covenant on Economic, Social and Cultural Rights</p>
<p>The States Parties to this Convention agree that:</p> <p>1. (b) It is essential to respect the liberty of parents and, where applicable, of legal guardians, firstly to choose for their children institutions other than those maintained by the public authorities but conforming to such minimum educational standards as may be laid down or approved by the competent authorities and, secondly, to ensure in a manner consistent with the procedures followed in the State for the application of its legislation, the religious and moral education of the children in conformity with their own convictions; and no person or group of persons should be compelled to receive religious instruction inconsistent with his or their conviction.</p> <p>(c) 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 however:</p> <p>(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 and from participating in its activities, or which prejudices national sovereignty;</p> <p>(ii) That the standard of education is not lower than the general standard laid down or approved by the competent authorities; and</p> <p>(iii) That attendance at such schools is optional.</p>	<p>3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.</p> <p>4. No part of this Article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph I of this Article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.</p>

Article 4 of the Convention, described as a “framework text”, defines the goals and the different stages of national policy-making as a function of the level of education (primary, secondary and higher). National policy must ensure free and compulsory primary education. For the other levels, States have lesser obligations. Secondary education must be accessible to all; higher education must be also accessible, but on the basis of individual capacity. Those different objectives simply take up those laid down in less precise terms in Article 26 (1) of the Universal Declaration of Human Rights.

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. A State party has no obligation to fund institutions established in accordance with Article 13 (3) and (4); however, if a State elects to make a financial contribution to private educational institutions, it must do so without discrimination on any of the prohibited grounds.

Article 5, paragraph 1(b) and (c) relates to the choice of schools by parents, religious education and the right of members of national minorities to engage in educational activities and in the management of schools.

General Comment 13 on Article 13 of the ICESCR interprets this right to educational freedom as follows:

Article 13 (3) has two elements, one of which is that States parties undertake to respect the liberty of parents and guardians to ensure the religious and moral education of their children in conformity with their own convictions.

The Committee is of the view that this element of Article 13 (3) permits public school instruction in subjects such as the general history of religions and ethics, if it is given in an unbiased and objective way, respectful of the freedoms of opinion, conscience and expression. It notes that public education that includes instruction in a particular religion or belief is inconsistent with Article 13 (3) unless provision is made for non-discriminatory exemptions or alternatives that would accommodate the wishes of parents and guardians.

The second element of Article 13 (3) is the liberty of parents and guardians to choose other than public schools for their children, provided that the schools conform to “such minimum educational standards as may be laid down or approved by the State”. This has to be read with the complementary provision, in Article 13 (4), which affirms “the liberty of individuals and bodies to establish and direct educational institutions”, provided the institutions conform to the educational objectives set out in Article 13 (1) and certain minimum standards. These minimum 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).

Under Article 13 (4), everyone, including non-nationals, has the liberty to establish and direct educational institutions. The liberty also extends to “bodies”, i.e. legal persons or entities. It includes the right to establish and direct all types of educational institutions, including nurseries, universities and institutions for adult education. 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.

The importance of the prohibition against discrimination enshrined in the CADE is recognized in the General Comment 13 on Article 13 of the ICESCR.

The adoption of temporary special measures intended to bring about *de facto* equality for men and women and for disadvantaged groups is not a violation of the right to non-discrimination with regard to education, so long as such measures do not lead to the maintenance of unequal or separate standards for different groups, and provided that they are not continued after the objectives for which they were taken have been achieved.

In some circumstances, separate educational systems or institutions for groups defined by the categories in Article 2 (2) shall be deemed not to constitute a breach of the Covenant. In this regard, the Committee affirms Article 2 of the UNESCO Convention against Discrimination in Education (1960).

The Committee takes note of Article 2 of the Convention on the Rights of the Child and Article 3 (e) of the UNESCO Convention against Discrimination in Education and confirms that the principle of non-discrimination extends to all persons of school age residing in the territory of a State party, including non-nationals, and irrespective of their legal status.

Sharp disparities in spending policies that result in differing qualities of education for persons residing in different geographic locations may constitute discrimination under the Covenant.

States parties must 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.

1.2.2. Differences: provisions unique to the CADE and Article 13 of the ICESCR

As regards differences between both instruments, it is important to mention that the CADE in Article 5 clause (c) contains specific provisions relating to rights of members of national minorities. The Article 13 of the ICESCR does not contain such a provision specifically, but its Article 2 (2) contains an umbrella provision, covering the same issue.

Another comparable perspective is provided in the provisions of Article 4 (c) of the CADE and clause (d) of Article 13. The CADE provides for continuation of education of those who have not completed “primary” education whereas Article 13 (d) of the Covenant provides for encouraging the “*fundamental education*” of those who did not receive primary education. It may be mentioned that the notion of fundamental education is akin to that of basic education.

The CADE lays down the obligation of States to “assure compliance by all with the obligation to attend school prescribed by law” (Article 4 (a)). It enjoins upon the States Parties to it “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*".¹⁵ Thus, the Convention provides for the State an obligation for expanding educational opportunities to all those who remain deprived of primary education. Respecting the diversity of national education systems, the Convention protects the educational rights of national minorities.

► *Provisions unique to the CADE*

⇒ *Prohibition on reservation (Article 9):*

Article 9 of the CADE provides that "Reservations to this Convention shall not be permitted".

⇒ *Definition of Discrimination*

The CADE provides the following definition of discrimination:

"For the purposes of this Convention, 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 and in particular:

- (a) Of depriving any person or group of persons of access to education of any type or at any level;
- (b) Of limiting any person or group of persons to education of an inferior standard;
- (c) Subject to the provisions of Article 2 of this Convention, of establishing or maintaining separate educational systems or institutions for persons or groups of persons; or
- (d) Of inflicting on any person or group of persons conditions which are incompatible with the dignity of man". (Article 1 (1)).

The ICESCR also guarantees non-discrimination and lays down grounds, similar to those in the CADE, on which discrimination is prohibited.¹⁶

⇒ *Definition of Education*

A distinguishing feature of the CADE is that it provides a definition of 'Education': "For the purposes of this Convention, the term 'education' refers to all types and levels of education, and includes access to education, the standard and quality of

15. Article 4 (C) of the Convention.

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

education, and the conditions under which it is given” (Article 1 (2)). This is indeed a very broad definition and the concerns in EFA relating to standards and quality as well as conditions under which education is imparted are specifically mentioned.

The CADE enjoins upon the States parties the obligation to “assure compliance by all with the obligation to attend school prescribed by law” (Article 4 (1)).

⇒ *Educational Rights of National Minorities*

The CADE provides for the “rights of members of national minorities”. In Article 5 (1) (c), it provides that “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 however:

- (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 and from participating in its activities, or which prejudices national sovereignty;
- (ii) That the standard of education is not lower than the general standard laid down or approved by the competent authorities; and
- (iii) That attendance at such schools is optional”.

The principle of equality of opportunity and of national treatment is enshrined in the CADE, which prohibits discrimination between foreign nationals and nationals.

► *Provisions unique to Article 13 of the ICESCR*

A unique feature of the ICESCR is that it mentions “fundamental education”, in the context of continuing education of those who could not finish their primary school education.

Another significant difference between the ICESCR and the CADE is that whereas the ICESCR mentions “material conditions of teaching staff”, the CADE mentions “teacher training”.

⇒ *Technical and Vocational and Secondary Education*

As regards the right to secondary education, ICESCR recognizes the right to such education “in its different forms, including technical and vocational secondary education”. (Article 13 (2) b). As regards the secondary and higher education, it provides that such education shall be made generally available and accessible to all, on the basis of capacity, by every appropriate means, and “in particular by the progressive introduction of free education” (Article 13 (2) b & c). Thus, the thrust of the provisions of Article 13 of

the Covenant is on access to education, whereas the thrust of the provisions of the CADE is on non-discrimination and the equality of educational opportunities.

⇒ *Fellowship System*

The ICESCR provides that “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” (Article 13 (2) e). Thus, the States parties to the ICESCR are obliged to ensure that an educational fellowship system is in place to assist disadvantaged and marginalized groups. The obligation to pursue actively the “development of a system of schools at all levels” reinforces the principal responsibility of States parties to ensure the direct provision of the right to education in most circumstances.

1.3. Violations of the Right to Education and Remedies

As soon as a convention has been ratified, accepted or acceded to in sufficient numbers to enable it to enter into force, it ultimately becomes binding on the State that has adhered to it. Once incorporation procedures have been completed, it can be brought into force within that State’s internal order.¹⁷

In that case, the beneficiary of the right established by the Convention can use every available legal means to secure compliance: recourse to law courts, for instance, where the judge ultimately has the power to examine whether there is a breach of the States’ legal obligations, and to come to a decision. Declarations, Recommendations, Charters and Frameworks for action are not binding and have only declaratory character. They are not subject to ratification. However, States and governments adopting these declarations and recommendations also subscribe to moral commitments. These instruments clearly state their intention to implement them, even though there are no legal penalties for non-compliance. Furthermore, they may by customary law become recognized as laying down rules binding upon States.

These considerations apply both to the CADE and the ICESCR.

When the normative content of Article 13 (Part I) of the ICESCR is applied to the general and specific obligations of States parties (Part II), a dynamic process is set in motion, which facilitates identification of violations of the right to education. Violations of Article 13 may occur through the direct action of States parties (acts of commission) or through their failure to take steps required by the Covenant (acts of omission).

17. General Comment 13 on the right to education (Article 13 of the Covenant), opt. cit, paragraph 58-59.

By way of illustration, violations of Article 13 include: the introduction or failure to repeal legislation which discriminates against individuals or groups, on any of the prohibited grounds, in the field of education; the failure to take measures, which address *de facto* educational discrimination; the use of curricula inconsistent with the educational objectives set out in Article 13 (1); the failure to maintain a transparent and effective system to monitor conformity with Article 13 (1); the failure to introduce, as a matter of priority, primary education, which is compulsory and available free to all; the failure to take “deliberate, concrete and targeted” measures towards the progressive realization of secondary, higher and fundamental education in accordance with Article 13 (2) (b)-(d); the prohibition of private educational institutions; the failure to ensure private educational institutions conform to the “minimum educational standards” required by Article 13 (3) and (4); the denial of academic freedom of staff and students; the closure of educational institutions in times of political tension in non-conformity with Article 4.

PART II

Reporting Procedures and Monitoring Mechanisms

In order that the right to education is fully implemented, the obligations undertaken by Member States must be incorporated into national legal systems and fulfilled in fact. The States parties to both the CADE and the ICESCR have reporting obligations. It is important to compare existing monitoring mechanisms at UNESCO as well as at the United Nations

2.1. Monitoring Mechanisms

To ensure the implementation of standard-setting instruments, UNESCO and the United Nations have their own systems of monitoring. The discussions in the second meeting of the Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on Monitoring of the Right to Education, organized in May 2004, related to identifying the core issues in a spirit of bringing the two reporting systems closer. Given the fact that there are 83 States which are parties to both the CADE and the ICESCR, concern was expressed about the risk of overlapping in the work of the CESCR and the Committee on Conventions and Recommendations (CR) as well as for the States parties. There was a consensus that although some overlaps exist, the CADE and the ICESCR in essence are different. Rather than examining the reports submitted by Member States on the implementation of the CADE individually, the current practice of the CR is to examine a synthesis report prepared by the UNESCO Secretariat. The reporting procedure on the implementation of the CADE has a general nature with a focus on the global status of implementation of the CADE in the world rather than examining individual State reports, while the reporting procedure on the ICESCR is an individual one, focused on the State party and the status of the implementation of the Covenant provisions. Despite these differences, the experts agreed that there are possible ways to make intelligent use of both procedures and the correspondent information with regard to the right to education.

This chapter compares the functioning of monitoring bodies of the CADE and the ICESCR respectively, and the recent trend of collaboration between the two organs and its significance.

2.1.1. UNESCO Committee on Conventions and Recommendations (CR)

Monitoring the implementation of its conventions and recommendations is UNESCO's institutional obligation. Article VIII of UNESCO's Constitution enounces:

“Each Member State shall submit to the Organization, at such time and in such manner as shall be determined by the General Conference, reports on laws, regulations and statistics relating to its educational scientific and cultural institutions and activities, and on the action taken upon the recommendations and conventions [...]” The periodic reports submitted by States have the effect of informing the Organization, and therefore all the States of the international community, of the measures they have taken domestically to fulfil their obligations under the instruments.

In order to realize this constitutional mission, UNESCO has set up the CR, a subsidiary organ of UNESCO’s Executive Board. The CR is entrusted with the mandate to monitor the implementation of standard-setting instruments adopted by UNESCO. It therefore monitors the implementation of the Convention against Discrimination in Education and other recommendations adopted by UNESCO in the field of education.¹⁸

⇒ *Composition*

CR is composed of 30 Member States, elected from among the Members of UNESCO’s Executive Board. The members of CR are elected in their official capacity and they are ex officio the members of the Executive Board – they represent their country and are not members in their individual capacity. They can also be replaced personally since they represent the Member States. Their term is coterminous with that for the Executive Board, that is, four years at present.

⇒ *Working Methods*

CR meets normally twice a year during the session of the Executive Board. As a subsidiary organ of the Executive Board, it meets immediately preceding the beginning of the session of the Executive Board.

CR has the mandate to consider all questions relating to the implementation of UNESCO’s standard-setting instruments that are entrusted to it by the Executive Board, including Member States’ periodic reports on the implementation of conventions and recommendations.

18. The Committee on Conventions and Recommendations (CR) was originally conceived as “a Special Committee ... to examine the reports of Member States on the implementation of the Convention and Recommendation against Discrimination in Education” (71 EX/Decision 3.2). With this as its initial mandate, it was established originally as the Special Committee on Discrimination in Education (75 EX/Decision 6.II). Its name was changed as the “Committee on Conventions and Recommendations in Education” - CRE - (82 EX/Decision 4.2.4), when at its 82nd session, under item 4.2.4 ‘Implementation of the Recommendation concerning the Status of Teachers’, the Executive Board decided to entrust to it the task of examining the reports of the joint ILO-UNESCO Committee of Experts on the application of this Recommendation. The CRE was renamed the Committee on Conventions and Recommendations (CR) when the Executive Board at its 104th session decided to broaden its mandate (104 EX/Decision 3.3) for consideration of communications received by UNESCO concerning cases and questions of alleged violations of human rights within UNESCO’s fields of competence. While so doing, the Executive Board decided, “the Committee will continue to carry out its functions with respect to conventions and recommendations (...).” Thus, CR came to be entrusted with two tasks: 1) to consider all questions relating to the implementation of UNESCO’s standard-setting instruments that are entrusted to it by the Executive Board, including Member States’ periodic reports on the implementation of conventions and recommendations; 2) to examine communications relating to cases and questions concerning the exercise of human rights in UNESCO’s field of competence.

UNESCO conducts periodic consultation of Member States on the implementation of the Convention and the Recommendation against Discrimination in Education (1960). The periodic reports that States are asked to submit have the effect of informing UNESCO, and therefore all the States in the international community, of the measures they have taken domestically to fulfil their obligations under the conventions to which they are parties. Thus, to make it more effective, States Parties to CADE must give information in their periodic reports to the UNESCO General Conference on the legislative and administrative provisions, which they have adopted and other action, which they have taken for the application of the Convention.

The consultations of Member States take place in several stages. The General Conference decides to ask Member States to submit reports (Article VIII of UNESCO's Constitution, Article 7 of the *Convention against Discrimination in Education* and Article 7 of the *Convention on Technical and Vocational Education*), whereupon Guidelines are prepared and sent out to Member States, which are given a deadline for replying. On the basis of the Reports received from Member States, the Secretariat prepares and presents to the CR an analytical report. After having examined this report, CR makes recommendations to the Executive Board, which are examined and approved by the Executive Board and transmitted to the General Conference. The General Conference sets out its observations, recommendations and decisions in a resolution. The process of reporting and monitoring at UNESCO is cumulative, that is, all the States report on the measures taken for the implementation of the Convention at the same time and only one analytical summary report is examined once every six years.

It is thus that as a result of the sixth periodic consultations of Member States, the CR examined the analytical report (document 156 EX/21)¹⁹ and recommended to the Executive Board a draft decision, which was adopted by the Executive Board. The General Conference adopted 30 C/Resolution 15 in 1999 after having examined the analytical summary report. In this decision, the General Conference invited Member States to intensify the exchange of information accumulated within the sixth consultation, and also invited the Director-General to study, with a view to the seventh consultation and in cooperation with the United Nations, the possibility of creating a coherent mechanism for reporting on and monitoring the right to education as it is set down in various United Nations conventions on human rights.

19. "Examination of the Reports and Responses Received in the Sixth Consultation of Member States on the Implementation of the Convention and Recommendation against Discrimination in Education" (document 156 EX/21), UNESCO, Paris.

UNESCO has recently launched the seventh consultation of Member States on the Implementation of the Convention and the Recommendation. The seventh consultation covers a six-year (2000-2005) period. For this purpose, UNESCO's Executive Board approved the Guidelines at its 171st session in April 2005. In elaborating these Guidelines, relevant Guidelines of the United Nations system²⁰ especially those of the CESCR have been taken into consideration. This is intended to facilitate integrating the reporting obligations of the States Parties to the CADE and those of the States Parties to the ICESCR (Articles 13 and 14 on the right to education) and reducing the state burden in reporting. Moreover, the General Comment 13 on the Right to Education, elaborated by CESCR in cooperation with UNESCO, which elucidates such obligations, was taken into consideration.

Recognizing the CADE as a key pillar in the EFA process, the debate in CR underlined the importance of fundamental principles of non-discrimination and equality of educational opportunities, as enshrined in UNESCO's Constitution.

2.1.2. United Nations Committee on Economic, Social and Cultural Rights (CESCR)

Most of the United Nations bodies concerned with human rights in general provide for continuing supervision of the realization of international human rights standards under a general system of periodic review of information received from all reliable sources, including reports from Member States, intergovernmental and non-governmental organizations, and communications alleging violations of human rights and thus of the right to education.

The CESCR monitors compliance by States parties with their obligations under the ICESCR and the level of implementation of the rights in question. This includes the right to education as provided for in Articles 13 and 14. The CESCR works on the basis of many sources of information - reports submitted by States parties, information from United Nations specialized agencies and information received from non-governmental and community-based organizations working in State, which has ratified the Covenant, from international human rights and other non-governmental organizations, and from generally available literature.

⇒ Composition

CESCR consists of 18 independent experts who are nominated by States and then voted by ECOSOC to serve for a four-year term. The members of CESCR are independent experts acting in their personal capacities and are not governmental representatives

20. Compilation of Guidelines on the Form and Content of Reports to be submitted by States Parties to the International Human Rights Treaties, HRI/GEN/2/Rev.1, 9 May 2001.

The election is arranged in such a way that membership reflects equitable geographical distribution. Most committee experts are senior members of their national communities with long experience of economic, social and cultural rights issues.

⇒ *Working Methods*

CESCR meets normally twice a year – in May and in November each year.

The working methods of CESCR were examined at an Informal Meeting of 21 May 2001. Virginia Dandan, Chairperson of CESCR in her statement explained these methods which deserve to be quoted integrally:

“[...] Every five years, each State party is obliged to submit a report to the Committee. These reports cover all the rights in the Covenant and they explain what the State is doing to implement the right to education, the right to participate in cultural life, and so on.

The Committee sets aside 1 to 1.5 days to consider the report, in public session, with the State. The State usually sends a delegation from the capital to discuss the report with Committee members. The delegation is often headed by a Minister and may number fifteen or more governmental representatives. Committee members ask the delegation questions; the delegation does its best to reply. We have a “constructive dialogue”. The Committee’s over-arching role is to help the State better implement its legally binding obligations under the Covenant.

At the end of this public process, the Committee goes into private session and agrees what is called “Concluding Observations” about the State. Once agreed in private among Committee members, these Concluding Observations are then made public. The Observations give credit to the State for any progress it has made. They acknowledge the obstacles the State is encountering for example the introduction of a structural adjustment program. They identify the Committee’s particular concerns for instance low-levels of literacy or discrepancies between primary school enrolment rates for girls and boys. And they make sensible recommendations and suggestions.²¹

21. For example, in its most recent session, the Committee considered the reports of five States, including Bolivia, Honduras and Venezuela. Following the constructive dialogue with the Bolivian delegation, the Committee adopted forty-eight Concluding Observations regarding Bolivia, including the following:

The Committee recommends that the State party gives priority to education in its budget, establishes literacy programs for adults, in particular in the rural areas, and makes efforts to increase the school attendance levels of children under the age of nine. In this regard, the State party is urged to implement a comprehensive National Education for All Plan, as anticipated by paragraph 16 of the Dakar Framework of Action, taking into account the Committee’s General Comments numbers 11 and 13. (paragraph 44)

Similar recommendations were adopted in relation to Honduras and Venezuela. In its Concluding Observations on Honduras, the Committee specifically added:

The State party is also encouraged to seek technical advice and assistance from UNESCO in relation to both the formulation and implementation of its EFA Plan. (paragraph 51)

A similar recommendation was adopted in relation to Venezuela.

Five years after the Committee’s constructive dialogue and the adoption of its Concluding Observations, the cycle repeats itself, enabling the Committee to check the progress made by the State in question. [...]”.

Table IV: Composition and Working Methods of the CR and the CESCR

	The Committee on Conventions and Recommendations (CR)	UN Committee on Economic, Social and Cultural Rights (CESCR)
Composition	30 Member States from among members of UNESCO’s Executive Board (They are not independent experts)	18 independent experts from different regions, elected by ECOSOC on the basis of candidatures submitted by Government
Working Methods	Two meetings annually, during which monitoring the implementation of UNESCO’s standard-setting instruments is debated in general. CR does not examine reports individually but at the appropriate meeting as and when required, it examines only Analytical Reports prepared by the Secretariat. However, the reports are communicated as appropriate to CESCR. CR makes recommendations to the Executive Board. The Executive Board endorses the recommendations and transmits them to the General Conference. Decisions on Analytical Report are thus transmitted to the Executive Board and then to the General Conference.	Two meetings annually. Examines all State Reports. CESCR schedules examination of reports and issue for consideration on which the States parties provide written replies. After a constructive dialogue with the State party on its report, the CESCR adopts Concluding Observations and transmits them to the State party. UNESCO disseminates these Concluding Observations at Headquarter and in its Field Offices for follow up.

2.2. Monitoring the Right to Education: Complementarity in the Work of the CESCR and UNESCO

UNESCO has already started sharing with the CESCR the Reports submitted to the Organization by Member States on the implementation of the CADE, along with information relating to the implementation of UNESCO’s other pertinent normative instruments relating to the right to education, in appreciation of their relevance to the constructive dialogue CESCR maintains with the State Parties while monitoring the implementation of the ICESCR. What is crucial from UNESCO’s perspective is that the monitoring role of CESCR covers

the right to education,²² as set out in Articles 13 and 14 of the ICESCR. Both UNESCO and CESCR have shared concerns and common objectives in promoting this right. The General Comment 13 on Article 13 (right to education)²³ of the ICESCR bears evidence to this.

Resolution 30 C/Resolution 15, mentioned above, covers the entire ambit of the monitoring of the right to education. The question of “creating a coherent mechanism” of monitoring the right to education is indeed complex. An Informal Expert Consultation on Monitoring the Right to Education, conducted by UNESCO on 23 March 2001, examined various aspects of this question.

The collaboration between CR and CESCR affords the opportunity to examine these questions in a mutually reinforcing spirit. An exchange of ideas and experiences could enable both these Committees to “identify areas of common concern” so that they could “do collaborative and complementary work”. Such a dialogue is very valuable. It could initiate the process of examining this question for developing practical approaches and mutually reinforcing working methods in monitoring the implementation of the right to education in all its dimensions.

The CESCR attaches importance to the follow up to the Dakar Framework for Action, acknowledging that it “corresponds with major preoccupations” of the Committee – implementation of Articles 13 and 14 of the International Covenant. What is commendable is that since the World Education Forum (April 2001), the CESCR has begun to ask State Parties while examining their country reports, whether or not they are preparing National Education Plans of Actions anticipated by the Dakar Framework and how they propose to implement these Plans. Monitoring the implementation of the Dakar Framework for Action in its nexus with the CADE, would be mutually enriching, especially as the fundamental principles of equality of opportunity and non-discrimination are common to both of them.

22. Article 16 (1) of the ICESCR provides that “The State Parties to the present Covenant undertake to submit in conformity with this part of the Covenant reports on the measures which they have adopted and the progress made in achieving the observance of the rights recognized herein”. Article 17 (3) of the Covenant further provides that “Where relevant information has previously been furnished to the United Nations or to any specialized agency by any State Party to the present Covenant, it will not be necessary to reproduce that information, but a precise reference to the information so furnished will suffice”.

23. This General Comment states: “In general terms, fundamental education corresponds to basic education as set out in the World Declaration on Education For All”. It makes reference in several places to the UNESCO’s Convention against Discrimination in Education (1960) and contains several provisions relating to non-discrimination in the field of education.

2.3. UNESCO and CESCR: Framework of Relations - Articles 16 and 17 of the ICESCR

As a Specialized Agency,²⁴ UNESCO has a co-operative role to play in its fields of competence in facilitating the implementation of the provisions of the Covenant. UNESCO's Medium Term Strategy (2002-2007) is aimed at transforming the right to education from an ideal to reality. With that end in view, strengthening collaboration with the CESCR is an asset for UNESCO.

As mentioned above, UNESCO collaborated with CESCR in the elaboration in 1999 of the General Comment 13 on Article 13 (Right to Education) of the ICESCR. As this General Comment shows, CESCR fully shares with UNESCO the importance of eliminating discrimination in education in all its forms and manifestations, especially for promoting access to education and equality of opportunity. This General Comment draws on UNESCO's experience and states at the outset: "Education is both a human right in itself and an indispensable means of realizing other human rights". It makes reference in several places to the CADE, as also to UNESCO's other normative instruments, such as the *World Declaration on Education for All* (1990). Moreover, it contains several provisions relating to non-discrimination in education and lays emphasis on accessibility. It provides that "educational institutions and programs have to be accessible to everyone, without discrimination, within the jurisdiction of the State party [...]", especially the most vulnerable groups, including non-nationals, and irrespective of their legal status. The General Comment 13 contains provisions on positive measures and affirmative action.

Thus, the implementation of the CADE and the ICESCR is monitored respectively by the CR and by the CESCR. Common objectives and shared concerns have resulted in the collaboration between UNESCO and the CESCR to promote the Right to Education. Recognition of the importance of the follow up to the World Education Forum (2000) is a common feature of such collaboration.

24. Article 16: (1) The States Parties to the present Covenant undertake to submit in conformity with this part of the Covenant reports on the measures which they have adopted and the progress made in achieving the observance of the rights recognized herein. (2) (a) All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit copies to the Economic and Social Council for consideration in accordance with the provisions of the present Covenant; (b) The Secretary-General of the United Nations shall also transmit to the specialized agencies copies of the reports, or any relevant parts therefrom, from States Parties to the present Covenant which are also members of these specialized agencies in so far as these reports, or parts therefrom, relate to any matters which fall within the responsibilities of the said agencies in accordance with their constitutional instruments.

Article 17: (1) The States Parties to the present Covenant shall furnish their reports in stages, in accordance with a programme to be established by the Economic and Social Council within one year of the entry into force of the present Covenant after consultation with the States Parties and the specialized agencies concerned; (2) Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Covenant; (3) Where relevant information has previously been furnished to the United Nations or to any specialized agency by any State Party to the present Covenant, it will not be necessary to reproduce that information, but a precise reference to the information so furnished will suffice.

In this respect, the Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on the Monitoring of the Right to Education, created by UNESCO's Executive Board at its 162nd session in September – October 2001 plays an important role. The Joint Expert Group has accorded high priority to the foundations of the right to education in national legal systems.

PART III

Monitoring the Implementation of the Right to Education with a Focus on Education for All (EFA) - Complementarity in the Work of CR and CESCR

The Convention against Discrimination in Education and the right to education as provided for in Article 13 and in particular Article 14 of the International Covenant on Economic, Social and Cultural Rights are closely related to the objectives set at the World Education Forum (2000)²⁵ where the international community gave a renewed commitment to Education for All (EFA) and reaffirmed education as a fundamental human right.

As it was mentioned during the meeting on the Right to Education and the Follow up to the World Education Forum, organized by CESCR, in co-operation with UNESCO in May 2002,²⁶ the State obligation for providing basic education for all, undertaken at the World Education Forum, must be viewed as part of the obligations under international law (pertaining to the right to education) as contained in international instruments. The discussion enabled to explore the ways and means of linking more closely the Dakar Framework for Action with the international instruments relating to the right to education, especially the provisions of Articles 13 and 14 of the ICESCR. Furthermore, it underlined the importance of how the State obligations relating to the right to education under the ICESCR as well as under the Dakar Framework for Action should be reflected in national legal systems and how the constitutional and legislative bases of the right to education can be reinforced. Its importance was recognized in the resolution 2004/25 on the Right to Education, adopted by the Commission on Human Rights in 2004, which “recalls the holding by the Committee on Economic and Social Rights in May 2002, in cooperation with the United Nations Educational, Scientific and Cultural Organization, of a follow-up meeting to the general discussion of the Committee on the right to

25. The *World Declaration on Education for All: Meeting Basic Learning Needs* (1990) provided a new vision for education and gave impetus to normative action in Member States. The authors of the Declaration have expressed their determination to “act jointly” to achieve Education for All (EFA) goals, asserting that “education is a fundamental right for all people, women and men, of all ages, throughout our world”. In its Preamble, the Declaration recognizes “the necessity to give to present and coming generations an expanded vision of, and a renewed commitment to, basic education to address the scale and complexity of the challenge [providing basic education for all]”.

26. See Meeting organized in cooperation with UNESCO on the follow up to the Committee’s Day of General Discussion on the Right to Education (art. 13 and 14 of the Covenant) and the World Education Forum (Dakar, April 2000), in Report on the Twenty-Eighth and Twenty-Ninth Sessions of the Committee on Economic, Social and Cultural Rights – Economic and Social Council, Official Records, 2003 Supplement No. 2, United Nations, New York and Geneva, 2003 (E/2003/22 EC.12/2002/13, pp. 75-84).

education held in November 1998, as well as to the World Education Forum, held in Dakar in April 2000”.

3.1. Education for All (EFA): Integral Part of UNESCO’s Constitutional Mission

Education for All (EFA) is an integral part of UNESCO’s constitutional mission. As mentioned in the introduction, the *World Education Forum* imparted further dynamism to achieving the right to basic education for all. The *Dakar Framework for Action* clearly re-affirms the vision “that all children, young people and adults have the human right to benefit from an education that will meet their basic learning needs [...]”.

3.1.1. The CADE as a key pillar in EFA process

The CADE has been recognized by the Executive Board as a key pillar in the context of EFA process.²⁷ With respect to the implementation of the right to education and the CADE, UNESCO’s Medium-Term Strategy 2002-2007 stipulates that “particular emphasis will be placed on ensuring that education becomes truly inclusive, in particular by effectively reaching the unreached – especially the poor, women and girls, rural populations, minorities, refugees and countries or populations victims of disasters and people with special needs” (paragraph 62). An Article by the Director-General in 2003 on “The Right to Education: Supporting efforts towards Education for All”²⁸ focuses on better fulfilling UNESCO’s constitutional mandate to support full and equal opportunities in education.

This is reflected in the *Guidelines for the Preparation of Reports for the Seventh Consultation of Member States on the Implementation of the Convention and the Recommendation against Discrimination in Education* (1960).²⁹ Special consideration has been given to education for all (EFA) as UNESCO’s high priority in these Guidelines, which furnish necessary indications for the preparation of the State reports (covering the period 2000-2005). These Guidelines refer to the decision 6.2 taken by UNESCO’s Executive Board in October 2002 and request Member States to indicate as to how the measures taken towards the implementation of the Convention/Recommendation contribute to EFA as UNESCO’s priority. In this respect, the Guidelines mention the provisions in UNESCO’s Medium Term Strategy (2002-2007) with respect to the implementation of the Convention, which stipulates that “education becomes truly inclusive, in particular by effectively reaching the unreached – especially the poor,

27. 170 EX/Decision 6.3, taken by the Executive Board in October 2004, and 171 EX/Decision 28, taken by the Executive Board in April 2005, UNESCO, Paris.

28. Koïchiro Matsuura, “The Right to Education: supporting efforts towards education for all”, *The Parliamentarian* 2003/Issue Three, volume LXXXIV (pp. 269-272).

29. These Guidelines, prepared by UNESCO’s Secretariat and examined by the Committee on Conventions and Recommendations, were approved by the Executive Board in April 2005 (171 EX/Decision 28).

women and girls, rural populations, minorities, refugees and countries or populations victims of disasters and people with special needs.”

3.1.2. Articles 13 and 14 of the ICESCR and the EFA Process

Under the Covenant, the obligation of the State is broad - the obligation to respect, protect and fulfil. General Comment 13 on the right to education (Article 13 of the Covenant) lays emphasis on how the States are duty-bound to implement the provisions enshrined in the Covenant (Article 13) and refers to the *World Declaration on Education for All: Meeting Basic Learning Needs* (1990). Just as the Dakar Framework for Action, Article 13 of the Covenant provides for the right to receive free and compulsory primary education, which should be made available to every one, and enjoins upon the State parties to the Covenant the obligation for its progressive realisation. This obligation has been interpreted to be of a continuing nature, for moving as expeditiously and effectively as possible towards the realisation of this right and is of immediate effect.³⁰

3.2. Collaborative Efforts of UNESCO and CESCR in the EFA process: EFA National Action Plans and the General Comment 11 on Article 14 of the ICESCR

The governments, organizations, agencies, groups and associations represented at the World Education Forum, committed themselves “to the achievement of education for all (EFA) goals and targets for every citizen and for every society” (paragraph 1). In order to achieve the goals and objectives set at the World Education Forum,³¹ they pledged themselves to a strategy, *inter alia*, to “mobilize strong national and international political commitment for education for all, develop national action plans and enhance significantly investment in basic education” (paragraph 8 i). The Dakar Framework for Action expresses “a collective commitment to action. Governments have an obligation to ensure that EFA goals and targets are reached and sustained” (paragraph 2) and recognizes the importance of “political will and stronger national leadership” (paragraph 10). Clearly, the right to education as reaffirmed at the World Education Forum imposes an obligation upon States to ensure that citizens have opportunities to meet their basic learning needs.

What is significant is that the Dakar Framework for Action gives primacy to the national level action. This is very much akin to the spirit of Article 14 of the ICESCR relating to the right to education. It requires each State party, which has not been able to

30. General Comment 13 on the Right to Education - Article 13 of the ICESCR, opt. cit. (paragraphs 43-44).

31. These relate essentially to universalising access to good quality primary education for all, providing equitable access to basic and continuing education programmes, eliminating gender disparities in education, promoting education for all policies; and conducting educational programmes in ways that promote mutual understanding and peace.

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.

The Dakar Framework for Action stipulates the preparation of National EFA Action Plans in conformity with EFA goals and criteria. "These action plans need to be situated within a well-integrated sector framework and closely linked to poverty eradication and sustainable development strategies".³²

Preparation of a plan of action for achieving free primary education progressively is part of the State obligation under international law relating to the right to education. The General Comment 11 on the Article 14 of the International Covenant (right to education) adopted by the CESCR in 1999, is entitled *Plans of action for primary education*.³³ It states that "in spite of the obligations undertaken in accordance with Article 14, a number of States parties have neither drafted nor implemented a plan of action for free and compulsory primary education".³⁴ It recognizes that "many diverse factors have made it difficult for States parties to fulfil their obligation to provide a plan of action". Nevertheless, "in line with its clear and unequivocal obligation under Article 14, every State party is under a duty to present to the Committee a plan of action" (paragraph 3).³⁵ This General Comment, therefore, provides that "the State party is required to adopt a plan of action within two years. [...] The plan must cover all of the actions, which are necessary in order to secure each of the requisite component parts of the right and must be sufficiently detailed so as to ensure the comprehensive realization of the right" (paragraph 8). The Dakar Framework for Action stipulates that "political will and stronger national leadership are needed for the effective and successful implementation of national plans in each of the countries concerned" (paragraph 10). The General Comment 11 also underlines the importance of *progressive implementation*. "The plan of action must be aimed at securing the progressive implementation of the right to compulsory primary education, free of charge, under Article 14. [...] the plan must specifically set out a series of targeted implementation dates for each stage of the progressive implementation of the plan.

32. UNESCO's Approved Programme and Budget 2002-2003 (31 C/5, paragraph 01112), UNESCO, Paris.

33. Plans of action for primary education (art.14): E/C.12/1999/4, General Comment 11 (1999), the United Nations Committee on Economic, Social and Cultural Rights, Twentieth Session, Geneva, 26 April-14 May, 1999.

34. Ibid.

35. Ibid. "Plans of action prepared by States parties to the Covenant in accordance with article 14 are especially important as the work of the Committee has shown that the lack of educational opportunities for children often reinforces their subjection to various other human rights violations" (paragraph 4).

This underscores both the importance and the relative inflexibility of the obligation in question” (paragraph 10). As the Dakar Framework for Action puts it, “implementation of the preceding goals and strategies will require national, regional and international mechanisms to be galvanized immediately. [...] The functions of these mechanisms will include, to varying degrees, advocacy, resource mobilization, monitoring, and EFA knowledge generation and sharing”.³⁶ In this connection, it is pertinent to recall that the General Comment No. 11 mentioned above, stipulates that “participation of all sections of civil society in the drawing up of the plan is vital and some means of periodically reviewing progress and ensuring accountability are essential. Without those elements, the significance of the Article would be undermined”.³⁷

36. The Dakar Framework for Action (paragraph 15).

37. Ibid (paragraph 8).

Table V: EFA and the Right to Education: Interrelations between the provisions in the CADE, Article 14 of the ICESCR and the Dakar Framework for Action

Article 4 of the Convention against Discrimination in Education	Article 14 of International Covenant on Economic, Social and Cultural Rights	Dakar Framework for Action
<p>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:</p> <p>(a) To make primary education free and compulsory; make secondary education in its different forms generally available and accessible to all; (...) assure compliance by all with the obligation to attend school prescribed by law;</p> <p>(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;</p> <p>(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.</p>	<p>Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.</p>	<p>8. To achieve these goals, we the governments, organizations, agencies, groups and associations represented at the World Education Forum pledge ourselves to:</p> <p>(xi) systematically monitor progress towards EFA goals and strategies at the national, regional and international levels;</p> <p>9. Drawing on the evidence accumulated during the national and regional EFA assessments, and building on existing national sector strategies, all States will be requested to develop or strengthen existing national plans of action by 2002 at the latest. These plans should be integrated into a wider poverty reduction and development framework, and should be developed through more transparent and democratic processes, involving stakeholders, especially peoples' representatives, community leaders, parents, learners, non-governmental organizations (NGOs) and civil society. The plans will address problems associated with the chronic under-financing of basic education by establishing budget priorities that reflect a commitment to achieving EFA goals and targets at the earliest possible date, and no later than 2015. They will also set out clear strategies for overcoming the special problems facing those currently excluded from educational opportunities, with a clear commitment to girls' education and gender equity. The plans will give substance and form to the goals and strategies set out in this Framework, and to the commitments made during a succession of international conferences in the 1990s. Regional activities to support national strategies will be based on strengthened regional and sub-regional organizations, networks and initiatives.</p>

The dialogue CDESCR maintains with the States parties to the Covenant covers questions related to the follow-up to the World Education Forum such as how governments fulfil their primary responsibility in universalising primary/basic education; how political commitments undertaken at the World Education Forum are being translated into educational laws and policies, and how the Governments fulfil the right to basic education as a fundamental human right. Follow up to the World Education Forum has been a high priority for UNESCO. CDESCR also recognizes the right to basic education as a priority. This provides common grounds for enhanced collaboration between UNESCO and CDESCR. Thus, both the CADE and the ICDESCR play an important role in the realisation of EFA.

Conclusion

Some Key Issues

Towards More Effective Implementation of the CADE

The overriding concern of CR in its debates on its working methods in its recent sessions has been to make the monitoring more effective. Considerations pertaining to avoiding overlapping with the work of the United Nations treaty bodies, reducing the State burden in reporting and rationalizing monitoring mechanisms figure prominently in the debate. During the 171st session of the Executive Board, the CR examined its methods of work with a view to *strengthening of its mandate relating to the implementation of UNESCO's standard-setting instruments*. As regards cooperation between the CR and the other United Nations human rights bodies responsible for protecting human rights, the CR expressed the hope that such cooperation would be strengthened. In this context, UNESCO's collaboration with CESCR for complementarity in monitoring the implementation of the right to education is especially important. The implementation of the Convention and examination of reports by the CR could complement the work of CESCR.

These discussions have significant bearing on the mandate and the methods of work of the CR, and on the complementarity with the work of CESCR. Their importance with respect to normative action being promoted by UNESCO as a follow up to the CADE must be fully recognized.

This should be seen in the context of the reform process of the UN Treaty Bodies and developments towards a unified UN Treaty Body and a common core document as well as the creation of the proposed Human Rights Council for coordinating the procedures of reporting. Questions related to providing technical assistance to Member States for reporting, which figure in the process of reform of the UN Treaty Bodies, had been discussed by the CR during the session of the Executive Board in October 2002 and are reflected in 165 EX/Decision 6.2.

Providing Assistance to Member States in Meeting their Reporting Obligations

The question related to providing assistance to Member States in the preparation of reports has been debated in the recent sessions of the CR. The need for such assistance was already recognized by the CR in its debate during the 165th session of the Executive Board in October 2002 on the proposals on the conditions and procedures applicable to the examination of questions relating to the implementation of UNESCO's standard

setting instruments. The decision 6.2 adopted by the Executive Board as a result “calls upon the Secretariat to assist Member States in the preparation and follow-up of their periodic reports”. This decision also “reminds Member States to respect their legal obligations under the UNESCO Constitution concerning periodic reports on the follow-up to conventions and recommendations”.

UNESCO and the Office of the High Commissioner for Human Rights (OHCHR) could be requested to provide technical assistance, and UNESCO’s Field Offices could assist Member States in preparing the State Reports. However, in principle, the States Parties to the CADE should devote maximum available resources to education, considering education to be best investment. The collaboration between UNESCO and the United Nations, especially the UN Treaty Bodies, needed to be reinforced. States must keep in mind that under Article 2 (1) of the ICESCR,³⁸ UNESCO and the OHCHR could cooperate and provide technical assistance. Thus, there is a responsibility to seek and to give assistance. The solidarity principle of the UN system also comes into play here.

Strengthening the Foundation of the Right to Education in National Legal Systems

Monitoring the implementation of the CADE and of the Articles 13 and 14 on the right to education in the ICESCR should strengthen the foundations of the right to education in national legal systems – the constitutional and legal bases of this right – keeping in view the normative implications of the Dakar Framework for Action. In this respect, it is important to note that the fundamental principles of non-discrimination and of equality of educational opportunities, enshrined in the CADE, are given high importance in the course of technical assistance being provided by UNESCO for modernizing/developing national legislation in the field of education, especially related to the right to education as part of the Education for All (EFA) process. As a result, these principles are reflected in national legislation being developed in some countries with UNESCO’s assistance. This responds to the Recommendations of the High-Level Group on EFA (2002 and 2003).

Modernizing/developing national legislation is closely linked with the National EFA Plans and provides legal basis for advancing EFA. Review of normative action in areas such as provision for free, compulsory primary education, the status and training of teachers; institutional responses to lifelong learning; gender equity, equal opportunity in education for all, inclusive education as well as access to education by children in

38. “Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.” (Article 2 (1) of the International Covenant).

emergencies and difficult situations etc. is crucial in a spirit to ensure that they are in conformity with the goals and objectives set at the World Education Forum.

Defining Key Parameters of Discrimination and Equality of Educational Opportunities

The CADE, as mentioned earlier, defines 'Discrimination' to include "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 of nullifying or impairing equality of treatment in education" (Article 1 of the Convention). However, there is need for concrete elements to be identified for the purposes of monitoring the implementation of the CADE and ICESCR – what constitutes discrimination?

De facto discrimination in access to education, especially quality education because of the economic situation is a question of major concern. As the International Strategy to put the Dakar Framework for Action in Education for All into Operation (April 2002) states, "in a globalized world, it is not only unacceptable, it is dangerous to allow a situation of educational 'haves' and 'have-nots' to persist".

In this respect, the resolutions adopted by the Commission on Human Rights on the right to education recall the CADE and the ICESCR and affirm the States' obligations and the importance of the work of the monitoring bodies.³⁹ They recognize the interdependence between the CADE, the provisions of the Articles 13 and 14 on the right to education in the ICESCR and the EFA.⁴⁰ The resolution 2004/25 "urges all States: To give full effect to the right to education and to guarantee that this right is recognized and exercised without discrimination of any kind [...] Taking all necessary legislative measures to prohibit explicitly discrimination in education on the basis of race, colour, descent, national, ethnic or social origin, sex, language, religion, political or other opinion, property, disability, birth or other status which has the purpose or effect of nullifying or impairing equality of treatment in education" [...] It further urges States "to ensure progressively and on the basis of equal opportunity that primary education is compulsory, accessible and available free to all".

Issues relating to the elimination of legal and other obstacles for realising the right to education - increasing racial discrimination, economic exclusion, growing

39. The Resolutions 2003/19 and 2004/25 on the right to education, adopted by the Commission on Human Rights stipulate:

"Recalling [...] that everyone shall enjoy the human right to education, which is enshrined, [...] in the International Covenant on Economic, Social and Cultural Rights, [...],
Recalling further the Convention against Discrimination in Education [...], which prohibits any discrimination which has the purpose or effect of nullifying or impairing equality of treatment in education,
Welcoming the Dakar Framework for Action adopted at the World Education Forum held in Dakar in April 2000, and the goals agreed upon at its adoption [...]"

40. United Nations High Commissioner for Human Rights, The right to education, Commission on Human Rights: Resolutions 2002/23, 2003/19 and 2004/25.

poverty as well as the adverse impact of the privatisation of educational services in achieving EFA - and the State obligation to preserve education as a *common good* need to be addressed more effectively. As UNESCO's Medium-Term Strategy (2002-2007) stipulates, "UNESCO will further seek to engage Member States and new educational providers in a dialogue highlighting education as a public good and encourage all actors in the field of education to pay due regard in their undertakings to the need for equity, inclusion and social cohesion in today's societies".⁴¹ As regards the obligation for providing universal access to education, international level action must defend most basic forms of education public services concept.

Obligations of International Agencies in addition to those of the States Parties

Given Article 22 of the Covenant, the role of the United Nations agencies, including at the country level through the United Nations Development Assistance Framework (UNDAF), is of special importance in relation to the realization of Article 13. As General Comment 13 puts it, coordinated efforts for the realization of the right to education should be maintained to improve coherence and interaction among all the actors concerned, including the various components of civil society. UNESCO, the United Nations Development Programme, UNICEF, ILO, the World Bank, the regional development banks, the International Monetary Fund and other relevant bodies within the United Nations system should enhance their cooperation for the implementation of the right to education at the national level, with due respect to their specific mandates, and building on their respective expertise. In particular, the international financial institutions, notably the World Bank and IMF, should pay greater attention to the protection of the right to education in their lending policies, credit agreements, structural adjustment programmes and measures taken in response to the debt crisis. When examining the reports of States parties, the CESCR will consider the effects of the assistance provided by all actors other than States parties on the ability of States to meet their obligations under Article 13 of the International Covenant.⁴² The adoption of a human rights-based approach by United Nations specialized agencies, programmes and bodies will greatly facilitate implementation of the right to education.

⁴¹ UNESCO's Medium-Term Strategy 2002-2007, UNESCO, Paris, (31C/4, paragraph 62).

⁴² General Comment 13 on the right to education - Article 13 of the ICESCR, opt. cit. (paragraph 60).

Annex 1

Convention against Discrimination in Education adopted by the General Conference of UNESCO at its eleventh session, Paris, 14 December 1960

The General Conference of the United Nations Educational, Scientific and Cultural organization, meeting in Paris from 14 November to 15 December 1960, at its eleventh session,

Recalling that the Universal Declaration of Human Rights asserts the principle of non-discrimination and proclaims that every person has the right to education,

Considering that discrimination in education is a violation of rights enunciated in that Declaration,

Considering that, under the terms of its Constitution, the United Nations Educational, Scientific and Cultural Organization has the purpose of instituting collaboration among the nations with a view to furthering for all universal respect for human rights and equality of educational opportunity,

Recognizing that, consequently, the United Nations Educational, Scientific and Cultural Organization, while respecting the diversity of national educational systems, has the duty not only to proscribe any form of discrimination in education but also to promote equality of opportunity and treatment for all in education,

Having before it proposals concerning the different aspects of discrimination in education, constituting item 17.1.4 of the agenda of the session,

Having decided at its tenth session that this question should be made the subject of an international convention as well as of recommendations to Member States,

Adopts this Convention on the fourteenth day of December 1960.

Article 1

1. For the purposes of this Convention, 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 and in particular:

- (a) Of depriving any person or group of persons of access to education of any type or at any level;

- (b) Of limiting any person or group of persons to education of an inferior standard;
- (c) Subject to the provisions of Article 2 of this Convention, of establishing or maintaining separate educational systems or institutions for persons or groups of persons; or
- (d) Of inflicting on any person or group of persons conditions which are incompatible with the dignity of man.

2. For the purposes of this Convention, the term 'education' refers to all types and levels of education, and includes access to education, the standard and quality of education, and the conditions under which it is given.

Article 2

When permitted in a State, the following situations shall not be deemed to constitute discrimination, within the meaning of Article I of this Convention:

- (a) The establishment or maintenance of separate educational systems or institutions for pupils of the two sexes, if these systems or institutions offer equivalent access to education, provide a teaching staff with qualifications of the same standard as well as school premises and equipment of the same quality, and afford the opportunity to take the same or equivalent courses of study;
- (b) The establishment or maintenance, for religious or linguistic reasons, of separate educational systems or institutions offering an education which is in keeping with the wishes of the pupil's parents or legal guardians, if participation in such systems or attendance at such institutions is optional and if the education provided conforms to such standards as may be laid down or approved by the competent authorities, in particular for education of the same level;
- (c) The establishment or maintenance of private educational institutions, if the object of the institutions is not to secure the exclusion of any group but to provide educational facilities in addition to those provided by the public authorities, if the institutions are conducted in accordance with that object, and if the education provided conforms with such standards as may be laid down or approved by the competent authorities, in particular for education of the same level.

Article 3

In order to eliminate and prevent discrimination within the meaning of this Convention, the States Parties thereto undertake:

- (a) To abrogate any statutory provisions and any administrative instructions and to discontinue any administrative practices which involve discrimination in education;

- (b) To ensure, by legislation where necessary, that there is no discrimination in the admission of pupils to educational institutions;
- (c) 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;
- (d) Not to allow, in any form of assistance granted by the public authorities to educational institutions, any restrictions or preference based solely on the ground that pupils belong to a particular group;
- (e) To give foreign nationals resident within their territory the same access to education as that given to their own nationals.

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.

Article 5

1. The States Parties to this Convention agree that:

- (a) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms;
it shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace;

- (b) It is essential to respect the liberty of parents and, where applicable, of legal guardians, firstly to choose for their children institutions other than those maintained by the public authorities but conforming to such minimum educational standards as may be laid down or approved by the competent authorities and, secondly, to ensure in a manner consistent with the procedures followed in the State for the application of its legislation, the religious and moral education of the children in conformity with their own convictions; and no person or group of persons should be compelled to receive religious instruction inconsistent with his or their convictions;
- (c) 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 however:
 - (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 and from participating in its activities, or which prejudices national sovereignty;
 - (ii) That the standard of education is not lower than the general standard laid down or approved by the competent authorities; and
 - (iii) That attendance at such schools is optional.

2. The States Parties to this Convention undertake to take all necessary measures to ensure the application of the principles enunciated in paragraph 1 of this Article.

Article 6

In the application of this Convention, the States Parties to it undertake to pay the greatest attention to any recommendations hereafter adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization defining the measures to be taken against the different forms of discrimination in education and for the purpose of ensuring equality of opportunity and treatment in education.

Article 7

The States Parties to this Convention shall in their periodic reports submitted to the General Conference of the United Nations Educational, Scientific and Cultural Organization on dates and in a manner to be determined by it, give information on the legislative and administrative provisions which they have adopted and other action which they have taken for the application of this Convention, including that taken for the formulation and the development of the national policy defined in Article 4 as well as the results achieved and the obstacles encountered in the application of that policy.

Article 8

Any dispute which may arise between any two or more States Parties to this Convention concerning the interpretation or application of this Convention, which is not settled by negotiation shall at the request of the parties to the dispute be referred, failing other means of settling the dispute, to the International Court of Justice for decision.

Article 9

Reservations to this Convention shall not be permitted.

Article 10

This Convention shall not have the effect of diminishing the rights which individuals or groups may enjoy by virtue of agreements concluded between two or more States, where such rights are not contrary to the letter or spirit of this Convention.

Article 11

This Convention is drawn up in English, French, Russian and Spanish, the four texts being equally authoritative.

Article 12

1. This Convention shall be subject to ratification or acceptance by States Members of the United Nations Educational, Scientific and Cultural Organization in accordance with their respective constitutional procedures.
2. The instruments of ratification or acceptance shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Article 13

1. This Convention shall be open to accession by all States not Members of the United Nations Educational, Scientific and Cultural Organization which are invited to do so by the Executive Board of the Organization.
2. Accession shall be effected by the deposit of an instrument of accession with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Article 14

This Convention shall enter into force three months after the date of the deposit of the third instrument of ratification, acceptance or accession, but only with respect to those States which have deposited their respective instruments on or before that date. It shall enter into force with respect to any other State three months after the deposit of its instrument of ratification, acceptance or accession.

Article 15

The States Parties to this Convention recognize that the Convention is applicable not only to their metropolitan territory but also to all non-self-governing, trust, colonial and other territories for the international relations of which they are responsible; they undertake to consult, if necessary, the governments or other competent authorities of these territories on or before ratification, acceptance or accession with a view to securing the application of the Convention to those territories, and to notify the Director-General of the United Nations Educational, Scientific and Cultural Organization of the territories to which it is accordingly applied, the notification to take effect three months after the date of its receipt.

Article 16

1. Each State Party to this Convention may denounce the Convention on its own behalf or on behalf of any territory for whose international relations it is responsible.
2. The denunciation shall be notified by an instrument in writing, deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.
3. The denunciation shall take effect twelve months after the receipt of the instrument of denunciation.

Article 17

The Director-General of the United Nations Educational, Scientific and Cultural Organization shall inform the States Members of the Organization, the States not members of the Organization which are referred to in Article 13, as well as the United Nations, of the deposit of all the instruments of ratification, acceptance and accession provided for in Articles 12 and 13, and of the notifications and denunciations provided for in Articles 15 and 16 respectively.

Article 18

1. This Convention may be revised by the General Conference of the United Nations Educational, Scientific and Cultural Organization. Any such revision shall, however, bind only the States which shall become Parties to the revising convention.
2. If the General Conference should adopt a new convention revising this Convention in whole or in part, then, unless the new convention otherwise provides, this Convention shall cease to be open to ratification, acceptance or accession as from the date on which the new revising convention enters into force.

Article 19

In conformity with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretariat of the United Nations at the request of the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Done in Paris, this fifteenth day of December 1960, in two authentic copies bearing the signatures of the President of the eleventh session of the General Conference and of the Director-General of the United Nations Educational, Scientific and Cultural Organization, which shall be deposited in the archives of the United Nations Educational, Scientific and Cultural Organization, and certified true copies of which shall be delivered to all the States referred to in Articles 12 and 13 as well as to the United Nations.

The foregoing is the authentic text of the Convention duly adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization during its eleventh session, which was held in Paris and declared, closed the fifteenth day of December 1960.

IN FAITH WHEREOF we have appended our signatures this fifteenth day of December 1960.

The President of the General Conference

The Director-General

Annex 2

International Covenant on Economic, Social and Cultural Rights:

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

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

Article 14

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

Annex 3

States parties to the Convention against Discrimination in Education

As of 31 December 2005

	States	Date of deposit	Type of deposit
1	France	11/9/1961	Ratification
2	Israel	22/09/1961	Ratification
3	Central African Republic	22/02/1962	Acceptance
4	United Kingdom of Great Britain and Northern Ireland	14/03/1962	Acceptance
5	Egypt	28/03/1962	Acceptance
6	Liberia	17/05/1962	Ratification
7	Russian Federation	1/8/1962	Ratification
8	Cuba	2/11/1962	Ratification
9	Bulgaria	4/12/1962	Acceptance
10	Belarus	12/12/1962	Ratification
11	Ukraine	19/12/1962	Ratification
12	Norway	8/1/1963	Ratification
13	Kuwait	15/01/1963	Acceptance
14	New Zealand	12/2/1963	Ratification
15	Benin	9/7/1963	Acceptance
16	Costa Rica	10/9/1963	Ratification
17	Denmark	4/10/1963	Ratification
18	Argentina	30/10/1963	Ratification
19	Albania	21/11/1963	Ratification
20	Hungary	16/01/1964	Ratification
21	Romania	9/7/1964	Ratification
22	Poland	15/09/1964	Ratification
23	Lebanon	27/10/1964	Ratification
24	Mongolia	4/11/1964	Ratification
25	Philippines	19/11/1964	Acceptance
26	Guinea	11/12/1964	Acceptance
27	Madagascar	21/12/1964	Ratification
28	China ²	12/2/1965	Ratification

29	Malta	5/1/1966	Notification of succession
30	Netherlands	25/03/1966	Ratification
31	Italy	6/10/1966	Ratification
32	Australia	29/11/1966	Acceptance
33	Peru	19/12/1966	Ratification
34	Indonesia	10/1/1967	Acceptance
35	Sierra Leone	2/6/1967	Ratification
36	Panama	10/8/1967	Acceptance
37	Senegal	25/09/1967	Ratification
38	Sweden	21/03/1968	Ratification
39	Brazil	19/04/1968	Ratification
40	Viet Nam ³	12/6/1968	Ratification
41	Niger	16/07/1968	Acceptance
42	Iran (Islamic Republic of)	17/07/1968	Acceptance
43	Germany	17/07/1968	Ratification
44	Morocco	30/08/1968	Acceptance
45	Uganda	9/9/1968	Acceptance
46	Congo	16/09/1968	Ratification
47	Venezuela	16/12/1968	Ratification
48	Algeria	24/12/1968	Acceptance
49	Spain	20/08/1969	Acceptance
50	Tunisia	29/08/1969	Ratification
51	Nigeria	18/11/1969	Acceptance
52	Luxembourg	20/01/1970	Ratification
53	Cyprus	9/6/1970	Acceptance
54	Mauritius	20/08/1970	Notification of succession
55	Swaziland	8/10/1970	Acceptance
56	Finland	18/10/1971	Ratification
57	Chile	26/10/1971	Ratification
58	Libyan Arab Jamahiriya	9/1/1973	Ratification
59	Saudi Arabia	17/08/1973	Ratification
60	Barbados	24/06/1975	Notification of succession
61	Jordan	6/4/1976	Acceptance
62	Iraq	28/06/1977	Ratification
63	Dominican Republic	30/08/1977	Ratification
64	United Republic of Tanzania	3/1/1979	Ratification
65	Ecuador	5/3/1979	Acceptance
66	Portugal	8/1/1981	Ratification

67	Nicaragua	28/09/1981	Ratification
68	Solomon Islands	19/03/1982	Notification of succession
69	Belize	1/12/1982	Notification of succession
70	Guatemala	4/2/1983	Ratification
71	Dominica	14/03/1983	Notification of succession
72	Sri Lanka	11/8/1983	Acceptance
73	Saint Vincent and the Grenadines	22/01/1985	Notification of succession
74	Brunei Darusalaam	25/01/1985	Notification of succession
75	Croatia	6/7/1992	Notification of succession
76	Tajikistan	28/08/1992	Notification of succession
77	Georgia	4/11/1992	Notification of succession
78	Slovenia	5/11/1992	Notification of succession
79	Republic of Moldova	17/03/1993	Notification of succession
80	Czech Republic	26/03/1993	Notification of succession
81	Slovakia	31/03/1993	Notification of succession
82	Bosnia and Herzegovina	12/7/1993	Notification of succession
83	Armenia	5/9/1993	Notification of succession
84	Kyrgyzstan	3/7/1995	Acceptance
85	The former Yugoslav Republic of Macedonia	30/04/1997	Notification of succession
86	Uzbekistan	8/12/1997	Ratification
87	Côte d'Ivoire	24/11/1999	Ratification
88	South Africa	9/3/2000	Ratification
89	Rwanda	28/12/2000	Acceptance
90	Serbia and Montenegro	11/9/2001	Notification of succession
91	Uruguay	3/5/2004	Acceptance

1 This Convention entered into force on 22 May 1962. It subsequently entered into force for each State three months after the date of deposit of that State's instrument, except in cases of declaration of succession, where the entry into force occurred on the date on which the State assumed responsibility for conducting its international relations.

2 Instrument of ratification deposited by the authorities representing China at UNESCO at the time of the deposit. The Director-General received from the Permanent Delegation of the People's Republic of China to UNESCO the following communication dated 2 September 1974: "All signatures affixed to the Convention concerning the International Exchange of Publications by the Chiang Kai-shek Clique usurping the name of China are illegal and without force. The Chinese Government does not recognize them and shall in no way be bound by them". By a communication dated 17 May 1988, the Permanent Delegation of the People's Republic of China to UNESCO informed the Director-General that the preceding declaration also applied to the Convention concerning the Exchange of Official Publications and Government Documents between States and to the Convention against Discrimination in Education.

3 The Democratic Republic of Viet Nam and the Republic of South Viet Nam (the latter having replaced the Republic of Viet Nam) united on 2 July 1976 to form a new State, the Socialist Republic of Viet Nam (Viet Nam). At the time of writing, the Government of Viet Nam had not yet made known its position regarding any succession.

Annex 4

States parties to the International Covenant on Economic, Social and Cultural Rights

As of 17 February 2005

	States	Date of deposit	Type of deposit
1	Afghanistan	24/01/83	Accession
2	Albania	04/10/91	Accession
3	Albania	04/10/91	Accession
4	Algeria	12/09/89	Ratification
5	Angola	10/01/92	Accession
6	Argentina	08/08/86	Ratification
7	Armenia	13/09/93	Accession
8	Australia	10/12/75	Ratification
9	Austria	10/09/78	Ratification
10	Azerbaijan	13/08/92	Accession
11	Bangladesh	05/10/98	Accession
12	Barbados	05/01/73	Accession
13	Belarus	12/11/73	Ratification
14	Belgium	21/04/83	Ratification
15	Benin	12/03/92	Accession
16	Bolivia	12/08/82	Accession
17	Bosnia and Herzegovina	03/03/92	Succession
18	Brazil	24/01/92	Accession
19	Bulgaria	21/09/70	Ratification
20	Burkina Faso	04/01/99	Accession
21	Burundi	09/05/90	Accession
22	Cambodia	26/05/92	Accession
23	Cameroon	27/06/84	Accession
24	Canada	19/05/76	Accession
25	Cape Verde	06/08/93	Accession
26	Central African Republic	08/05/81	Accession
27	Chad	09/06/95	Accession
28	Chile	10/02/72	Ratification

29	China	27/03/2001	Ratification
30	Colombia	29/10/69	Ratification
31	Congo	05/10/83	Accession
32	Costa Rica	29/11/68	Ratification
33	Côte d'Ivoire	26/03/92	Accession
34	Croatia	08/10/91	Succession
35	Cyprus	02/04/69	Ratification
36	Czech Republic	01/01/93	Succession
37	Democratic People's Republic of Korea	14/09/81	Ratification
38	Democratic Republic of the Congo	01/11/76	Accession
39	Denmark	06/01/72	Ratification
40	Djibouti	05/11/2002	Accession
41	Dominica	17/06/93	Accession
42	Dominican Republic	04/01/78	Accession
43	Ecuador	06/03/69	Ratification
44	Egypt	14/01/82	Ratification
45	El Salvador	30/11/79	Ratification
46	Equatorial Guinea	25/09/87	Accession
47	Eritrea	17/04/2001	Accession
48	Estonia	21/10/91	Accession
49	Ethiopia	11/06/93	Accession
50	Finland	19/08/75	Ratification
51	France	04/11/80	Accession
52	Gabon	21/01/83	Accession
53	Gambia	29/12/78	Accession
54	Georgia	03/05/94	Accession
55	Germany	17/12/73	Ratification
56	Ghana	07/09/2000	Ratification
57	Greece	16/05/85	Accession
58	Grenada	06/09/91	Accession
59	Guatemala	19/05/88	Accession
60	Guinea	24/01/78	Ratification
61	Guinea-Bissau	02/07/92	Accession
62	Guyana	15/02/77	Ratification
63	Honduras	17/02/81	Ratification
64	Hungary	17/01/74	Ratification
65	Iceland	22/11/79	Ratification
66	India	10/04/79	Accession

67	Iran (Islamic Republic of)	24/06/75	Ratification
68	Iraq	25/01/71	Ratification
69	Ireland	08/12/89	Ratification
70	Israel	03/10/91	Ratification
71	Italy	15/09/78	Ratification
72	Jamaica	03/10/75	Ratification
73	Japan	21/06/79	Ratification
74	Jordan	28/05/75	Ratification
75	Kenya	01/05/72	Accession
76	Kuwait	21/05/96	Accession
77	Kyrgyzstan	07/10/94	Accession
78	Latvia	14/04/92	Accession
79	Lebanon	03/11/72	Accession
80	Lesotho	09/09/92	Accession
81	Liberia	22/09/2004	Accession
82	Libyan Arab Jamahiriya	15/05/70	Accession
83	Liechtenstein	10/12/98	Accession
84	Lithuania	20/11/91	Accession
85	Luxembourg	18/08/83	Ratification
86	Madagascar	22/09/71	Ratification
87	Malawi	22/12/93	Accession
88	Mali	16/07/74	Accession
89	Malta	13/09/90	Ratification
90	Mauritania	17/11/2004	Accession
91	Mauritius	12/12/73	Accession
92	Mexico	23/03/81	Accession
93	Monaco	28/08/97	Ratification
94	Mongolia	18/11/74	Ratification
95	Morocco	03/05/79	Ratification
96	Namibia	28/11/94	Accession
97	Nepal	14/05/91	Accession
98	Netherlands	11/12/78	Ratification
99	New Zealand	28/12/78	Ratification
100	Nicaragua	12/03/80	Accession
101	Niger	07/03/86	Accession
102	Nigeria	29/07/93	Accession
103	Norway	13/09/72	Ratification
104	Panama	08/03/77	Accession

105	Paraguay	10/06/92	Accession
106	Peru	28/04/78	Ratification
107	Philippines	07/06/74	Ratification
108	Poland	18/03/77	Ratification
109	Portugal	31/07/78	Ratification
110	Republic of Korea	10/04/90	Accession
111	Republic of Moldova	26/01/93	Accession
112	Romania	09/12/74	Ratification
113	Russian Federation	16/10/73	Ratification
114	Rwanda	16/04/75	Accession
115	Saint Vincent and the Grenadines	09/11/81	Accession
116	San Marino	18/10/85	Accession
117	Senegal	13/02/78	Ratification
118	Serbia and Montenegro	12/03/2001	Succession
119	Seychelles	05/05/92	Accession
120	Sierra Leone	23/08/96	Accession
121	Slovakia	28/05/93	Succession
122	Slovenia	06/07/92	Succession
123	Solomon Islands	17/03/82	Succession
124	Somalia	24/01/90	Accession
125	Spain	27/04/77	Ratification
126	Sri Lanka	11/06/80	Accession
127	Sudan	18/03/86	Accession
128	Suriname	28/12/76	Accession
129	Swaziland	26/03/2004	Accession
130	Sweden	06/12/71	Ratification
131	Switzerland	18/06/92	Accession
132	Syrian Arab Republic	21/04/69	Accession
133	Tajikistan	04/01/99	Accession
134	Thailand	05/09/99	Accession
135	The Former Yugoslav Republic of Macedonia	18/01/94	Succession
136	Timor-Leste	16/04/2003	Accession
137	Togo	24/05/84	Accession
138	Trinidad and Tobago	08/12/78	Accession
139	Tunisia	18/03/69	Ratification
140	Turkey	23/09/2003	Ratification
141	Turkmenistan	01/05/97	Accession

142	Uganda	21/01/87	Accession
143	Ukraine	12/11/73	Ratification
144	United Kingdom of Great Britain and Northern Ireland	20/05/76	Ratification
145	United Republic of Tanzania	11/06/76	Accession
146	Uruguay	01/04/70	Ratification
147	Uzbekistan	28/09/95	Accession
148	Venezuela	10/05/78	Ratification
149	Viet Nam	24/09/82	Accession
150	Yemen	09/02/87	Accession
151	Zambia	10/04/84	Accession
152	Zimbabwe	13/05/91	Accession

Annex 5

Comparison between the States parties to the International Covenant and to the Convention against Discrimination in Education

As of 17 February 2005

Number of Member States of the UN	191
Number of States Parties to the ICESCR	152
Number of States Parties to the CADE	91
Number of States Parties to both ICESCR and CADE	83