



United Nations
Educational, Scientific and
Cultural Organization



THE RIGHT TO EDUCATION:

Monitoring standard-setting
instruments of UNESCO



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The right to education is an internationally recognized right. It is established in a number of standard-setting instruments adopted by the United Nations and by UNESCO. It is an integral part of UNESCO's mission, and central to Education for All (EFA) process. Constitution of UNESCO expresses the belief of its founders in '*full and equal opportunities for education for all*'. The conventions and recommendations elaborated by UNESCO in the field of education develop the right to education in its various dimensions. Within the framework of these conventions and recommendations, Member States have assumed legal and political obligations for its realization.

Like all human rights, the right to education imposes three levels of obligations on States parties: the obligations to respect, protect and fulfill. In turn, the obligation to fulfill incorporates both an obligation to facilitate and an obligation to provide. It is incumbent upon States to incorporate into domestic legal order their obligations under conventions and treaties established by the United Nations and UNESCO and to give effect to these in national policies and programmes. In order to achieve EFA, it is imperative to intensify UNESCO's normative action and monitor more effectively the right to education.

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REPORTING OBLIGATION OF MEMBER STATES

Reporting to UNESCO on actions taken by Member States pursuant to their obligations under the conventions and recommendations is a UNESCO's constitutional obligation as it is founded upon the Constitution itself. It is not merely a question of a formal obligation or a mere procedure but a substantial obligation, comprising an obligation to use one's best endeavors in the spirit of international cooperation – and an obligation to produce a specific result – effective implementation of standard-setting texts.

Reporting Obligation of Member States: UNESCO's Constitutional Mandate

“Each Member State shall submit to the Organization, at such times and in such manner as shall be determined by the General Conference, reports on (...) the action taken upon the recommendations and conventions referred to in Article IV, paragraph 4”. (Article VIII of UNESCO's Constitution).

“The General Conference shall receive and consider the reports sent to the Organization by Member States on the action taken upon the recommendations and conventions referred to in paragraph 4 above or, if it so decides, analytical summaries of these reports”. (Article IV, paragraph 6 of UNESCO's Constitution).

Given the reporting obligation of Members States, UNESCO's General Conference invited the Executive Board in 1968 to “make appropriate arrangements for reports by Member States on the implementation of conventions or recommendations to be examined by a subsidiary organ of the Board” (15 C/Resolution 12.2). UNESCO's Committee on Conventions and Recommendations (CR), which is a subsidiary organ of the Executive Board, was entrusted with this mandate. Thus, the CR has the task 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.

UNESCO's Constitution distinguishes between these two categories of instruments which the General Conference can adopt: “recommendations”, which are adopted

by a majority vote, and “international conventions”, which are adopted by a two-thirds majority. Although unlike conventions, recommendations are standards that do not require ratification, States are nevertheless invited to apply Article IV, paragraph 6, of the Constitution as regards reporting obligation. It is noteworthy that most recommendations contain a provision stating, in substance, that the General Conference would request Member States to submit to it, on dates and in the form that it would determine, reports on action taken by them on the recommendation.

The reporting obligation is illustrated by Article 7 of the Convention against Discrimination in Education (1960): “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”. The Convention on Technical and Vocational Education (1989) contains similar provisions.



MONITORING THE CONVENTION AGAINST DISCRIMINATION IN EDUCATION: ORIGINAL MANDATE OF UNESCO'S COMMITTEE ON CONVENTIONS AND RECOMMENDATIONS

The CR was originally conceived as a “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 in 1966 as the Special Committee on Discrimination in Education. Its name was changed as the “Committee on Conventions and Recommendations in Education” (CRE) when 1969, the Executive Board decided to entrust to it the task of examining the reports of the Joint ILO-UNESCO Committee of Experts on the “Implementation of the Recommendation concerning the Status of Teachers.” (82 EX/Decision 4.2.4). The CRE was renamed the Committee on Conventions and Recommendations (CR) when in 1978, the Executive Board decided to broaden its mandate for consideration of communications received by UNESCO concerning cases and questions of alleged violations of human rights within UNESCO's fields of competence. (104 EX/Decision 3.3). In 1985, the CR became a permanent Committee of the Executive Board.

The monitoring mandate entrusted to the CR has evolved especially since 2001 when the CR had noted the unsatisfactory implementation of its original mission, and the Executive Board recognized the need for improving the effectiveness of the terms of reference of the CR. During the subsequent sessions of the Executive Board, a number of problems were identified by the CR, and various options concerning the procedures applicable to the examination of questions relating to the implementation of UNESCO's standard-setting instruments were examined.


The CR agreed on a series of measures designed to ensure wider acceptance and effective applications of UNESCO's conventions and recommendations. Accordingly,

bearing in mind “the need to improve the effectiveness of the mandate of the CR, and of the reporting system on UNESCO conventions and recommendations in general”, in 2002, the Executive Board reminded “Member States to respect their legal obligations under the UNESCO Constitution concerning periodic reports on the follow-up to conventions and recommendations”. (165 EX/Decision 6.2).

The terms of reference of the CR were expanded following an amendment made in 2003 to the Rules of Procedure concerning recommendations to Member States and international conventions covered by the terms of Article IV, paragraph 4, of UNESCO’s Constitution (32 C/Resolution 77). These Rules lay down a procedure for the submission and examination of Member States’ reports on the action they have taken in pursuance of conventions and recommendations adopted by UNESCO’s General Conference. They provide that the Executive Board, and in particular the CR, shall examine the reports on conventions and recommendations that it requests from Member States. Further, they lay down the obligation for Member States “to make the text of any convention or recommendation known to the bodies, target groups and other entities interested in matters dealt with therein”.

In 2004 when the CR examined the issues relating to the implementation of UNESCO’s standard-setting instruments, it was suggested that measures must be taken to:

- heighten awareness among Member States of UNESCO’s different standard-setting instruments and invite them to become parties to international conventions adopted under the Organization’s auspices (promotional measures);
- remind Member States that they are required to fulfill their legal obligations under the Constitution of UNESCO with regard to reports on the follow-up to conventions and recommendations (monitoring measures).



REVITALIZED TERMS OF REFERENCE OF THE CR: PREDOMINANCE OF EDUCATIONAL DIMENSIONS IN MONITORING

Following a study carried out in 2004 and in order to strengthen and improve initial mandate of the CR, the Executive Board decided in April 2005, to make three requests to the CR:

- to identify the priority recommendations among standard-setting instruments;
- to propose new procedures specifically for the monitoring of the implementation of UNESCO conventions and recommendations for which no specific institutional mechanism was provided; and
- to formulate harmonized model guidelines for conventions monitored by the CR (171 EX/Decision 27), in the light of international developments in the practice of the United Nations.

A. PRIORITY RECOMMENDATIONS

Before proceeding to the monitoring of 31 recommendations adopted by UNESCO, the Executive Board decided in 2005 to identify, in conjunction with the Secretariat, the priority recommendations which should be monitored (171 EX/Decision 27, paragraph 5 (a)). Among 31 recommendations of the Organization, the Secretariat made a census of 11 recommendations which in fact were being monitored. As per elements of response furnished by the Programme Sectors and by the UNESCO Institute for Statistics (UIS), the remaining recommendations on account of various reasons no longer were subject of monitoring procedure.

In October 2007, on the basis of the recommendations of its Legal Committee, the General Conference of UNESCO, which alone can decide on the future of recommendations, adopted a resolution (34 C/Resolution 87) by which it decided that out of 31 Recommendations, 11 Recommendations will be monitored “as a matter of priority” and that the “Executive Board shall focus its monitoring efforts” primarily on these 11 Recommendations.

Priority Recommendations in the Field of Education (34 C/Resolution 87)

Recommendation	Main features
Recommendation against Discrimination in Education (1960)	<p>The Recommendation is identical with the substantive provisions of the Convention against Discrimination in Education. It sought to take into account the difficulties that certain States might experience in ratifying the Convention. Like the Convention, the objective of the Recommendation is not only the elimination of discrimination in Education, but also the adoption of measures aimed at promoting equality of opportunity and treatment in this field. The Recommendation has political and moral force.</p>
Recommendation concerning the Status of Teachers (1966)	<p>The Recommendation mentions responsibility of states for proper Education for All (EFA). Its normative importance is indicated by the fact that it expresses the need for the application of a set of common standards and measures. It contains detailed provisions regarding the preparation of teaching profession, for further education for teachers, their employment and career advancement.</p>
Recommendation concerning Education for International Understanding, Cooperation and Peace, and Education relating to Human Rights and Fundamental Freedoms (1974)	<p>The main objective of Recommendation is to provide a normative framework for promoting human rights education. For this purpose, it lays down guiding principles and provides a global approach. It provides for action in various sectors of education underlying the need for understanding and respect for all peoples, their cultures, civilizations, values and ways of life. It underlines the responsibility of Member States for the application of Human Rights, and for national policy and planning and mentions particular aspects of learning, training and action.</p>

Recommendation	Main features
Recommendation on the Development of Adult Education (1976)	<p>The Recommendation was adopted for promoting access of adults to education as integral part of lifelong learning. According importance to the right to education, it lays down norms and standards for wider access and inclusive approaches to education and provides that Member States take whatever legislative or other measures required to give effect to the Recommendation by providing continuing education and learning opportunities for youth and adults, and by disseminating the Recommendation.</p>
Recommendation on the Recognition of Studies and Qualifications in Higher Education (1993)	<p>The Recommendation was elaborated as a universal standard setting instrument for the purposes of recognition of degrees and diplomas. It states in Preamble that education is a human right and it recognizes the principle that knowledge is universal, and expresses the right of wider access to educational resources world wide. The Recommendation supplements six regional Conventions adopted by UNESCO for the Recognition of Studies and Qualification in Higher Education.</p>
Recommendation concerning the Status of Higher-Education Teaching Personnel (1997)	<p>This Recommendation contains provisions relating to the duties and responsibilities of institutions and also to the rights and freedoms of the teaching personnel. Accordingly, higher education teaching personnel have the obligation to respect the rights of other members and to base work on an honest search for truth. The Recommendation states that higher education shall be directed to human development and to the progress of society, whose financing is a public investment.</p>
Revised Recommendation concerning Technical and Vocational Education (2001)	<p>The Revised Recommendation contains provisions regarding technical and vocational education in relation to general education process as well as higher education. It sets international standards for technical and vocational education. The Recommendation is significant in the context of basic education. It also underlines the need for partnership with industry, private sector and the world of work.</p>

It is significant to take note of the importance accorded to UNESCO's Recommendations in the field of education during these discussions. Out of 11 recommendations, 7 recommendations are in the field of education. Pursuant to this resolution by UNESCO's General Conference, functions and responsibility of the Organization in monitoring the implementation of the Recommendations in the field of education are broadened and reinforced. As such, the periodic monitoring of the implementation of the Recommendation on the Development of Adult Education, which is overdue, needs to be resumed. Action is also required to be initiated for launching the process of monitoring the measures taken in Member States for the implementation of the Revised Recommendation concerning Technical and Vocational Education (2001), as well as for the implementation of the Recommendation on the Recognition of Studies and Qualifications in Higher Education (1993).

B. NEW PROCEDURE FOR MONITORING

As mentioned above, Member States have obligation of reporting to UNESCO on action taken for giving effect to conventions and recommendations. As a follow up to the discussions in the CR in 2004, on establishing specific procedures for consideration of reports submitted by Member States, the Executive Board decided in 2005 “to propose new procedures specifically for the monitoring of the implementation of UNESCO conventions and recommendations for which no specific institutional mechanism is provided.” (171 EX/Decision 27 (b)).

The debate on new procedures was continued during the subsequent sessions of the Executive Board. As a result of in-depth discussions, and on the basis of recommendations made by the CR, the Executive Board adopted in October 2007 the decision (177 EX/Decision 35) to which the “*Specific multi-stage procedure for the monitoring of the implementation of UNESCO conventions and recommendations for which no specific institutional mechanism is provided*” was annexed.

This new procedure stipulates that the Director-General of UNESCO shall formally remind Member States of their obligation to submit the convention or recommendation in question to their competent national authorities in accordance with Article IV, paragraph 4, of the Constitution, drawing also their attention to the difference in the legal nature of conventions and recommendations. Furthermore, the Secretariat will ensure that the standard-setting texts adopted by the General Conference are widely disseminated to Member States and the public.

As regards monitoring the implementation of conventions, the new procedure provides that, the Reports by Member States will be prepared in line with the Guidelines drafted by UNESCO’s Secretariat, and approved by the Executive Board. These Guidelines are to be elaborated on the basis of the Framework Guidelines for the monitoring of the conventions, adopted by UNESCO’s Executive Board in October 2007 (see below). Taking into account all the reports thus presented and submitted by Member States, the Secretariat will prepare a Summary of the Reports and submit it to the Executive Board for examination and follow up action.

As regards monitoring of the recommendations, the Secretariat has the option to adopt a flexible approach in monitoring – it has the task of preparing and submitting to the CR a Consolidated Report on the measures taken in Member States on the implementation of the recommendation in question. Such a Consolidated Report shall be prepared on the basis of information gathered from the National Commissions and UNESCO’s various partners. The information may be collected on the basis of simplified questionnaire or using the Framework Guidelines. In this process,

special consideration requires to be given to development and implementation of national legislation pursuant to the political commitments made by Member States while adopting recommendations. This is an important objective of monitoring, in keeping with the significance attached by the CR to resume efforts to promote the implementation of the principles set forth in recommendations and declarations adopted by UNESCO.

A Summary of Reports (on the basis of reports received from Member States) in case of conventions, and a Consolidated Report in case of the recommendations, prepared by the Secretariat, will be examined by the CR, and then transmitted to the Executive Board along with the recommendations by the CR for its consideration. The Executive Board will transmit these documents together with its observations or comments and any that the Director-General may make, following their consideration, to the General Conference. The General Conference may adopt, as necessary, a decision with regard to the summaries on the implementation of the conventions and recommendations. The Director-General shall regularly inform the General Conference and the Executive Board with respect to the implementation of the decisions adopted by the General Conference.

It is important to note that the new procedure applies to three conventions and eleven recommendations to be monitored by the CR. As already mentioned, two out of three conventions and seven out of eleven Recommendations, that is, nearly two thirds of standard-setting instruments which UNESCO is to monitor henceforth are in the field of education.

C. FRAMEWORK GUIDELINES FOR REPORTING

The Executive Board also decided in 2005 to formulate *harmonized model guidelines* for conventions which are monitored by the CR. (171 EX/Decision 27, paragraph 5 C).

In this respect, it is pertinent to note that as a result of extensive consultations undertaken by the Office of the High Commissioner for Human Rights with the treaty bodies regarding new, more rational procedures for the preparation of reports, a consensus emerged in 2006 favour of harmonized guidelines, composed of (i) an *expanded core document* which would contain information on the fundamental provisions common to all the international human rights instruments, or to several among them, as well as other information of relevance to all the bodies and (ii) a *treaty-specific targeted report* concerning the instrument whose implementation the

treaty body is responsible for monitoring. Each report would thus be composed of the two complementary documents, and *the expanded core document* would be submitted to the treaty body concerned at the same time as a *treaty-specific targeted report*.

The CR took into consideration these developments and recommended to adapt the approach used by the United Nations to the specific circumstances of UNESCO, while adding a new dimension relating to obstacles encountered in the implementation of the conventions and steps taken for awareness-raising on it. In conformity with a decision adopted by the Executive Board and at the request of the CR, the difficulties in establishing harmonized guidelines were identified by the Secretariat and flexible framework guidelines (rather than model guidelines) that would contain the main lines to be followed in drawing up the reports were proposed. After examining the revised version of the model guidelines, and the recommendation by the CR, the Executive Board finally approved the *Framework Guidelines* (as set out in Annex to 177 EX/Decision 35, Part II) in October 2007. These *Framework Guidelines* are composed of the following sections:

i. Information on the legislative, judicial, administrative and other measures taken by the State at the national level

In the reports that States prepare in line with the Guidelines, elaborated within the Framework Guidelines, they are required to provide information on the legislative, judicial, administrative and other measures taken by the State at the national level, pursuant to Article IV, paragraphs 4 and 6, and Article VIII of the Constitution, including information on its status in respect of UNESCO's conventions and whether it plans to accede to the instruments to which it is not yet Party or which it has signed but not yet ratified.

ii. Information on the implementation of the convention (with reference to its provisions)

In the reports that States prepare, they are required to describe the specific legal framework governing the protection on their territory of the rights guaranteed by the UNESCO convention to which they are Parties. These reports should indicate, *inter alia*, whether the rights set forth in the convention are protected by the Constitution, by a basic legislative text or by any other national provision and whether the UNESCO convention has been incorporated into national legislation. The report provides States with the opportunity to concentrate on more specific questions pertaining to the implementation of the instrument concerned.

iii. Steps taken to draw the attention of the various authorities in the country to the instrument and to eliminate obstacles encountered

The reports of Member States should enable to make an assessment of the results of the methods established to draw the attention of the various authorities in the country to the instrument and to remove obstacles encountered. They should highlight the difficulties encountered in implementing the substantive provisions of the convention and the legal and practical obstacles encountered by States in implementing the convention.

The Framework Guidelines are to be used for the elaboration of the Guidelines, according to which Member States will be requested to prepare reports on three conventions which are monitored by the CR, namely:

- Convention against Discrimination in Education (Paris, 14 December 1960);
- Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (Paris, 14 November 1970);
- Convention on Technical and Vocational Education (Paris, 10 November 1989).

The importance of this decision by the Executive Board lies in the fact that out of three conventions listed above, two are in the field of education. Following this decision, henceforth, the CR will also monitor the implementation of the Convention on Technical and Vocational Education. This is significant as consultation of Member States could not so far be organized on the measures taken for the implementation of this Convention, and its implementation would promote normative action on technical and vocational education and training (TVET) which is an integral part of UNESCO's mandate in education. The process of organizing first consultation is to be initiated on the basis of the new multi-stage procedure and the Framework Guidelines adopted by UNESCO's Executive Board, It is also crucial to raise greater awareness about this Convention and make it better known to the bodies, target groups and other entities interested in matters dealt with therein so that more Member States could consider to adhere to the Convention and incorporate it in domestic legal order. This would give prominence to the normative framework established by the convention for developing policies and widening access to TVET.

Conventions adopted by UNESCO in the Field of Education and monitored by the CR

Convention	Main Features
<p>Convention against Discrimination in Education (1960)</p>	<p>This Convention is the first international instrument of UNESCO in the field of education having binding force in international law.</p> <p>Its purpose is not only the elimination of discrimination in Education, but also the adoption of measures aimed at promoting equality of opportunity and treatment in this field. It is therefore based upon two distinct fundamental principles which are embodied in both UNESCO's Constitution and the Universal Declaration of Human Rights.</p> <p>The Convention has been recognized by UNESCO's Executive Board as a key pillar for Education for All (EFA) process, which is UNESCO's high priority.</p> <p>In face of disparities in access to education, national level action for ensuring both <i>in law and in fact</i> equal educational opportunities for all has become crucial so that education is accessible to all without discrimination or exclusion. Measures taken by Member States to implement the Convention would contribute to this process and thus enforcing the right to education as a fundamental human right.</p>
<p>Convention on Technical and Vocational Education (1989)</p>	<p>This Convention recognizes that technical and vocational education meets the global aim of development. It also recognizes the "right of equal access to technical and vocational education". The Convention provides that the Contracting States "shall guarantee that no individual who has attained the educational level for admission into technical and vocational education shall be discriminated against" (Article 2, paragraph 3) and States shall take "appropriate measures" to enable the handicapped and other disadvantaged groups to benefit from technical and vocational education. (Article 2, paragraph 4).</p>

IV. RIGHT TO EDUCATION: UNESCO'S PRINCIPAL ROLE AND RESPONSIBILITY IN THE UNITED NATIONS SYSTEM

As mentioned above, in the course of elaboration of the Framework Guidelines, account was taken of the reform process under way at the United Nations concerning the harmonized guidelines for reporting under international human rights instruments. (174 EX/Decision 21, paragraph 6). Several of these instruments provide for the right to education. Their monitoring is entrusted to the United Nations human rights treaty bodies, which are composed of independent experts. UNESCO's participation in the work of these treaty bodies centers around the right to education which constitutes a common thread as regards the work of most of the treaty bodies - the Committee on Economic, Social and Cultural rights (CESCR), the Committee on the Rights of the Child (CRC), the Committee on the Elimination of Discrimination against Women (CEDAW) and the Committee on the Elimination of All Forms of Racial Discrimination (CERD). Moreover, the Convention on the Rights of Persons with Disabilities (2006) also contains provisions on the right to education, and UNESCO cooperates with the United Nations in promotional activities on this Convention.

A. UNESCO'S COLLABORATION WITH THE UNITED NATIONS HUMAN RIGHTS TREATY BODIES- EQUALITY OF EDUCATIONAL OPPORTUNITIES: OVERARCHING PRINCIPLE

As regards UNESCO's collaboration with the United Nations system, the centrality of the principles of non-discrimination and of equality of opportunities in education, reflected in the Convention and the Recommendation against Discrimination in Education, and the Convention on Technical and Vocational Education must be underlined. The fundamental principle of equality of educational opportunities,

reflected in human rights conventions and treaties, is common to the work of all United Nations human rights treaty bodies. UNESCO attaches special importance to this principle in the context of further harmonization and coordination of the work of the treaty bodies, and collaboration with the United Nations system.

UNESCO shares with the United Nations human rights treaty bodies the Reports submitted to the Organization by States on the implementation of the Convention against Discrimination in Education (1960), along with information relating to the implementation of UNESCO's other Recommendations in the field of education.

B. COLLABORATION WITH THE UNITED NATIONS COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (CESCR) AND OTHER TREATY BODIES

UNESCO and CESCR monitor the implementation of the right to education in a collaborative and complementary spirit and benefit from each other's experience. Both of them have shared concerns and common objectives in making the full exercise of the right to education a reality for all and in advancing the Education for All (EFA) agenda. The General Comment No. 13 on Article 13 (right to education) of the International Covenant on Economic, Social and Cultural Rights, elaborated by CESCR in collaboration with UNESCO draws on UNESCO's normative action and elucidates the scope and nature of the right to education. It is important to bear in mind that the Article 13 was drafted at the suggestion of UNESCO's Director-General, and it extensively draws upon the Convention against Discrimination in Education which is the first convention in the United Nations system for covering the right to education comprehensively.

UNESCO also collaborates with other United Nations human rights treaty bodies and contributes to their work. The Organization maintains close cooperation with the Committee on the Rights of the Child (CRC), notably with respect to the monitoring of the right to education, provided for in Articles 28-30 of the Convention on the Rights of the Child. UNESCO's action focuses on educational dimensions of the rights of the child. While participating in the work of the Committee on the Elimination of Discrimination against Women (CEDAW), UNESCO also cooperates with other UN agencies. Cooperation with the CEDAW principally covers the questions related to the right to education of girls, gender equity in education, and equality of educational opportunities in access to education, in accordance to the provisions in article 10 of the Convention on the Elimination of All Forms of Discrimination against

Women. UNESCO's participation in the work of the Committee on the Elimination of Racial Discrimination (CERD) is equally significant as regards common elements in the implementation of the Convention and the Recommendation against Discrimination in Education and the Convention on the Elimination of All Forms of Racial Discrimination. The participation in the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families is also important as regards the right to education, provided for in articles 30 and 45 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

C INSTITUTIONALIZED COLLABORATION

Two institutional mechanisms are important, given UNESCO's principal role and responsibility in the field of the right to education in the United Nation system: (i) The *Joint ILO-UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART)*; and (ii) the *Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on the Monitoring of the Right to Education*.

i. The Joint ILO-UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART)

UNESCO implements the Recommendation Concerning Status of Teachers (1966) in conjunction with the Recommendation concerning the Status of Higher-Education Teaching Personnel (1997) in cooperation with the ILO. The Joint ILO-UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART) has the mandate to monitor the application of these two Recommendations. It makes every three years a report to the Executive Board of UNESCO and the Governing Body of ILO containing recommendations to enhance the application of the above two recommendations. The CEART examines major issues affecting the status of teaching personnel worldwide and deals with matters having concern to teaching and education. It pays special attention to transversal issues cutting across the implications of the EFA.

ii. Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on the Monitoring of the Right to Education

The Joint Expert Group, established by the decision adopted by the UNESCO's Executive Board in October 2001 (162 EX/Decision 5.4), has a broad mandate of monitoring the right to education in all its dimensions. It is composed of two members of CESCR and two members of the CR.

The Joint Expert Group as a unique institutionalized mechanism as regards UNESCO's collaboration with the United Nations human rights treaty bodies plays a valuable role in transmitting new ideas and suggestions as well as the practical approaches aimed at mutually reinforcing working methods in monitoring the implementation of the right to education more effectively. The CR examines once a year the report(s) of the Joint Expert Group.

The work of the Joint Expert Group has focussed on the major areas of concern to UNESCO for advancing the right to education - such as strengthening the foundations of the right to education in national legal systems, with emphasis on importance of the analysis of the right to education in the constitutions and national laws, universalizing access to primary education, with emphasis on Member States' *core obligations* to eliminate school fees and other direct costs and to render more effective the protection of the right to compulsory primary education free of charge, the enforcement of the right to education and its justiciability. The Joint Expert Group has made as well useful suggestions and recommendations on UNESCO's action for promoting equality of opportunities in education with a focus on the EFA.

The themes discussed by the Joint Expert Group and debates in the CR on more effective ways of monitoring the right to education as well as the decisions taken by UNESCO's Governing Bodies – Executive Board and the General Conference – throw light on the challenges ahead.

V. CHALLENGING TASKS

As in case of the United Nations system, UNESCO is confronted with two main areas of action: universal ratification of the conventions, and universal application of the conventions and recommendations. This is reflected in the decisions adopted by UNESCO's Governing Bodies. The decision adopted the Executive Board (177 EX/decision 36) as a follow up to the seventh consultation of Member States on the measures taken for the implementation of the Convention and the Recommendation against Discrimination in Education and subsequently, the Resolution adopted by the General Conference in October 2007 (34 C/Resolution 13) "request the Director-General to put special emphasis on and widely publicize the Convention against Discrimination in Education and intensify his efforts to encourage Member States to adopt effective domestic measures intended to secure education for all without discrimination or exclusion as part of the EFA process". Similarly, the decision adopted in April 2007 by the Executive Board after examining the report of the CEART on its ninth session (2006) invites the Director-General to disseminate the Report, together with the observations of the Executive Board, among interested partners and "to encourage them to continue to intensify their efforts to apply all provisions of both normative instruments in order to improve the status of the teaching profession and to guarantee academic freedoms in higher education". (176 EX/Decision 32).

A. UNIVERSALIZING ACCESS TO EDUCATION

Given the fact that millions of children and adults remain deprived of education, it is of critical importance to intensify UNESCO's normative action aimed at effective implementation of the Convention against Discrimination in Education, which has been recognized by UNESCO's Executive Board as a key pillar of EFA and which establishes the entitlements to the right to education at all levels of education, including the right to universal primary education free of charge. In that perspective,

concern has been expressed by the Joint Expert Group, referred to above, that education should not be a luxury, and that the process of weakening of the right to education must be reversed. As such, by its decision taken in October 2007, the Executive Board invited all Member States, in that regard, “to fulfill their respective commitments and international obligations relating to universalizing access to primary education free for all.” (177 EX/Decision 37). As a follow up, greater emphasis needs to be placed on action at national level on universalizing access to quality education for all. Promoting equal access to technical and vocational education in accordance with the provisions in the Convention on Technical and Vocational Education is also a key element in giving follow up to this Convention as well as the Revised Recommendation concerning Technical and Vocational Education.

B. ENSURING RESPECT FOR PRINCIPLES OF NON-DISCRIMINATION AND EQUALITY OF EDUCATIONAL OPPORTUNITIES IN EDUCATION *IN LAW AND IN FACT*

The fundamental principle of equal educational opportunities in education expressed in the Convention against Discrimination in Education and the Convention on Technical and Vocational Education reflect UNESCO’s constitutional mission of ensuring “full and equal educational opportunities for all” and corresponds to the EFA. As the outcome of the Seventh Consultation of Member States on the measures taken for implementation of UNESCO’s Convention and the Recommendation shows, ensuring *de facto* equality of educational opportunities is a continuing challenge faced by Member States. As such, monitoring process should lead to creating and expanding educational opportunities and to promotional measures or affirmative action at national level in order to eliminate existing inequities and disparities in education. Central to these reflections is the concern to reach the unreached - children in geographically remote areas (such as nomad) and all those who are socially and economically disadvantaged, in particular children from poor households who are deprived of any means to bear the cost of education. During the seventh consultation, making education accessible to the marginalized and the poor was considered to be of critical importance.

C. EMPHASIZING NORMATIVE BASES OF INCLUSIVE APPROACHES TO EDUCATION

In the endeavour for promoting equality of educational opportunities, due consideration should be given to right to education of cultural, ethnic and linguistic minorities, of girls and women, of the indigenous peoples, and of various vulnerable groups which may be victims of exclusion.

Conventions and recommendations in the field of education contain provisions on the inclusive approaches to education. Promotional measures in line with these provisions so that no one suffers from exclusion or discrimination. Greater attention should be given to the measures taken at the national level while emphasizing the need for wider access to education in order to foster the full realization of the right to education. There is need to 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.

Measures taken for the implementation of the Recommendation on the Recognition of Studies and Qualification in Higher Education (1993) which recognizes the principle that education is a human right are important, as the Recommendation responds to the necessity of wider access to educational resources world wide. Similarly, wider access to education as part of EFA process is overall concern in the follow up to the Recommendation on the Development of Adult Education.

D. RESPONDING TO QUALITY IMPERATIVES, AND IMPROVING AND VALORIZING TEACHING PROFESSION

The quality imperatives in education have been addressed by the EFA Global Monitoring Report (2005), which recognizes that the quality stands at the heart of EFA. Making quality basic education available as a right to every one without exclusion or discrimination is a daunting challenge. In order to ensure “*minimum educational standards*”, it is highly important to promote UNESCO's normative action as a follow up to the Convention against Discrimination in Education which is the first legally binding instrument which recognizes the importance of norms, *standard and quality of education*. Moreover, the right to education requires to be monitored with greater concern in line with the Recommendation concerning the Status of

Teachers (1966) which provides that “as an educational objective, no State should be satisfied with mere quantity, but should seek also to *improve quality.*” (Article 10, emphasis added).

Poor standards of education – both in public and private schools - can, *inter alia*, be attributed to lack of qualified teachers and of full respect for preserving their professional status. Taking into account critical shortage of qualified teachers which has assumed alarming proportions, the Executive Board has emphasized the need “to improve the status of the teaching profession.” (176 EX/32). In line with the Recommendation concerning the Status of Teachers, which “applies to *all teachers in both private and public schools*” (Article 3, emphasis added), it is crucial to valorize the teaching profession.

With respect to all the issues mentioned above, the review and analysis of constitutional bases of the right to education is vital in promoting the monitoring. Practical examples on various dimensions of the right to education also deserve to be disseminated.

E. WIDER RATIFICATION OF THE CONVENTIONS IN THE FIELD OF EDUCATION AND AWARENESS-RAISING ON CONVENTIONS AND RECOMMENDATIONS

Member States' *low response* rate in submitting reports on the measures taken for the implementation of conventions and recommendations as well as the *low level* of ratification of the conventions in the field of education are major constraints on the effectiveness of monitoring. The CR has expressed its concern with these constraints while discussing questions related to implementation of the Convention against Discrimination in Education and the Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms (1974). Accordingly, need for awareness-raising and a ratification campaign has been recognized.

In this respect, it may be noted that the Resolution adopted by the General Conference in October 2007 (34 C/Resolution 13) on the basis of a decision by the Executive Board to that effect (177 EX/Decision 36) invites Member States which have not become a party to the Convention against Discrimination in Education to consider doing so and to make the Convention better known to the bodies, target groups and other entities interested in matters dealt with therein. Such measures are all the

more important as regards the Convention on Technical and Vocational Education, given the low rate of its ratification.

The International Conferences on Adult Education (CONFINTEA), organized by UNESCO regularly, provide a forum for dissemination and awareness-raising, of the Recommendation on the Development of Adult Education, especially as regards challenges in life-long learning. Similarly, UNESCO's collaboration with the Office of the High Commissioner for Human Rights in the field of human rights education contributes to raising awareness on and pursuing the objectives of the 1974 Recommendation.

F. REPORTING PROCEDURES, MONITORING MECHANISMS AND FOLLOW UP TO THE DECISIONS BY UNESCO'S GOVERNING BODIES

As regards reporting procedures and monitoring mechanisms, various aspects of monitoring procedures and practices – ranging from the preparation of reports according to the Guidelines and along a format (since not all the reports submitted to UNESCO are in line with the Guidelines) to the examination of these reports, and follow-up action pursuant to decisions adopted by UNESCO's Governing Bodies - need special consideration. Putting the reports received from Member States on UNESCO's website as in case of the United Nations human rights treaty bodies, may be useful so that Member States can draw upon their experiences for mutual benefit.

In order to harmonize monitoring procedures and practices with the United Nations human rights treaty bodies, it is important to take a holistic approach with a view to imparting further synergy in monitoring. States could be encouraged, while preparing reports, to integrate elements which are common, as regards information they provide to the United Nations human rights treaty bodies and to UNESCO in the field of the right to education. This would reduce State burden in reporting.

Examination of results of consultation of Member States and follow up to the decisions adopted by UNESCO's Governing Bodies are key steps in monitoring. This is demonstrated by the way the results of the seventh consultation of Member States on the Implementation of the Convention and the Recommendation against Discrimination in Education, conducted by UNESCO as well reports of the CEART have been examined by the CR. The follow up to decisions adopted by the Executive Board and by the General Conference is crucial for reinforcing the monitoring procedures and mechanisms.

The National Commissions and UNESCO's Field Offices need to be involved more actively in this process. It is also essential to strengthen activities aimed at providing technical support to Member States and their capacity-building.

G. PROVIDING TECHNICAL ASSISTANCE TO MEMBER STATES

Experience shows that countries, especially from developing world, do not always have full capacity for preparing reports, and require technical assistance in their preparation. Such technical assistance needs to focus both on a better understanding of the objectives of the convention or recommendation in question and on practical procedures for the preparation of their reports, in particular, the collection of information and the drafting of the reports.

Technical assistance by the Secretariat, in particular through the Field Offices, needs to be provided:

- upstream, to assist the State in conducting in-depth educational awareness-raising and information-gathering work and thus in drafting an exhaustive report with the support of the National Commissions which will relieve States of some of their obligations in respect of guidelines, assessments or action plans;
- downstream, to assist the State in implementing remedial measures considered necessary by the Committee on Conventions and Recommendations after examination of the reports.

H. CAPACITY-BUILDING AND TRAINING PROGRAMMES

Reducing administrative burdens placed on States with regard to reporting is one of the key issues. The challenge consists in making the reporting exercise simplified, taking into account the real needs of States, to ensure complementarities with the work of the United Nations human rights treaty bodies, and to provide technical assistance to Member States for the preparation of the reports and for the implementation of the recommendations resulting from monitoring.

Activities aimed at capacity-building and training programmes for the benefit of UNESCO's Field Offices as well as UNESCO's National Commissions are essential. They respond to the need for helping Member States in fulfilling their reporting obligations under the conventions and the recommendations through elaboration of programmes and conducting training workshops for the benefit of staff of UNESCO's Field Offices (to enable them to assist local authorities), on the one hand, and for focal points in the National Commissions and for officials in the Ministries of Education entrusted with preparation of reports, on the other hand. This is very important for a better understanding of various components of the right to education and the methodology to follow as well as mechanisms of establishing good quality reports. Such training programmes should also cover follow up action required in line with the decisions which UNESCO's Governing Bodies may adopt. In that perspective, organizing regional-level seminars and workshops to that end deserves special consideration as promotional measure for promoting UNESCO's normative action.

I. DEVELOPMENT/MODERNIZATION OF NATIONAL LEGISLATION ON THE RIGHT TO EDUCATION

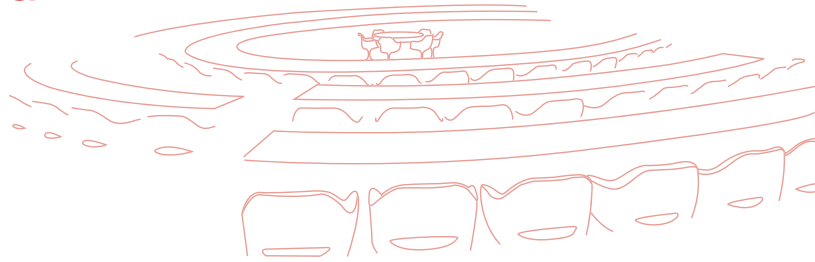
UNESCO recognizes that providing the right to education is an obligation of governments and requires that they translate their international commitments into legislation against which their citizens have legal recourse. Without legislation, it is difficult to monitor and enforce obligations, so mobilizing governments to develop and modernize national legislation is a critical element of implementing the right to education. Its significance has been recognized by the High Level Group on EFA as well as by the Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on the Monitoring of the Right to Education, mentioned above.

Moreover, it is also important to note that in monitoring the implementation of Recommendations along the lines of the new multi-stage procedures laid down by UNESCO's Executive Board in October 2007 (177 EX/Decision 35), special consideration is to given in monitoring whether national legislation reflects the principles laid down in the Recommendation concerned, and is accompanied by national level action.

Both CR in the debate in the CR during the seventh consultation of Member States on the Implementation of the Convention and the Recommendation against Discrimination in Education as well as the Joint Expert Group have also underlined the need for strengthening the foundations of the right to education in national legal system. UNESCO, therefore, makes its expertise available to countries for

modernizing/developing national legislation on the right to education so that the fundamental principles and norms expressed in conventions and recommendations in the field of education are reflected in the national legal system. This enables the Organization to promote normative action at national level as part of the EFA process.

MONITORING: AN ON-GOING PROCESS



The effective implementation of standard-setting texts constitutes the core of the monitoring mechanisms for the effective fulfillment of the obligations assumed by States when adopting conventions and recommendations. Monitoring is an on-going process and the report submitted by Member States is merely one stage in this process. Evaluation, follow-up and assistance must become part of a cycle of dialogue between States and monitoring bodies. The main task is to devise this process in such a way that can mobilize States to set precise objectives and clear priorities with the aim to achieve greater effectiveness. This requires both promotional measures and implementation measures. As is stated in the Framework Guidelines, the main issues which may be described by States in their report need to be resolved in order to promote the implementation of the substantive provisions of the convention in the country, and the activities specifically undertaken or supported by the National Commission. The same holds good as regards effective monitoring of the recommendations. To this end, UNESCO and the National Commissions must work together in a collaborative spirit for the full realization of the right to education – which is not only a right in itself but also indispensable for the exercise of all other human rights.

The full realization of the right to education for all without discrimination or exclusion is one of the biggest challenges of our times, as millions of children and young people remain deprived of this fundamental right in today's learning societies. UNESCO monitors conventions and recommendations in the field of education, which provide for the right to education. Such monitoring is part of the constitutional mandate of the Organization, and greater importance is being attached by UNESCO's Governing Bodies to making it more effective. This document throws light on the challenging tasks in monitoring of the right to education, with a focus on Education for All (EFA).