



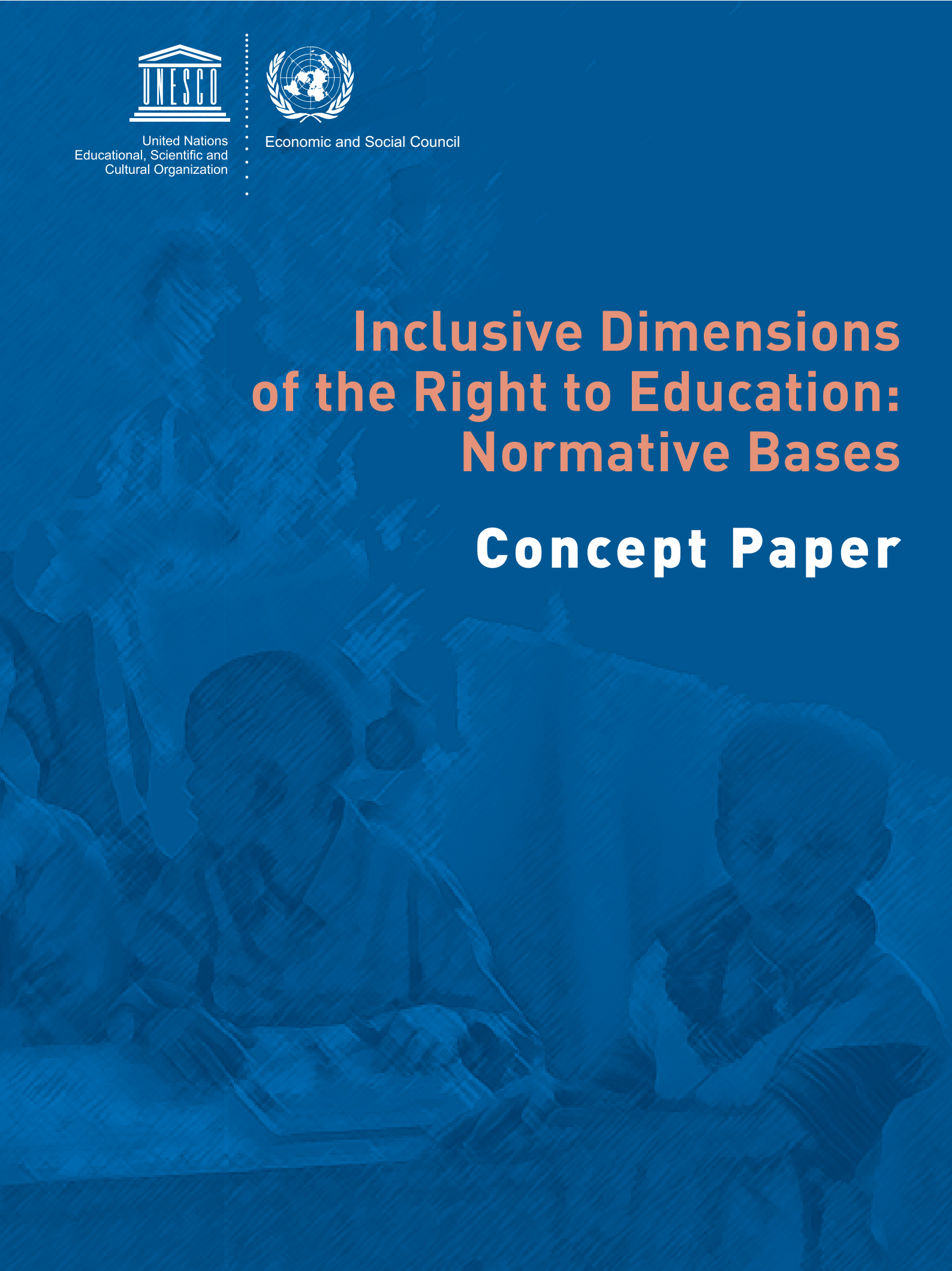
United Nations  
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Cultural Organization



Economic and Social Council

# Inclusive Dimensions of the Right to Education: Normative Bases

## Concept Paper



# **Inclusive Dimensions of the Right to Education: Normative Bases**

## **Concept Paper**

Prepared for the Eighth and Ninth Meetings  
of the Joint Expert Group UNESCO (CR)/ECOSOC (CESCR)  
on the Monitoring of the Right to Education – 2008

For further information, please contact:

Kishore SINGH

Secretary

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

E-mail: [k.singh@unesco.org](mailto:k.singh@unesco.org)

or

Rolla MOUMNÉ

Division for the Promotion of Basic Education

Education Sector

E-mail : [r.moumne@unesco.org](mailto:r.moumne@unesco.org)

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# I. Introduction

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1. The right to education is at the heart of the Education For All (EFA) programme as UNESCO's priority. It responds to the constitutional mandate of the Organization - ensuring "*Full and equal opportunities for education for all*" (emphasis added). The Dakar Framework for Action, adopted at the World Education Forum (2000), at which the right to education was reaffirmed, and the EFA goals were set, expresses the political commitment of the whole international community to:

- expanding and improving comprehensive early childhood care and education, especially for the most vulnerable and disadvantaged children;
- ensuring that by 2015 all children, particularly girls, children in difficult circumstances and those belonging to ethnic minorities, have access to, and complete free and compulsory, primary education of good quality;
- achieving a 50 per cent improvement in levels of adult literacy by 2015, especially for women, and equitable access to basic and continuing education for all adults;
- eliminating gender disparities in primary and secondary education by 2005, and achieving gender equality in education by 2015, with a focus on ensuring girls' full and equal access to and achievement in basic education of good quality.

2. However, the EFA agenda is falling behind, as the current pace of progress is not sufficient to meet the EFA goals. The target of eliminating gender disparities in primary and secondary education by 2005 has already been missed in a large number of countries and the target of achieving free and compulsory primary education of good quality for all, which is a Millennium Development Goal agreed upon at the Millennium Assembly (2000), also seems unlikely to be attained by 2015.

3. Making good quality basic education accessible to all is an important objective of the EFA.<sup>1</sup> As regards the Dakar goal for universalizing free and compulsory primary education by 2015, the Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on the Monitoring of the Right to Education has expressed its concern over the process of weakening the right to education – a process which needs be reversed. As the EFA Global Monitoring Report 2008 (henceforth referred to as the GMR 2008) shows, countries facing conditions of fragility – especially those that suffer the consequences of conflict or disaster – call for particular attention, as over one-third of out-of-school children live in such countries. These conditions continue to take a heavy toll, denying millions the right to education. Education systems remain affected by conflicts, natural calamities and instability.

4. The United Nations Committee on Economic, Social and Cultural Rights (CESCR), in its Concluding Observations has, for example, identified various *reasons why some groups have limited access to education*, ranging from traditional attitudes preventing girls from attending school<sup>2</sup> to the limited availability of schooling, including teachers, in rural areas.<sup>3</sup> A further ground of exclusion represents the limited financial means of persons living in poverty, who frequently may also be members of minority or indigenous communities.<sup>4</sup> Within some vulnerable groups, parents can be a decisive factor preventing their children from attending school.<sup>5</sup> Language can be another major factor in limiting access to education, and, therefore, of the exercise of the right to education.<sup>6</sup> At the same

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1 At the Fifth Meeting of the High Level Group on Education for All, (Beijing, November 2005), the Ministers of Education stated that “EFA will only be fully successful when currently marginalized children and adults complete school and workforce preparation programmes which they can use to improve their lives.” Similarly, at the Seventh Meeting of the High-Level Group on Education for All (December 2007, Dakar, Senegal, Communiqué ED/EFA/2007/ME/32), the Ministers of Education “recognized that achieving the EFA goals means reaching those children, youths and adults, especially girls and women, who have hitherto been excluded from basic education opportunities”.

2 Concluding Observations, Zambia, E/C.12/1/Add.106 (2005), para. 32.

3 Concluding Observations, Morocco, E/C.12/MAR/CO/3 (2006), para. 57.

4 Concluding Observations, Bosnia and Herzegovina, E/C.12/BIH/CO/1 (2006), para. 51; Morocco, E/C.12/MAR/CO/3 (2006), para. 26.

5 Concluding Observations, Slovenia, E/C.12/SVN/CO/1 (2006), para. 24.

6 Concluding Observations, Morocco, E/C.12/MAR/CO/3 (2006), para. 30.

time, those without permanent residency status may not have access to education in general.<sup>7</sup>

5. As the *Global Monitoring Report (GMR)* (2008) states, for various social, cultural or political reasons, certain population groups - such as migrants, indigenous people, ethnic minorities and those with disabilities - find themselves excluded from mainstream society, which often results in reduced access to formal education and literacy programmes (p. 65).

6. The magnitude of the challenge was expressed in the communiqué issued at the Ministerial Round Table on Education and Economic Development (organized in October 2007 during the 34<sup>th</sup> session of the UNESCO General Conference), in which the Ministers of Education urged that: "(...) access to education is addressed, and this *right* urgently realized, especially for the poorest and most marginalized, including more than 72 million children not in school and 774 million adults without literacy skills" (Emphasis added).

**7. It is, therefore, imperative to give further momentum to the EFA process. Advocacy of the right to education as a fundamental human right, with a focus on its inclusive dimensions, and with greater emphasis on the obligations of Governments for its more effective implementation, is indispensable for advancing the EFA agenda.**

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<sup>7</sup> Concluding Observations, People's Republic of China (including Hong Kong and Macau), E/C.12/1/Add.107 (2005), para. 66.

## II. Right to Education as a Universal Right

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8. The *Universal Declaration of Human Rights* (1948) which lays the moral foundation for human rights, proclaims that “every one has right to education” (Article 26 (1)). The legal framework of the right to education is laid down by UNESCO’s *Convention against Discrimination in Education* (1960) which is the first instrument in the field of education. The Convention establishes the entitlements to the right to education for various beneficiaries at all levels of education, including the right to universal primary education free of charge. It has been recognized by UNESCO’s Executive Board as a key pillar of EFA.

9. Several other instruments in the field of education, elaborated by UNESCO, develop the right to education in its different dimensions: the right to technical and vocational education established by the *Convention on Technical and Vocational Education* (1989), and the *Revised Recommendation concerning Technical and Vocational Education* (2001); the right to adult education, literacy and lifelong learning by the *Recommendation on the Development of Adult Education* (1976), and the *Hamburg Declaration on Adult Learning* (1997); the fundamental right of every child to quality education by the *Recommendation concerning the Status of Teachers* (1966); and the right to the pursuit of higher education by the *World Declaration on Higher Education for the Twenty-first Century* (1998).

10. The right to education is provided for in several human rights conventions adopted by the United Nations. It is comprehensively covered by the provisions in article 13 of the *International Covenant on Economic, Social and Cultural Rights* (1966), which was drafted at the suggestion of UNESCO’s Director-General and which draws extensively upon the *Convention against Discrimination in Education*. The General Comment 13 on article 13 of the International Covenant, which was elaborated by the CESCR in collaboration with UNESCO, elucidates the nature and scope of the right to education. Moreover, article 14 of the International Cove-

nant provides for “compulsory education free of charge for all.”<sup>8</sup> There are several other United Nations human rights treaties and declarations which provide for the right to education.<sup>9</sup>

11. The right to education thus laid down is an internationally recognized right. It is an overarching right: *a human right in itself and indispensable for the exercise of other human rights*. Its main attributes are:

- Universal access to primary education free and compulsory for all;
- Accessibility to secondary education in its different forms as well as technical and vocational education which should be made generally available;
- Capacity-based access to higher education;
- Opportunities for continuing education and literacy programmes and lifelong learning;
- Minimum international standards of quality education and of the teaching profession.

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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.

9 Notably, the *Convention on the Rights of the Child* (1989), the *Convention on the Elimination of All Forms of Discrimination against Women* (1979), the *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* (1990), and the *Convention on the Rights of Persons with Disabilities* (2006), the *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities* (1992), and the *Declaration on the Rights of Indigenous Peoples* (2007).

### III. Inclusive Dimensions of the Right to Education

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12. In order to fully understand the nature and the scope of the right to education as being universal, it is necessary to shed some light on its *all-inclusive dimensions*.

13. Rights of ‘national minorities’ to carry on their own educational activities, while remaining respectful of *understanding the culture and language of the community* as a whole are provided in UNESCO’s *Convention against Discrimination in Education* (article 5.1.c). While the Convention was being elaborated, the expression ‘national minorities’ was employed to denote the rights of cultural, ethnic and linguistic minorities. The United Nations *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, elaborated later, covers the rights of such minorities.

14. The “right of *equal access* to technical and vocational education” is laid down in the *Convention on Technical and Vocational Education* (emphasis added), which 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). Under the provisions of the Convention, States are required to “take appropriate measures” to enable the handicapped and other disadvantaged groups to benefit from technical and vocational education (Article 2, paragraph 4).

15. The inclusive dimensions of the right to education are reflected more elaborately in the *Revised Recommendation concerning Technical and Vocational Education* which provides that technical and vocational education is available to persons with disabilities and to socially and economically disadvantaged groups and groups such as immigrants, refugees or minorities (including indigenous peoples), and underprivileged and marginalized youth in order to integrate them more easily into society.

16. Similarly, these dimensions are reflected in the *World Declaration on Higher Education for the Twenty-first Century*, which stipulates that education shall become “accessible to all throughout life.” The Declaration

provides that “Access to higher education for members of some special target groups, such as indigenous peoples, cultural and linguistic minorities, disadvantaged groups, peoples living under occupation and those who suffer from disabilities, must be actively facilitated (...)” (Article 4).

17. Principles for adult education and literacy are laid down by the *Recommendation on the Development of Adult Education* which stipulates that measures should be taken with a view to “making access to all levels of education and training more widely available.” Similarly, the *Hamburg Declaration on Adult Learning* contains the main principles and concepts adopted so far in the context of the right to education and makes them generally applicable to the population as a whole. These instruments give primacy to norms and standards for wider access to education. The *Hamburg Declaration* postulates that “The State remains the essential vehicle for ensuring the right to education for all, particularly for the most vulnerable groups of society, such as minorities and indigenous peoples, and for providing an overall policy framework”, and enumerates various categories of the most under-privileged groups.<sup>10</sup>

18. In this respect, it is important to note that the principle that education is a human right and its provisions should respond to the necessity of wider access to educational resources worldwide, is reflected in the *Recommendation on the Recognition of Studies and Qualification in Higher Education* (1993). Besides, the right to education of children requiring special educational treatment, and the need to pay due attention to it, is recognized by the *Recommendation concerning the Status of Teachers*. It provides that education is *the fundamental right of every child* “to be provided with the fullest possible educational opportunities.”

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10 The Declaration enjoins upon Governments the political responsibility to “take measures with a view to promoting participation in adult education and community development programmes by members of the most under-privileged groups, whether rural or urban, settled or nomadic, and in particular illiterates, young people who have been unable to acquire an adequate standard of general education or a qualification, migrant workers and refugees, unemployed workers, members of ethnic minorities, persons suffering from a physical or mental handicap, persons experiencing difficulties of social adjustment and those serving prison sentences. In this context, Member States should associate themselves in the search for educational strategies designed to foster more equitable relations among social groups”.

19. Various conventions and recommendations in the field of education, elaborated by UNESCO, thus reflect all-inclusive dimensions of the right to education. They lay down the normative bases of universalizing access to education for all without discrimination or exclusion and express the international obligations and political commitments for the right to education for all: for national, ethnic, religious and linguistic minorities, for indigenous people, for the socially and economically marginalized, for vulnerable groups, for immigrants, for the disabled and handicapped, for refugees, for the rural-urban poor and for millions of those deprived of education by poverty. They embody the key concepts of universal approaches, which should be all-inclusive, and also provide the normative bases for education in its diverse forms such as adult education, community education, special education, etc. (see annex I).

20. Inclusive dimensions of the right to education are also covered in the United Nations instruments. The General Comment 13 on article 13 of the International Covenant, mentioned above, states that “education must be accessible to all, especially the most vulnerable groups, *in law and fact*, without discrimination on any of the prohibited grounds” (para. 6(b)). Similarly, the General Comment 11 on article 14 of the International Covenant, elaborated by CESCR, lays down the principle of compulsory education free of charge for all and stresses the need for action with a view to securing the implementation of this right.

21. The right to education for the benefit of its specific population groups has been emphasized by other United Nations instruments – for children in the *Convention on the Rights of the Child* (articles 28-30) – for women in the *Convention on the Elimination of All Forms of Discrimination against Women* (article 10); for migrants in the *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* (articles 12, 30 and 45) and for disabled and handicapped in the *Convention on the Rights of Persons with Disabilities* (article 24). In addition to these United Nations human right conventions, some United Nations declarations, mentioned above, such as the *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, and the *Declaration on the Rights of Indigenous Peoples* (article 14) cover the right to education of minorities and of indigenous peoples (see annex II).

**22. The right to education is thus universal and does not admit of any exclusion or discrimination. It needs to be upheld more emphatically, and its all-inclusive dimensions need to be brought into prominence in order that all those who remain deprived of it become its beneficiaries. In fact, promoting the right to education universally in that perspective is an obligation of Governments.**

## IV. International Obligations

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23. The legal framework for the right to education, highlighted above, carries international obligations. Like all human rights, the right to education imposes three levels of obligations on States parties: the obligations to respect, protect and fulfil. In turn, the obligation to fulfil incorporates obligations to facilitate and promote, and obligation to provide. The State obligations remain, even in the case of the privatization of education, so that there is a regulatory framework as regards standards, quality and contents of education, and, above all, for full respect of the fundamental principle of non-discrimination in education.

24. The legal or political nature of obligations depends upon whether they emanate from conventions or recommendations. The *conventions* and treaties have *binding force for States* which are parties to them. States are obliged to *incorporate their obligations* into their domestic legal order. On the other hand, the *recommendations* do not have binding force, they *reflect standards of political commitments* by Member States and have moral force. States are expected to take measures to bring them into effect through national legislation. Moreover, recommendations can be taken into account in administrative practices and judicial pronouncements. Education as a human right, reaffirmed at the World Education Forum, carries an obligation for Governments to ensure that basic education is made accessible to all. The *Dakar Framework for Action*, adopted at the World Education Forum, insofar as it was based on rights recognized in existing international instrument, can be taken as imposing legal obligations on signatories.

25. In the context of EFA, it is necessary to place special emphasis on States' *core obligations* for universalizing access to primary education, free of charge for all, without discrimination or exclusion. Accordingly, the Joint Expert Group, mentioned above, has underlined the need for full compliance with such *core obligations*. Having regards to the recommendations by the Joint Expert Group, UNESCO's Executive Board adopted in October 2007 a decision, by which it invites all Member States "to fulfil their respective commitments and international obligations relating to universalizing access to free primary education for all" (177 EX/decision 37).

26. The obligation to take immediate steps aimed at providing primary education *for all* is also expressed in the General Comment 13 (on the right to education). This General Comment states that “the States parties to the International Covenant are obliged to prioritize the introduction of compulsory, free primary education” (para. 51). This obligation is reinforced through the immediate nature of the non-discrimination clause (article 2 (2) of the Covenant), which applies “fully and immediately to all aspects of education and encompasses all internationally prohibited grounds of discrimination” (para. 31). The CESCR has also confirmed 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” (in conformity with article 2 of the *Convention on the Rights of the Child* and article 3 (e) of the *Convention against Discrimination in Education*).

**27. In conformity with these obligations, it is necessary to give a renewed momentum to EFA as a global drive and urge Governments to fulfil their obligations to implement the right to education, giving priority to all those who remain deprived of basic education of good quality.**

## V. Fulfilling the Right to Education for All its Beneficiaries

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28. For the right to education to become all-inclusive, cultural, ethnic and linguistic minorities, socially and culturally marginalized and disadvantaged individuals and groups, other vulnerable groups, and especially children from poor households should become its full beneficiaries.

29. **Cultural, ethnic and linguistic minorities** as beneficiaries of the right to education are conventionally recognized categories in the international law of human rights. Their right to education is not always respected. Moreover, 'new minorities' (resulting from present-day migrations) raise new problem dimensions for cultural, ethnic and linguistic minorities. What is important is to ensure that the rights of minorities to education are given effect in a way that it promotes, at the same time, integration and social cohesion in the context of EFA. Questions related to segregation and integration are complex and deserve further consideration. Inclusion implies *respect for diversity* – of different cultures and languages and of those from different racial, socio-economic and cultural backgrounds – in a spirit of mutual understanding and appreciation. While protecting the rights of national minorities, respect for the diversity of national education systems, and for cultural pluralism must be maintained.

30. The normative bases of protecting the **right to education of cultural, ethnic and linguistic minorities**, laid down in the *Convention against Discrimination in Education*, provide a legal framework for action at national level. In its article 5.1.c), the Convention provides for the educational rights 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. It requires that the exercise of this right by the members of minorities should be respectful of the *culture and language of the community as a whole* and should not be prejudicial to national sovereignty. The Convention further requires that (i) the standard of education in minority schools should not be lower than the general standard laid down or approved by the competent authorities; and (ii) that attendance at such schools is optional. In this respect, reference should also be made to the Declaration and the *Integrated Framework of Action on Education for Peace, Human Rights and Democracy*, adopted

and endorsed by the International Conference on Education (October 1994): “In order to create understanding between different groups in society, there must be respect for the educational rights of persons belonging to national or ethnic, religious and linguistic minorities, as well as indigenous people, and this must also have implications in curricula and methods as well as in the way education is organized.”

31. **Persons belonging to ethnic minorities** are often prevented from fully enjoying their right to education. This has been addressed by the CESCR in various Concluding Observations.<sup>11</sup> In some countries, they suffer from irregular access to education.<sup>12</sup> The CESCR has referred States parties to its General Comment 11 (1999) on plans of action for primary education and General Comment 13 (1999) on the right to education when calling upon States “to take effective measures to ensure that all children, including (...) ethnic minority children, have access to free compulsory primary education.”<sup>13</sup> *Persons of African descent* have been identified by the CESCR as one specific ethnic group likely to be prevented from access to education for example in Costa Rica,<sup>14</sup> and in being prevented from equal access to university education in Canada.<sup>15</sup> In order for the State party to remedy this, the CESCR has recommended an overall assessment of the situation of the community, in particular regarding education, “in order to adopt and effectively implement a targeted programme of action to realize their rights under the Covenant.”<sup>16</sup>

32. As regards **linguistic minorities**, special emphasis is given in many countries - Australia (Indigenous people), Brazil (Afro-Brazilian), Croatia, Czech Republic, Hungary, Latvia, Norway, Slovakia (Roma), Slovenia (special educational rights for Italian and Hungarian) and Spain (immigrants) - to the legal and policy framework relating to educational standards in institutions run by minorities. Offering language facilities is

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11 e.g. Concluding Observations, Bosnia and Herzegovina, E/C.12/BIH/CO/1 (2006) para. 12.

12 e.g. Concluding Observations, People’s Republic of China (including Hong Kong and Macao), E/C.12/1/Add.107 (2005), para. 37.

13 Ibid. para. 66.

14 Concluding Observations, Costa Rica, E/C.12/CRI/CO/4 (2007), para. 35.

15 Concluding Observations, Canada, E/C.12/CAN/CO/4 (2006), para. 32.

16 Ibid. para. 66.

an important issue.<sup>17</sup> **Language** often constitutes a barrier to access to education. Therefore, CESCR has recommended that where this constitutes a problem, States parties should allocate sufficient funds for *bilingual education*.<sup>18</sup> Higher education should also be accessible, i.e. it should not only be provided in one language if other official languages exist.<sup>19</sup> Children belonging to minorities or indigenous communities are entitled to have *equal opportunities* to receive instruction in their mother tongue; any distinction between different minority and indigenous groups must be justified by reasonable and objective criteria (such as numerical criteria, etc.). Despite the trend towards requiring instruction in or of the main minority languages within a State party, CESCR clearly *rejects* the establishment of *separate schools* for children belonging to different ethnic groups and asks States parties to teach *one over-arching curriculum* to all classes, irrespective of ethnicity. It goes without saying that such curricula should provide for instruction in the official language of States parties.<sup>20</sup>

33. The language of instruction as well as knowledge of languages plays a key role in learning. As the GMR (2008) mentions, bilingual education has been found to improve the schooling outcomes of children from indigenous communities in many countries (p 120). It suggests the need to “recognize the importance of *mother tongue* instruction in early childhood and the first years of primary school” (p 4). The contemporary issues in language and the right to education call for practical solutions with a view to operationalizing the existing normative framework, established in several United Nations human rights conventions, mentioned above.

34. **Roma children** constitute another group suffering from limited access to education. In the reports submitted to UNESCO for the seventh consultation on the measures taken for the implementation of the Convention and the Recommendation against Discrimination in Education, several Member States have indicated the progressive measures as well as obstacles encountered as regards the realisation of the right to educa-

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17 “Results of the Seventh Consultation of Seventh Consultation of Member States on the measures taken for implementation of the Convention and the Recommendation against Discrimination in Education (1960)”, Document 177 EX/36, UNESCO, Paris.

18 Concluding Observations, Morocco, E/C.12/MAR/CO/3 (2006), para. 26 and 45.

19 Ibid. para. 30.

20 Concluding Observations Slovenia, para. 11; and Concluding Observations Bosnia and Herzegovina (2005), para. 50.

tion for Roma children. Their integration into the education system, while respecting their cultural identity as also the principle of non-discrimination, can be promoted by drawing upon practical examples.

35. CESCR has recommended in its Concluding Observations regarding the Ukraine, for instance, the adoption of “special measures, including subsidies for textbooks and other educational tools” to increase their school attendance at all levels.<sup>21</sup> The obligation of the State party also comprises the provision of language classes, the combating of discrimination against Roma students and the need to “raise awareness among Roma families on the importance of education, including for girls.”<sup>22</sup> The provision of mother tongue education for minorities, including Roma, has also been interpreted as obligatory under the Covenant, as postulated in the Concluding Observations adopted by CESCR concerning Slovenia.<sup>23</sup> The conditions of Roma children in Europe are a key concern, as there are over 10 million Roma population affected.

36. **Indigenous communities** are also frequently denied access to education. The GMR (2008) indicates that “Experiences in diverse contexts show that children of indigenous population are less likely to enrol in primary education and more likely to repeat than non-indigenous children”. Among the main needs to be met in order for indigenous children to have access to good quality education are appropriate and accessible schooling opportunities, adequate resources in schools and the cultural relevance of the education offered.

37. In its Concluding Observations, the CESCR regularly reminds State parties of their obligation to ensure the access of indigenous children to education.<sup>24</sup> States parties must ensure that there are adequate numbers of teachers in primary and secondary schools attended by indigenous children, that school attendance by indigenous children as well as their comparatively poor performance is raised, and that their illiteracy

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21 Concluding Observations, E/C.12/UKR/CO/5 (2007), para. 54.

22 Concluding Observations, Ukraine, E/C.12/UKR/CO/5 (2007), para. 54; Slovenia, E/C.12/SVN/CO/1 (2006), para. 24.

23 Concluding Observations, E/C.12/SVN/CO/1 (2006), para. 24.

24 e.g. Concluding Observations, Costa Rica, E/C.12/CRI/CO/4 (2007), para. 35; Morocco, E/C.12/MAR/CO/3 (2006), para. 46.

rate is reduced.<sup>25</sup> The CESCR has also specified that States parties are obliged to “strengthen and upgrade schooling programmes” for indigenous children, and “to report on the progress made in achieving universal access to compulsory primary and secondary education” to the CESCR.<sup>26</sup>

38. In this respect, it is pertinent to note that the United Nations *Declaration on the Rights of Indigenous Peoples* (2007), which states that “Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination”, provides the normative bases for addressing the educational needs of the indigenous people and promoting their right to education. The Declaration sets promising international standards for the protection and promotion of the rights of indigenous peoples within the larger human rights framework and, more specifically, highlights their rights related to culture, identity, language and education.<sup>27</sup>

39. **Women and girls** are frequently excluded from education. In such cases, CESCR reminds States parties of the obligation to achieve gender equality in the access to education in different regions.<sup>28</sup> In some countries, this disparity between women and men can even be greater in rural areas, as addressed in the Concluding Observation on Morocco.<sup>29</sup> The obligation of States parties in this regard has also been interpreted to comprise the elimination of traditional attitudes which frequently prevent girls and women from the enjoyment of their right to education.<sup>30</sup>

40. As the *GMR* (2008) states, women constitute 64 per cent of illiterate adults (1995-2004) and their literacy is crucial in addressing wider issues of gender inequality (p 65). Stating that the gender equality remains elusive, it addresses various issues as regards equity and gender disparities

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25 e.g. Concluding Observations, Costa Rica, E/C.12/CRI/CO/4 (2007), para. 26.

26 e.g. Concluding Observations, Morocco, E/C.12/MAR/CO/3 (2006), para. 45.

27 The Declaration was adopted by the UN General Assembly, Resolution 61/295 of 13 September 2007, and it provides that “Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning” (article 14).

28 Concluding Observations, El Salvador, E/C.12/SLV/CO/2 (2007), para. 28; Morocco, E/C.12/MAR/CO/3 (2006), para. 30.

29 Concluding Observations, Morocco, E/C.12/MAR/CO/3 (2006), para. 57.

30 Concluding Observations, Zambia, E/C.12/1/Add.106 (2005), para. 32.

and inequalities and underlines the need to promote gender equality through teacher training, the curriculum and textbook content (p. 4).

41. It is, therefore, of critical importance to intensify advocacy for non-discrimination based upon gender, in line with the *Convention against Discrimination in Education*, and give full effect to the provisions in Article 10 of the *Convention on the Elimination of All Forms of Discrimination against Women* (1979), which establishes the obligation of the States Parties to the Convention to “take all appropriate measures to eliminate discrimination against women in order to ensure them equal rights with men in the field of education.” An important area of action relates to the need to give follow up to the Concluding Observations adopted by the CEDAW-Committee.

42. **Disabled and handicapped children** – of which there are more than 600 million today – are an important segment of the population which remains victim of discrimination and/or deprived of education. Actions aimed at giving effect to the *Convention on the Rights of Persons with Disabilities* would ensure their access to education. The Convention provides that, with a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning. In its article 24 (2), the Convention provides that “In realizing this right, States Parties shall ensure that: (a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability; (b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live.” The measures aimed at fulfilling obligations under the *Convention on Technical and Vocational Education* cover basic skills and would contribute to such education for the handicapped.

43. **Rural and illiterate populations** constitute a majority of those left behind and excluded from education. There are over 700 million illiterate adults in the world today, of which more than 60 per cent are women. These figures indicate the scope of the challenges lying ahead in combating illiteracy. In order to universalize access to basic education, accelerated momentum needs to be given to promoting adult education and continuing learning for youths and adults deprived of education. This calls for measures aimed at promoting the right to literacy and improve adult learning situations and both formal and non-formal adult education. There is greater need to ensure the right to educa-

tion of rural populations, especially those who live in remote areas. Promoting the quality of teaching and learning, with special attention to the strategies for placing, supporting and retaining qualified and trained teachers in rural areas and improving their working conditions is of crucial importance. In its Concluding Observations concerning Morocco and China, CESCR recalled the obligation of States parties to ensure the availability of sufficient numbers of teachers in rural or remote areas.<sup>31</sup>

44. Literacy as a right, linked to adult or continuing education, has further evolved towards the concept of lifelong learning.<sup>32</sup> The EFA Global Monitoring Report 2006 has highlighted the main issues in literacy “as a right” and its interpretation as a foundational universal life skill.<sup>33</sup> In that perspective, it is necessary to intensify action at national level in line with the right to adult education and literacy, as provided by UNESCO’s *Recommendation on the Development of Adult Education and the Hamburg Declaration on Adult Learning*, for providing continuing education and learning opportunities for youth and adults. The *Recommendation on the Development of Adult Education* stipulates that “The place of adult education in each education system should be defined with a view to achieving a rectification of the main inequalities in access to initial education and training, in particular inequalities based on age, sex, social position or social or geographical origin.” Besides, the legal obligations of States must be underlined in keeping with the *Convention against Discrimination in Education* which enjoins States 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” (Article 4 c). The International Covenant contains similar provisions, and employs, in its article 13 (2) (d), the term “fundamental education” which extends to all those who have not yet satisfied their “basic learning needs”.<sup>34</sup>

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31 Concluding Observations, Morocco, E/C.12/MAR/CO/3 (2006), para. 26 and 30; E/C.12/1/Add.107 (2005), para. 37.

32 The *Recommendation on the Development of Adult Education* stipulates that the education of young people should “progressively be oriented towards life-long education” and learning.

33 EFA Global Monitoring Report – Literacy for Life, 2006, UNESCO Publishing (pp. 136-139).

34 General Comment 13 on the Right to Education (Article 13 of the Covenant), op. cit. (para. 23).

45. **Nomad populations** including pastoral nomads, and Roma populations, are spread over a large number of countries, in all regions of the world. Enabling these populations to exercise their right to education, recognized by the *Recommendation on the Development of Adult Education*, is an area which deserves much more attention.<sup>35</sup> The role of public authorities as regards the obligation of parents to ensure that their children attend schools, which they frequently change raises particular problems and imposes responsibility on public authorities in regard to the obligation of those parents as Nomad populations frequently move.

46. The need for special attention to be paid by Government to certain specific categories of population has been recognized in the course of recent development on modernizing national legislation, with UNESCO's technical assistance – for instance, positive measures in favour of the children from the Arid and Semi-arid Lands (ASALs) in Kenya; the *almajiri* in Nigeria (the Act on Compulsory Free Universal Basic Education of the Republic of Nigeria (2004) provides for basic education including the education of special groups such as nomadic and migrants, girl-children and women, *almajiri*, street children and disabled groups (article 15 (1)); and the Kuchi population in Afghanistan who form around 8 per cent of population of which nearly 40 per cent have never attended a primary school.

47. **Migrant workers, refugees, internally displaced persons (IDPs), and asylum-seekers** represent groups whose right to education raises critical questions. The recent concern of many European countries to counter discrimination in education based on race and national origin has been prompted in part by the growth of immigrant populations and influx into the schools of large numbers of children of immigrant families. States have adopted a variety of approaches to meet this challenge.<sup>36</sup> The exclusion of migrant workers, refugees, internally displaced persons (IDPs), and asylum-seekers from education has regularly been addressed by CESCR in its Concluding Observations. Children of migrant workers, in the case of China, particularly in relation to internal migrant workers, are

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35 Mobile schools to follow nomad's population movements in Indonesia and in India can be cited as practical examples. Another possibility is that of construction of rooms for schooling on the site where pastoral nomads settle most frequently, for example in Africa,

36 "Results of the Seventh Consultation of Member States on the measures taken for implementation of the Convention and the Recommendation (1960)", op. cit.

entitled to education on an equal basis as nationals.<sup>37</sup> With regard to immigrant children, States parties have been encouraged to reduce linguistic barriers through intensive language training and “to offer appropriate catch-up classes, and to increase family awareness about the importance of education for future professional careers.”<sup>38</sup> The Covenant has also been interpreted as requiring equal access to all levels of education by asylum-seeking children.<sup>39</sup> Uncertain residence status and limited access to personal identification documents frequently precludes refugees and IDPs from access to education as such documentation is usually required to register for schooling.<sup>40</sup>

48. It is, therefore, important to promote measures as a follow up to the *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*, which provides that “Migrant workers shall enjoy equality of treatment with nationals of the State of employment; and access to educational institutions and services (...)”, and that “each child of a migrant worker shall have the basic right of access to education on the basis of equality of treatment with nationals of the State concerned.”

49. **Children from poor households** are most affected in exercising their right to education. Millions of those living in poverty suffer multiple disadvantages. An *unequivocal political commitment* is needed so that the children living in poverty are not relegated to the most disadvantaged schools. Providing education to the poor, to the excluded and to the disadvantaged – the rural poor but also children and youths in teeming urban slums – is a priority concern, as poverty is the greatest obstacle to realizing the right to education.

50. The right to education has close links with the right to development and is a powerful tool in poverty reduction strategies. To achieve the EFA goals, the governments, organizations, agencies, groups and associations represented at the World Education Forum pledged themselves “to promote EFA policies within a sustainable and well-integrated

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37 Concluding Observations, People’s Republic of China (including Hong Kong and Macau), E/C.12/1/Add.107 (2005), paras. 66, 101, 116, 126.

38 Concluding Observations, Liechtenstein, E/C.12/LIE/CO/1 (2006), paras. 20 and 26.

39 Concluding Observations, Norway, E/C.12/1/Add.109 (2005), para. 22.

40 Concluding Observations, Serbia and Montenegro, E/C.12/1/Add.108 (2005), para. 14.

sector framework clearly linked to *poverty elimination and development strategies*”<sup>41</sup> (emphasis added). Without accelerated progress towards education for all, national and internationally agreed targets for poverty reduction will be missed and inequalities between countries and within societies will widen.

51. The international norms of non-discrimination and equality, which demand that particular attention be given to vulnerable groups and individuals from such groups, have profound implications for anti-poverty strategies. As such, a human-rights approach to poverty can enforce anti-poverty strategies and make them more effective.<sup>42</sup> The need for accelerated momentum for the achievement of literacy and the eradication of poverty - “based on the recognition of the fundamental importance for enjoying the right to education”<sup>43</sup> and its promotion through ‘legal discourse’ on literacy and normative action as part of EFA process is urgent.

52. The above categories are not limitative as regards those who could be deprived of basic education – marginalized and vulnerable would also include de-mobilized soldiers, children in conflict areas, street children, child workers, exploited children and those victims of child labour as well as stateless persons/those without official papers, etc.

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41 Dakar Framework for Action, adopted at the World Education Forum (2000), para. 8.

42 Statement on Poverty and the International Covenant on Economic, Social and Cultural Rights, adopted by the Committee on Economic, Social and Cultural Rights (CESCR), Document E/C.12/2001/10, 10 May 2001.

43 Final Communiqué of the fifth meeting of the High Level Group on EFA, Beijing, 28-30 November 2005.

## VI. Future Action and Key Tasks

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**53. The challenges of ensuring that the EFA goals are met and every one is enabled to receive basic education are indeed daunting. The right to education, which is inviolable, is of paramount importance and its sanctity must be maintained everywhere. Advocacy for fulfilling the right to education in all its inclusive dimensions is fundamental to the theme of the International Conference of Education (ICE, November 2008): *Inclusive Education: The way for the future.***

54. *Ensuring equality of educational opportunities* is a continuing challenge faced by Member States, as has been shown by the results of the seventh consultation of Member States on the measures taken for implementation of the Convention and the Recommendation against Discrimination in Education. Even in countries where educational opportunities are in general widely available, inequalities remain in the ability of all social groups to fully avail themselves of such opportunities, giving rise to early drop-out from education and failure to obtain a useful qualification. Ensuring that children from differing socio-economic backgrounds, born with different advantages and disadvantages, have equality in educational opportunities, is a key element in facing this challenge. Inclusive dimensions of the right to education are important both as regards access to education and the way it is dispensed.

55. In countries facing severe resource constraints and caught in widespread poverty, inequalities in educational opportunity are often more pronounced and have led States to adopt different kinds of compensatory measures. Fundamental changes are required in the distribution of educational resources, along with positive measures in favour of the children from poor households deprived of basic education. Normative action at national level for the benefit of the poorest and most marginalized children, youths and adults should be promoted through “better school infrastructure, elimination of tuition fees, provision of additional financial support to the poorest households and flexible schooling for working children and youth”.<sup>44</sup> *Equity, quality and financing* as key areas in pushing forward the

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44 The EFA Global Monitoring Report (GMR) 2008, p. 9.

EFA agenda have been highlighted in the EFA Global Monitoring Report (GMR, 2008), which states that “Education expansion does not necessarily translate into reduced inequality” (p. 23) and “Most countries, even those with relatively high primary enrolment ratios, need to address equity issues” (p. 6).

56. The work of all United Nations human right treaty bodies contributes to promoting the fundamental principle of equality of educational opportunities - laid down by the *Convention against Discrimination in Education*, and also expressed in the United Nations human rights treaties. Where stark contrasts in quality and opportunities between education in public and private institutions exist, such as identified in Morocco by the CESCR, States parties are under an obligation to ensure that low-income sectors of society are not denied equal opportunities.<sup>45</sup>

57. Emphasis on all-inclusive dimensions of the right to education is critical in eliminating existing *inequalities* and *disparities* in educational facilities, both as regards various beneficiaries of education as well as *inequalities* and *disparities* in different regions in a country. For education to be all-inclusive, everyone must be given the opportunity to achieve and maintain an acceptable level of learning. This requires the removal of all ‘educational disparities’ and attention as an ‘urgent priority’ to categories suffering from exclusion or discrimination, even if the achievement of equity involves positive discrimination or granting priorities to certain groups. As the GMR (2008) states, “Despite overall enrolment increases, sub-national disparities in school participation persist between regions, provinces or states and between urban and rural areas. Children from poor, indigenous and disabled populations are also at a systematic disadvantage, as are those living in slums” (p. 2). Therefore, as is stated in the Concluding Observations adopted by CESCR, any disparities in school enrolment rates between girls and boys and between rural and urban areas must be eliminated.

58. For children from social, cultural and ethnic groups or families that do not offer favourable conditions for the development and education of their children, the equity of education implies a set of “positive” measures. Such temporary special measures may be a suitable action in

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<sup>45</sup> Concluding Observations, Morocco, E/C.12/MAR/CO/3 (2006), para. 30.

cases of longstanding or historical and persisting forms of discrimination. They may be justifiable until full equality of treatment is reached. As the Communiqué issued at the Seventh Meeting of the High Level Group on EFA in Dakar (Dec. 2007) states, "Governments should strive to ensure that no child is excluded from school because of the financial burden (...)." <sup>46</sup> At this meeting, the Ministers underlined that poverty and social exclusion remain the major barriers to achieving the EFA goals, and they committed themselves to further measures in support of the poorest populations, such as abolition of school fee and cash transfers, as well as policies to promote inclusion. <sup>47</sup> *Affirmative action and promotional measures* are highly necessary in order to eliminate existing inequities and disparities in education. <sup>48</sup> Some practical measures reported to UNESCO on the Seventh Consultation of Member States, mentioned above, are significant in terms of available experience. <sup>49</sup>

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46 The GMR (2008) suggests the need to "provide financial support such as scholarships, cash or in-kind transfers to children from poorer households" (p. 3), and "include the poorest and most marginalized children, youth and adults through better school infrastructure, elimination of tuition fees, provision of additional financial support to the poorest households and flexible schooling for working children and youth" (p. 9).

47 Seventh Meeting of the High-Level Group on Education for All 11-13 December 2007, op. cit.

48 The promotion of equal access to education for Roma children has been interpreted by CESCR to comprise positive measures, such as "the grant of scholarships and the reimbursement of expenses for schoolbooks and of travel expenses to attend school" (Bosnia and Herzegovina, E/C.12/BIH/CO/1 [2006], para. 51), and the increase of "subsidies, scholarships and the number of teachers instructing in minority languages" (Serbia and Montenegro, E/C.12/1/Add.108 [2005], para. 64).

49 Proactive policies for access to education, notably in rural areas, as well as financial aids for students from poor families by the way of bursaries and grants introduced by the government in Senegal;

Grants and loans offered for the provisions of teaching and learning materials and educational infrastructure in Tanzania under the Education Fund established by the Act No. 8 of 2001 for enhancing quality, access and equity of education at all levels;

Compensatory measures and quota system to provide educational opportunities in Brazil, especially for the Quilombola (descendants of runaway slaves from imperial and colonial times) since unequal conditions as regards their access to education is a major policy concern;

Institution of the Educational Priority Zones, based on the concept of positive discrimination to ensure prevention of school failure especially in schools in remote rural areas, and functional illiteracy in Cyprus, and extra measures taken to support specific areas which mainly involve schools in remote rural areas, schools with low socioeconomic status and education in the occupied areas of the island.

59. There is need to clearly address the educational needs of poorer sectors of society as well as economically and socially-marginalized and vulnerable groups. Special consideration must be given to such educational needs. Articles 3 and 4 of the UNESCO's *Convention against Discrimination in Education* contain provisions for this purpose for granting scholarships and other forms of assistance, etc. The *Convention* covers "matter of school fees and the grant of scholarships or other forms of assistance to pupils." Similarly, Article 13 of the *International Covenant on Economic, Social and Cultural Rights* includes "an adequate fellowship system" among its provisions on the right to education. The nature and scope of the right to education as provided for in Article 13 have been elucidated by the General Comment 13 on the right to education: this General Comment states that "the requirement that 'an adequate fellowship system shall be established' should be read with the Covenant's non-discrimination and equality provisions; the fellowship system should enhance equality of educational access for individuals from disadvantaged groups."<sup>50</sup>

60. In its Concluding Observations, the CESCR has, for example, recommended that States parties upgrade schooling programmes for indigenous and migrant children, child workers and children belonging to other disadvantaged and marginalized groups, in particular girls<sup>51</sup>, take effective measures to promote school attendance by Roma children and children belonging to other minority groups, as well as refugee and internally displaced children, by increasing subsidies, scholarships and the number of teachers instructing in minority languages, and promote equal access by Roma children to primary education, e.g. through the grant of scholarships and the reimbursement of expenses for schoolbooks and of travel expenses to attend school, and to closely monitor school attendance by Roma children.<sup>52</sup> Similarly, minority and indigenous children and their families may be entitled to temporary special measures, including scholarships and financial subsidies such as reimbursement of expenses for schoolbooks and of travel expenses.

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50 General Comment No. 13 on the right to education (Article 13 of the Covenant), op. cit. para 26.

51 Concluding Observations, Mexico (2006), para. 45.

52 Concluding Observations, Serbia and Montenegro (2005), para. 64, and Concluding Observations, Bosnia and Herzegovina (2005), para. 51.

61. The right to education needs to be monitored with greater concern for **quality imperatives**. Quality stands at the heart of EFA. “*Minimum educational standards*” must be ensured as a follow up to the *Convention against Discrimination in Education* which recognizes the importance of norms, standards and quality of education. Poor standards of education – both in public and private schools – can, *inter alia*, be attributed to lack of qualified teachers and lack of respect for their professional status and working conditions. The *Recommendation concerning the Status of Teachers*, which “*applies to all teachers in both private and public schools*” (Article 2, emphasis added), provides a legal framework for measures to that end. Greater emphasis needs to be placed on action at the national level on universalizing access to quality education for all, and on equitable deployment of teachers in rural, urban and remote areas.

62. The state obligations for fully respecting the right to education as a universal right must be reflected in national legal systems, in education policies and strategies and in education programmes. Some recent developments in national legislation, reported to UNESCO on the Seventh Consultation of Member States are exemplary.<sup>53</sup> While promoting UNESCO’s normative action, aimed at more effective implementation of conventions and recommendations in the field of education, greater emphasis on all-inclusive dimensions of the right to education is required. It is important

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53 The Law of 11 February 2005 on Equality of Rights and Opportunities, Participation and Citizenship of Handicapped Persons (*L'égalité des droits et des chances, la participation et la citoyenneté des personnes handicapées*) in France; the General Equality of Treatment Act of 2006 in Germany, which aims “to prevent or remove disadvantages due to race or ethnic background, gender, religion or philosophy, disability, age or sexual orientation” in employment and vocational training; the Prohibition of Discrimination Act of 2005 in Norway, which establishes a new Office, the Equality and Anti-Discrimination Ombud; the Equality Act of 2006 in the United Kingdom which establishes a Commission for Equality and Human Rights and for the first time requires public authorities “to take proactive steps in promoting equality of opportunity between men and women”; the Promotion of Equality and Prevention of Unfair Discrimination Act (RSA, 2000) in South Africa, which seeks to prevent or prohibit unfair discrimination. Regulatory frameworks for private educational institutions in order to ensure equality of educational opportunities and treatment have been developed notably in Bahrain, Grenada, Slovenia and Malawi.

See “Results of the Seventh Consultation of Member States on the measures taken for implementation of the Convention and the Recommendation (1960)”, *op. cit.*

Besides, the National Commission for Minority Education Institutions Act (2004), recently established in India, is also noteworthy.

that Governments fully abide by their legal and political obligations and adopt necessary measures and intensify action with a view to meeting the challenging tasks in the full implementation of the right to education as a universal right. 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. The decision taken by the Executive Board at its 177th session (177 EX/Decision 36) and the resolution accordingly adopted by the General Conference at its 34th session in October 2007 (34 C/Resolution 13) request the Director-General of UNESCO to “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.”

63. As mentioned above, the right to education is universal and does not admit of exclusion or discrimination. It must, as such, be incorporated into national legal systems. While examining the foundations of the right to education in national legal systems, the Joint Expert Group, mentioned above, had underlined the need for analysing the international legal framework of this right as well as the constitutional provisions and laws, so that policies are accordingly evaluated and developed. As such, the inclusive dimensions of the right to education would be an important aspect, while undertaking analytical studies and dissemination of the knowledge on its constitutional and legislative bases. The Ministers of Education at the Seventh Meeting of the High-Level Group on Education for All (December 2007, Dakar, Senegal), mentioned the need “to determine more precisely the characteristics of excluded groups, their circumstances and needs and thus inform more inclusive educational policies”, and to “identify steps to strengthen and harmonize, where necessary, the *legislative framework within which the right to education is guaranteed*”<sup>54</sup> (Emphasis added).

64. Strengthening normative action with a focus on the all-inclusive dimensions of the right to education requires new policy and programmatic approaches so that the right to education can be enjoyed universally, it is effectively enforced and becomes justiciable. Central to the reform process is the need to ensure stronger integration of education-sector planning with that for broader development objectives, at both national and international levels. There is need to encourage all actors in the field of education

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54 Seventh Meeting of the High-Level Group on Education for All, op. cit.

to pay due regard in their undertakings to the need for equity, inclusion and social cohesion in today's societies. **All-inclusive dimensions of the right to education must be brought into focus while raising the profile of EFA in development, as a human right and as a fundamental tool in economic growth and poverty reduction.**

## UNESCO Instruments – Inclusive Dimensions of the Right to Education

Instrument	Provisions
<b>Conventions</b>	
<p>Convention against Discrimination in Education (1960)</p>	<p>The States Parties to this Convention undertake “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 [....].” (Art. 4)</p> <p>States parties to the Convention have the obligation “to encourage and intensify by appropriate methods the education of persons who have not received any primary education or <i>who have not completed the entire primary education</i> course and the <i>continuation of their education</i> on the basis of individual capacity.” (Art. 4 § c)</p> <p>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. (Art.5 § c)</p>

Instrument	Provisions
<p>Convention on Technical and Vocational Education (1989)</p>	<p>The contracting States shall work towards the right to <i>equal access</i> to technical and vocational education and towards <i>equality of opportunity</i> to study throughout the educational process. (Art. 2 § 3)</p> <p>They shall guarantee that there is no discrimination against individuals who have attained the educational level required for admission into technical and vocational education. (Art. 2 § 3)</p> <p>The Contracting States shall pay attention to the special needs of the handicapped and other disadvantaged groups and take appropriate measures to enable these groups to benefit from technical and vocational education. (Art. 2 § 4)</p>
<p><b>Recommendations</b></p>	
<p>Recommendation on the Development of Adult Education (1976)</p>	<p>Member States should take measures with a view to promoting participation in adult education and community development programmes by members of the most under-privileged groups, whether rural or urban, settled or nomadic, and in particular illiterates, young people who have been unable to acquire an adequate standard of general education or a qualification, migrant workers and refugees, unemployed workers, members of ethnic minorities, persons suffering from a physical or mental handicap, persons experiencing difficulties of social adjustment and those serving prison sentences. In this context, Member States should associate themselves in the search for educational strategies designed to foster more equitable relations among social groups. (Art. 4 § d)</p>
<p>Revised Recommendation concerning Technical and Vocational Education (2001)</p>	<p>Technical and vocational education should be so designed that it is available to people with disabilities and to socially and economically disadvantaged groups such as immigrants, refugees, minorities (including indigenous peoples), demobilized soldiers in post-conflict situations, and underprivileged and marginalized youth in special forms adapted to their needs in order to integrate them more easily into society. (Art. 7 § g)</p>

Instrument	Provisions
<b>Declarations</b>	
Hamburg Declaration on Adult Learning (1997)	The State remains the essential vehicle for ensuring the right to education for all, particularly for the most vulnerable groups of society, such as minorities and indigenous peoples, and for providing an overall policy framework. (Para. 8)
World Declaration on Education for All (1990)	Every person – child, youth and adult – shall be able to benefit from educational opportunities designed to meet their basic learning needs (Art. 1 § 1)
Declaration and Integrated Framework of Action on Education for Peace, Human Rights and Democracy (1995)	In order to create understanding between different groups in society, there must be respect for the educational rights of persons belonging to national or ethnic, religious and linguistic minorities, as well as indigenous people, and this must also have implications in curricula and methods as well as in the way education is organized. (Para. 29)
World Declaration on Higher Education for the Twenty-first Century (1998)	Education is a fundamental pillar of human rights, democracy, sustainable development and peace, and shall therefore become accessible to all throughout life. (Preamble) Access to higher education for members of some special target groups, such as indigenous peoples, cultural and linguistic minorities, disadvantaged groups, peoples living under occupation and those who suffer from disabilities, must be actively facilitated, since these groups as collectivities and as individuals may have both experience and talent that can be of great value for the development of societies and nations. (Art. 3 § d)

Instrument	Provisions
<p><b>Frameworks, Statements</b></p>	
<p>Salamanca Statement and Framework for Action on Special Needs Education (1994)</p>	<p>Governments are urged “to adopt as a matter of law or policy the principle of inclusive education.” (Para. 3 of the Salamanca Statement on Principles, Policy and Practice in Special Needs Education)</p> <p>Legislation should recognize the principle of equality of opportunity for children, youth and adults with disabilities in primary, secondary and tertiary education carried out, in so far as possible, in integrated settings. (Para. 16 of the Framework for Action on Special Needs Education)</p>
<p>Dakar Framework for Action, adopted at the World Education Forum (2000)</p>	<p>“Education is a fundamental human right” (Para. 6).</p> <p>“We hereby collectively commit ourselves to the attainment of the following goals:</p> <ul style="list-style-type: none"> <li>(i) expanding and improving comprehensive early childhood care and education, especially for the most vulnerable and disadvantaged children;</li> <li>(ii) ensuring that by 2015, all children, particularly girls, children in difficult circumstances and those belonging to ethnic minorities, have access to and complete free and compulsory primary education of good quality;</li> <li>(iii) ensuring that the learning needs of all young people and adults are met through equitable access to appropriate learning and life skills programmes;</li> <li>(iv) achieving a 50 per cent improvement in levels of adult literacy by 2015, especially for women, and equitable access to basic and continuing education for all adults;</li> <li>(v) eliminating gender disparities in primary and secondary education by 2005, and achieving gender equality in education by 2015, with a focus on ensuring girls’ full and equal access to and achievement in basic education of good quality;</li> </ul>

Instrument	Provisions
	<p>(vi) improving all aspects of the quality of education and ensuring excellence of all so that recognized and measurable learning outcomes are achieved by all, especially in literacy, numeracy and essential life skills". (Para 7).</p>

### United Nations Instruments – Inclusive Dimensions of the Right to Education

Instrument	States Parties	Provisions
<p>International Convention on the Elimination of All Forms of Racial Discrimination (1965) Entry into force: 1969</p>	<p>173</p>	<p><a href="#">Article 5 (e) (v)</a> States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of ( ...) the right to education and training.</p> <p><a href="#">Article 7</a> States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and this Convention.</p>
<p>International Covenant on Economic, Social and Cultural Rights (1966) Entry into force: 1976</p>	<p>159</p>	<p><a href="#">Article 13</a> 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,</p>

Instrument	States Parties	Provisions
		<p>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> <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"> <li>(a) Primary education shall be compulsory and available free to all;</li> <li>(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;</li> <li>(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;</li> <li>(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;</li> <li>(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.</li> </ul> <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>

Instrument	States Parties	Provisions
		<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 1 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>
<p>Convention on the Elimination of All Forms of Discrimination against Women [1979] Entry into force: 1981</p>	<p>185</p>	<p><b>Part III, Article 10</b> States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:</p> <ul style="list-style-type: none"> <li>(a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;</li> <li>(b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;</li> <li>(d) The same opportunities to benefit from scholarships and other study grants;</li> <li>(e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;</li> <li>(f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;</li> </ul>

Instrument	States Parties	Provisions
		<p>(g) The same opportunities to participate actively in sports and physical education;</p> <p>(h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.</p> <p><a href="#">Part III, Article 14.2</a> States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right: (...) (d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;</p>
<p>Convention on the Rights of the Child (1989) Entry into force: 1990</p>	<p>193</p>	<p><a href="#">Article 28</a></p> <p>1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:</p> <p>(a) Make primary education compulsory and available free to all;</p> <p>(b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;</p> <p>(c) Make higher education accessible to all on the basis of capacity by every appropriate means;</p> <p>(d) Make educational and vocational information and guidance available and accessible to all children;</p> <p>(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.</p>

Instrument	States Parties	Provisions
		<p>3. States Parties shall promote and encourage international co-operation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.</p>
		<p><b>Article 29</b></p> <p>1. States Parties agree that the education of the child shall be directed to:</p> <ul style="list-style-type: none"> <li>(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;</li> <li>(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;</li> <li>(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;</li> <li>(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;</li> <li>(e) The development of respect for the natural environment.</li> </ul> <p><b>Article 30</b></p> <p>In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.</p>

Instrument	States Parties	Provisions
<p>International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990)</p> <p>Entry into force: 2003</p>	<p>39</p>	<p><a href="#">Part III, Article 12</a></p> <p>4. States Parties to the present Convention undertake to have respect for the liberty of parents, at least one of whom is a migrant worker, and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.</p> <p><a href="#">Part III, Article 30</a></p> <p>Each child of a migrant worker shall have the basic right of access to education on the basis of equality of treatment with nationals of the State concerned. Access to public pre-school educational institutions or schools shall not be refused or limited by reason of the irregular situation with respect to stay or employment of either parent or by reason of the irregularity of the child's stay in the State of employment.</p> <p><a href="#">Part IV, Article 45</a></p> <p>1. Members of the families of migrant workers shall enjoy equality of treatment with nationals of the State of employment in relation to:</p> <ul style="list-style-type: none"> <li>(a) Access to educational institutions and services subject to the admission requirements and other regulations of the institutions and services concerned;</li> <li>(b) Access to vocational guidance and training institutions and services, provided that requirements for participation are met.</li> </ul> <p>2. States of employment shall pursue a policy, where appropriate in collaboration with the States of origin, aimed at facilitating the integration of children of migrant workers in the local school system, particularly in respect of teaching them the local language.</p> <p>3. States of employment shall endeavour to facilitate for the children of migrant workers the teaching of their mother tongue and culture and, in this regard, States of origin shall collaborate whenever appropriate.</p>

Instrument	States Parties	Provisions
		<p>4. States of employment may provide special schemes of education in the mother tongue of children of migrant workers, if necessary in collaboration with the States of origin.</p>
<p>Convention on the Rights of Persons with Disabilities (2006) Entry into force: 2008</p>	<p>41</p>	<p><b>Article 24 – Education</b></p> <p>1. States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and life long learning (...).</p> <p>2. In realizing this right, States Parties shall ensure that:</p> <ul style="list-style-type: none"> <li>(a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;</li> <li>(b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live; (...)</li> <li>(e) Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.</li> </ul> <p>3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community (...).</p> <p>5. States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others.</p>

Instrument	States Parties	Provisions
<p>Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992)</p>		<p><a href="#">Article 2</a></p> <p>1. Persons belonging to national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination.</p> <p><a href="#">Article 4</a></p> <p>3. States should take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue.</p>
<p>Declaration on the Rights of Indigenous Peoples (2007)</p>		<p><a href="#">Article 14</a></p> <p>1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.</p> <p>2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.</p> <p>3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.</p> <p><a href="#">Article 15</a></p> <p>1. Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.</p>

Instrument	States Parties	Provisions
		<p><b>Article 17</b></p> <p>2. States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.</p>