



Constitutional and Legal Bases of the Right to Education

Round Table



**Conference of Ministers of
Education of African Member
States (MINEDAF VIII)
December 5, 2002**



Constitutional and Legal Bases of the Right to Education

Proceedings of the Round Table organized
on the occasion of Conference of Ministers
of Education of African Member States
(MINEDAF VIII)

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Contents

Foreword by Mr. Koichiro Matsuura, Director General UNESCO	5
Main Recommendations of the Round Table	7
Introduction by Mr. Kishore Singh.....	9
General presentation by H.E. Professor Kader Asmal.....	15
Normative action, international instruments, cooperation with the UN with in respect to the Right to education by H.E. Mr. Olabiyi B.J. Yai.....	21
The Right to Education and its primary objective: quality education by H.E. Ambassador Michael Omolewa.....	25
Constitutional and judicial bases of the Right to Education and institutional mechanisms: Liberia's experience by H.E. Mrs D. Evelyn S. Kandakai	31
The legal and constitutional framework of the Right to Education and institutional mechanisms by H.E. Mrs. Najima Thaythay Rhozali.....	35
Constitutional reforms for the promotion of the Right to Education by Professor Shem O. Wandiga	39
The Right to Education, the policies of education and social development by Professor Mohammed Shaaban Sheya	41
Right to Education: The experience of Cameroon by Mr. Joseph Owona	45
Conclusion	49
Discussion paper for the Round Table	51
Introduction	51
I. Normative framework	51
II. Incorporating the State obligations under existing instruments into national legal system and their effective implementation	56
III. The Right to Education in constitutions and national legal systems	59
iV. Major issues for consideration.....	62
Annex 1 – Constitutional provisions on the Right to Education in different countries in Africa	65

Annex 2 – International and regional instruments relating to the Right to Education.....	73
Annex 3 – Communiqué from the Second Meeting of the High-Level Group on Education for All (Abuja, Nigeria, November 19-20, 2002)	81
Annex 4 – Education For All: Meeting our Collective Commitments – The Dakar Framework for Action.....	85
Annex 5 – Convention against Discrimination in Education (1960)....	91
Status of ratifications in Africa as of 31 December 2004	98

Foreword

by Mr. Koïchiro Matsuura, Director General, UNESCO

(Original paper in English)

Education for All (EFA) is UNESCO's highest priority. The realization of the right to basic education for all is at the heart of the EFA process. This corresponds not only to the commitments made at the World Education Forum in Dakar, Senegal, in April 2000 but also to the provisions of UNESCO's Constitution, in which States Parties affirm their belief in "full and equal opportunities for education for all".

It is through agreed international and regional instruments and through the incorporation of the right to education and other related rights into national legal systems that EFA can be seen to rest firmly upon a normative basis. However, even where legal enactment of and entitlement to the right to education exist, the fulfilment of this right is far from guaranteed unless it is supported by effective policies and concrete action. To this end, the participants in the World Education Forum promised "to ensure that the Dakar Framework for Action is on the agenda of every international and regional organization, every national legislature and every local decision-making forum." In this regard, it may be noted that the communiqué issued at the second meeting of the High-Level Group on EFA held in Abuja, Nigeria, in November

2002, contained a recommendation that national legislation be developed or modernized to reflect EFA commitments. It was with a view to promoting action-oriented reflections on normative action on EFA that UNESCO organized the Round Table on "Constitutional/Legal Bases of the Right to Education as a Fundamental Human Right" during the Eighth Conference of Ministers of Education of African Member States (MINEDAF VIII) in the United Republic of Tanzania, in December 2002. The Round Table brought together Ministers of Education, members of UNESCO's Executive Board and high-level government experts. Their invaluable contribution is highly appreciated. The rich debate during the Round Table resulted in a concrete set of recommendations and suggestions.

This volume on the proceedings of the Round Table, being brought out in collaboration with Association for the Development of Education in Africa (ADEA), presents various dimensions of the right to basic education. It demonstrates the importance of promoting further normative action for EFA. In this connection, developments in Africa with respect to the recognition of the right to basic education as a fundamental human right, both in national constitutions and educational laws, are noteworthy. This publication will serve as a useful reference and source of information as well

as contribute to raising public awareness and stimulating debate.

Transforming the right to education from an ideal into reality is imperative so that basic education becomes accessible to all, especially to the poor, the marginalized and the disadvantaged. While I count especially upon the full support of the Governments of Member States in this endeavour, I also look to support from individuals, communities, civil society organizations and the private sector. Education for all is the responsibility of all.



Mr. Koïchiro Matsuura

Main Recommendations of the Round Table

1. It is highly important that UNESCO collect the regional level instruments in Africa relating to the right to education and make an analysis. These instruments should be publicized widely in national languages to create full awareness about the political importance of the normative action for integrating obligations undertaken by Governments into national legal system.
2. Developments in constitutional and legislative bases of the right to education constitute a key factor in national level action. It is vital to raise public debate and create greater awareness among policy makers and public authorities and public at large of the importance of constitutional/legal bases of the right to education as a fundamental human right. The exchange of experience should be promoted for mutual benefit and for improving country level action. In this context, close collaboration with UNESCO is crucial and should be strengthened.
3. UNESCO should encourage and support governments to develop and modernize national legislation, providing technical assistance as and when requested. Necessary advisory services to Member States should be developed. There is need for UNESCO to undertake a comparative analysis of laws in the African context, while recognizing the significance of incentives in monitoring effective implementation and monitoring mechanisms.
4. It is crucial to ensure that these Recommendations are reflected in UNESCO's strategies and programmes to be undertaken during the next biennium (2004-2005) and that they are considered as a key priority.

Introduction

by Kishore Singh, in-charge of the Right to Education, Education Sector, UNESCO, and coordinator of the Round Table

(Original paper in English)

Background

The right to education is an integral part of UNESCO's mission: to ensure full and equal opportunities for education for all. Guided by that fundamental mission, UNESCO has drawn up standard-setting instruments and undertaken normative action that give expression to the right to education in its different aspects.

In the beginning of 1990's, this action focussed on the right to basic education for all. The World Declaration on Education for All: Meeting Basic Learning Needs (1990), which provided a new vision of education, gave impetus to the normative action. The authors of the Declaration have expressed their determination to "act jointly" to achieve Education for All (EFA) goals, asserting that "education is a fundamental right for all people, women and men, of all ages, throughout our world".

Such a momentum was also reflected at the seventh Conference of Ministers of Education of African Member States (MINEDAF VII, Durban, April 1998). In the Durban Statement of Commitment, the Ministers of Education of African Member States reiterated their commitment

to achieving basic education for all. They recognized that "access to basic education must include access to early childhood programmes and, in countries with near-universal participation, access to secondary education, paying adequate attention to the needs to disadvantaged groups" (para. 5). They expressed their concern with the gender gap - women's participation in Education remains a major issue for which appropriate policy frameworks must be developed (para. 6). They reaffirmed the "principles of a learning society and lifelong education" (para. 10).

The World Education Forum, organized in April 2000 in Dakar imparted further dynamism to achieving the right to basic education for all, without any discrimination or exclusion. The Dakar Framework for Action, adopted at the Forum clearly re-affirms "the vision (...) supported by the Universal Declaration of Human Rights, that all children, young people and adults have the human right to benefit from an education that will meet their basic learning needs in the best and fullest sense of the term, an education that includes learning to know, to do, to live together and to be" (paragraph 3). Considering education as a fundamental right, as a key to sustainable development and peace within and between countries, the Dakar Framework for Action reiterates the critical role of education in empowering individual and transforming societies.

Such a perspective is also shared by the New Partnership for Africa's Development (NEPAD), which expresses concern for changing education paradigms.

It is in this perspective that the organization of a *Round Table on Constitutional/Legal Bases of the Right to Education as a Fundamental Human Right* was planned. It was opportune to examine the issues involved in the realization of the right to education within the framework of Education for All (EFA) as UNESCO's priority on the occasion of the eighth Conference of the Ministers of Education of African Member States (MINEDAF VIII). The Round Table aimed to achieve some key objectives.

Objectives

Governments have the obligation and prime responsibility to ensure that political commitments undertaken at the World Education Forum are reflected in national laws and policies. This is crucial in the context of UNESCO's normative action in this field which is assuming greater importance as the centrality of the right to education in the field of human rights is being increasingly recognized - education not only as a right in itself but also as "indispensable for the exercise of other human rights" ¹.

In a broader perspective, it has become necessary to implement more effectively

UNESCO's instruments relating to the right to education on the one hand, and the instruments adopted at the regional level on the other hand. In a spirit of transforming the ideal of the right to education into a living reality, the Dakar Framework for Action must be linked to the monitoring of the implementation of the international and regional instruments relating to the right to education. Furthermore, it is also important to take concrete measures to strengthen the constitutional and legal bases of the right to education as reaffirmed by the Dakar Framework for Action; and to modernise/develop national legislation on the right to basic education.

It may be noted that Country Reports on Education for All (EFA) 2000 Assessment, presented to the World Education Forum (2000), cover developments in constitutional and legislative bases of the right to education. Their review and comparative analysis would be very significant for further legal and policy developments in this field. The Country Report presented by Benin, for instance, underlined the need for a national legislation for the realization of the right to basic education for all as a key factor. The Report stated in its conclusions : "the non existence of a General Law on national education limits the scope of action undertaken and does not offer adequate environment for the discussion in view of the development of the Sector".

1 General Comments No. 13 on right to education (article 13 of the International Covenant on Economic, Social and Cultural Rights), (Twenty-first session, 1999), Economic and Social Council, United Nations E/C.12/1999/10, 8 December 1999.

At the World Education Forum, the question relating to the legal bases of the right to education and making every individual its beneficiary figured at the outset. In his address to the Forum, Abdoulaye Wade, President of the Republic of Senegal, stressed the importance of viewing education as a fundamental human right `rooted in the legal and social environment as well as in the individual's active resolve to enjoy his rights to the full.' Respect for such rights, he said, is essential to the functioning of a democratic society.

■ Linking the Dakar Framework for Action to the international and regional instruments relating to the Right to Education

Recognizing that "Education is a fundamental human right", the Dakar Framework for Action reflects certain main principles such as the principle to include universal access to learning; the principle of non-discrimination, and the principle of equity. It also underlines the significance of normative action for the realization of the right to education, in its interrelationship with State obligations not only under major international instruments but also under regional instruments relating to this right. Strengthening such normative action is clearly a major responsibility of governments, in line with the political commitments they undertook at the World Education Forum. Public authorities and law-makers must

be made more aware of the importance of such obligations.

■ Strengthening the constitutional and legal bases of the Right to Education as reaffirmed by the Dakar Framework for Action

The governments at the World Education Forum also undertook explicitly commitments with respect to reinforcing the legal bases of the right to education: "We will strengthen accountable international and regional mechanisms to give clear expression to these commitments and to ensure that the Dakar Framework for Action is on the agenda of every international and regional organization, every national legislature and every local decisionmaking forum" (para. 13 of the Dakar Framework of Action). Such a political commitment calls for legal measures, in particular, to ensure that the Dakar Framework for Action is on the agenda of every `national legislature'. It is thus crucial to promote action with a view to strengthening the constitutional and legal bases of the right to education as reaffirmed by the Dakar Framework for Action.

With respect to the constitutional bases of the right to education, an ambitious objective was set by the Human Development Report 2000 - to "achieve the guarantee of compulsory primary education in all constitutions by 2010" - and asserting everyone's entitlement to a free elementary education, with responsibil-

ity for the social system². Strengthening constitutional bases of the right to education is essential for its full enjoyment. The process of constitutional reforms in Kenya, deserves consideration in line with the Dakar objectives.

The significance of the legal bases of the right to education is also recognized in UNESCO's Medium-Term Strategy 2002-2007, which reiterates the primacy of government responsibility and stipulates that "success in achieving the Dakar goals will be determined at the country level. A major task for UNESCO will be to support Member states in policy reforms, especially the design and implementation of EFA policies and action plans as well as of *legal instruments* for promoting universal access to basic education"³. Furthermore, at the first meeting of the High Level Group on Education for All (EFA), which took place at UNESCO Headquarter in October 2001, the participants underlined "the core responsibility of governments for education, and especially to provide free and compulsory quality basic education for all"⁴.

■ Modernizing/developing national legislation:

Certain current initiatives as a follow-up to the Dakar Framework for Action (as presented during the first meeting of the High Level Group on EFA in October 2001), as well as at the 31st session of the General Conference in November 2001), relate to the legislative bases of the right to education - for instance, the Education Act of Liberia, (adopted in January 2002); the importance of legal measures for marginalized groups as suggested by Namibia, etc. - as also measures for enacting a law on education in Benin, new legislation entitled "The Children Act, 2001" in Kenya. Public debate must bring into limelight the critical need of modernizing/developing national legislation in order to effectively implement the Dakar Framework for Action.

Modernizing/developing national legislation is important so that it conforms to the commitments to EFA goals and provides legal basis for National EFA Plans. Review of normative action in areas

2 Human Development Report 2000, published for UNDP by Oxford University Press, 2000 (p. 13).

3 UNESCO's Medium-Term Strategy 2002-2007, (31 C/4, para. 59), UNESCO, Paris (Emphasis added).

4 Concern was expressed especially for:

- "making basic education compulsory and truly free of charge for all children";
- "drawing up education legislation and priorities in line with the human rights conventions and the EFA goals".

Statement by Mr. Carl Lindberg from Sweden at the first meeting of the High-Level Group, convened by the Director-General of UNESCO at UNESCO Headquarter from 29-30 October 2001.

such as provision for free, compulsory primary education, the status and training of teachers; institutional responses to lifelong learning; gender equity; equal opportunity in education for all, as also access to education by children in emergencies and difficult situations, etc., is crucial in a spirit to ensure that such provisions are in conformity with the goals and objectives set at the World Education Forum.

The Medium-Term Strategy stipulates that “UNESCO will further seek to engage Member States and new educational providers in a dialogue highlighting education as a public good, and will 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 societies⁵”.

■ Sharing regional level experience and ideas for promoting the Right to Education

In keeping with the obligation and responsibility of Governments for achieving the objectives and goals of the Dakar Framework for Action, new legislation in the field of the right to education will also be necessary in many other countries. It is only through a country’s education laws and policies that the right to basic education for all can be given concrete shape in terms of educational programmes and projects. The Dakar Framework for Action must be reflected in national laws and policies more effectively. An exchange of experiences and ideas will benefit Member States for taking necessary measures in this respect.

These objectives respond to the UNESCO’s Medium-term Strategy 2002-2007 which recognizes the importance of policy dialogue for advancing the right to

5. UNESCO’s Medium-Term Strategy (2002-2007), 31C/4, Paragraph 62, UNESCO, Paris.

General presentation

by His Excellency Professor
Kader Asmal, Minister of Educa-
tion, Government of South Africa,
Chairperson of the Round Table
(Original paper in English)

It is a great pleasure for me to welcome you to this Round Table on the *Constitutional and Legal Bases of the Right to Basic Education for All as a Fundamental Human Right*, which is taking place during the eighth Conference of Ministers of Education of African Member States (MINEDAF VIII). I would like, first of all, to compliment UNESCO on the excellent work done in organising the Round Table and especially in preparing the set of documents for facilitating our discussions.

Before highlighting some of the major issues that we will address during this Round Table, let me say a few words about the modern perception of human rights. International law of human rights has its foundations essentially in the International Bill of Human Rights – the two International Covenants, ‘International Covenant on Political and Civil Rights’ (ICPCR), and ‘International Covenant on Economic, Social and Cultural Rights’ (ICESCR) (1966) – and a certain number of other conventions in the field of human rights. In the past, greater attention has been paid to the political and civil rights, whereas the economic and social rights have rather

been neglected. However, the rights recognised by ICESCR are equally significant. There is no dichotomy between these two sets of rights – political and civil, on the one hand, and economic, social and cultural, on the other – and all the rights enumerated in these International Covenants must be viewed as being complementary.

In the process of development, economic, social and cultural rights inevitably become a matter of concern for us. The right to development is a thread that runs through the tapestry of all human rights. It is in that perspective that the right to development was affirmed by the World Conference on Human Rights (1993). This was a landmark development. Reflections on achieving the right to development are indeed indispensable for advancing people’s economic, social and cultural rights. Our efforts aimed at ensuring sustainable development will call for elucidating further the right to development and the responsibility of the international community to promote such a right. Moreover, present-day challenges make it necessary to broaden our perception of human rights – for instance, the right to water is being recognised as an integral part of the right to food.

Among economic and social rights, the right to education holds a central place. Education is the basis for development and no state desiring to foster develop-

ment can neglect to invest in education or to undertake concrete measures, at national level, for realising the right to education.

The international law of human rights also places a legal obligation on states to realise these rights –to respect, to protect and to fulfill them. It is incumbent upon states to incorporate internationally recognised rights into their constitution and national legislation. Given the importance of the right to education for the exercise of all other human rights, we must give special consideration to the state obligation for realising this right.

In the field of education, UNESCO has a major role to play. The right to education is inherent in UNESCO's mission: "Full and equal opportunities for education for all". Guided by that mission, UNESCO has elaborated a number of standard-setting instruments that give expression to the right to education. The legal and moral force of these instruments must be fully recognised. Instruments elaborated by UNESCO also contain follow-up mechanisms and UNESCO monitors the implementation of Conventions and Recommendations in Member States.

As you know, the right to education was reaffirmed at the World Education Forum (2000) and its importance needs no emphasis, in particular in the context of the Millennium Development Goal. Such a concern is also shared by the New Partnership for Africa's Development (NEPAD). Realising the right to education and universalising the access

to quality basic education for all is one of the biggest development challenges today. It is worth bearing in mind that the governments, organisations, agencies, groups and associations represented at the World Education Forum pledged themselves to a strategy to, inter alia: "mobilize strong national and international political commitment for education for all, develop national action plans and enhance significantly investment in basic education" (par. 8 i).

We stand committed to meeting this challenge, which is at the core of national-level actions that are being undertaken as a follow-up to the World Education Forum. The importance of free and compulsory basic education was reiterated at the seventh Conference of Ministers of Education of African Member States (MINEDAF VII), which took place in Durban in 1998. In the Durban Statement of Commitment, adopted at MINEDAF VII, Ministers of Education recognised that "access to basic education must include access to early childhood programmes and, in countries with near-universal participation, access to secondary education, paying adequate attention to the needs of disadvantaged groups".

This Round Table has crucial importance for enhancing our appreciation of the legal implications of the Dakar Framework for Action – and for its interrelationship with the obligations of states, not only under major international instruments but also under regional instruments relating to the right to education. This right

is an integral part of the rights, duties and freedoms enshrined in the African Charter on Human and Peoples' Rights (1981), Article 17 of which provides that "Every individual shall have the right to education". Similarly, Article 11 of the African Charter on the Rights and Welfare of the Child (1990) makes comprehensive provision for the educational rights of the child. The obligation of incorporating in national legal systems the rights contained in the regional-level instruments in Africa figures prominently in these instruments. The very first article of the Charter on Human and Peoples' Rights provides that states that are parties to the Charter shall undertake to adopt legislative or other measures to give effect to rights contained in it. More recently, with a view to "Improving access and equity", the governments have, within the Framework for Action in Sub-Saharan Africa: Education For African Renaissance in the Twenty-first Century (adopted by the Regional Conference on Education for All for Sub-Saharan Africa, Johannesburg, South Africa, December 1999), undertaken to "Review and develop educational and other policies and legislation within the framework of the African renaissance". This Framework reaffirms that "education is a basic right and a basic need for all African children, young people and adults, including those with disabilities", as recognised in the international instruments.

However, one witnesses unprecedented disparities in access and quality as the demand for education grows and what is

on offer becomes more diverse. Making quality basic education accessible to all the children is a challenge of our times - how to create educational opportunities for millions of those who remain deprived of basic education today? According to present estimates, more than half the African population has no access to basic education.

This Round Table will contribute in many ways to the realisation of the right to education. Our discussions will be aimed at exploring ways and means of more effective implementation of existing instruments. This will enhance the recognition given to, and the importance of, the legal implications of the Dakar Framework for Action. The Round Table is also important for raising public debate and for creating greater awareness among policy makers of the importance of constitutional and legal bases of the right to education as a fundamental human right. This would provide policy perspective for the government-level action for achieving the right to basic education for all.

Law makers, education policy planners and public authorities must be made fully aware of the importance of the state's obligations under international and regional instruments relating to the right to education, in its nexus with the legal implications of the Dakar Framework for Action. To this end, these instruments should be disseminated and publicised widely. An analysis of regional-level instruments relating to the right to education would be especially useful for creating greater

awareness about their importance. An issue of primary importance is that of ensuring access to education.

I should like to emphasise state obligations for enforcing human rights - in particular, the right to education. One of the important tasks that UNESCO accomplishes is that of monitoring the implementation of its instruments in Member States, besides giving effect to them by way of various programmes and projects. UNESCO's Convention against Discrimination in Education (1960), for instance, formulates some basic principles of non-discrimination, equity and equality of opportunity and of national treatment in education. The states that are parties to the Convention are duty-bound to ensure that these principles are translated into national legislation.

The right to education, particularly to basic education for all, must be achieved universally. The question, therefore, is whether it can be claimed as a right; whether a country has the necessary system of judicial review. For a right is a claim which its holder must be able to fulfill. Such a claim must be legally enforceable. You will appreciate that a determining factor in achieving the right to basic education for all is whether it has its foundation in constitutions and national legislation. The question of how the state obligations under existing instruments are incorporated into national legal systems has to be critically examined in that perspective. This should be further linked with national education

policies and development processes.

As regards the justifiability of the right to education, mechanisms are needed to ensure that states comply with their minimum core obligations of making education accessible to all - especially to the most vulnerable groups and the poor - and of ensuring gender equity and equal education for girls. In order to fulfill its responsibilities under the Dakar Framework for Action, the most important measure that a state can undertake is to introduce a constitutional provision on the right to education and to introduce appropriate legislation so that the state obligations under the relevant international conventions are incorporated into the domestic legal order, thereby giving direct effect to the provisions contained in these instruments. Once the right to education or, for that purpose, any other right, is provided with a constitutional basis, any violations could be brought before a constitutional court. The importance of effective enforcement mechanisms in the field of the right to education should be recognised.

While enshrining the right to education in a country's constitution is of primary significance, legislation to implement the right is equally essential. In a broader perspective, one of the major issues is that, as regards the obligation of providing universal access to education, international-level action must defend most basic forms of public education.

The major challenge lies in transforming this right from an ideal to a living real-

ity, in appreciation of the critical role of education in empowering individuals and transforming societies. The Discussion Paper for the Round Table – in English and in French – communicated by the UNESCO Secretariat provides a comprehensive framework for discussion and throws light on the major issues that I have evoked and that need to be addressed.

I have no doubt that we will have a very fruitful exchange of views and ideas on such an important theme and that this will enrich our work at national level for achieving the right to basic education for all, to which we all remain committed. What is crucial is that, by the end of our discussion, we come up with a set of recommendations and suggestions for UNESCO's further work in this vital area.

Normative action, international instruments, cooperation with the UN with in respect to the Right to Education

by His Excellency Mr. Olabiyi B.J. Yai, Permanent Delegate of Benin to UNESCO, Member, Executive Board, UNESCO

(Original paper in French)

First I should like to congratulate and thank UNESCO for having organised and prepared the documents for this Round-Table, in particular the very rich, complete discussion document that serves as the basis for our discussion.

We are increasingly seeing a general tendency towards democracy and recognition of the fundamental human freedoms and rights, which ties in with the main mission of UNESCO. By virtue of its mandate, UNESCO has the mission to "contribute to peace and security by promoting collaboration among nations through education, science, and culture in order to further universal respect for justice, for the rule of law and for human rights and the fundamental freedoms which are affirmed for the peoples of the world...."

Yet millions of children around the world still do not have equal opportunities of access to education. This makes it necessary, imperative to provide a framework and a legal basis for access to educa-

tion so that education for all, at last, will become a reality. This legal basis must be linked to the right to education as consecrated and recognised in the international instruments of UNESCO, the United Nations, and also instruments adopted at the regional level.

Let me take advantage of this opportunity to mention the African Charter on Human and Peoples' Rights that was adopted in 1981 because it is of special importance for the Africa region. In Article 17§1, it stipulates that "every individual shall have the right to education". Article 11 (3) states that "States parties to the present Charter shall take all appropriate measures to realise this right." State obligations stemming from the Charter have to be translated into national law in each of the States, in other words, they must be reflected in the national constitution and the legislation.

Benin's attachment to the regional instruments has been clearly shown by the fact that the Benin's Constitution recognises state obligations stemming from these instruments. Article 7 of the Benin's Constitution provides the following: "The rights and duties proclaimed and guaranteed by the African Charter on Human and People's

Rights [...] shall be an integral part of the Benin Constitution and legislation”.

Moreover, as Benin pointed out in its national report on Education for All assessment 2000 presented at the World Education Forum (Dakar 2000), literacy training has benefited from a politico-legal setting that supports its development. The national council for literacy training and education for adults (Conseil National de l'Alphabétisation et de l'Education des Adultes) created by Decree no. 92-251 of 31 August 1992, expresses the government's commitment to using the participatory strategy and partnerships as levers for the development of literacy training and education for adults in Benin.

The scope of actions is restricted because of the non-existence of an orientation law for national education that would secure a national education policy and the environment for discussing the development of this sector. The General Conference on Education (États Généraux de l'Education) was held in 1990 and a framework document for the education policy (Document Cadre de Politique Educative) was adopted by the government in 1991, but parliament has not yet voted on this law.

Hence, it is important to encourage and assist the States in developing a legal framework that incorporates obligations flowing from international and regional instruments on the right to education into their national legislation. This task, of course, has certain difficulties. The

States are not always able to fulfil their obligations because they do not have the necessary resources, especially financial resources. This explains why the obligations stemming from the international and regional instruments on the right to education should be met gradually and progressively. Economic differences should not prevent the guarantee to the right to education as well as to other basic human rights.

Furthermore, in order that all individuals can indeed have access to basic education, the State should ensure that free education is available. But the concept of “free of charge” needs to be defined and clarified from a legal point of view. In this vein, I should also like to refer to Article 13 of the Benin Constitution which says that “The State shall, gradually provide public education free of charge”.

UNESCO has developed a certain number of instruments that include provisions on the right to education seen from many angles. Mention could be made of the Convention against Discrimination in Education adopted in 1960, the Convention on Technical and Vocational Education (1989), the World Declaration on Education for All: Meeting Basic Learning Needs (1990), the Dakar Framework for Action, adopted at the World Education Forum in April 2000 and many more. In order to ensure that the States apply these instruments, UNESCO has set up an institutional mechanism, the Committee on Conventions and Recommendations (CR), a subsidiary body of UNESCO's

Executive Board responsible, inter alia, for reviewing all questions related to the application of the UNESCO instruments on education.

The African countries are late in applying these instruments, especially the UNESCO conventions that are obligatory. This makes it indispensable to sensitise the States and the public to the importance of these instruments and the right to education. It would be especially timely to conduct an awareness campaign to convince the States to ratify the UNESCO instruments on education as soon as possible and to do their utmost to implement them without delay.

On monitoring the implementation of the international instruments, Benin recognises the importance of working with the United Nations. With this in mind, I am most pleased that UNESCO, as part of the United Nations system, has taken the initiative to work closely with the United Nations Committee on Economic, Social and Cultural Rights (CESCR). These two bodies in the UN system share the same objectives in this field. The UNESCO Executive Board recently set up a Joint Expert Group UNESCO (CR)/ECOSOC(CESCR) on the Monitoring of the Right to Education. Its mandate includes examining possibilities to reduce the States' burden in presenting reports on the right to education and devising ways and means to rationalise arrangements in this field and make them more efficiency. The Joint Expert Group is also to give its opinion on indicators of the

right to education. Benin is very pleased and honoured to be on this Joint Expert Group.

By way of a conclusion, I hope that the interventions that will be made through the Round-Table discussion will lead to tangible recommendations and the UNESCO will assume the tasks of following through on them. It would also be well for UNESCO to include these recommendations in its programme for the next Biennium (2004-2005) and institutionalise these discussions.

Thank you for your attention.

The Right to Education and its primary objectives: quality education

by His Excellency Ambassador
Michael Omolewa,
Permanent Delegate of
Nigeria to UNESCO
(Original paper in English)

Education is UNESCO's primary responsibility and the right to education is an essential part of UNESCO's mission. I am happy that this Round-Table on Constitutional and Legal Bases of the Right to Education is taking place during MINEDAF VIII. We are discussing a theme which shows how critically important are the legal foundations in promoting the right to education. I would therefore like to commend the initiative taken by UNESCO in planning and organizing this Round-Table. UNESCO deserve to be thanked for preparing excellent documents for the Round Table which are so useful in providing framework for our discussions.

Let me first say that education is important both in historical and development perspective. Historically, education has been significant as instrument for liberation movement. This is because of empowering role of education – capacity-building of both individuals and the community through education. Education no doubt is an essential instrument for development of human personality and

realization of an individual's potential. It contributes to social good. The prominence given by UNESCO to the concept of education as a right is indicated by the fact that the World Education Report 2000 on the right to education, published by UNESCO, recognizes "its fundamental importance for humanity"¹.

Mr. Chairperson,

Allow me to address some key dimensions of the right to education, such as its objectives. We must promote normative action directed towards realizing the objectives of education laid down by the Universal Declaration of Human Rights (1948). These objectives also figure in UNESCO's Convention against Discrimination in Education (1960). I hardly need to underline as to how crucial it is to provide education on human rights – on principles, ideals and values that human rights carry. Education is equally significant for promoting values and principles which UNESCO upholds – mutual understanding, respect for human rights and the rule of law, democratic principles, solidarity and human welfare. In other words, education policies should contribute to the development of understanding, solidarity and tolerance among individuals and among ethnic, social, cultural and

1. Foreword to the "World Education Report 2000 - the right to education: towards education for all throughout life", UNESCO Publishing 2002.

religious groups and sovereign nations. Education should ensure the promotion of knowledge, values, attitudes and skills conducive to respect for human rights and to an active commitment to the principles of democracy.

This has direct correlation with the contents of education. While ensuring that the access to education is universalized, the question of contents deserves consideration and requires to be addressed. In that perspective, full concern was shown with the concept of education at the World Education Forum (April 2000). The Dakar Framework for Action, adopted there lays emphasis on the objectives of education and its contents. It provides that "all children, young people and adults have the human right to benefit from an education that will meet their basic learning needs in the best and fullest sense of the term, an education that includes learning to know, to do, to live together and to be. It is an education geared to tapping each individual's talents and potential, and developing learners' personalities, so that they can improve their lives and transform their societies". Moreover, in a broader perspective, the Dakar Framework for Action stipulates that "Education is a fundamental human right. It is the key to sustainable development and peace and stability within and among countries, and thus an indispensable means for effective participation in the societies and economies of the twenty-first century, which are affected by rapid globalization".

In the context of our commitments for achieving basic education for all, we have also recognized the significance of "basic learning needs". At the World Conference on Education For All in Jomtien (Thailand) in 1990, the contents of education and parameters of the "basic learning needs", were stipulated in Article 1 of the World Declaration on Education for All. This Declaration recommends tolerance towards different social, political and religious systems, the upholding of commonly accepted humanistic values and human rights and working for peace (Art. 1.2), while considering that the transmission and enrichment of common cultural values help individuals and society find their identity and worth (Art. 1.3).

Furthermore, an important factor in imparting education is that of suitable environment in schools – the kind of environment which prevails in schools where the children inculcate these values. Does the school environment encourage inculcating and the practice of these values?

While planning and implementing our education development policies, I hardly need to say how much advisable it is to keep abreast of current trends and challenges. The information and communication technologies provide us new challenges and opportunities. They can enable us to broaden the access to education. We must respond to such challenges while addressing the questions of access to and the contents of education.

As such, normative action is a vital area of UNESCO's work. Such normative action has its moral foundations in the Universal Declaration of Human Rights (1948), which provided that "every one has a right to education". Further, the Universal Declaration states that full development of "the human personality" is the objective of education. UNESCO's instruments as well as those of the United Nations incorporate this concept.

Another point I would like to make relates to the appropriateness of education. Education must be adapted to national requirements. Question of relevance of education is very important so that it responds to the world of work. While inculcating universally recognized values and human rights norms, education must have full relevance for national culture, traditions and socio-economic development. Considerations pertaining to relevance and appropriateness of education are of fundamental importance in the context of the national legislation and education development policies.

In this respect, let me recall that the new concepts of education are highlighted by the International Commission on Education for the Twenty-First Century, chaired by Jacques Delors, which stated that the concept of learning throughout life "goes beyond the traditional distinction between initial and continuing education. It links up with another concept [...] that of the learning society, in which everything affords an opportunity of learning and fulfilling one's potential". Everyone can

thus adapt to a changing world so that each person is involved in society and can contribute to its development.

I concur entirely with other participants in the Round-Table that we must fully appreciate the importance of normative action for promoting the right to education, based upon the instruments elaborated by UNESCO and by the United Nations. Let me emphasize that, as has been mentioned, in addition to these instruments, a number of regional level instruments exist. In the context of Africa, the regional level instruments assign an important role to education. They must be appreciated as regards the provisions they contain relating to the right to education. Providing education to every child is a matter of key concern.. I should like to commend UNESCO once more for preparing the documents, specially the reference document for the Round-Table which show how the right to education is reflected in these regional level instruments we have elaborated in Africa.

These instruments certainly deserve to be made more widely known. There is indeed need for creating greater awareness about them – especially with respect to the right to education as recognized under these instruments. An essential step to be taken in that direction is to disseminate and publicize them. We naturally look forward to UNESCO for so doing. The recommendations that we will make must accord due place to the significance of such action. These instruments need to be translated into

African languages, if we have to create greater awareness about them and about the right to education. They have to be made known widely in public at large in order to make the right to education more widely known.. To this end, these instruments should be disseminated and publicized widely.

Let me emphasize further that an analysis of regional level instruments relating to the right to education in Africa would be especially very useful for creating greater awareness about their importance. In this connection, it may be mentioned that A Framework for Action in Sub-Saharan Africa (1999) recognizes the need to "Popularize and publicize the new vision of African education by developing quality basic education that is holistic, humanizing and transformative, and embedded in African values and indigenous knowledge systems."

Raising public debate on critical questions for the realisation of the right to education as a fundamental human right corresponds to UNESCO's vocation as an intellectual organization.

Creating greater awareness about the legal implications of the Dakar Framework for Action deserves especial consideration. It would be significant to explore ways and means of linking the implementation of national plans for the Dakar Framework for Action to the education laws and educational rights. The

question that needs to be looked into is: how to promote a political process which seeks to reinforce such links mutually?

Mr Chairperson,

It is indeed a happy coincidence that the second High-Level Group on Education for All (EFA) which met in my country in Abuja only a couple of weeks back – (on 19-20 November 2002), also addressed the question of legal framework for the right to education and the development of national legislation. This has elevated the significance of this Round-Table – of policy and legal grounds we want to strengthen. Allow me, Mr Chairperson, to quote from the Communiqué issued at this second meeting of the High-Level Group on Education for All. The Ministers of Education expressed their resolve: "[...] to intensify our advocacy at global, regional and national levels for increased political commitment and resources to accelerate progress on EFA". In their first Recommendation, they stated "As next steps, we particularly recommend that: Governments in the South must ensure that free and compulsory primary education is a right reflected in national legislation and in practice. National strategies to achieve the goals of Education for All must receive its necessary share of government budgets and benefit from all possible funding sources, including debt relief"². This provides political basis and internationally agreed framework for the law-makers and public authorities to

2. Paragraph 10 of the Communiqué of the second Meeting of the High Level Group on Education for All (EFA), Abuja, (Nigeria, 19-20 November 2002).

engage in concrete measures – to uphold and promote normative action.

Our Recommendations to UNESCO should lay stress on the importance of support to national government to modernize and develop national legislation as a follow up to the Abuja Communiqué.

Constitutional and judicial bases of the Right to Education and institutional mechanisms: Liberia's experience

by Her Excellency Mrs. D. Evelyn S. Kandakai, Minister of Education, Government of the Republic of Liberia
(Original paper in English)

The Right to Education in constitution and national legal system in Liberia

A major factor which determines the right to education is whether such a right has its foundation in constitutions and national legislation. The question as to how, the state obligations under existing instruments are incorporated in to existing national legal system is to be considered critically from the Liberian perspective. The key issue here is that nations should look into constitutions and laws for promoting fundamental right to education.

The evidence is clear that the Government of Liberia has recognized the significance of linking the right to education to national education policies and development process as well as giving enhanced consideration to the constitutional and legislative bases of the right to Education for All as a fundamental human right, taking fully into account the legal implications of the Dakar Framework for Action.

Liberia's desire to give due consideration to fundamental right to education is resulted in the initiative to legalize that right in "an Act to adopt the Education Law of A.D. 2001" which was subsequently approved on 8th January, 2002.

The policy framework

The policy framework followed in Liberia makes due reference to the basic assumptions of Liberian education philosophy and cardinal principles which guide the national philosophy in the education and training sector, and long-term educational goals, and strategies to achieve the national education priorities.

The education system

The Education Law provides a classic description of schools into six categories of institutions of learning of universal education. The categories comprise:

- Early Childhood Education;
- Primary Education;
- Junior Secondary Schools (both academic and technical); Senior Secondary School (both academic and technical);
- Junior Colleges and other post-secondary educational institution and
- Colleges and Universities.

The Law also provides for intermedi-

ate institutions of learning which involve:

- (a) Teacher Education;
- (b) Adult Education;
- (c) Vocational Training;
- (d) Literacy Programs;
- (e) Non-Degree Theological Seminars;
- (f) Seminars;
- (g) Workshops;
- (h) Conferences

According to the Education Law (Section 2.3) Primary education is a fundamental right which must be made available and become free and compulsory starting in the year 2003 for all children within the framework of Universal Primary Education (UPE). At the end of the Primary Education cycle, each Liberian child shall, in addition to the academic competency and survival empowerment, possess marketable skills and be computer literate. Special provision shall be made to reduce wastage at this level and to improve access and the staying power and performance of girls in school. The legal age range for entering and leaving primary education is 6 to 11 years old.

The education Law (Section 2.4) also defines Basic Education within the context of Education for All (EFA). Accordingly, Basic Education is defined by law as "All education which provides the foundation for continuous and lifelong learning." All citizens of Liberia must have the right to basic education as a human right, and it should entail all education up to the 9th Grade (JSS) as well as adult education to include literacy; numeracy and skill ac-

quisition amongst other aspects, taking into account both formal and non-formal education programs. Basic education should be consistent with global parameters and dimensions that not only provide literacy, numeracy, oral expression and problem-solving abilities, but also other skills which equip human beings to be able to earn a decent living and live productive lives. In Liberia it must be free as soon as possible and should reflect the spirit and content of the global EFA (Education for All) movement to take into account peace and civic education to enable a person to become a stabilizing member of his or her society and the global village. With the advent of the new information age, a super technological society, computer literacy must become part of basic education.

The Education Law stipulates the provision for Early Childhood Care and Development (ECCD) or Integrated Early Childhood Development (IECD) or Early Childhood Education (ECE). The issue of Government commitment to this education subsector is provided in section 2.2 of the Education Law. Here, the Government of Liberia made strong commitment to ensure that provisions be made for all children to receive sound pre-first or early childhood education (ECE) as being essential to the later development and the rapid educational advancement of children to the level of primary education and beyond. The Ministry of Education will encourage and require all districts and countries to establish facilities for early childhood education. The govern-

ment will therefore, work harmoniously with its partners to ensure access to early childhood education programmes, develop standardized and sustainable programs in this area and build capacities for this level to have a favorable impact on the classrooms. The age range for attendance in early childhood programs is 2 to 6 years old. The programs is aimed at providing all necessary opportunities for each child to develop the appropriate physical, mental, emotional and social skills, attitudes and habits to enable him or her proceed to the primary level and continue to learn and live a useful and happy life.

Strategies

What strategies and mechanisms that are put in place to implement educational programs provided for in the law?

Section 1.5 of the Education Law makes provisions for mechanisms that should be adopted as a dynamic strategies to achieve Liberia education priorities:

- (a) A high degree of decentralization by the delegation of a wider scope of authority and responsibilities to the "Grassroots" (i.e., counties and districts) with strong county and district education offices (CEC's and DEO's) representing the Ministry of Education (MOE).
- (b) A significant improvement of the provision and distribution of facilities, equipment, furniture and textbooks based on proper mapping (location) and academic classification of public and private schools, including basic educational institutions nationwide to achieve access, equity and standards.
- (c) The provision of non-formal adult education and learning centers, where adequate, to serve as extension feeder schools for willing and able ones.
- (d) A significant change in the national education curricula through the introduction of "core curricula" nationwide, in addition to any locally adopted "complementary curricula".
- (e) A significant change in the teaching profession by liberalization and professionalism whereby teachers well trained and licensed under conditions set by Government shall negotiate their employment contracts with school boards or county Education and Training council (CETCs), and for which government salaries will essentially become complementary "incentives", while the Ministry of Education will intervene to adjust inadequacies for the sake of uniformity at the national level.
- (f) A significant change in the structure and running of government services by streamlining the MOE, strengthening the CEOs, DEOs for improved planning and administrative services, the creation and strengthening of 64. Local schools Management Committees (LSMCs) 15 County Education

and Training Councils (CETCs) and one National Education and Training Council (NETC) to mobilize the community, identify ways and means, and propose adaptation required in every reconstruction program.

- (g) A high degree of partnership, participativeness, consultation and shared responsibilities with and among all partners and stakeholders in the provision and management of educational facilities and services nationwide.
- (h) The prioritization and provision of Basic Education for all citizens in the framework of Education for All (EFA).

It goes without saying that the Education Law considers the right to education as a fundamental human right, and takes into account Liberia's obligations under existing instruments that are incorporated into national and legal system. More importantly, the fundamental principles of equal access to education and equality of opportunity are enshrined in the Liberia Education Law, as put forth in UNESCO's Convention against Discrimination in Education and the Dakar Framework for Action. Moreover, Education rights of the child are contained in the Liberia Education Law, and even as in other cases, the responsibility of parents and of community is provided for.

The long-term educational goals stipulated by the Law (5.1.4) are to:

- (a) Develop the entire individual so that

he or she will become a loyal citizen to make useful and continuous contribution toward his or her own development and that of Liberia.

- (b) Provide universal basic education through the formal and non-formal processes to help the masses improve their living standards and tackle the immediate problems of illiteracy, health and sanitation.
- (c) Strengthen scientific and technological learning as a basis for speedy industrialization and economic advancement.
- (d) Ensure equitable geographic distribution of educational opportunities and the decentralization of the delivery of services.
- (e) Ensure access, relevance and equality at all levels and in all educational programs.

It is important to note that the exchange of experience in the field of national legislation is highly important in the context of World Education Forum which is at the heart of UNESCO's work. A major task for UNESCO therefore is to assist Member States in the effective design and implementation of EFA policies and action plans as well as legal instrument for promoting universal access to basic education.

The legal and constitutional framework of the Right to Education and institutional mechanisms

by Her Excellency Mrs. Najima Thaythay Rhozali, Secretary of State for Literacy and Non-Formal Education, Ministry of National Education and Youth, Morocco

(Original paper in French)

I should like to begin by thanking and congratulating UNESCO and all the organiser for this Round Table whose theme is of overriding importance for the promotion of the right to education.

Needless to say that the right to education is indispensable to the exercise of all other human rights. The World Declaration on Education for All: Meeting Basic Learning Needs (1990) expressed a new vision of education and gave impetus to the activities of Member States. The authors of the Declaration stated that they were determined to unite their efforts in order to achieve the objectives of education of all, and asserted that "education is a fundamental right for all people, women and men, of all ages, throughout our world"

Thereafter, the Dakar Framework for Action, which was adopted in April 2000 at the World Education Forum, clearly asserted the right to education as a basic right and "the principle (...) based on the Universal Declaration of Human Rights

and the Convention on the Rights of the Child that all children, young people and adults have the human right to benefit from an education that will meet their basic learning needs in the best and fullest sense of the term, an education that includes learning to know, to do, to live together and to be" (para. 3 of the Dakar Framework for Action)

After recognising the importance of the legal, constitutional and institutional framework of the right to education, as stated in Jomtien and then in Dakar, Morocco adopted and amended certain laws and promulgated some new ones.

The legal and constitutional framework

The constitution of the Kingdom of Morocco (September 1996) recognises the right to education. Article 13 of the Constitution stipulates that "all citizens have an equal right to education", a provision that can be linked to the Universal Declaration of Human Rights.

But one special characteristic of the Moroccan situation has been the adoption of the Charter on Education and Training (1999) which sets out basic principles that include the inalienable foundations of the education and training systems,

its main goals, the rights and duties of the various partners and the national involvement needed to make this reform successful.

It goes on to list six types of reforms:

- expansion of education and its bases in the economic environment;
- the pedagogical organisation;
- improvement of the quality of education and training;
- human resources;
- governance;
- partnership and financing.

Both with regard to the basic principles and the reforms, attention has been given to its working to be sure that it is as clear and precise as possible, constantly bearing in mind the need to reconcile what is desirable with what is feasible. The levers of change, thus, have been presented, in so far as possible in the form of practical proposals supported by the implementation methods and time schedules.

Concerning the legislation, Morocco adopted five new laws subsequent to the adoption of the Dakar Framework for Action (April 2000):

- The law on compulsory schooling (May 2000) aims at making school attendance compulsory for all Moroccan children, regardless of gender, between the ages of 6 and 15 (primary and lower secondary school). Parents or guardians have to enrol their children in school or pay heavy fine.
- The law on the status of pre-school

education (May 2000) aims at instituting preschool education for 4 and 5 year old children so that all Moroccan children have maximum guarantees of being able to go to school. Pre-school centres can be created by the government or by any person or any public or private legal entity. The regional academy for education and training must give its approval for opening, expanding or changing these centres which must abide by educational obligations set out in the regulation and must take account of specific regional characteristics.

- As concerns the Law on the status of the private schools (May 2000): private schools are defined as all schools that offer education or training in establishments created by individuals or legal entities other than the State to offer primary and/or secondary education. Private schools must obtain State approval before they can be opened, closed or modified and, further, must offer the same programmes and use the same methods as the public schools.
- Last, the law to create regional academies of education and training (May 2000) provided for the creation of a regional academy for education and training in each region of the Kingdom of Morocco. Within its sphere of authority it must ensure implementation of the education and training policy, including national objectives and priorities.

Institutional mechanism of implementation

The following institutional mechanisms have been established to facilitate the implementation of the aforementioned laws: the Observatory of the Rights of the Child, the Children's Parliament, the regional academies. The aim of the first two institutions is to monitor respect of the rights of the child in general, and, more specifically, the right to education. The regional academies have been set up to promote a more neighbourly, efficient approach.

The civil society is also strongly involved in helping to overcome obstacles to school attendance and to participate in the struggle against problems of adult illiteracy, out-of-school children and drop-outs.

Furthermore, an office of a Secretary of State for Adult Literacy and Non-Formal Education has been created especially to deal with the problem of the children who, for a variety of reasons, are not able to attend the schools.

In conclusion, I hope that this Round Table will lead to tangible recommendations which will be materialised as quickly as possible so that millions of children and other persons are no longer deprived of education and can fully exercise their right to education. I hope that UNESCO will facilitate the spread of national legislation, encourage African experience-sharing in this field and

continue discussion on the theme of our Round Table.

Thank you for your attention.

Constitutional reforms for the promotion of the Right to Education

by Professor Shem O. Wandiga,
former member, Executive Board,
UNESCO

(Original paper in English)

I would like first of all to compliment UNESCO for the excellent quality of documents prepared for the Round Table. We are especially pleased that the Discussion Paper for the Round Table presents developments regarding the constitutional and legislative bases of the right to education.

In my brief intervention, I would like to highlight the process of Constitutional reform in Kenya and transformation that it introduced. A salient feature of such change is that the right to education has been provided in the draft Constitution. Thus, the significance of this transformation consists in laying down the constitutional foundation of the right to education.

The draft Constitution provides for free and compulsory education for every Kenyan, which is a major objective set at the World Education Forum. Recognizing the right to education - free and compulsory education for every Kenyan - is a milestone in Kenya's educational development. These developments are in line with UNESCO's planning and the priority accorded to the basic education.

These should be appreciated specially as part of the EFA process, the thrust of which is to advance the right to education for all as a fundamental human right, as reaffirmed at the World Education Forum in 2000.

With respect to the legislative bases of the right to education, let me mention that Kenya has a new law entitled the Children Act 2001. The Act has several sections which deal with the health and welfare of the child. The Act provides for provision of free and compulsory primary education. It states that:

- “ every child shall be entitled to education the provision of which shall be the responsibility of the Government and the parents.
- Every child shall be entitled to free basis education, which shall be compulsory in accordance with Article 28 of the United Nations Convention on the Rights of the Child.
- Every child shall have a right to religious education subject to appropriate parental guidance. The Minister shall make regulations giving effect to the rights of children from minority communities to give fulfillment to their culture and to practice their own language or religion”.

In addition to the above rights, child labour and genital mutilation of the girl child are prohibited by the Act.

As a follow up to the constitutional and legislative system that is being put in place, the Kenya Government has already taken measures aimed at implementing free compulsory education at primary level. The exercise will attract over million pupils who were out of school.

As the implementation of the policy continues, there are several logistical and policy issues that Kenya requests its development partners for assistance. These include provision of quality education through resource supported and relevant curricula; supplementary resources for training of teachers, supply of educational materials, supervision, coordination and planning of the project. Planning of and implementation of the Act with subsequent enshrinement of the policy into the Draft Constitution will require greater public participation, discussion and understanding.

Finally, I would also like to underline the significance attached to the right to quality education and we hope that UNESCO will assist in quality education and in the actions that need to be taken for realizing such education while giving effect to constitutional provisions. Effective implementation of the right to education as provided for in the Constitution is a major challenge to meet in which Kenya looks forward to UNESCO's assistance.

UNESCO is requested to lend Kenya support in any way possible.

Thank you.

The Right to Education, the policies of education and social development

by Professor Mohammed Shaaban Sheya, Deputy Permanent Delegate of the United Republic of Tanzania to UNESCO

(Original paper in English)

I should like first of all to thank UNESCO for organizing this Round Table, which has afforded us the opportunity to discuss the right to education and to share our experiences and ideas. The Round Table is especially significant for examining some issues of key importance such as how the commitments undertaken at the World Education Forum for achieving the right to education as a fundamental human right are translated into national legal system?

In this connection, let me mention that the Constitution of the United Republic of Tanzania lays down the obligation for providing for the right to education in national legal system. Accordingly, the Government should ensure that the right to education is adequately reflected in national legislation.

In my presentation, I would like to briefly dwell upon the importance of the right to education for development, the problem of implementation and follow up mechanisms as well as the incentives in monitoring its implementation, and the questions related to the follow up to the Round Table.

The right to education is essential to social development. Its empowering nature deserves to be emphasized. We must in particular recognize the important role of education for development of society. This is of overriding importance and I would like to stress the significance of this concept. In this connection, let me recall that in the Dakar Framework for Action adopted at the World Education Forum (April 2000), education is considered as “the key to sustainable development and peace and stability within and among countries.” The Chairperson of the Round-Table, His Exc. Mr Asmal, evoked the right to development. The right to education is indeed interlinked with the right to development. The key role of basic education in the development process is recognized at the World Education Forum. In that perspective, right to education becomes an overarching right, essential to social development. Such empowering role of education hardly needs to be emphasized. The concepts such as self-reliance in the Constitution of the United Republic of Tanzania must be viewed as part of the empowering role of education.

Besides, the quality of education has been receiving enhanced consideration. The quality of education is indeed essential for making the education gainful and ensuring that it contributes to development process.

I would like to refer to the analysis of constitutional provisions relating to the right to education in the countries of Africa that is presented in the Discussion Paper for the Round-Table, prepared by UNESCO. The analysis brings forth one of the important dimensions in achieving the right to education – equality of educational opportunities. It is a pleasure for me to say that we in the United Republic of Tanzania attach high significance to this norm and our constitutional provisions reflect this. The Constitution of the United Republic of Tanzania provides that “The government shall endeavour to ensure that there are equal and adequate opportunities [...]” (Art. 11 (5) of the Constitution of Tanzania). This corresponds to UNESCO’s constitutional mission. One of the critical factors in giving effect to obligations under the international and regional instruments relating to the right to education is to provide for adequate opportunities and for adequate budgetary provisions.

There are a number of international and regional standard-setting instruments which contain provisions relating to the right to education. The question that has been evoked in Discussion Paper prepared by UNESCO Secretariat for the Round Table is one of effective implementation of these instruments and of the provisions of right to education. We have also to address issues relating to follow-up mechanisms when we talk of implementation of international and regional instruments. What are the *incentives* for monitoring implementation

of these instruments in Member States? Another question of critical importance is the implementation process – how the right to education as recognized in national laws is effectively implemented? The Governments must recognize their political obligations for the implementation of national laws.

Let me stress the significance of monitoring the progress realized in the implementation of the right to education for all. What is essential is to ensure that implementation is accompanied by follow up mechanisms. An important element in this respect would be the incentives for monitoring so that the progress realized is not only monitored but there are *incentives* for carrying such progress further.

An important step in that direction is that right to education needs to be fully recognized in national legal system and in education policies. We have to create greater awareness among the governments, law-makers and public authorities so as to ensure that law on education contains adequate provisions on the right to education. In this process, the multiple dimensions of right to education must be recognized. Of the foremost importance is the question of access to education. This must receive primacy in the national legislation for the realization of the right to education. A pre-requisite for providing access to education is to create necessary educational infrastructure. Moreover, trained and qualified teachers are needed for making education system functional. Qualified teachers are indispensable for achieving the right to

education. Also, the question of providing textbooks and education material to the poor deserves full attention. For meeting all these conditions, financing of education is a major dimension of education policy. In this respect, the contribution by multilateral agencies and bilateral development cooperation can be significant to enable governments to achieve right to basic education for all. Achieving the right to basic education for all calls for partnership with civil society and private partners.

The theme of this Round Table is of critical importance. The set of Recommendations should lay emphasis on the follow up measures. It is especially crucial to incorporate these Recommendations into UNESCO's Strategies and the Programme and Budget for the next Biennium (2004-2005). We must also ensure that these Recommendations should receive UNESCO's full consideration

Before concluding my intervention, I would like to lay emphasis on the national laws in the field of the right to education. It would be very useful if UNESCO could undertake a comprehensive analysis of education laws in African context. Such an exercise would present the status of the right to education and perspectives for normative action and come up with a specific recommendations in the light of available experience and emerging needs for advancing the right to education. This must be another specific recommendations that we make at this Round Table.

Right to Education: The experience of Cameroon

by His Excellency Professor Joseph Owona, Minister of National Education, Honorary Chancellor of the University of Yaoundé II, Yaoundé, Republic of Cameroon

(Original paper in French)

Excellencies, Dear participants, Distinguished guests, Ladies and Gentlemen,

Allow me first of all to thank UNESCO as well as ADEA for this happy initiative and congratulate them for organizing this Round Table around a theme which represents certainly one of the biggest challenges of the new century: «Promote the right to education as a fundamental human right».

It is a pleasure and an honor for me to be here among you and to present the experience of Cameroon, which I am sure, will enable us all to share our views and our experiences on the realization of the right to education. I wish especially that this Round Table leads to a rich and fruitful debate and that it results in a concrete set of Recommendations.

The whole of the international community has committed itself at the beginning of the new century and the new millennium to meet one of the biggest moral challenges of our times: ensure that all the people, across the world receive a good education. However, no one can ignore that in our times, the right to education has not become a reality for all of us.

There remain more than a million people in the world – children and adults – who are excluded from education and half of Africa's population does not have access to free and compulsory basic education. That is why it is of fundamental importance that the State obligations flowing from international instruments relating to the right to education as well as the legal framework of Education for All (EFA) be clearly defined and applied in the national system of every State that is to say, in the constitutions and national legislations.

Cameroon shares this preoccupation of ensuring a most effective implementation of the commitments undertaken by the States under international instruments. But as in the case of all commitments, means must be available for such implementation. Now, many States do not have financial resources and necessary and adequate material to fulfill their obligations which flow from the international or regional instruments. The investments made and reforms undertaken by the public authorities are not always sufficient or adequate. These are so many questions, which still need to be addressed.

I would like to indicate that Cameroon attaches very high importance to international instruments elaborated by the United Nations and UNESCO, and also the regional instruments elaborated in Africa. Thus, these instruments are men-

tioned in preamble of the Constitution of Cameroon which stipulates that “the people of Cameroon affirms their attachment to fundamental freedoms enshrined in the Universal Declaration of Human Rights, the United Nations Charter, the African Charter of Peoples and Human Rights and all the concerned international conventions duly ratified”.

The Constitution of Cameroon recognizes the importance of the right to education. Actually, the preamble clearly enunciates that “The primary education is compulsory”. The right to education, thus enshrined in the constitution, corresponds to the Millennium Declaration – to ensure primary education for all.

As far as the legislation is concerned, Cameroon has adopted recently the Orientation Law on Education of April 14, 1998, which lays down the general legal framework and which provides in its article 2 that “education is a high national priority”, and in its article 6 that “The State assures education to the child”. The Law No. 005 of 16 April 2001 on the orientation of higher education lays down fundamental general orientation of higher education in Cameroon. Besides, to ensure the efficient implementation of these laws, the government of Cameroon has enacted a good number of regulations. There exists thus an entire system to ensure the proper application of provisions relating to the right to education contained in the constitution and in the laws.

I think it is very important that each

State concentrates on the priorities it has fixed and objectives it has laid down as educational policy. I believe, there exists three priority action areas: education, instructions and illiteracy. In each education policy, this conceptual perspective as also the particular situation of each State must be taken into account.

Allow me to add that Cameroon considers that the cooperation with the United Nations is indispensable to carry through the difficult task of realizing the right to Education For All. Cameroon cooperates with the United Nations system in which it is represented in the Committee on Economic, Social and Cultural Rights (CESCR), entrusted with the task of monitoring the implementation of these rights, including the right to education such as enshrined in article 13 of the International Covenant.

The participation by the collectivities and by the civil society as well as the cooperation with other institution such as the World Bank must be developed and encouraged so that States make the right to education something concrete. This is in the continuity of the World Education Forum. In fact, the commitment made by the international community at the Forum and enunciated in the Dakar Framework for Action expresses the obligation not only of governments but also of the international community for the realization of the right to basic education for all.

UNESCO, which has the mission of advancing “the ideal of equality of

educational opportunities for all” must fully play its pioneering role and support States in their endeavour. It shall be beneficial and opportune that UNESCO, which possesses undoubtedly experience and knowledge, provides technical assistance and advisory services as regards the elaboration/modernization of national legislations on education and national action plans.

Conclusion

The Round Table was organized as a follow up to MINEDAF VII, within the framework of the International Development Goal: universalizing primary education in all countries by 2015 and the main objectives set at the World Education Forum (Dakar, 2000): achieving education for all (EFA).

Summary of discussion

The Round Table brought together Ministers of Education and high-level government representatives. In his opening remarks, Professor Kader Asmal, Minister of Education, South Africa, highlighted the prominence of the right to education in various human rights and UNESCO's principal role in the United Nations system. Relating the right to education to the right to development, he raised questions as to the constitutional arrangements and the justiciability of the right to education, as well as social justice.

The other participants, notably Ministers of Education and members of UNESCO's Executive Board, emphasized the importance of legal framework of education for all, especially as regards the constitutional and legal foundations of the right to education. They dwelt upon the status of the constitutional provisions and national legislation in their respective countries. A number of legal concepts in national constitutions and legislation require to be elucidated. In the light of

national experience and practices, they underlined the need for socio-economic and political conditions, including investment in education for achieving the right to education for all. In this respect, the questions related to co-operation with the United Nations system, UNESCO and the World Bank were evoked. Almost all of them made very concrete suggestions and recommendations on the issues of critical importance such as access to education as of right, the contents and quality of education, equity in education etc. They suggested that co-operation with UNESCO should be intensified so that States give concrete shape to the right to basic education for all. Professor Joseph Owona, Minister of Education, Cameroon concluded the discussions.

Results achieved

The Round Table contributed to advancing the right to education in several ways:

- It provided a forum for expressing greater recognition of the provisions relating to the right to education, contained in UNESCO's standard-setting instruments, and of follow up measures at national level;
- It gave impetus to normative action at regional level and a more effective implementation of regional instruments in line with the Dakar Framework for Action;

- It raised greater policy awareness of the importance of constitutional/legal bases of the right to education as a fundamental human right and encouraged political measures aimed at strengthening them - action which is indispensable for achieving the goals and objectives set at the World Education Forum;
- It stimulated the government level action and contributed to raising public debate on the questions of critical importance for achieving the right to basic education for all: how governments fulfil their primary responsibility in universalizing primary/basic education; How are obligations and commitments incorporated into constitutional provisions and translated into educational laws and policies? What is the status of the right to education in a country's constitution and/or national laws and in how a country's laws and educational policies are implemented? How are these issues undergoing modifications and how are they being reformulated, or should they be reformulated, in keeping with the commitments undertaken at the World Education Forum.
- It contributed to the implementation of UNESCO's Medium-Term Strategy (2002-2007), which stipulates that "UNESCO will further seek to engage Member States and new educational providers in a dialogue highlighting education as a public good and encourage all actors in the field of education to pay due regard in their undertakings to the need for equity, inclusion and social cohesion in today's societies".¹

1. UNESCO Medium-Term Strategy 2002-2007, UNESCO, Paris (c/4, par. 62).

Discussion paper for the Round Table

Introduction

1. Universalising primary education in all countries by 2015 is one of the International Development Goals. This reflects one of the main objectives set at the World Education Forum (Dakar, 2000): achieving education for all (EFA). Such a concern is also shared by the New Partnership for Africa's Development (NEPAD).

2. The Dakar Framework for Action issued at the World Forum reaffirms "the vision (...) supported by the Universal Declaration of Human Rights and the Convention on the Rights of the Child, that "all children, young people and adults have the human right to benefit from an education that will meet their basic learning needs in the best and fullest sense of the term, an education that includes learning to know, to do, to live together and to be" (para. 3). Recognizing that "Education is a fundamental human right", it thus refers to some major international standard-setting instruments relating to the right to education and reflects certain main principles such as the principle of universal access to learning, the principle of non-discrimination and the principle of equity.

1. Recommendations of the Informal Expert Consultation on Monitoring the right to education, organized at UNESCO Headquarter in March 2001, Final Report, ED-2001 Paris, 2 May 2001. The Consultation underlined the importance of (i) examining the bases of the Dakar Framework for Action in both modern constitutional law and international law, and (ii) establishing the relationship between the Dakar Framework and existing normative instruments as a continuity of existing law.

3. The legal implications of the Dakar Framework for Action must be appreciated in its interrelationship with States obligations not only under major international instruments but also under regional instruments relating to the right to education as regards its bases in both modern constitutional law and international law. These were examined during the Informal Expert Consultation on Monitoring the right to education, organized at UNESCO Headquarter in March 2001.¹

I. Normative Framework

■ The international level legal framework

4. A number of standard-setting instruments elaborated by UNESCO and the United Nations as well as those elaborated at regional level provide normative framework for the right to education.

5. The State obligation for providing basic education for all, undertaken at the World Education Forum must be viewed in the first place as part of the obligations under international law (pertaining to the right to education) as contained in international instruments, notably:

- Article 26 of the Universal Declaration on Human Rights,
 - Articles 4 and 5 of the Convention against Discrimination in Education (1960),
 - Articles 28-30 of the Convention on the Rights of the Child, and
 - Articles 13 and 14 (right to education) of the International Covenant on Economic, Social and Cultural Rights.²
6. Article 13 of the International Covenant is most comprehensive and provides the obligation of the State - the obligation to respect, protect and fulfil³. With such a broad obligation, this article, just as the Dakar Framework for Action, provides for the right to receive free and compulsory primary education, which should be made available to every one, and enjoins upon the State Parties to the Covenant obligation for its progressive realisation. This obligation has been interpreted to be of continuing nature for moving as expeditiously and effectively as possible towards the realisation of this right and is of immediate effect⁴.
7. Primacy given by the Dakar Framework for Action to the national level action is very much akin to the spirit of Article 14 of the International Covenant relating to the right to education. This article requires each State party which has not been able to secure compulsory primary education, free of charge, to undertake,
- within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory primary education free of charge for all.
8. Articles 28–30 of the Convention on the Rights of the Child relate to the right to education. Article 28 in particular stipulates that “States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular: (a) make primary education compulsory and available free to all; [...]”.
9. A number of standard-setting instruments adopted by UNESCO (relating to the right to education) reinforce the State obligations contained in other international instruments and develop this right in its various dimensions. In adopting them, the Governments have undertaken political commitments under the auspices of UNESCO. Pre-eminent among them is the Convention against Discrimination in Education (1960). The basic principles of non-discrimination, equity and equality of opportunity and of national treatment in education, put forth in the Convention, also underlie the Dakar Framework for Action.
10. Provisions contained in Article 4 of the Convention relate both to article 13
2. For details, see Reference document, prepared by UNESCO for the present Round Table.
 3. General Comments No. 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 (para. 50).
 4. Ibid. (paras 43-44).

of the International Covenant and the Dakar Framework for Action. This article enjoins upon the States Parties to the Convention the obligation to: “undertake furthermore to formulate, develop and apply a national policy which, by methods appropriate to the circumstances and to national usage, will tend to promote equality of opportunity and of treatment in the matter of education and in particular:

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

11. Moreover, the Convention gives prominence to the objectives of education, which are enshrined in the Universal

Declaration of Human Rights. These are also essentially the objectives of the Dakar Framework for Action. The States Parties to this Convention agree that “Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms; it shall promote understanding, tolerance and friendship among all nations, racial or religious groups (...)”; (Article 5 (a). The Convention also recognizes “the right of members of national minorities” to carry on their own educational activities (...).

12. The principle of non-discrimination in education is also reflected in the Convention on Technical and Vocational Education (1989). Furthermore, both these Conventions are mentioned in the Revised Recommendation concerning Technical and Vocational Education (2001) which recognizes that the “Technical and vocational education (...) is included in the term ‘education’ as defined in the Convention and the Recommendation against Discrimination in Education (1960)”. This Recommendation should be understood as setting forth general principles, goals and guidelines to be applied by each individual country according to its socio-economic needs and available resources in a changing world (para. 4).

13. It hardly needs to be emphasized that conventions and treaties have binding force in international law for the States parties to them. Thus, the Convention against Discrimination in Education is

binding for 91 States Parties. States and governments adopting declarations and recommendations also subscribe to moral commitments. Such instruments clearly state their intention to implement them, even though, as in the case of United Nations resolutions, there are no legal penalties for non-compliance. They demonstrate an indisputable moral resolve to abide by the commitments assumed by those States and their partners when voicing their intention to adopt a given set of guidelines, as seen in the World Declaration on Education for All or the Dakar Framework for Action. The ethical basis and moral force of these declarations therefore needs to be recognized. Although not legally binding, agreed instruments have a normative character in their intent and effects and the States concerned regard them as political or moral commitments. The ethical value of such declarations is set to acquire increasing recognition.⁵ The commitments that States and governments make in adopting standard-setting instruments need to be considered in the light of the legal and moral force of declarations in modern international law. United Nations doctrine considers a declaration to be “a formal and solemn instrument, suitable for occasions when principles of great and lasting importance are being enunciated [...]. In view of the greater solemnity and significance of a

‘declaration’ (as opposed to a ‘recommendation’), it may be considered to impart, on behalf of the (United Nations) organ adopting it, a strong expectation that members of the international community will abide by it. Consequently, insofar as the expectation is gradually justified by State practice, a declaration may by custom become recognized as laying down rules binding upon States”⁶. Moral and legal force of the Dakar Framework for Action is analogous to the declarations and recommendations of the United Nations containing political commitments of the governments.

14. In order to fully appreciate the legal implications of the Dakar Framework for Action, its follow up should be linked not only to the State obligations under the existing international instruments, especially those adopted by UNESCO, but also to such obligations under the regional level instruments.

■ The regional level legal framework in Africa

15. The right to education is an integral part of the rights, duties and freedoms enshrined in the African Charter on Human and Peoples’ Rights, adopted in 1981. In its Article 17, the Charter provides that “Every individual shall have the right to education”. It stipulates that “The promotion and protection of

5. The right to education: An analysis of UNESCO’s standard-setting Instruments, Yves Daudet, Kishore Singh, UNESCO 2001, p. 42-48.

6. UNESCO’s standard setting instruments, UNESCO, Paris, 1986 (General introduction, p. xiv).

moral and traditional values recognized by the community shall be the duty of the State".⁷

16. Similarly, Article 11 of the African Charter on the Rights and Welfare of the Child, adopted in 1990 provides for the educational rights of the child comprehensively. It recognizes that "Every child shall have the right to an education".⁸

Article 11 (3) of the Charter provides that "States Parties to the present Charter shall take all appropriate measures with a view to achieving the full realization of this right and shall in particular: (a) provide free and compulsory basic education [...]"⁹ [emphasis added]. The commitment undertaken at the World Education Forum to provide free and compulsory basic education is indeed

an integral part of the State obligation under the African Charter on the Rights and Welfare of the Child. Both the African Charter on Human and Peoples' Rights and the African Charter on the Rights and Welfare of the Child contain State obligations linking them to various international human rights instruments and various African instruments.

17. The importance of free and compulsory basic education was reiterated at the seventh Conference of Ministers of Education of African Member States (MINEDAF VII, Durban, 1998). In the Durban Statement of Commitment, adopted at MINEDAF VII, the Ministers of Education recognised that "access to basic education must include access to early childhood programmes and, in

7. Article 18 of the Charter provides that:

- The State shall have the duty to assist the family which is the custodian of morals and traditional values recognized by the community.
- The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.

8. Article 11 (2) of the Charter provides that: "the education of the child shall be directed to:

- (a) the promotion and development of the child's personality, talents and mental and physical abilities to their fullest potential;
- (b) fostering respect for human rights and fundamental freedoms with particular reference to those set out in the provisions of various African instruments on human and peoples' rights and international human rights declarations and conventions;
- (c) the preservation and strengthening of positive African morals, traditional values and cultures;
- (d) the preparation of the child for responsible life in a free society, in the spirit of understanding tolerance, dialogue, mutual respect and friendship among all peoples ethnic, tribal and religious groups;
- (e) the preservation of national independence and territorial integrity;
- (f) the promotion and achievements of African Unity and Solidarity".

9. Article 11 (3) further provides measures to (b) encourage the development of secondary education in its different forms and to progressively make it free and accessible to all; (c) make the higher education accessible to all on the basis of capacity and ability by every appropriate means; (d) take measures to encourage regular attendance at schools and the reduction of drop-out rates; (e) take special measures in respect of female, gifted and disadvantaged children, to ensure equal access to education for all sections of the community.

countries with near-universal participation, access to secondary education, paying adequate attention to the needs to disadvantaged groups" (para. 5). They expressed their concern with the gender gap – women's participation in Education remains a major issue for which appropriate policy frameworks must be developed (para. 6). They reaffirmed the "principles of a learning society and lifelong education" (para. 10)".

18. A Framework for Action in Sub-Saharan Africa: Education for African Renaissance in the Twenty-first Century, adopted by the Regional Conference on Education for All for Sub-Saharan Africa (Johannesburg, South Africa, December 1999) reaffirms that "education is a basic right and a basic need for all African children, youth and adults, including those with disabilities, as recognized in the international instruments, including the Universal Declaration of Human Rights, the African Charter on Human and Peoples' Rights, the Convention on the Rights of the Child (...)". A salient feature of the Framework is the strategic consideration underlying it: "Increasing universal access to, and completion of, primary (basic) education".¹⁰

II. Incorporating the State obligations under existing instruments into national legal system and their effective implementation

19. The right to education as provided for under existing instruments can be availed by its beneficiaries when the State obligations under these instruments are incorporated into national legal system and their implementation is ensured effectively. In that spirit, the implementation of the instruments adopted by the United Nations is monitored by various treaty bodies.

20. The right to education is given high importance by the Committee on Economic, Social and Cultural Rights (CESCR),¹¹ which monitors the implementation of the International Covenant on Economic, Social and Cultural Rights. This was brought into focus during the Day of Discussion on the right to education and the Follow up to the World Education Forum, organized by CESCR, in co-operation with UNESCO on 14 May 2002 during the 28th session of the Committee. The Discussion enabled to explore the ways and means of linking

10. The Framework provides that "Special attention shall be devoted to the rights of disadvantaged groups, including girls and women, ethnic minorities, the disabled, those affected by the HIV/AIDS pandemic and those in specially difficult circumstances in other ways". (4.2 Basic strategies).

11. The General Comment No. 13 on the right to education (Article 13 of the Covenant) adopted by the Committee on Economic, Social and Cultural Rights in December 1999 in collaboration with UNESCO lays emphasis on how the States are duty bound to implement the provisions enshrined in the International Covenant (article 13) and refers to the basic education for all.

more closely the Dakar Framework for Action with the international instruments relating to the right to education, especially the provisions of articles 13 and 14 of the International Covenant. It gave further momentum to the pursuit of the key objective, namely that every one has access to basic education as a fundamental human right. It underlined the importance of how the State obligations relating to the right to education under the International Covenant as well as under the Dakar Framework for Action are reflected in national legal systems and how the constitutional and legislative bases of the right to education can be reinforced.

21. As a result of collaboration with UNESCO, CESCR recognizes significance of the follow-up to the World Education Forum in its work. This figures systematically in the dialogue the it conducts regularly with the State Parties to the International Covenant. The Concluding Observations CESCR adopts at the end of this dialogue provide perspectives for UNESCO's possible role in assisting Member States in achieving education for all.

22. UNESCO also participates in the work of the United Nations Committee on the Rights of the Child (CRC), which monitors the implementation of the Convention on the Rights of the Child. The Organization co-operated with the Committee

in the elaboration of the General Comment No. 1 on the Article 29 (1) of the Convention.

23. As mentioned above, the Convention against Discrimination in Education contains provisions that the State obligation under the Convention must be incorporated into national legal system (Article 4). UNESCO monitors its implementation, pursuant to the obligations of the States under the provisions of Article 7 of the Convention.¹² In order to eliminate and prevent discrimination in education, the Convention requires the States Parties "To ensure, by legislation where necessary, that there is no discrimination" in education (article 3).

24. The question of more effective implementation of UNESCO's instruments was debated by the Committee on Conventions and Recommendations (CR) during the 165th session of the Executive Board in October 2002. Issues addressed related to rationalising the reporting system and monitoring mechanisms, while cooperating with the United Nations system and treaty bodies. The significance of the rights-based approach in monitoring was recognized. These considerations would guide the seventh consultation on monitoring the implementation of the Convention against Discrimination in Education (1960) in Member States.

12. This article carries obligation to submit periodic reports to "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".

25. The Convention on Technical and Vocational Education (1989) contains provisions similar to those of the Convention against Discrimination in Education, as regards the State obligations. The Revised Recommendation concerning Technical and Vocational Education (2001) recommends that “when developing and improving technical and vocational education, Member States should take whatever legislative or other steps may be required to give effect, within their respective territories, to the principles set forth in this Recommendation” (para. 3 of the Annex to the Recommendation). It invites the Director-General of UNESCO to conduct future consultations with Member States concerning its implementation, (para. 2 to the Annex); and recommends that Member States should submit reports on the action they have taken to give effect to the Recommendation (para. 5 to the Annex).

26. The obligation of incorporating in national legal system the rights contained in the regional level instruments in Africa figures prominently in these instruments. The very first article of this Charter provides that States Parties to the Charter “shall undertake to adopt legislative or other measures to give effect” to rights contained in it, which includes the right to education provided for in the Article 17 of the Charter. What is commendable is that under the provisions of Article 62 of the Charter, all the State Parties to it are required to report periodically on the way they give effect to the rights contained in the Charter. In this respect, a number of

other instruments including the Constitutive Act of African Union are significant.

27. Similar provisions are contained in the African Charter on the Rights and Welfare of the Child. Article 1 of the Charter provides that the State parties to it “shall recognize the rights, freedoms and duties enshrined in this Charter and shall undertake the necessary steps, in accordance with their Constitutional processes and with the provisions of the present Charter, to adopt such legislative or other measures as may be necessary to give effect to the provisions of this Charter”. Furthermore, in its Article 43 (1), the Charter contains the Reporting Procedure and provides that: “Every State Party to the present Charter shall undertake to submit to the Committee through the Secretary-General of the Organization of African Unity, reports on the measures they have adopted which give effect to the provisions of this Charter and on the progress made in the enjoyment of these rights [...]”.

28. A Framework for Action in Sub-Saharan Africa carries the commitment “to removing all barriers (social, cultural, economic, political and legal) that hinder African children, youth and adults from having access to quality education and the attainment of the goals of the Jomtien Declaration on Education for All” (Preamble). It provides “accelerated access, with particular reference to policies of equity and female enrolment, including affirmative action”. With a view to “Improving access and equity”, the Governments have undertaken commit-

ments within this Framework to “Review and develop educational and other policies and legislation within the framework of the African renaissance” (emphasis added).

III. The Right to Education in constitutions and national legal systems

29. A determinant factor in achieving the right to education is whether such a right has its foundation in constitutions and national legislation. Question of how the State obligations under existing instruments are incorporated into national legal system has to be critically examined in that perspective. This should be further linked with national education policies and development process. The importance of giving enhanced consideration to the constitutional and legislative bases of the right to Education for All as a fundamental human right, taking fully into account the legal implications of the Dakar Framework for Action needs to be hardly emphasized.

30. It may be recalled that the World Education Forum opened with a welcoming address by President Abdoulaye Wade of the Republic of Senegal, who stressed the importance of viewing education as a fundamental human right ‘rooted in the legal and social environment as well as in the individual’s active resolve to enjoy his rights to the full’. Respect for

such rights, he said is essential to the functioning of democratic society. ‘Like building’, he said, ‘democracy is constructed freedom by freedom, right by right, until the one is reached which tips the balance ... and leads to a change-over’.¹³

31. UNESCO has placed the outcome of the World Education Forum at the heart of its activities and education for all (EFA) high on its agenda. The Medium-Term Strategy 2002-2007 elaborated by the Organization reflects the education agenda adopted at Dakar so that it guides UNESCO’s action for the benefit of Member States. The Strategy reiterates the primacy of government responsibility and stipulates that “*success in achieving the Dakar goals will be determined at the country level. A major task for UNESCO will be to support Member States in policy reforms, especially the design and implementation of EFA policies and action plans as well as of legal instruments for promoting universal access to basic education*”¹⁴ (emphasis added).

32. Country Reports on Education for All (EFA) 2000 Assessment, submitted to the World Education Forum (2000), present developments as regards constitutional and legislative bases of the right to education. Their review and comparative analysis would be very significant for further legal and policy developments and especially to show how the obligations undertaken by States are translated

13. Final Report, World Education Forum, Dakar, Senegal 26-28 April 2000, UNESCO, 2000 (p. 8).

14. UNESCO’s Medium-Term Strategy (2002-2007), 31 C/4 (para. 59), UNESCO, Paris.

into national legal system. This would also provide further perspective for the government level action and contribute to raising public debate on the questions of critical importance for achieving the right to basic education for all.

■ Constitutional provisions relating to the Right to Education

33. Constitution in almost all African countries carry provisions on the right to education, and in a few countries, the right to basic education is also a constitutional right. In some of the countries, the Constitution refers to international and regional instruments and state obligation. What is more, in many countries, constitution lays down commitment for universal primary education, even as UNESCO's Medium-Term Strategy 2002-2007 provides that "Advancing the right to education as enshrined in the Universal Declaration of Human Rights is central to UNESCO's mission. Free, compulsory and universal primary education for all is among the most clearly defined of these rights, which governments have duty and responsibility to make a reality". This corresponds to the Millennium Development Goal for universalising primary education in all countries by 2015.

34. The fundamental principles of equal access to education and of equality of opportunity are enshrined in the constitutions of several African countries — the principles which both UNESCO's Convention against Discrimination in

Education and the Dakar Framework for Action put forth. Educational rights of the child are also contained in some of the Constitutions, even as in other cases, the responsibility of parents and of community is provided for. The necessity of regulating private education is also recognized in the Constitution in many countries. In some countries, the objectives of education, including civic education, is provided for in the Constitution. In some other countries, Constitutions contain provisions for the eradication of illiteracy.

The annex 1 presents an analysis of the right to education as provided for in the Constitutions in African countries, in a comparative perspective.

35. Fulfilling international legal obligations is a determining factor in achieving the right to education. Its effective enforcement is dependant upon how the State obligations under existing instruments are incorporated into national legal system - how to give full recognition to the fundamental principles of equality of educational opportunities and universal access to education, and how such action is linked further with national education policies and development process?

The importance of certain minimum core obligations of Governments with respect to the right to basic education, notably the respect for fundamental principles of non-discrimination, of equal educational opportunities; and ensuring that the right to education as laid down in the domes-

tic legal order conforms to the principles and norms set in the major international instruments, should be recognized.

The commitments by Governments to provide basic education for all, undertaken at the World Education Forum, must be viewed as part of the State obligations under international law. In that perspective, the constitutional and legislative bases of the right to education are highly significant. It is indeed crucial to introduce constitutional provision on the right to education as well as appropriate enabling legislation, thus incorporating the State obligations under the relevant international conventions into national legal systems.

36. Considerations pertaining to constitutional bases of the right to education would be highly useful in the context of constitutional developments in other countries, for instance, Rwanda which is in the process of preparing a new constitution.

■ Legislative bases of the Right to Education

37. Strengthening legal bases of the right to education for all is an integral part of the commitment undertaken by Governments at the World Education Forum. This is reflected in paragraph 13 of the Dakar Framework for Action: "We will strengthen accountable international and regional mechanisms to give clear expression to these commitments and to ensure that

the Dakar Framework for Action is on the agenda of every international and regional organization, *every national legislature and every local decision-making forum*". (emphasis added).

38. The importance of legislative bases of the right to education for giving legal shape to political commitments undertaken at the World Education Forum was underlined at the first meeting of the High-Level Group on Education for All (October 2001). The need for action with a view to "*making basic education compulsory and truly free of charge for all children*" and "*drawing up education legislation and priorities in line with the Human Rights Conventions and the EFA goals*" was pointed out at that meeting.¹⁵

39. Many country reports on EFA 2000 Assessment, presented to the World Education Forum throw light on educational laws. For instance, the Country Report presented by Benin highlighted the critical role of national law for the realisation for Education for All. National laws have been enacted recently such as in Liberia and in Kenya. As a follow-up to the new Education Act of 2001 in Liberia, interest taken in developing an implementation strategy on achieving universal primary education is important. UNESCO is currently emphasizing the importance of the constitutional and legislative bases of the right to education, with a focus on EFA. The Organization has taken a series of

15. Statement by Mr. Carl Lindberg from Sweden at the first meeting of the High-Level Group on Education for All, convened by the Director-General of UNESCO at UNESCO Headquarter in October 2001.

measures to strengthen its action, aimed at ensuring non-discrimination and equality of opportunity in education.

As regards the questions relating to the foundations of the right to education in the legal system, the focus should be on the legal framework and practical impact of laws developed in line with State obligations. In monitoring the right to education, looking at the legislative setting and constitutions both in law and in fact is crucial. Concrete national-level situations giving life to the letters of the legal provisions are critically important. Besides, the significance of institutional mechanisms of implementation and application of the legislative framework as well as equity issues bearing upon the obligations of Member States must be emphasized.

There is need to put a stronger focus on enforcement, implementation, and practical realisation of legislation, down to the school and classroom level. Constitutional provisions and national legislation which uphold the right to education are the bed-rock of the right to education.

40. These and similar other developments are significant as regards the process of modernizing and developing national legislation in face of challenges of education in a globalizing world. In keeping with the obligation and responsibility of Governments for achieving the objectives and goals of the Dakar Framework for Action, new legislation in the field of the right to education will also

be necessary in many other countries.

IV. Major issues for consideration

41. In order to advance the right to education, action oriented reflections are necessary especially for giving impetus to normative action at regional level as well as national level, for exploring ways and means for more effective implementation of existing instruments, for enhancing recognition and importance of the legal implications of the Dakar Framework for Action, for raising public debate and for creating greater policy awareness among policy makers of the importance of constitutional/legal bases of the right to education as a fundamental human right.

42. This would provide policy perspective for the government level action for achieving the right to basic education for all: How governments fulfil their primary responsibility in universalising primary/basic education? How the obligations and commitments are incorporated into constitutional provisions and translated into educational laws and policies? What is the status of the right to education in a country's constitution and/or national laws and how a country's laws and educational policies are implemented? How these are undergoing modifications and are being/should be reformulated in keeping with the commitments undertaken at the World Education Forum, and in appreciation of the need for changing education paradigms in the context of the

New Partnership for Africa's Development (NEPAD)?

43. Law-makers, education-policy planners and public authorities must be made fully aware of the importance of the State obligations under international and regional instruments relating to the right to education, in its nexus with the legal implications of the Dakar Framework for Action. To this end, these instruments should be disseminated and publicised widely. An analysis of regional level instruments relating to the right to education would be especially very useful for creating greater awareness about the importance. In this connection, it may be mentioned that A Framework for Action in Sub-Saharan Africa recognizes the need to "Popularize and publicize the new vision of African education by developing quality basic education that is holistic, humanizing and transformative, and embedded in African values and indigenous knowledge systems."

44. Developments in constitutional and legislative bases of the right to education, covered in several Country Reports on Education for All (EFA) 2000 Assessment presented to the World Education Forum, deserve to be carried further. A comparative study of constitutional provisions would make for greater appreciation of the foundation of the right to education in constitutional law. Similarly, comparative analysis of legal bases of the right to education is a major factor in the follow-up to the Dakar Framework for Action. As the EFA Global Monitoring Report 2002 entitled "Education for All: Is

the World on Track?" states, "mobilising governments to develop and modernize national legislation is a critical element of implementing the Dakar Framework for Action".

45. Further considerations pertain to the ways in which the national laws are applied and how they reflect the national education plans developed as a follow-up to the Dakar Framework for Action. The governments, organizations, agencies, groups and associations represented at the World Education Forum, committed themselves "to the achievement of education for all (EFA) goals and targets for every citizen and for every society" (para. 1). In order to achieve the goals and objectives set at Dakar, they pledged themselves to a strategy, inter alia, to: "mobilize strong national and international political commitment for education for all, develop national action plans and enhance significantly investment in basic education" (para. 8 i). The Dakar Framework for Action expresses "a collective commitment to action."

46. An issue of primary importance is that of ensuring access to education. As the Joint Statement made on the occasion of the second Dakar anniversary of the World Education Forum by the Heads of UNESCO, UNDP, UNFPA, UNICEF and the World Bank (2002) states: "Governments have the responsibility of providing basic education for all. Access to education is a fundamental human right. Millions of people legitimately expect to have access to quality educa-

tion but public investments and policy reforms have not always been adequate or appropriate".¹⁶ The course of action in that direction should be explored. This is also recognized in the strategy of NEPAD. According to present estimates, more than half the African population have no access to basic education. NEPAD therefore proposes concrete measures for universalizing quality primary education with emphasis on girls' education as key component.

47. Increasing investment in basic education is indispensable for development. However, as the Report by the United Nations Secretary General "We, the Children – Meeting the promises of the World Summit for Children" (2001) states, "during the 1990's, reform packages in some countries led to the introduction of user fees where basic education had previously been free. This directly contradicts the commitments to free and compulsory education in the Convention on the Rights of the Child".¹⁷ In face of such trends, the critical question is how to ensure overriding importance of the right to education in the context of the national level policy measures and development strategies, while concluding arrangements with the financial institu-

tions? Owing to provisions in various international instruments, "States have an obligation to ensure that their actions as members of the international organizations, including international financial institution, take due account of the right to education".¹⁸

48. The right to basic education for all, as reaffirmed by the World Education Forum (2000) is indispensable for the exercise of all other human rights. The EFA Global Monitoring Report 2002 entitled "Education for All: Is the World on Track?" which underlines the importance of the right-based approach to education, states that "Where the right to education is guaranteed, people's access to and enjoyment of other rights is enhanced". This is very much in the spirit of the General Comment No. 13 on Article 13 of the International Covenant on Economic, Social and Cultural Rights¹⁹. The major challenge consists in transforming this right from an ideal to a living reality, in appreciation of the critical role of education in empowering individual and transforming societies. This will respond to UNESCO's constitution which expresses the belief of its founders in "full and equal opportunities for education for all".

16. Joint Statement made on the occasion of the second Dakar anniversary of the World Education Forum, 26 April 2002.

17. Report by the United Nations Secretary General "We, the Children – Meeting the promises of the World Summit for Children", United Nations, September 2001. This report mentions that "less than 2 per cent of international aid goes to primary or basic education, and the major recipients of aid for education are not the least developed countries" (p. 68).

18. General Comments No. 13 on right to education (Article 13 of the Covenant) , op.cit. (para.56).

19. The General Comment states at the outset that "Education is both a human right in itself and an indispensable means of realizing other human rights".

Annex 1 – Draft thematic classification of Constitutional provisions on the Right to Education in different countries in Africa (non-exhaustive)

<p>DIMENSIONS OF THE RIGHT TO EDUCATION</p>	<p>ALGERIA (art. 53 of the Constitution): “the right to education is guaranteed.”</p> <p>CAMEROON (Preamble) : “(...) The state shall guarantee the child’s right to education.”</p> <p>CAPE VERDE (Art. 73.1 and Art. 77): “Everyone shall have the right to education.”</p> <p>CONGO (Art. 37 (1)): “Every person shall have the right to education. [...]”</p> <p>GUINÉE BISSAU (Art. 41): “Education is a right and duty for all citizen.”</p> <p>KENYA (58 (1) of the Draft Kenyan Constitution): “Every person has the right to basic education, including pre-primary, primary and secondary education.”</p> <p>LYBIAN ARAB JAMAHIRIYA (Art. 14): “Education is a right and duty for all Libyans.”</p> <p>MALI (Art. 17): “[...] the education, instruction, formation [...] constitute recognized rights;” (Art. 18): “Every citizen has the right to education.”</p> <p>MOROCCO (Art. 13): “All citizens have equal rights to education and to work.”</p> <p>MOZAMBIQUE (Art. 92): “In the Republic of Mozambique education shall be a right and duty of all citizens.”</p> <p>NAMIBIA (Art. 20 (1)): “All persons shall have the right to education”.</p> <p>NIGER (Art. 11): “[...] each person has the right to [...] education, and instruction [...]”</p> <p>SEYCHELLES (Art. 33): “The State recognises the right of every citizen to education [...]”</p> <p>SOUTH AFRICA (Art. 29 (1)): “Everyone has the right (a) to a basic education, including adult basic education: [...]”</p> <p>TANZANIA (Art. 11 (1) and (4)): (1) “The State shall make appropriate provisions for the realisation of a person’s right to [...] self education [...]”</p> <p>TOGO (Art. 35): “The State recognizes the right to education of all children and create the favourable conditions to this end.”</p>
<p>RIGHT TO INSTRUCTION</p>	<p>BURKINA FASO (Art. 27): “Every citizen has the right to instruction.”</p> <p>BURUNDI (art. 34): “Every citizen has the right of equal access to instruction, to education [...]”</p> <p>CHAD (Art. 35): “Each citizen has the right to instruction.”</p> <p>MADAGASCAR (Art. 23): “Every child has the right to instruction and to education [...]”</p>

<p>STATE OBLIGATIONS</p>	<p>CAMEROON (Preamble): "The organization and supervision of education at all levels shall be the bounden duty of the state."</p> <p>CAPE VERDE (Art. 73.3): "All education shall be supported by State taxation."</p> <p>REPUBLIQUE CENTRAFRICAINE (Art. 6): «The State and the public collectivities create the preliminary conditions and the public institutions which guarantee the education of children.»</p> <p>EQUATORIAL GUINEA (Art. 44): "Education is a primordial obligation of the State."</p> <p>ETHIOPIA (Art. 41): "The State has the obligation to allocate every increasing resources to provide [...] education [...]"</p> <p>LYBIAN ARAB JAMAHIRIYA (Art. 14): "The State guarantees this right through the establishment of schools, institutes, and universities, and of pedagogical and cultural institutions [...]"</p> <p>MADAGASCAR (Art. 24): "The State organizes public education, free and accessible to all."</p> <p>MALAWI (Art. 13 (f)): "[...] provide adequate resources to the education sector [...]"</p> <p>MOZAMBIQUE (Art. 52.2): "The State shall organize and develop education through a national education system".</p> <p>NAMIBIA (Art. 20 (1)): "[...] the State shall provide reasonable facilities to render effective this right for every resident of Namibia, by establishing and maintaining State schools [...]"</p> <p>SENEGAL (Art. 16): "The State and the public collectivities create the preliminary conditions and the public institutions which guarantee the education of children."</p> <p>SOMALIA (Art. 14 of the Transitional Charter): "The State shall give high priority to the development and expansion of public education. [...]"</p> <p>SOUTH AFRICA (Art. 29 (1) b)): "Everyone has the right to b) further education, which the state, through reasonable measures, must make progressively available and accessible."</p> <p>UGANDA (Art. XVIII (ii)): "The State shall take appropriate measures to afford every citizen equal opportunity to attain the highest educational standard possible."</p>
<p>REFERENCE TO INTERNATIONAL CONVENTIONS</p>	<p>BÉNIN (Art. 7) « Les droits et les devoirs proclamés et garantis par la Charte Africaine des Droits de l'Homme et des Peuples [...] font partie intégrante de la Constitution et du droit béninois. »</p> <p>CAMEROON (Preamble): "We, the people of Cameroon, (...) Affirm our attachment to the fundamental freedom enshrined in the Universal Declaration of Human Rights, the Charter of United Nations and the African Charter on Human and Peoples' Rights, and all duly ratified International conventions relating thereto [...]"</p> <p>THE FEDERAL ISLAMIC REPUBLIC OF THE COMOROS (preamble): "They [the Comorian people] proclaim and guarantee: [...] the right of the child to protection, particularly that specified by international conventions regularly ratified."</p> <p>MALI (Titre I The rights and Duties of the Human Person): reference to the African Charter on Human and People's Rights</p>

COMPULSORY PRIMARY EDUCATION	<p>ALGERIA (Art. 53): "Fundamental education is obligatory." BÉNIN (Art. 13): « L'enseignement primaire est obligatoire. » CAMEROON (Preamble): "Primary education shall be compulsory." CONGO (Art. 37 (2)): "Fundamental instruction shall be obligatory." EGYPT (Art. 18): "(Education) is obligatory in the primary stage [...]" GUINEA (Art. 21 of the Fundamental Law, 1990): «L'Etat [...] assure l'enseignement de la jeunesse, qui est obligatoire.» LESOTHO (Art. 28 b)): "Primary education is compulsory and available to all." LYBIAN ARAB JAMAHIRIYA (Art. 14): "It [Education] is compulsory until the end of the primary school [...]" NAMIBIA (Art. 20 (2)): "Primary education shall be compulsory [...]" TOGO (Art. 35): "Education is compulsory for the children of both sex until the age of 15 years."</p>
COMPULSORY FREE PRIMARY EDUCATION	<p>BENIN (art. 13): «L'Etat assure progressivement la gratuité de l'enseignement public». CAPE VERDE (Art. 73.2): "The State shall assure universal primary education, free and compulsory [...]" CHAD (Art. 35): "Public education is secular and free. [...] Basic education is obligatory." EGYPT (Art. 20): "[...] free of charge in its various stages" GUINÉE BISSAU (Art. 41.2): « [...] gratuité des divers degrés d'enseignement [...] » LYBIAN ARAB JAMAHIRIYA (Art. 14): "[...] education is free [...]" MADAGASCAR (Art. 24): "Primary education is obligatory for all." MALAWI (Art. 13 (f) b)): "make primary education compulsory and free to all citizens of Malawi." MALI (Art. 18): "Public education is obligatory, free and secular." NAMIBIA (Art. 20 (2)): "[...] primary education will be provided free of charge." NIGERIA (Art. 18 (3) a)): "[...] free, compulsory and universal primary education; [...]" SEYCHELLES (Art. 33 a)): "[...] provide compulsory education, which shall be free in State schools [...]" SOMALIA (Art. 14 (3) of the Transitional Charter): "The State shall guarantee free basic education [...]" TOGO (Art. 35): « L'Etat assure progressivement la gratuité de l'enseignement public. » UGANDA (Art. XVIII (j)): "The State shall promote free and compulsory basic education." ZIMBABWE (Education (1) of the Draft Constitution): "The State must take all practical measures to promote free and compulsory basic education for children."</p>
BASIC EDUCATION	<p>EQUATORIAL GUINEA (Art. 46): "The general, basic state of education, in all its forms, is compulsory and free." GAMBIA (Art. 30 a)): "Basic education shall be free, compulsory and available to all." GHANA (Art. 25 (1.a)): "Basic education shall be free, compulsory and available to all."</p>

<p>EQUAL ACCESS TO EDUCATION</p>	<p>ALGERIA (Art. 53 of the Constitution): "The state protects equal access to instruction [...]"</p> <p>ANGOLA (Art. 29 of the Constitution): "The peoples' Republic of Angola shall promote and guarantee the access of all citizens to education [...]"</p> <p>BÉNIN (Art. 8): « [l'Etat] assure à ses citoyens l'égal accès à [...] l'éducation [...] »</p> <p>BURUNDI (Art. 34 of the Constitutional act of transition of the Republic of Burundi, 1998): "Every citizen has the right of equal access to instruction."</p> <p>RÉPUBLIQUE CENTRAFRICAINE (Art. 7): « Chacun a le droit d'accéder aux sources du savoir. La République garantit à l'enfant et à l'adulte l'accès à l'instruction [...] »</p> <p>CONGO (Art. 37 (1)): "[...] The State shall strive for equal access to education and professional instruction".</p> <p>CÔTE D'IVOIRE (Art. 7): "The State assures to all citizens equal access to [...] education, [...]"</p> <p>ERITREA (Art. 21): "Every citizen shall have the right of equal access to publicly funded social services. The State shall endeavor, within the limit of its resources, to make available to all citizens [...] education, [...]"</p> <p>ETHIOPIA (Art. 91, Social objectives): (1) "To extend the country's resources permit, policies shall aim to provide all Ethiopians access to [...] education [...]"</p> <p>GABON (Art. 1 (18)): "The State guarantees equal access of the child and the adult to instruction, to professional education [...]"</p> <p>LESOTHO (Art. 28): "Lesotho shall endeavour to make education available to all [...]"</p> <p>MOZAMBIQUE (Art. 62.2): "The State shall promote greater and equal access to the enjoyment of this right by all citizens."</p> <p>SOUTH AFRICA (Art. 29 (2) a): "[...] In order to ensure the effective access to, and implementation of , this right [the right to receive education], the State must consider all reasonable educational alternatives, [...]"</p> <p>UGANDA (Art. XIV (b)): "all Ugandans enjoy rights and opportunities and access to education, [...]"</p>
<p>ADEQUATE AND EQUAL OPPORTUNITIES</p>	<p>CAPE VERDE (Art. 74.2): "The State shall guarantee to poor students access to the various levels of education [...]"</p> <p>GAMBIA (Art. 30): "All persons have the right to equal educational opportunities".</p> <p>GHANA (Art. 25 (1)): "[...] the right to equal educational opportunities [...]"</p> <p>LIBERIA (Art. 6): "The Republic shall [...] provide equal access to educational opportunities and facilities for all citizens [...]"</p> <p>NIGERIA (Art. 18 (1)): "Government shall direct its policy towards ensuring that there are equal and adequate educational opportunities at all levels."</p> <p>SEYCHELLES (Art. 33 c): "[...] to afford, [...], every citizen equal access to educational opportunities [...]"</p> <p>TANZANIA (Art. 11 (5)): "The government shall endeavour to ensure that there are equal and adequate opportunities [...]"</p> <p>UGANDA (Art. XVIII (ii)): "The State shall take appropriate measures to afford every citizen equal opportunity to attain the highest educational standard possible."</p>

<p>NON-DISCRIMINATION</p>	<p>CAPE VERDE (Art. 49 2. (a)) : “[...] to frequent educational establishments and to teach without discrimination, as provided by law; [...]”</p> <p>RÉPUBLIQUE DÉMOCRATIQUE DU CONGO (Art. 14 and Art. 42): 14. « Aucun Congolais ne peut, en matière d'éducation et d'accès aux fonctions publiques ni en aucune autre manière, faire l'objet en République Démocratique du Congo, d'une mesure discriminatoire, [...] »; 42. « Toute personne a accès aux établissements d'enseignement national sans discrimination de lieu d'origine, de race, de sexe, d'opinions publiques ou philosophiques. »</p> <p>EQUATORIAL GUINEA (Art. 44): “The State guarantees the education of all the inhabitants of Equatorial Guinea, without any discrimination.”</p> <p>MAURITIUS (Art. 3 (b)): “It is hereby recognised and declared that in Mauritius there have existed and shall continue to exist without discrimination by reason of race, place of origin, political opinion, colour, creed or sex, [...]each and all of the following human rights and fundamental freedoms: [...] freedom to establish schools [...]”</p> <p>SOUTH AFRICA (Art. 29 (3) a): “Everyone has the right to establish and maintain, at their own expense, independent educational institutions, that do not discriminate on the basis of race;”</p> <p>TOGO (Art. 35): « L'école est obligatoire pour les enfants des deux sexes [...] »</p>
<p>RELIGIOUS EDUCATION/ LANGUAGE RIGHTS</p>	<p>BÉNIN (Art. 14): « Les institutions et les communautés religieuses peuvent également concourir à l'éducation de la jeunesse. »</p> <p>BOTSWANA (Art. 11 (2) and 11 (3)): 11 (2): “Every religious community shall be entitled, [...], to establish and maintain places of education and to manage any place of education which it wholly maintains; [...]”</p> <p>RÉPUBLIQUE DÉMOCRATIQUE DU CONGO (Art. 42.3): « [...] éducation conforme à leurs convictions religieuses [...] »</p> <p>EGYPT (Art. 19): “Religious education shall be a principle subject in the courses of general education.”</p> <p>EQUATORIAL GUINEA (Art. 49): “The official education permits the free choice of programs of religious training, based on the freedom of conscience and religion which this fundamental law protects.”</p> <p>ETHIOPIA (Art. 27.5): “Freedom to express or manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect [...] education [...]”</p> <p>GABON (Art. 1 (16) and (19)): (16): “[...] Parents have the right in the area of scholarly obligation, to decide upon the moral and religious education of their children.” (19) “In public educational establishments, religious instruction may be dispensed to students upon the demand of their parents [...]”</p> <p>KENYA (Art. 78.3 and 78.4): “Every religious community shall be entitled, [...], to establish and maintain places of education and to manage any place of education which it wholly maintains; [...]”</p> <p>MAURITIUS (Art. 14): “No religious denomination and no religious [...] association shall be prevented from establishing and maintaining schools at its own expense.”</p> <p>SENEGAL (Art. 17): “[...] The religious institutions and communities are equally recognized as a mean of education.”</p> <p>SOUTH AFRICA (Art. 29 (2)): “Everyone has the right to receive education in the official language or languages of their choice in public educational institutions [...]”.</p> <p>TOGO (Art. 30): « L'Etat reconnait l'enseignement privé confessionnel [...] »</p> <p>ZIMBABWE (Freedom of conscience (4)): “Any religious community may ensure that religious instruction is given in educational courses or institutions provided by the community, [...]”</p>

<p>REGULATING PRIVATE EDUCATION</p>	<p>ANGOLA (Art. 29): "private and co-operative enterprise in education shall be practised [...]"</p> <p>BÉNIN (Art. 14): « les écoles privées [...] peuvent être ouvertes avec l'autorisation de l'Etat. »</p> <p>BURKINA FASO (Art. 27): "Private education is recognized".</p> <p>BURUNDI (Art. 34 of the Constitutional act of transition of the Republic of Burundi, 1998): "The right to found private schools is guaranteed [...]"</p> <p>RÉPUBLIQUE CENTRAFRICAINE (Art. 7.3): « Les établissements privés peuvent être ouverts avec l'autorisation de l'Etat. »</p> <p>CONGO (Art. 37 (4)): "The right to create private schools shall be guaranteed. [...]"</p> <p>LYBIAN ARAB JAMAHIRIYA (Art. 14): "[...] The creation of private schools will also be regulated by law "</p> <p>MADAGASCAR (Art. 25): "The State recognizes the right to private education [...]"</p> <p>MALAWI (Art. 25.3): "Private schools and other private institutions of higher learning shall be permissible [...]"</p> <p>MALI (Art. 18): "Private education is recognized [...]"</p> <p>NAMIBIA (Art. 20 (4)): "All persons shall have the right, at their own expense, to establish and maintain private schools, or colleges or other institutions of tertiary education [...]"</p> <p>SENEGAL (Art. 18): "Private school may be opened with the authorization and under the supervision of the State."</p> <p>SEYCHELLES (Art. 33 d)): "[...] to allow, subject to such reasonable restrictions, supervision and conditions as are necessary in a democratic society, any person, organization or institution to establish and maintain a private school;"</p> <p>SOMALIA (Art. 14 (4) of the Transitional Charter): "private schools and professional institutes may be established so long as they comply with the laws as well as the national education policies and academic curricula."</p> <p>TOGO (Art. 30): « L'Etat reconnait l'enseignement privé confessionnel et laïc. »</p>
<p>EDUCATIONAL INSTITUTIONS</p>	<p>CAPE VERDE (Art. 49.6, Art. 75 and 77.4): "[...] individuals are free to create schools and educational establishments, as provided by law."</p> <p>GABON (Art. 1 (19)): "The Law establishes the conditions of operation of private educational institutions taking into account their specificity;"</p> <p>MAURITIUS (Art. 14): "No religious denomination and no religious [...] association shall be prevented from establishing and maintaining schools at its own expense."</p> <p>MOZAMBIQUE (Art. 52.3): "Education provided by collective and other entities shall operate in accordance with the law."</p> <p>SOUTH AFRICA (Art. 29 (3)): "Everyone has the right to establish and maintain, to their own expense, independent educational institutions, [...]"</p> <p>UGANDA (Art. XVIII (iii)): "Individuals, religious bodies and other non-governmental organizations shall be free to found and operate educational institutions [...]"</p> <p>ZIMBABWE (Right to establish and maintain educational institutions): "Everyone has the right to establish and maintain independent educational institutions at their own expense [...]"</p>
<p>FAMILY EDUCATION</p>	<p>CAPE VERDE (Art. 49.3): " Families have the fundamental right to educate their children [...]"</p> <p>MOZAMBIQUE (Art. 56.2): "The Family shall be responsible for raising their children in a harmonious manner, and teaching them moral social values."</p>

<p>EDUCATION OF THE CHILD/ RIGHTS OF THE CHILD</p>	<p>FEDERAL ISLAMIC REPUBLIC OF THE COMOROS (Preamble): “(The Comorian people) proclaim and guarantee: The right of each child to an education and to instruction [...]”</p> <p>GAMBIA (Art. 29 (2)): “Children under the age of sixteen years are entitled to be protected [...]”</p> <p>GHANA (Art. 28 (2) and (4)): (2)“Every child has the right to be protected from engaging in work that constitutes a threat to his [...], education, [...]” (4) “No child shall be deprived by any other person of [...] education [...]”</p> <p>SENEGAL (Art. 16): “[...] preliminary conditions and the public institutions which guarantee the education of children.”</p> <p>SUDAN (Art. 14): “The State shall care for children and youth [...]</p>
<p>PARENTS/ RIGHTS AND DUTIES</p>	<p>BURUNDI (Art. 32 of the Constitutional act of transition of the Republic of Burundi, 1998): “[...] Parents have the natural right and duty to educate [...] their children.”</p> <p>REPUBLIQUE CENTRAFRICAINE (Art. 6): « Les parents ont le droit naturel et le devoir primordial d'élever et d'éduquer leurs enfants [...] »</p> <p>CONGO (Art. 41.1): “[...]family, which shall be responsible for their education, [...]”</p> <p>RÉPUBLIQUE DÉMOCRATIQUE DU CONGO (Art. 40): « [...] Les soins et l'éducation à donner aux enfants constituent, pour les parents, un droit naturel et un devoir qu'ils exercent sous la surveillance et avec l'aide des pouvoirs publics. [...] »</p> <p>EQUATORIAL GUINEA (Art. 47): “The State acknowledges the parents' right to give their children the education that they can.”</p> <p>ETHIOPIA (Art. 27.4): “Parents and legal guardians have the right to bring up their children ensuring their religious and moral education in conformity with their own convictions.”</p> <p>GABON (Art. 1 (16)) : “The support to be given to children and their education constitute, for parents, a natural right and duty which they exercise under the surveillance and with the aid of the state and public entities. [...]”</p> <p>MADAGASCAR (Art. 23): “[...] responsibility of the parents, with respect to their freedom of choice.”</p> <p>NIGER (Art. 19) : “Parents have the right and duty to raise their children.”</p> <p>SEYCHELLES (Art. 33 e): “[...] to respect the right of parents to choose whether to send their children to a state or private school.</p> <p>SOMALIA (Art. 15 (3) of the Transitional Charter): “Parents shall provide support, education and instruction of their children [...]”</p> <p>TOGO (Art. 31): « [...] Les parents ont le devoir de pourvoir à l'entretien et à l'éducation de leurs enfants. Ils sont soutenus dans cette tâche par l'Etat. »</p> <p>ZIMBABWE (Rights of children, their parents and guardians (5) and (6)):</p> <p>(5) “Parents and guardians have the right to ensure religious and moral education of their children in conformity with their own convictions.” (6) “Parents and guardians have the right, at their own expense, to send their children to educational institutions of their choice.”</p>

OBJECTIVES OF EDUCATION	<p>CAPE VERDE (Art. 74): Educational policy: aims at permanent education.</p> <p>CAPE VERDE (Art. 77.2): "Education must stimulate creativity, encourage democratic participation in national life, promote tolerance and solidarity; and contribute too social progress and civic and moral training."</p> <p>GUINÉE BISSAU (Art. 16.1): « L'éducation vise à la formation intégrale de l'homme. »</p> <p>MALAWI (Art. 13 (f) c) and d)): "c) offer greater access to higher learning and continuing education and d) promote national goals such as unity and the elimination of political, religious, racial and ethnic intolerance."</p> <p>MOZAMBIQUE (Art. 56.3): "The family and the State shall ensure that children receive a comprehensive education, bringing them up in the values of national unity, love for their country, human equality, social respect and solidarity".</p> <p>SEYCHELLES (Art. 33 b)): "[...] educational programmes in all schools are aimed at the complete development of the person;"</p> <p>SOMALIA (Art. 14 (2) of the Transitional Charter): "Education in Somalia shall be designed to serve the national interest and [...]"</p> <p>SUDAN (Art. 12): "[...] to elevate society towards values and religiousness, piety and good deeds."</p>
EDUCATION POLICY	<p>MOZAMBIQUE (Art. 52): "The Republic of Mozambique shall promote an educational strategy which has as its objective national unity, wiping out illiteracy, [...]"</p> <p>SOMALIA (Art. 14 (4) and (6) of the Transitional Charter): "6. The State shall adopt standardised curricula and unified educational policies for schools throughout the Republic".</p> <p>SUDAN (Art. 14): "The State [...] shall direct policies of education, [...]"</p> <p>UGANDA (Art. XVIII (iii)): "[...] if they comply with the general educational policy of the country [...]"</p>
CIVIC AND MORAL EDUCATION	<p>CÔTE D'IVOIRE (Art. 8): "[The State and public collectivities] create the conditions favorable to its [youth] civic and moral education [...]"</p> <p>MOZAMBIQUE (Art. 52): "[...]educational strategy which has as its objective [...] providing citizens with moral and civic values".</p>
ERADICATION OF ILLITERACY	<p>CAPE VERDE (Art.74.1): "[...] progressive elimination of illiteracy"</p> <p>EGYPT (Art. 21): "Combating illiteracy shall be a national duty [...]"</p> <p>EQUATORIAL GUINEA (Art. 45): "The State formulates and carries out plans to eradicate illiteracy."</p> <p>GAMBIA (Art. 30 d)): "functional literacy shall be encouraged or intensified as far as possible;"</p> <p>GUINÉE BISSAU (Art. 16.2): « élimination de l'analphabétisme »</p> <p>LIBERIA (Art. 6): "Emphasis shall be placed on [...] the elimination of illiteracy."</p> <p>MALAWI (Art. 13 (f) a)): "To provide adequate resources to the education sector and devise programmes in order to: (a) eliminate illiteracy in Malawi;"</p> <p>NIGERIA (Art. 18 (3)): "Government shall strive to eradicate illiteracy [...]"</p> <p>SUDAN (Art. 12): "The State shall enlist official capabilities and mobilize popular forces for the purpose of eradicating illiteracy [...]"</p>
ACADEMIC FREEDOM	<p>CAPE VERDE (Art. 49): Title: "Freedom to learn, to train and to teach"</p> <p>EGYPT (Art. 18): "[...] independence of universities and scientific research centers [...]"</p>

Annex 2 – International and regional instruments relating to the Right to Education

A. International Instruments

Universal Declaration of Human Rights, adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948

Article 26

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

Article 13 of the International Covenant on Economic, Social and Cultural Rights, adopted by General Assembly resolution 2200A (XXI) of 16 December 1966

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.
2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:
 - (a) Primary education shall be compulsory and available free to all;
 - (b) Secondary education in its different forms, including technical and vocational secondary education, shall be

made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;

- (c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;
- (d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;
- (e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

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

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 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.

Convention on the Rights of the Child, *adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989*

Article 28

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

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

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

3. States Parties shall promote and encourage international 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.

Article 29

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

- (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
- (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
- (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;
- (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
- (e) The development of respect for the natural environment.

2. No part of the present article or article

28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 30

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.

Revised Recommendation concerning Technical and Vocational Education (2001), *adopted by the General Conference of UNESCO at its 31st session, November 2001*

The General Conference

[...]

2. Invites the Director-General to conduct future consultations with Member States concerning its implementation, together with the five-yearly assessments of the follow-up to the Seoul Congress;

3. Recommends that when developing and improving technical and vocational education, Member States should take whatever legislative or other steps may be required to give effect, within their

respective territories, to the principles set forth in this Recommendation;

[...]

5. Also recommends that Member States should submit to it, together with the five-yearly assessments of the follow-up to the Seoul Congress, reports on the action they have taken to give effect to the Recommendation.

Annex of the Revised Recommendation Concerning Technical and Vocational Education (2001)

I. Scope

[...]

3. Technical and vocational education, being part of the total educational process and being a right as described in Article 26 of the Universal Declaration of Human Rights, is included in the term "education" as defined in the Convention and the Recommendation against Discrimination in Education adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization at its 11th session (1960) and the Convention on Technical and Vocational Education adopted by the General Conference at its 25th session (1989). The provisions of these documents are therefore applicable to it.

4. This Recommendation should be understood as setting forth general principles, goals and guidelines to be applied by each individual country according to its socio-economic needs and available resources in a changing world,

with a view also to enhancing the status of technical and vocational education. The application of the provisions and the timing of the implementation will depend upon the specific conditions, and constitutional provisions existing in a given country.

B. Regional Instruments

African Charter on Human and Peoples' Rights, *adopted on June 27, 1981*

Part I: Rights and Duties

Chapter I – Human and Peoples' Rights

Article 1

The Member States of the Organization of African Unity parties to the present Charter shall recognize the rights, duties and freedoms enshrined in this Chapter and shall undertake to adopt legislative or other measures to give effect to them.

Article 17

1. Every individual shall have the right to education. 2. Every individual may freely, take part in the cultural life of his community. 3. The promotion and protection of morals and traditional values recognized by the community shall be the duty of the State.

Article 18

[...]

2. The State shall have the duty to assist the family which is the custodian of morals and traditional values recognized by the community.

3. The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.

[...]

Part II: Measures of Safeguard

Chapter IV – Applicable Principles

Article 62

Each state party shall undertake to submit every two years, from the date the present Charter comes into force, a report on the legislative or other measures taken with a view to giving effect to the rights and freedoms recognized and guaranteed by the present Charter.

African Charter on the Rights and Welfare of the Child, *adopted in July 1990, Addis Ababa (Ethiopia), entered into force Nov. 29, 1999*

Part 1: Rights and Duties

Chapter one: Rights and Welfare of the Child

Article 1: Obligation of States Parties

1. Member States of the Organization of African Unity Parties to the present Charter shall recognize the rights, freedoms and duties enshrined in this Charter and shall undertake to the necessary steps, in accordance with their Constitutional processes and with the provisions of the present Charter, to adopt such legislative or other measures as may be necessary to give effect to the provisions of this

Charter.

Article 11: Education

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

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

- (a) the promotion and development of the child's personality, talents and mental and physical abilities to their fullest potential;
- (b) fostering respect for human rights and fundamental freedoms with particular reference to those set out in the provisions of various African instruments on human and peoples' rights and international human rights declarations and conventions;
- (c) the preservation and strengthening of positive African morals, traditional values and cultures;
- (d) the preparation of the child for responsible life in a free society, in the spirit of understanding tolerance, dialogue, mutual respect and friendship among all peoples ethnic, tribal and religious groups;
- (e) the preservation of national independence and territorial integrity;
- (f) the promotion and achievements of African Unity and Solidarity;
- (g) the development of respect for the environment and natural resources;
- (h) the promotion of the child's understanding of primary health care.

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

- (a) provide free and compulsory basic education;
- (b) encourage the development of secondary education in its different forms and to progressively make it free and accessible to all;
- (c) make the higher education accessible to all on the basis of capacity and ability by every appropriate means;
- (d) take measures to encourage regular attendance at schools and the reduction of drop-out rates;
- (e) take special measures in respect of female, gifted and disadvantaged children, to ensure equal access to education for all sections of the community.

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

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

6. States Parties to the present Charter shall have all appropriate measures to ensure that children who become preg-

nant before completing their education shall have an opportunity to continue with their education on the basis of their individual ability.

7. No part of this Article shall be construed as to interfere with the liberty of individuals and bodies to establish and direct educational institutions subject to the observance of the principles set out in paragraph 1 of this Article and the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the States.

The Durban Statement of Commitment, adopted by the *Seventh Conference of Ministers of Education of African Member States (MINEDAF VII)*, Durban, South Africa, 20 – 24 April 1998

We, the Ministers of Education of African Member States, convened by UNESCO in a free and democratic South Africa, in Durban, from 20 to 24 April 1998 on the occasion of the Seventh Conference of Ministers of Education of African Member States (MINEDAF VII),

[...]

5. We have reviewed progress in basic education since the 1990 Jomtien World Conference on Education for All and the Amman Mid-Decade Meeting of the International Consultative Forum on Education for All, to whose goals we remain committed. We recognise that access to basic education must include access to early childhood programmes, and, in countries with near-univer-

sal participation, access to secondary education, paying adequate attention to the needs of disadvantaged groups. We resolve to reach these groups by designing and expanding formal, non-formal and distance delivery systems, tailoring and targeting programmes specifically to reach them and meet their needs, for example through the development of intensive skills training programmes for marginalised youth.

6. We are concerned that, in spite of our efforts, gender gap in participation in Education remains a major issue. We undertake to tackle the problem forcefully by developing appropriate policy frameworks and an enabling environment, to provide for the safety and security of girls in schools, to develop gender-sensitive teaching/learning materials, teacher training and monitoring instruments, and to work with ministries concerned with gender, the Forum for African Women Educationalists (FAWE) and other concerned groups to ensure a constant increase in enrolment, retention and success of girls and women at all levels and forms of the educational system.

10. Since Education should be a matter of concern to society as a whole, we recognise the crucial role of community participation and public awareness in all programmes that seek to be sustainable. We reaffirm the principle of government responsibility for educational policy based on equity and for quality control and standards, infrastructure and resources, especially where communities are unable to contribute. Nevertheless,

we resolve to involve, (in an appropriate manner), the entire civil society, as well as non-governmental organisations, the private sector, media organisations, parliamentarians, other ministries, religious organisations and teachers' and parents' organisations in the conceptualisation, planning and execution of programmes and in the mobilisation of resources. The furtherance of decentralisation and greater sharing of responsibility are helpful measures in this regard, and we are determined to promote these ideals.

Education for All: A Framework for Action in Sub-Saharan Africa: Education for African Renaissance in the Twenty-first Century, *adopted by the Regional Conference on Education for All for Sub-Saharan Africa (Johannesburg, South Africa, 6-10 December 1999)*

[...] we, Ministers of Education, representatives of civil society and international development agencies: [...]

"Reaffirm that education is a basic right and a basic need for all African children, youth and adults, including those with disabilities, as recognized in the international instruments, including the Universal Declaration of Human Rights, the African Charter on Human and Peoples' Rights, the Convention on the Rights of the Child and the recommendations of the Salamanca Conference";

"Commit ourselves to removing all barriers (social, cultural, economic, political and legal) that hinder African children, youth and adults from having access to quality education and the attainment of

the goals of the Jomtien Declaration on Education for All; ”

[...]

3. Priority areas of focus

3.1 Improving access and equity

Review and develop educational and other policies and legislation within the framework of the African renaissance;

[...]

4. Strategy

4.2 Basic strategies

[...]

Increasing universal access to, and completion of, primary (basic) education;

4.2.1. Special attention shall be devoted to the rights of disadvantaged groups, including girls and women, ethnic minorities, the disabled, those affected by the HIV/AIDS pandemic and those in specially difficult circumstances in other ways.

6. Agenda of the Alliance for African Renaissance

6.4 African and International media shall:

“Popularize and publicize the new vision of African education by developing quality basic education that is holistic, humanizing and transformative, and embedded in African values and indigenous knowledge systems”;

8. Conclusion

“Education shall be the strategic medium for attaining African Renaissance in the globalized economy, culture and communication in the twenty-first Century”.

Annex 3 – Communiqué from the Second Meeting of the High-Level Group on Education for All (Abuja, Nigeria, November 19-20, 2002)

1. We, the participants in the second meeting of the High-Level Group on Education for All, met, at the invitation of the Director-General of UNESCO, during 19-20 November 2002 in Abuja, Nigeria. The Government of Nigeria generously hosted the meeting. In fulfilment of our mandate to promote political commitment and mobilize technical and financial resources, we examined the progress that is being made towards the achievement by 2005 and 2015 of six Education for All goals agreed upon at the World Education Forum in Dakar in April 2000.

2. We welcomed the EFA Global Monitoring Report 2002 (Education for All. Is the world on track?) as a valuable tool to hold governments and the international community to account for the delivery on commitments set out in the Dakar Framework for Action and the Millennium Development Goals. We find it alarming that, on present trends, only 83 countries have achieved or have a high chance of achieving by 2015 three of the six Dakar goals that can currently be quantitatively monitored - Universal Primary Education (enrolment and completion), gender equality and adult literacy.

3. In view of the urgency of the goal of eliminating gender disparities in primary and secondary education by 2005, we urge that countries at risk be assisted to accelerate progress on girls' education and specifically address cultural barriers. Multi-sectoral programmes and strategies must be implemented to combat forms of exploitation and other constraints that adversely affect female participation and performance in education. The production of gender-disaggregated data for secondary education must be given urgent and high priority to ensure monitoring at this level.

4. The impetus given by the World Education Forum to plan for the achievement of Education for All in a comprehensive, inclusive, gender responsive and outcome driven way must be sustained and urgently translated into action. External prescription, planning and reporting overload must be avoided and coordinated support for national processes at the country level promoted. In order to avoid parallel planning processes, we underline the necessity to view planning for EFA flexibly and according to the circumstances of individual countries. This may mean either a specific plan for

EFA or one that is integrated with other education sector or wider development plans - with due attention paid to all six Dakar goals. The opportunities afforded by Poverty Reduction Strategies and the Fast-Track Initiative to promote EFA and the education-related Millennium Development Goals must be exploited.

5. National plans must be set in the economic context of countries and present a holistic approach to educational development that addresses challenges such as HIV/AIDS, conflict, crisis and transition to democracies. Country plans to address the HIV/AIDS pandemic must enable the education sector to more strongly prevent the further spread of HIV, as well as engage the entire sector in addressing the impact of AIDS on the supply and demand for quality education.

6. We are seriously concerned by the reported decline in Official Development Assistance for basic education during the 1990s. Despite recent commitments from some countries, existing evidence suggests a serious gap in international support to achieve the EFA goals even after countries undertake maximum efforts to improve domestic resource mobilization and efficiency. We urge the international community to accelerate progress to deliver on the commitments made at Dakar. These commitments have been followed by the development compact agreed upon in Monterrey which necessitates mutual accountability and responsibility for global development between governments in the North and

the South. We welcome and support the Fast-Track Initiative as one of the means to facilitate such compacts at the country level, building on existing development processes and matching credible plans with needed resources. The Initiative should be complemented with alternative instruments to reach other countries over time. International funding and technical assistance agencies must develop strategies for assisting countries outside the Fast-Track Initiative in their achievement of EFA. Country-led coordination and harmonization of procedures and reporting must be undertaken effectively with support from the international funding and technical agencies.

7. Concrete actions are needed, especially at the local and national levels, to broaden and intensify the involvement of civil society (including the poor, religious/faith and business communities) in the planning, implementation, monitoring and evaluation of EFA. Timely information and outcomes must be shared openly with committed civil society organizations. Funding and technical assistance agencies and governments need to support capacity building of civil society to enable it to participate effectively in the EFA process. Policies and legislation recognizing the important role of civil society should be elaborated. Indicators for successful partnership need to be developed.

8. To improve policy formation and monitoring of all six EFA goals, more accurate and timely quantitative and qualitative

data are needed. This calls for intensive capacity building for the collection and effective use of data for national policy and planning processes at the local, national and international levels. We welcome the announcement by the Government of Canada of \$5 million over five years for the UNESCO Institute of Statistics and encourage other partners to intensify their support for such capacity building efforts. We see the necessity for building on the synergy between the six EFA goals and the two education Millennium Development goals.

9. We resolve to intensify our advocacy at global, regional and national levels for increased political commitment and resources to accelerate progress on EFA.

10. As next steps we particularly recommend that:

- (i) Governments in the South must ensure that free and compulsory primary education is a right reflected in national legislation and in practice. National strategies to achieve the goals of Education for All must receive its necessary share of government budgets and benefit from all possible funding sources, including debt relief.
- (ii) Strong and committed action is required by Governments to improve the status and working conditions of teachers to address the anticipated shortages signaled by the monitoring report. This anticipated shortage is being exacerbated by the impact of HIV/AIDS, conflict and emergencies.

This action is particularly important as young people are no longer attracted to the teaching profession in some countries.

- (iii) Regional and sub-regional forums, starting with Regional Education Proyecto Regional de Educación para America Latina y el Caribe (PRELAC) (November 2002), Conferences of the Ministers of Education of African Member States organized by UNESCO (MINEDAF) (December 2002), and regional initiatives, such as the New Partnership for African Development (NEPAD) and Forum for African Women's Educationalists (FAWE) that promote South-South collaboration are important opportunities for mobilizing political commitment and resources for EFA.
- (iv) The meeting of funding and technical assistance agencies in Brussels (November 2002) offers an important opportunity for bilateral and multilateral agencies to coordinate their commitment to deliver on the promises made at Dakar and Monterrey.
- (v) The G8 meeting in Evian, France in 2003 presents a critical opportunity for this influential body to continue and to accelerate the valuable contribution made through its Task Force on Education.
- (vi) An advocacy strategy on EFA must be designed and coordinated by appropriate agencies, to address specific areas of concern in different countries and regions (for example girls' education by UNICEF and teachers' condi-

tions by UNESCO).

(vii) Every advantage should be taken of the coming UN Decade for Literacy and the proposed UN Decade for Education for Sustainable Development to advance the EFA agenda.

(viii) Maximum use must be made of opportunities presented by the High-Level Group, the annual monitoring report, the annual EFA week and high-level international events on development issues to underline the importance of education for global development.

(ix) UNESCO should strengthen urgently its capacity to fulfill its international coordination role.

(x) UNESCO and other key EFA agencies must devise and implement a strategy to ensure that subsequent High-Level Group meetings have higher-level representation with stronger capability of mobilizing political commitment for the EFA goals.

11. We acknowledge that important advances have been made in many countries that were not reflected in the data available to the Monitoring Report Team. We encourage the Monitoring Report Team to include case studies of good practice and successful experiences in achieving the EFA goals and of providing free education as part of the analysis of forthcoming reports. Future reports should also contribute to clarifying the concepts and indicators that would permit more effective monitoring of the three goals of early childhood care and

development, adult literacy and learning needs of youth and adults through skills development.

12. We welcome the invitation of the Government of India to host the next meeting of the High-Level Group in November 2003.

Education For All: Meeting our Collective Commitments – The Dakar Framework for Action

Text adopted by the World Education Forum, Dakar, Senegal, 26-28 April 2000.

1. Meeting in Dakar, Senegal, in April 2000, we, the participants in the World Education Forum, commit ourselves to the achievement of education for all (EFA) goals and targets for every citizen and for every society.

2. The Dakar Framework is a collective commitment to action. Governments have an obligation to ensure that EFA goals and targets are reached and sustained. This is a responsibility that will be met most effectively through broad-based partnerships within countries, supported by cooperation with regional and international agencies and institutions.

3. We re-affirm the vision of the World Declaration on Education for All (Jomtien 1990), supported by the Universal Declaration of Human Rights and the Convention on the Rights of the Child, that all children, young people and adults have the human right to benefit from an education that will meet their basic learning needs in the best and fullest sense of the term, an education that includes learning to know, to do, to live together and to be. It is an education geared to tapping each individual's talents and potential, and developing learners' personalities,

so that they can improve their lives and transform their societies.

4. We welcome the commitments made by the international community to basic education throughout the 1990s, notably at the World Summit for Children (1990), the Conference on Environment and Development (1992), the World Conference on Human Rights (1993), the World Conference on Special Needs Education: Access and Quality (1994), the International Conference on Population and Development (1994), the World Summit for Social Development (1995), the Fourth World Conference on Women (1995), the Mid-Term Meeting of the International Consultative Forum on Education for All (1996), the Fifth International Conference on Adult Education (1997), and the International Conference on Child Labour (1997). The challenge now is to deliver on these commitments.

5. The EFA 2000 Assessment demonstrates that there has been significant progress in many countries. But it is unacceptable in the year 2000 that more than 113 million children have no access to primary education, 880 million adults are illiterate, gender discrimination continues to permeate education systems, and the quality of learning and the acquisition of human values and skills fall far short of the

aspirations and needs of individuals and societies. Youth and adults are denied access to the skills and knowledge necessary for gainful employment and full participation in their societies. 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.

6. Education is a fundamental human right. It is the key to sustainable development and peace and stability within and among countries, and thus an indispensable means for effective participation in the societies and economies of the twenty-first century, which are affected by rapid globalization. Achieving EFA goals should be postponed no longer. The basic learning needs of all can and must be met as a matter of urgency.

7. We hereby collectively commit ourselves to the attainment of the following goals:

- (i) expanding and improving comprehensive early childhood care and education, especially for the most vulnerable and disadvantaged children;
- (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;
- (iii) ensuring that the learning needs of all young people and adults are met through equitable access to appropriate learning and life skills programmes;

- (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;
- (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;
- (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.

8. To achieve these goals, we the governments, organizations, agencies, groups and associations represented at the World Education Forum pledge ourselves to:

- (i) mobilize strong national and international political commitment for education for all, develop national action plans and enhance significantly investment in basic education;
- (ii) promote EFA policies within a sustainable and well-integrated sector framework clearly linked to poverty elimination and development strategies;
- (iii) ensure the engagement and participation of civil society in the formulation, implementation and monitoring of strategies for educational development;
- (iv) develop responsive, participatory and

- accountable systems of educational governance and management;
- (v) meet the needs of education systems affected by conflict, natural calamities and instability and conduct educational programmes in ways that promote mutual understanding, peace and tolerance, and that help to prevent violence and conflict;
 - (vi) implement integrated strategies for gender equality in education which recognize the need for changes in attitudes, values and practices;
 - (vii) implement as a matter of urgency education programmes and actions to combat the HIV/AIDS pandemic;
 - (viii) create safe, healthy, inclusive and equitably resourced educational environments conducive to excellence in learning, with clearly defined levels of achievement for all;
 - (ix) enhance the status, morale and professionalism of teachers;
 - (x) harness new information and communication technologies to help achieve EFA goals;
 - (xi) systematically monitor progress towards EFA goals and strategies at the national, regional and international levels; and
 - (xii) build on existing mechanisms to accelerate progress towards education for all.

9. Drawing on the evidence accumulated during the national and regional EFA assessments, and building on existing national sector strategies, all States will be requested to develop or strengthen existing national plans of action by 2002

at the latest. These plans should be integrated into a wider poverty reduction and development framework, and should be developed through more transparent and democratic processes, involving stakeholders, especially peoples' representatives, community leaders, parents, learners, non-governmental organizations (NGOs) and civil society. The plans will address problems associated with the chronic under-financing of basic education by establishing budget priorities that reflect a commitment to achieving EFA goals and targets at the earliest possible date, and no later than 2015. They will also set out clear strategies for overcoming the special problems facing those currently excluded from educational opportunities, with a clear commitment to girls' education and gender equity. The plans will give substance and form to the goals and strategies set out in this Framework, and to the commitments made during a succession of international conferences in the 1990s. Regional activities to support national strategies will be based on strengthened regional and subregional organizations, networks and initiatives.

10. Political will and stronger national leadership are needed for the effective and successful implementation of national plans in each of the countries concerned. However, political will must be underpinned by resources. The international community acknowledges that many countries currently lack the resources to achieve education for all within an acceptable time-frame. New

financial resources, preferably in the form of grants and concessional assistance, must therefore be mobilized by bilateral and multilateral funding agencies, including the World Bank and regional development banks, and the private sector. We affirm that no countries seriously committed to education for all will be thwarted in their achievement of this goal by a lack of resources.

11. The international community will deliver on this collective commitment by launching with immediate effect a global initiative aimed at developing the strategies and mobilizing the resources needed to provide effective support to national efforts. Options to be considered under this initiative will include:

- (i) increasing external finance for education, in particular basic education;
- (ii) ensuring greater predictability in the flow of external assistance;
- (iii) facilitating more effective donor coordination;
- (iv) strengthening sector-wide approaches;
- (v) providing earlier, more extensive and broader debt relief and/or debt cancellation for poverty reduction, with a strong commitment to basic education; and
- (vi) undertaking more effective and regular monitoring of progress towards EFA goals and targets, including periodic assessments.

12. There is already evidence from many countries of what can be achieved through strong national strategies supported by effective development cooperation. Prog-

ress under these strategies could – and must – be accelerated through increased international support. At the same time, countries with less developed strategies – including countries in transition, countries affected by conflict, and post-crisis countries – must be given the support they need to achieve more rapid progress towards education for all.

13. We will strengthen accountable international and regional mechanisms to give clear expression to these commitments and to ensure that the Dakar Framework for Action is on the agenda of every international and regional organization, every national legislature and every local decision-making forum.

14. The EFA 2000 Assessment highlights that the challenge of education for all is greatest in sub-Saharan Africa, in South Asia, and in the least developed countries. Accordingly, while no country in need should be denied international assistance, priority should be given to these regions and countries. Countries in conflict or undergoing reconstruction should also be given special attention in building up their education systems to meet the needs of all learners.

15. Implementation of the preceding goals and strategies will require national, regional and international mechanisms to be galvanized immediately. To be most effective these mechanisms will be participatory and, wherever possible, build on what already exists. They will include representatives of all stakeholders and partners and they will operate in trans-

parent and accountable ways. They will respond comprehensively to the word and spirit of the Jomtien Declaration and this Dakar Framework for Action. The functions of these mechanisms will include, to varying degrees, advocacy, resource mobilization, monitoring, and EFA knowledge generation and sharing.

16. The heart of EFA activity lies at the country level. National EFA Forums will be strengthened or established to support the achievement of EFA. All relevant ministries and national civil society organizations will be systematically represented in these Forums. They should be transparent and democratic and should constitute a framework for implementation at subnational levels. Countries will prepare comprehensive National EFA Plans by 2002 at the latest. For those countries with significant challenges, such as complex crises or natural disasters, special technical support will be provided by the international community. Each National EFA Plan will:

- (i) be developed by government leadership in direct and systematic consultation with national civil society;
- (ii) attract coordinated support of all development partners;
- (iii) specify reforms addressing the six EFA goals;
- (iv) establish a sustainable financial framework;
- (v) be time-bound and action-oriented;
- (vi) include mid-term performance indicators; and
- (vii) achieve a synergy of all human development efforts, through its inclu-

sion within the national development planning framework and process.

17. Where these processes and a credible plan are in place, partner members of the international community undertake to work in a consistent, coordinated and coherent manner. Each partner will contribute according to its comparative advantage in support of the National EFA Plans to ensure that resource gaps are filled.

18. Regional activities to support national efforts will be based on existing regional and subregional organizations, networks and initiatives, augmented where necessary. Regions and subregions will decide on a lead EFA network that will become the Regional or Subregional Forum with an explicit EFA mandate. Systematic involvement of, and coordination with, all relevant civil society and other regional and subregional organizations are essential. These Regional and Subregional EFA Forums will be linked organically with, and be accountable to, National EFA Forums. Their functions will be: coordination with all relevant networks; setting and monitoring regional/subregional targets; advocacy; policy dialogue; the promotion of partnerships and technical cooperation; the sharing of best practices and lessons learned; monitoring and reporting for accountability; and promoting resource mobilization. Regional and international support will be available to strengthen Regional and Subregional Forums and relevant EFA capacities, especially within Africa and South Asia.

19. UNESCO will continue its mandated role in coordinating EFA partners and maintaining their collaborative momentum. In line with this, UNESCO's Director-General will convene annually a high-level, small and flexible group. It will serve as a lever for political commitment and technical and financial resource mobilization. Informed by a monitoring report from the UNESCO International Institute for Educational Planning (IIEP), the UNESCO International Bureau of Education (IBE), the UNESCO Institute for Education (UIE) and, in particular, the UNESCO Institute of Statistics, and inputs from Regional and Subregional EFA Forums, it will also be an opportunity to hold the global community to account for commitments made in Dakar. It will be composed of highest-level leaders from governments and civil society of developing and developed countries, and from development agencies.

20. UNESCO will serve as the Secretariat. It will refocus its education programme in order to place the outcomes and priorities of Dakar at the heart of its work. This will involve working groups on each of the six goals adopted at Dakar. This Secretariat will work closely with other organizations and may include staff seconded from them.

21. Achieving Education for All will require additional financial support by countries and increased development assistance and debt relief for educa-

tion by bilateral and multilateral donors, estimated to cost in the order of \$8 billion a year. It is therefore essential that new, concrete financial commitments be made by national governments and also by bilateral and multilateral donors including the World Bank and the regional development banks, by civil society and by foundations.

28 April 2000

Dakar, Senegal

Annex 5 – Convention against Discrimination in Education

adopted by the General Conference of UNESCO at its eleventh session, Paris, 14 December 1960*

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

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

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

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

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

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

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

Adopts this Convention on the fourteenth day of December 1960.

Article 1

1. For the purposes of this Convention, the term 'discrimination' includes any distinction, exclusion, limitation or preference which, being based on race, color, sex, language, religion, political or other opinion, national or social origin, economic

* The full text is also available on the UNESCO website : <http://www.unesco.org>.

condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education and in particular:

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

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

Article 2

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

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

Article 3

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

- (a) To abrogate any statutory provisions and any administrative instructions and to discontinue any administrative practices which involve discrimination in education;
- (b) To ensure, by legislation where necessary, that there is no discrimination in the admission of pupils to educational institutions;
- (c) Not to allow any differences of treatment by the public authorities between nationals, except on the basis of merit or need, in the matter of school fees and the grant of scholarships or other forms of assistance to pupils and necessary permits and facilities for the pursuit of studies in foreign countries;
- (d) Not to allow, in any form of assistance granted by the public authorities to educational institutions, any restrictions or preference based solely on the ground that pupils belong to a particular group;
- (e) To give foreign nationals resident within their territory the same access to education as that given to their own nationals.

Article 4

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

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

Article 5

1. The States Parties to this Convention agree that:

(a) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms;

It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace;

(b) It is essential to respect the liberty of parents and, where applicable, of legal guardians, firstly to choose for their children institutions other than those maintained by the public authorities but conforming to such minimum educational standards as may be laid down or approved by the competent authorities and, secondly, to ensure in a manner consistent with the procedures followed in the State for the application of its legislation, the religious and moral education of the children in conformity with their own convictions; and no person or group of persons should be compelled to receive religious instruction inconsistent with his or their convictions;

(c) It is essential to recognize the right of members of national minorities to carry on their own educational activities, including the maintenance of schools and, depending on the educational policy of each State, the use or the teaching of their own language, provided however:

(i) That this right is not exercised in a manner which prevents the members of these minorities from understanding the culture and language of the community as a whole and from participating in its activities, or which prejudices national sovereignty;

(ii) That the standard of education is not lower than the general standard laid down or approved by the competent authorities; and

(iii) That attendance at such schools is optional.

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

Article 6

In the application of this Convention, the States Parties to it undertake to pay the greatest attention to any recommendations hereafter adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization

defining the measures to be taken against the different forms of discrimination in education and for the purpose of ensuring equality of opportunity and treatment in education.

Article 7

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

Article 8

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

Article 9

Reservations to this Convention shall not be permitted.

Article 10

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

Article 11

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

Article 12

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

2. The instruments of ratification or acceptance shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Article 13

1. This Convention shall be open to accession by all States not Members of the United Nations Educational, Scientific and Cultural Organization which are invited to do so by the Executive Board of the Organization.

2. Accession shall be effected by the deposit of an instrument of accession with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Article 14

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

Article 15

The States Parties to this Convention recognize that the Convention is applicable not only to their metropolitan territory but also to all non-self-governing, trust, colonial and other territories for the international relations of which they are responsible;

They undertake to consult, if necessary, the governments or other competent authorities of these territories on or before ratification, acceptance or accession with a view to securing the application of the Convention to those territories, and to notify the Director-General of the United Nations Educational, Scientific and Cultural Organization of the territories to which it is accordingly applied, the notification to take effect three months after the date of its receipt.

Article 16

1. Each State Party to this Convention may denounce the Convention on its own behalf or on behalf of any territory for whose international relations it is responsible.

2. The denunciation shall be notified by an instrument in writing, deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

The denunciation shall take effect twelve months after the receipt of the instrument of denunciation.

Article 17

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

Article 18

1. This Convention may be revised by the General Conference of the United Nations Educational, Scientific and Cultural Organization. Any such revision shall, however, bind only the States which shall become Parties to the revising convention.

2. If the General Conference should adopt a new convention revising this Convention in whole or in part, then, unless the new convention otherwise provides, this Convention shall cease to be open to ratification, acceptance or accession as from the date on which the new revising convention enters into force.

Article 19

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

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

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

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

The President of the General Conference, The Director-General.

Status of ratifications in Africa as of 31 December 2004 ¹

AFRICA		
States	Date of deposit of instrument	Type of instrument
Benin	09/07/1963	Acceptance
Central African Republic	22/02/1962	Acceptance
Congo	16/09/1968	Ratification
Côte d'Ivoire	24/11/1999	Ratification
Guinea	11/12/1964	Acceptance
Liberia	17/05/1962	Ratification
Madagascar	21/12/1964	Ratification
Mauritius	20/08/1970	Notification of Succession
Niger	16/07/1968	Acceptance
Nigeria	18/11/1969	Acceptance
Rwanda	28/12/2000	Ratification
Senegal	25/09/1967	Ratification
Sierra Leone	02/06/1967	Ratification
South Africa	09/03/2000	Ratification
Swaziland	08/10/1970	Acceptance
Uganda	09/09/1968	Acceptance
United Republic of Tanzania	03/01/1979	Ratification

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

The right to education is an internationally recognized right. States have the obligation to incorporate provisions relating to the right to education in international as well as regional instruments into their constitutions and laws. The enforceability of this right depends upon its constitutional and legislative bases, and the effective implementation of national action plans, elaborated accordingly.

The present volume on the proceedings of the Round Table on "Constitutional/Legal Bases of the Right to Education as a Fundamental Human Right" organized during the Eighth Conference of Ministers of Education of African Member States (MINEDAF VIII) in December 2002 brings together reflections of Ministers of Education, members of UNESCO's Executive Board and government experts. It throws light upon various dimensions of the right to basic education from international, regional and national perspectives, with a focus on Education for All (EFA) as a high priority. It also contains the recommendations resulting from the Round Table and shows how important it is to continue to promote normative action on EFA.

It is hoped that this volume will promote public awareness of the importance of the normative action. We also wish that it will contribute to reinforcing the foundations of the right to education in national legal systems. Basic education as a fundamental human right should become accessible to all, especially to the poor, the marginalized and the disadvantaged, and to all those who remain deprived of it in today's learning society.

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