

CORPUS SUR LE DROIT A L'EDUCATION 1

Essential content on the right
to education

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The right to education appears in more than 40 standards—declarations and conventions—of the international system, under the aegis of the United Nations, UNESCO, and the International Labour Organization. The principle norms on the right to education are set by the International Covenant on Economic, Social and Cultural Rights (ICESCR) (art. 13 and 14), the Convention on the Rights of the Child (CRC) (art. 28, 29 and 30) and the UNESCO Convention Against Discrimination in Education (CADE).¹

This document compiles language from these instruments and others in order to present concrete guidance regarding the right to education. In other words, the following pages collate content taken verbatim from different international documents in order to clarify 1) what the right to education includes, 2) some circumstances that constitute a violation of the right, and 3) recommendations from international and regional bodies for fulfilling the right to education.

This document begins with an overview of the right to education, using the words of the General Comment 13, which addresses Article 13 of the Covenant. These general remarks from the Committee on Economic, Social, and Cultural Rights (CESCR) address the right to education using the methodology they follow for the analysis of all economic, social and cultural rights (cf. General Comment 13 note 2).

After this introduction, the document presents different aspects and levels of the right. The presentation is nearly always the same: **minimum core content** or **core content, standard violations, and guidelines from international bodies**. When subjects are particularly important, as in the case of the provision of free primary education or the aims of education, preliminary remarks are introduced from the General Comments of the various Treaty Bodies. Each section begins by presenting an element of the content of the right to education, using language from the CESCR itself. The core content, minimum core content, and standard violations are then included to describe that aspect and to facilitate the evaluation of policies and legislation. “Core content” refers to the concrete elements comprising a right. By comparison, “minimum core content” is the “non-negotiable foundation of a right to which all individuals, in all contexts, and under all circumstances are entitled. The minimum core content implies a “floor” below which no government can go regardless of the economic situation in a

¹ For more on the right to education, please consult the following sources:

FERNANDEZ, A. & ZACHARIEV, Z. (2012). Bibliographie choisie sur le droit à l'éducation. Retrieved from <http://www.oidel.org/doc/Bibliographiedroiteduc/Biblio%202012%202.pdf>
 DAUDET, Y. & SINGH, K. (2001). *The right to education : An analysis of UNESCO's standard-setting instruments* (UNESCO, Paris)
 FERNANDEZ, A. & JENKNER, S. (1995). *International declarations and conventions on the right to education and the freedom of education*, Frankfurt: Info 3 Verlag.
 FERNANDEZ, A. (2003). Le droit à être (homme). Le droit à l'éducation comme droit culturel en
 FERNANDEZ, A. & TROCME, R., *Vers une culture des droits de l'homme*, Diversités, Genève.
 MEHEDI (1999), *The content of the right to education*, United Nations, Economic and Social Council. Doc E/CN.4/Sub. 2/ 1999/10. Retrieved from <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G99/139/75/PDF/G9913975.pdf?OpenElement>
 INTERNATIONAL COMMISSION ON L'EDUCATION AU XXIEME SIECLE, (1996). *Learning: The treasure within*, UNESCO / Odile Jacob, Paris.
http://www.unescobkk.org/fileadmin/user_upload/apeid/delors_e.pdf

country."² In this document, the minimum core content of the right to education is taken from General Comment 13, paragraph 57. Core content herein comprises obligations named in ICESCR, as well as the "specific legal obligations" laid out in General Comment 13, paragraphs 49 through 56, but that are not identified as minimum core content in paragraph 57.

The standard violations reported by the CESCR clarify the point at which, by action or omission, the right is not respected. For example, regarding non-discrimination, "the introduction or failure to repeal legislation which discriminates against individuals or groups," and "the failure to take measures which address de facto educational discrimination" are both violations³. Moreover, the "Violations" sections of this document are not exhaustive but only representative; they comprise only those violations included in CESCR General Comment 13, paragraph 59. However, the reader should bear in mind paragraph 58, which states that when the "normative content of article 13 is applied to the general and specific obligations of States parties," one can identify violations. In other words, by mapping obligations to rights, the reader can identify a wider range of violations specific to his or her context.

Guidance from CESCR regarding content and violations is augmented by the words of the Committee on the Rights of the Child (CRC)⁴, Human Rights Committee (CCPR), the Committee on the Elimination of Racial Discrimination (CERD), the UN World Programme for Human Rights Education (WPHRE), UNESCO Convention Against Discrimination in Education, (CADE) and the ILO Indigenous and Tribal Peoples Convention (ITPC).

In the interest of conciseness, this document does not reiterate guidance that overlaps with that already presented by another body. In other words, guidelines from a particular treaty body may not be comprehensive because some elements have already been included in a previous section of the document. Readers may live or work in States Parties to some, but not all, of the included conventions, meaning that guidance from a particular treaty body may carry less force than another. Nevertheless, these documents taken together represent the international community's vision for the basis of the right to education.

Simply put, this document elaborates on Article 13 of the ICESCR, line by line, using the actual words of international instruments and treaty bodies, to help the reader understand concretely what the right to education entails, and to identify violations in her or his context.

Finally we would like to thank Jennifer Lehe for her contribution and Virginie Pache and Flavio Leoni for updating the document.

² BUHL, D. *Ripple in still water: Reflections by activists on local- and national-level work on economic, social and cultural rights* (chapter 2). Retrieved from <http://www1.umn.edu/humanrts/edumat/IHRIP/ripple/chapter2.html>.

³ UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 13: The Right to Education (Art. 13 of the Covenant)*, 8 December 1999, E/C.12/1999/10 ESCR, General Comment 13, par. 59. Henceforth cited as *CESCR General Comment 13*.

⁴ UN Committee on the Rights of the Child (CRC), *CRC General Comment No. 1: The Aims of Education*, 17 April 2001, CRC/GC/2001/1. Henceforth cited as *CRC, General Comment 1*.

Introduction to the Right to Education⁵

Education in all its forms and at all levels shall exhibit the following interrelated and essential features:⁶

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

- a. buildings or other protection from the elements,
- b. sanitation facilities for both sexes,
- c. safe drinking water,
- d. trained teachers receiving domestically competitive salaries,
- e. teaching materials, facilities such as a library, computer facilities and information technology⁷

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

1. Non-discrimination: education must be accessible to all, especially the most vulnerable groups, in law and fact;
2. Physical: at some reasonably convenient geographic location or via modern technology
3. Economic: this dimension of accessibility is subject to the differential wording of article 13 (2) in relation to primary, secondary and higher education

Acceptability. The form and substance of education (curricula and teaching methods), have to be acceptable to students and, in appropriate cases, parents; this is subject to the educational objectives required by article 13 (1).

- a. relevant, culturally appropriate
- b. good quality

Adaptability. Education has to be flexible so that it can:

- a. adapt to the needs of changing societies and communities, and
- b. respond to the needs of students within their diverse social and cultural settings.

In relation to article 13 (2), States have obligations to respect, protect and fulfil each of the “essential features” (availability, accessibility, acceptability, adaptability) of the right to education. By way of illustration, a State must respect the availability of education by not closing private schools; protect the accessibility of education by ensuring that third parties, including parents and employers, do not stop girls from going to school; fulfil (facilitate) the acceptability of education

⁵ CESCR, General Comment 13, par. 6.

⁶ For more information on the essential features of the right to education see Annex I of this document

⁷ This list is only indicative, not exhaustive, but we must understand that these aspects are considered by the CESCR as part of the core content of the right to education.

by taking positive measures to ensure that education is culturally appropriate for minorities and indigenous peoples, and of good quality for all; fulfil (provide) the adaptability of education by designing and providing resources for curricula which reflect the contemporary needs of students in a changing world; and fulfil (provide) the availability of education by actively developing a system of schools, including building classrooms, delivering programmes, providing teaching materials, training teachers and paying them domestically competitive salaries.”⁸

When considering the appropriate application of these “interrelated and essential features” **the best interests of the student shall be a primary consideration.**⁹

General Obligations and Progressive Realization

Immediate Obligations

States parties have immediate obligations in relation to the right to education, such as

- a. The “guarantee” that the right “will be exercised without discrimination of any kind” (art. 2 (2))
- b. The obligation “to take steps” (art. 2 (1)) towards the full realization of article 13. Such steps must be “deliberate, concrete and targeted” towards the full realization of the right to education.¹⁰

Progressive Obligations

Progressive realization means that States parties have a specific and continuing obligation “to move as expeditiously and effectively as possible” towards the full realization of article 13.¹¹

Retrogressive Measures

There is a strong presumption of impermissibility of any retrogressive measures taken in relation to the right to education. If any deliberately retrogressive measures are taken, the State party has the burden of proving that they have been introduced after the most careful consideration of all alternatives and that they are fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the State party’s maximum available resources.¹²

Types of Obligations

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

⁸ ESCR, General Comment 13, par. 50

⁹ Ibid, par. 6

¹⁰ Ibid, par. 43. See “core content” and “minimum core content” sections of this document for clarification on the “full realization” of the right.

¹¹ Ibid., par. 44

¹² Ibid, par. 45

In turn, the obligation to fulfil incorporates both an obligation to facilitate and an obligation to provide.

The obligation to respect requires States parties to avoid measures that hinder or prevent the enjoyment of the right to education. The obligation to protect requires States parties to take measures that prevent third parties from interfering with the enjoyment of the right to education. The obligation to fulfil (facilitate) requires States to take positive measures that enable and assist individuals and communities to enjoy the right to education. Finally, States parties have an obligation to fulfil (provide) the right to education.¹³

This approach corresponds with the Committee's analytical framework adopted in relation to the rights to adequate housing and food, as well as the work of the United Nations Special Rapporteur on the right to education. In its general comment No. 4, the Committee identified a number of factors that bear upon the right to adequate housing, including "availability", "affordability", "accessibility" and "cultural adequacy". In its general comment No. 12, the Committee identified elements of the right to adequate food, such as "availability", "acceptability" and "accessibility". In her preliminary report to the Commission on Human Rights, the Special Rapporteur on the right to education sets out "four essential features that primary schools should exhibit, namely availability, accessibility, acceptability and adaptability."¹⁴

Domestic Application of Treaties

Several principles follow from the duty to give effect to the Covenant and must therefore be respected:

- First, the means of implementation chosen must be adequate to ensure fulfilment of the obligations under the Covenant. The need to ensure justiciability (...) is relevant when determining the best way to give domestic legal effect to the Covenant rights.
- Second, account should be taken of the means which have proved to be most effective in the country concerned in ensuring the protection of other human rights.
- Third, while the Covenant does not formally oblige States to incorporate its provisions in domestic law, such an approach is desirable. Direct incorporation avoids problems that might arise in the translation of treaty obligations into national law, and provides a basis for the direct invocation of the Covenant rights by individuals in national courts.¹⁵

Quality of Education

A holistic conceptual framework of quality education comprises:

¹³ Ibid, par. 46-47

¹⁴ Ibid, endnote no. 2. The note references *Preliminary report of the Special Rapporteur on the right to education, Ms. Katarina Tomasevski, submitted in accordance with Commission resolution 1998/33 (E/CN.4/1999/49) par. 50*, which applies the four essential features of a right to the context of primary schools.

¹⁵ UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 9: The domestic application of the Covenant*, 3 December 1998, E/C.12/1998/24, par., 7-8. Henceforth cited as *CESCR, General Comment 9*.

- (i) a minimum level of student acquisition of knowledge, values, skills and competencies;
- (ii) adequate school infrastructure, facilities and environment;
- (iii) a well-qualified teaching force;
- (iv) a school that is open to the participation of all, particularly students, their parents and the community.¹⁶

¹⁶ UN Human Rights Council, *Report of the Special Rapporteur on the Right to Education, Kishore Singh*, 2 May 2012, Doc A/HRC/20/21, par. 21

1. Article 13, First Paragraph

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.

1.1 Non-discrimination

Preliminary Remarks¹⁷

- The adoption of temporary special measures intended to bring about de facto equality for men and women and for disadvantaged groups is not a violation of the right to non-discrimination with regard to education.
- Separate educational systems or institutions for groups defined by the categories in article 2 (2) shall be deemed not to constitute a breach of the Covenant. In this regard, the Committee affirms article 2 of the UNESCO Convention against Discrimination in Education (1960).
- The principle of non-discrimination extends to all persons of school age residing in the territory of a State party, including non-nationals, and irrespective of their legal status.

MINIMUM CORE CONTENT	To ensure the right of access to public educational institutions and programmes on a non-discriminatory basis ¹⁸
VIOLATIONS	<ul style="list-style-type: none"> ▪ Introduction or failure to repeal legislation which discriminates against individuals or groups, on any of the prohibited grounds, in the field of education ▪ Failure to take measures which address de facto educational discrimination¹⁹
GENERAL COMMENT 13 CESCR	<ul style="list-style-type: none"> ▪ To ensure that an educational fellowship system is in place to assist disadvantaged groups²⁰ ▪ Applies fully and immediately to all aspects of education and encompasses all internationally prohibited grounds of discrimination²¹ ▪ Sharp disparities in spending policies that result in differ-

¹⁷ CESCR, General Comment 13, par. 32 - 34

¹⁸ Ibid, par. 57

¹⁹ Ibid, par. 59

²⁰ Ibid, par. 53

²¹ ESCR General Comment 13, par. 31. The paragraph goes on to cite UNESCO's CADE, the Convention on the Elimination of All Forms of Discrimination Against Women, the International Convention on the Elimination of All Forms of Racial Discrimination, the CRC, and the ILO Indigenous and Tribal Peoples Convention, 1989 (Convention No. 169) as the basis of the Committee's interpretation of article 2 (2).

	ent qualities of education for persons in different geographic locations may constitute discrimination ²²
GUIDELINES CESCR	<ul style="list-style-type: none"> ▪ Indicate the measures taken to reduce the drop-out rates, at the primary and secondary levels, for children and young persons, in particular girls children from ethnic minorities, indigenous communities and poorer households, as well as migrant, refugee, and internally displaced children²³ ▪ Minority and indigenous children have adequate opportunities to receive instruction in or of their native language and the steps taken to prevent lower educational standards for these children, their segregation in special classes, and their exclusion from mainstream education²⁴
GUIDELINES CRC ²⁵	<ul style="list-style-type: none"> ▪ Strengthen efforts to reduce performance disparity²⁶ ▪ Pursue and strengthen efforts to eliminate regional and urban/rural disparities in education²⁷ ▪ Train educators and develop curricula, textbooks, and other aides in order to increase the availability and raise the quality of minority-language education²⁸ ▪ States parties are requested to provide relevant and updated information in respect of laws, policies and their implementation, quality standards, financial and human resources, and any other measures to ensure the full enjoyment of the respective rights from early childhood to tertiary and vocational education and training, in particular by children in disadvantaged and vulnerable situations with reference to:...cultural rights of children belonging to indigenous and minority groups²⁹

²² Ibid, par. 35

²³ Compilation of Guidelines on the Form and Content of Reports to be Submitted by States Parties to the International Human Rights Treaties (2009), HRI/GEN/2/Rev.6_en, p. 40, par. 65. Henceforth cited as *Compilation of Guidelines*

²⁴ Ibid, p. 40, par. 63

²⁵ In its consideration of reports from States parties, the CRC emphasizes the importance of “comprehensive policies” to include children with disabilities “to the maximum extent possible,” the integration of these children into “educational and recreational programmes” [CRC/C/MKD/CO/2, par. 53. (a), par. 7], and ensure the facilities for students with special needs to freely choose schools [CRC/C/JPN/3, par. 59 (e)] The CRC also addresses the referral of students to special schools, stating that it be decided “by an interdisciplinary team of professionals, is subject to periodic review, and takes due account of the child’s linguistic and cultural background and is not based on socio-economic reasons” [CRC/C/MKD/CO/2, par. 66, (f)]. For more details, see for example, the reports on Macedonia (CRC/C/MKD/CO/2, p. 2-3, 11) and Japan (Japan CRC/C/JPN/3, p. 11, 7, 15). The CRC requires as well to: “Undertake immediate measures to ensure that children are not denied access to education on any grounds”. Consideration of reports submitted by States parties under article 44 of the Convention: Concluding observations: The former Yugoslav Republic of Macedonia”CRC/C/MKD/CO/2, par. 33 (c).

²⁶ CRC Consideration of reports submitted by State parties under article 44 of the Convention, authors of this document have chosen the report of Belgium (CRC/C/BEL/CO/3-4), p. 13

²⁷ CRC Consideration of reports submitted by State parties under article 44 of the Convention, authors of this document have chosen the report of Tunisia (CRC/C/TUN/CO/3), p. 13

²⁸ CRC Consideration of reports submitted by State parties under article 44 of the Convention, authors of this document have chosen the report of the former Yugoslav Republic of Macedonia as an example. p. 18

²⁹ For more information on this issue, see Annex II, which excerpts the “*Commentary of the Working Group on Minorities to the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious, and Linguistic Minorities*” E/CN.4/Sub.2/AC.5/2005/2

GUIDELINES CCPR	<ul style="list-style-type: none"> ▪ Rights and responsibilities of spouses, including (...) education of the children³⁰
GUIDELINES CERD	<ul style="list-style-type: none"> ▪ Action to prevent racial discrimination in the enjoyment of this right³¹ ▪ Measures to prevent and avoid as much as possible the segregation of groups and individuals protected under the Convention..., in particular in the areas of education and housing³² ▪ States parties should, for example, <ul style="list-style-type: none"> ○ indicate any variations in the level of education and training between members of groups protected under the Convention; ○ provide information on languages spoken and taught in school; and describe governmental action to prevent racial discrimination in the enjoyment of this right³³ ▪ In school curricula and in the training curricula of teachers and other professionals, programmes, and subjects to help promote human rights issues which would lead to better understanding, tolerance, and friendship among all groups³⁴
GUIDELINES CRPD	<ul style="list-style-type: none"> ▪ Measures taken to raise awareness of persons with disabilities, to foster respect for their rights and dignity, their capabilities and contributions, and to combat stereotypes, and prejudices against them³⁵. ▪ States Parties should report on: <ul style="list-style-type: none"> ○ Public-awareness campaigns directed to general society, within the education system³⁶ ▪ Protects persons with disabilities from all forms of exploitation, violence and abuse, both within and outside the home, paying special attention to children and women with disabilities³⁷. ▪ States Parties should report on: <ul style="list-style-type: none"> ○ Legislative, administrative, social, educational and other measures taken to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse³⁸ ▪ Right of persons with disabilities to education on the basis of equal opportunity, ensuring an inclusive education system at all levels and the facilitation of access to lifelong learning³⁹. ▪ State Parties should report on:

³⁰ *Guidelines for the treaty-specific document to be submitted by States parties under article 40 of the International Covenant on Civil and Political Rights*, CCPR/C/2009/1, p. 19, par. 95

³¹ *Compilation of Guidelines*, p. 60, par. 5

³² *Ibid.*, p. 53, par. 3

³³ *Ibid.*, p. 59, section E 5

³⁴ *Ibid.*, p. 62, section A 2

³⁵ *Guidelines on treaty-specific document to be submitted by states parties under article 35, paragraph 1, of the Convention on the Rights of Persons with Disabilities*, CRPD/C/2/3, p. 8, art. 8

³⁶ *Ibid.*, par. 1

³⁷ *Ibid.*, p. 10, art. 16

³⁸ *Ibid.*, par. 1

³⁹ *Ibid.*, p. 13, art. 24

	<ul style="list-style-type: none"> ○ Measures taken to ensure that every child with disabilities has access to early-stage education, and mandatory primary, secondary and higher education⁴⁰ ▪ Measures to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life, through comprehensive habilitation and rehabilitation programmes, in the areas of health, employment, education and social services⁴¹. ▪ States Parties should report on: <ul style="list-style-type: none"> ○ General habilitation and rehabilitation programmes for persons with disabilities, in the areas of health, employment, education and social services, including early intervention, peer support, and the availability of these services and programmes in rural areas⁴² ▪ Right of persons with disabilities to take part in cultural life, develop and utilize their creative, artistic and intellectual potential, recognition and support of their specific cultural and linguistic identity⁴³ ▪ States Parties should report on: <ul style="list-style-type: none"> ○ Measures taken to recognize and promote the right of persons with disabilities to take part on an equal basis with others in cultural life, including opportunities to develop and utilize their creative, artistic and intellectual potential⁴⁴ ○ Measures taken to promote deaf culture⁴⁵
GUIDELINES CADE	<ul style="list-style-type: none"> ▪ To guarantee equal access to all levels of education within your country – for instance in the form of anti-discriminatory measures, financial incentives, fellowships, positive or affirmative action ▪ Strategies and programmes implemented with a view to achieving, the full realization of the right of everyone to education, ensuring equality of educational opportunities, and to achieving EFA (Education for All). ▪ To ensure inclusive education, for instance to give special consideration to gender equity and equality in education and the educational needs of the poor, economically and socially marginalized and vulnerable groups⁴⁶

⁴⁰ Ibid, par. 1

⁴¹ Ibid, p. 15, art. 26

⁴² Ibid, par. 1

⁴³ Ibid, p. 17, art. 30

⁴⁴ Ibid, par. 1

⁴⁵ Ibid, par. 4

⁴⁶ UN Educational, Scientific, and Cultural Organization (UNESCO), *Guidelines for the preparation of reports by Member States on the application of the Convention and Recommendation against Discrimination in Education*, May 2011.

Retrieved from <http://unesdoc.unesco.org/images/0021/002115/211536M.pdf>, Section (II) (2) (a-c). Henceforth cited as *UNESCO CADE Guidelines*.

ITPC	<ul style="list-style-type: none"> ▪ To ensure that members of the peoples concerned have the opportunity to acquire education at all levels on at least an equal footing with the rest of the national community ▪ Education programmes and services developed and implemented in co-operation with the peoples to address their special needs, and incorporating their histories, their knowledge and technologies, their value systems and their further social, economic and cultural aspirations ▪ To ensure the training of members of these peoples and their involvement in the formulation and implementation of education programmes, with a view to the progressive transfer of responsibility for the conduct of these programmes to these peoples as appropriate ▪ (...) Recognise the right of these peoples to establish their own educational institutions and facilities, provided that such institutions meet minimum standards established by the competent authority in consultation with these peoples. Appropriate resources shall be provided for this purpose ▪ To allow the peoples to read and write in their own indigenous language. ▪ To ensure that these peoples have the opportunity to attain fluency in the national language or in one of the official languages of the country⁴⁷
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1.2. Aims and Objectives of Education

Preliminary Remarks⁴⁸

17. The aims and values reflected in this article are stated in quite general terms and their implications are potentially very wide-ranging. This seems to have led many States parties to assume that it is unnecessary or even inappropriate, to ensure that the relevant principles are reflected in legislation or in administrative directives. This assumption is unwarranted (...).

18. The effective promotion of article 29 (1) (of the Convention on the Rights of the Child) requires the fundamental reworking of curricula to include the various aims of education and the systematic revision of textbooks and other teaching materials and technologies, as well as school policies. Approaches which do no more than seek to superimpose the aims and values of the article on the existing system without encouraging any deeper changes are clearly inadequate. (...). It is also important that the teaching methods used in schools reflect the spirit and educational philosophy of the Convention on the Rights of the Child and the aims of education laid down in article 29 (1).

⁴⁷ International Labor Organization (ILO), *Indigenous and Tribal Peoples Convention (Convention No. 169)*. 27 June 1989.

Retrieved from

http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C169. Articles 26 – 28.

⁴⁸ Committee on the Rights of the Child, General Comment 1. art. 29 (1), par. 17-19

19. In addition, the school environment itself must thus reflect the freedom and the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin called for in article 29 (1) (b) and (d). A school which allows bullying or other violent and exclusionary practices to occur is not one which meets the requirements of article 29 (1).

MINIMUM CORE CONTENT	<p>To ensure that education conforms to the objectives set out in article 13 (1) of the ICESCR⁴⁹</p> <p>To ensure that education conforms to the objectives set out in article 29 (1) of the CRC⁵⁰</p>
VIOLATIONS	<ul style="list-style-type: none"> ▪ Use of curricula inconsistent with the educational objectives set out in article 13 (1)⁵¹
GENERAL COMMENT 13 CDESCR	<ul style="list-style-type: none"> ▪ Take measures to ensure that discipline which is inconsistent with the Covenant does not occur in any public or private educational institution within its jurisdiction.⁵²
GUIDELINES CDESCR	<ul style="list-style-type: none"> ▪ The form and substance of education are directed toward the aims and objectives identified in article 13, paragraph 1 ▪ School curricula include education on economic, social and cultural rights⁵³
WORLD PROGRAMME FOR HUMAN RIGHTS EDUCATION	<ul style="list-style-type: none"> ▪ Human rights education in the primary and secondary school systems includes: <ul style="list-style-type: none"> (a) Policies — developing in a participatory way and adopting coherent educational policies, legislation and strategies that are human rights-based, including curriculum improvement; (b) Policy implementation — Taking appropriate organizational measures and by facilitating the involvement of all stakeholders; (c) Learning environment — <ul style="list-style-type: none"> ○ Provides the opportunity for all school actors (students, teachers, staff and administrators and parents) to practice human rights through real-life activities. ○ Enables children to express their views freely and to participate in school life; (d) Teaching and learning — all teaching and learning processes and tools are rights-based (for instance, the content and objectives of the curriculum, participatory and democratic practices and methodologies, appropriate materials including the review and revision of existing text-

⁴⁹ CDESCR, General Comment 13, par. 57

⁵⁰ CRC, General Comment 1, par. 3

⁵¹ CDESCR, General Comment 13, par. 59

⁵² Ibid, par. 41. The paragraph explains “Corporal punishment is inconsistent with the fundamental guiding principles of international human rights law...other aspects of school discipline may also be inconsistent with human dignity, such as public humiliation. Nor should any form of discipline breach other rights under the Covenant, such as the right to food.”

⁵³ *Compilation of Guidelines*, p. 38, par. 58.

	books, etc.); (e) Education and professional development of teachers and other personnel — providing, through pre- and in-service training, with the necessary knowledge, understanding, skills and competencies to facilitate the learning and practice of human rights in schools ⁵⁴
GUIDELINES CRC ⁵⁵	<ul style="list-style-type: none"> ▪ Aims of education (art. 29) with reference also to quality of education⁵⁶ ▪ Education on human rights and civic education⁵⁷ ▪ Include human rights education, including children's rights, in the curriculum of all primary and secondary schools⁵⁸ ▪ Work with the communities to encourage the enrolment of children in ethnically mixed schools and provide in practice possibilities for children from the different communities to study together in a manner that allows everyday interaction and possibilities to learn about one another.⁵⁹ ▪ Invest in the training of teachers, in the development of curricula, textbooks...for the active promotion of understanding, peace, tolerance, and multicultural solidarity and cohesion⁶⁰
GUIDELINES CERD	<ul style="list-style-type: none"> ▪ Review all language in textbooks which conveys stereotyped or demeaning images, references, names, or opinions concerning groups protected under the Convention, and replace it by images, references, names, and opinions which convey the message of the inherent dignity of all human beings and their equality on the enjoyment of human rights ▪ Include in textbooks, at all appropriate levels, chapters about the history and culture of groups protected under the Convention⁶¹

1.3 Monitoring System

⁵⁴ *Revised draft plan of action for the first phase (2005-2007) of the World Programme for Human Rights Education, Doc A/59/525/Rev.1.* A detailed description of the five components and related courses of action, to serve as a reference tool, is provided in the appendix of the document. p. 2. par 1 – p. 3 par. 5

⁵⁵ CRC considerations of reports submitted by State parties include content promoting elements and characteristics of education that are related to the right to education but that are beyond the scope of this document, or that expand upon dimensions of the right that are addressed elsewhere. See these reports and others for more information.

⁵⁶ *Compilation of Guidelines*, p. 93, par. 34 (b)

⁵⁷ *Treaty specific Guidelines regarding the form and content of periodic Reports to be submitted by States Parties under article 44, par. 1.b of the Convention on the Rights of the Child CRC/C/58/REV.2*, p. 8, section 7, par. 37.

⁵⁸ CRC Consideration of reports submitted by State parties under article 44 of the Convention, authors of this document have chosen the report of Belgium (CRC/C/BEL/CO/3-4), p. 5

⁵⁹ CRC Consideration of reports submitted by State parties under article 44 of the Convention, authors of this document have chosen the report of the former Yugoslav Republic of Macedonia as an example. p. 14

⁶⁰ *Ibid*

⁶¹ *Compilation of Guidelines*, p. 62, section A 2-4

CORE CONTENT	To establish and maintain a transparent and effective system which monitors whether or not education is, in fact, directed to the educational objectives set out in article 13 (1) ⁶²
VIOLATIONS	<ul style="list-style-type: none"> ▪ Failure to maintain a transparent and effective system to monitor conformity with article 13 (1)
GENERAL COMMENT 13 CESCR	<ul style="list-style-type: none"> ▪ To establish and maintain a transparent and effective system which monitors whether or not education is, in fact, directed to the educational objectives set out in article 13 (1)⁶³ ▪ To establish “minimum educational standards” to which all educational institutions should be established in accordance with article 13 (3) and (4). ▪ [A national educational strategy] should include mechanisms, such as indicators and benchmarks on the right to education, by which progress can be closely monitored⁶⁴ ▪ States parties must closely monitor education so as to identify and take measures to redress any de facto discrimination. Educational data should be disaggregated by the prohibited grounds of discrimination⁶⁵

⁶² CESCR General Comment 13, par. 49

⁶³ Ibid, par. 49

⁶⁴ Ibid, par. 52

⁶⁵ Ibid, par. 37

2. Article 13, Paragraph 2

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.

MINIMUM CORE CONTENT	To respect, protect, and fulfil each of the “essential features” (availability, accessibility, acceptability, adaptability) of the right to education ⁶⁶
CORE CONTENT	To ensure that curricula, for all levels of the educational system, are directed to the objectives identified in article 13 (1) ⁶⁷

2.1 Primary Education

Preliminary Remarks⁶⁸

Compulsory Signification

- Neither parents, nor guardians, nor the State are entitled to treat as optional the decision as to whether the child should have access to primary education.
- Prohibition of gender discrimination in access to education,
- The education offered must be adequate in quality, relevant to the child and must promote the realization of the child’s other rights.

Free of charge⁶⁹

Adoption of a detailed plan

⁶⁶ CESCR, General Comment 13, par

⁶⁷ Ibid. par 57

⁶⁸ CESCR General Comment 11, par. 6 -10

⁶⁹ See also *Compilation of Guidelines*, p. 38, par. 59

The State party is required to adopt a plan of action within two years. This must be interpreted as meaning within two years of the Covenant's entry into force of the State concerned, or within two years of a subsequent change in circumstances which has led to the non-observance of the relevant obligation. (...) Participation of all sections of civil society in the drawing up of the plan is vital and some means of periodically reviewing progress and ensuring accountability are essential.

Obligations

A State party cannot escape the unequivocal obligation to adopt a plan of action on the grounds that the necessary resources are not available. (...) Where a State party is clearly lacking in the financial resources and/or expertise required to "work out and adopt" a detailed plan, the international community has a clear obligation to assist.

MINIMUM CORE CONTENT	To provide primary education for all in accordance with article 13 (2)
VIOLATIONS	<ul style="list-style-type: none"> ▪ The failure to introduce, as a matter of priority, primary education which is compulsory and available free to all⁷⁰
GUIDELINES CESCR	<ul style="list-style-type: none"> ▪ Removal of Direct costs such as school fees; ▪ To alleviate the impact of Indirect costs (e.g. expenses for school books, uniforms, transport, special fees such as exam fees, contributions to district education boards, etc.) on children from poorer households⁷¹ ▪ To reduce the drop out rates, at the primary and secondary levels, for children and young persons, in particular girls, children from ethnic minorities, indigenous communities and poorer households, as well as migrant, refugee and internally displaced children⁷²
GUIDELINES CRPD	<ul style="list-style-type: none"> ▪ Legislative and other measures that ensure that schools and materials are accessible and that individualized reasonable accommodation and support required by persons with disabilities is provided to ensure effective education and full inclusion⁷³
GUIDELINES CRC	<ul style="list-style-type: none"> ▪ Ensure that the right to free and compulsory education is incorporated in the Constitution ▪ Ensuring that parents are not required to bear any financial burden for education and learning materials⁷⁴

2.2 Secondary Education

⁷⁰ CESCR General Comment 13, par. 59

⁷¹ *Compilation of Guidelines*, p. 39

⁷² *Ibid*, p. 39

⁷³ *Guidelines on treaty-specific document to be submitted by states parties under article 35, paragraph 1, of the Convention on the Rights of Persons with Disabilities*, CRPD/C/2/3, p. 13, art. 24, par. 4

⁷⁴ CRC Consideration of reports submitted by State parties under article 44 of the Convention, authors of this document have chosen the report of Nigeria as an example. p. 18

MINIMUM CORE CONTENT	Adopt and implement a national educational strategy which includes provision for secondary education
VIOLATIONS	<ul style="list-style-type: none"> ▪ Failure to take “deliberate, concrete and targeted” measures towards the progressive realization of secondary, higher and fundamental education in accordance with article 13 (2) (b)-(d)
GUIDELINES CESC	<ul style="list-style-type: none"> ▪ To make secondary education in its different forms, including technical and vocational education, generally available and accessible to all, including: <ul style="list-style-type: none"> ○ Concrete steps taken by the State party towards progressively achieving free secondary education; ○ Flexible curricula and varied delivery systems to respond to the needs of students in different social and cultural settings; ○ “Alternative” educational programmes, which parallel regular secondary systems; ○ The availability of technical and vocational education, and whether it enables students to acquire knowledge and skills which contribute to their personal development, self-reliance and employability.⁷⁵ ○ “Generally available” signifies <ul style="list-style-type: none"> ▪ firstly, that secondary education is not dependent on a student’s apparent capacity or ability, and ▪ secondly, that secondary education will be distributed throughout the State in such a way that it is available on the same basis to all.⁷⁶
GUIDELINES CRPD	<ul style="list-style-type: none"> ▪ Legislative and other measures that ensure that schools and materials are accessible and that individualized reasonable accommodation and support required by persons with disabilities is provided to ensure effective education and full inclusion⁷⁷

2.3 Vocational Education

CORE CONTENT	National strategy which includes provision for vocational and technical training
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⁷⁵ *Compilation of Guidelines*, p. 39, par. 60

⁷⁶ CESC, General Comment 13, par. 13

⁷⁷ *Guidelines on treaty-specific document to be submitted by states parties under article 35, paragraph 1, of the Convention on the Rights of Persons with Disabilities*, CRPD/C/2/3, p. 13, art. 24, par. 4

GENERAL COMMENT 13 CESCR	<ul style="list-style-type: none"> ▪ The availability of technical and vocational education (TVE), and whether it enables students to acquire knowledge and skills which contribute to their personal development, self-reliance and employability. ▪ Enhances the productivity of their families and communities ▪ Takes account of the educational, cultural, and social background of the population concerned; the skills, knowledge, and levels of qualification needed in various sectors of the economy; and occupational health, safety, and welfare; ▪ Provides retraining for adults whose current knowledge and skills have become obsolete owing to technological, economic, employment, social, or other changes; ▪ Consists of programmes which give students, especially those from developing countries, the opportunity to receive TVE in other States, with a view to the appropriate transfer and adaptation of technology; ▪ Programmes which promote the TVE of women, girls, out-of-school youth, unemployed youth, the children of migrant workers, refugees, persons with disabilities, and other disadvantaged groups.⁷⁸ ▪ TVE forms an integral element of all levels of education, including higher education.⁷⁹ ▪ An introduction to technology and the world of work should not be confined to specific TVE programmes but should be understood as a component of general education.⁸⁰
GUIDELINES CESCR	<ul style="list-style-type: none"> ▪ Indicate what technical and vocational training programmes are in place in the State party and their impact on empowering the workforce, especially disadvantaged and marginalized individuals, to enter or re-enter the labour market.⁸¹ ▪ Indicate the measures taken [toward]...the availability of technical and vocational education, and whether it enables students to acquire knowledge and skills which contribute to their personal development, self-reliance, and employability.⁸²

2.4 Higher Education

MINIMUM CORE CONTENT	National strategy which includes provision for higher education
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⁷⁸ Ibid, par. 16

⁷⁹ Ibid, par. 17

⁸⁰ CESCR, General Comment 13, par. 15 and 16. The obligation to fulfil (facilitate) the right to work requires States parties, inter alia, to...implement technical and vocational education plans to facilitate access to employment. *General Comment 18 on the Right to Work*, par. 27

⁸¹ Compilation of Guidelines, p. 30 par. 18.

⁸² Ibid. p. 39, par. 60

VIOLATIONS	<ul style="list-style-type: none"> ▪ Denial of academic freedom of staff and students; ▪ Closure of educational institutions in times of political tension in non-conformity with article 4⁸³
GUIDELINES CESCR	<ul style="list-style-type: none"> ▪ To make higher education equally accessible to all and without discrimination, on the basis of capacity, and the concrete steps taken towards progressively achieving free higher education.⁸⁴
GUIDELINES CRPD	<ul style="list-style-type: none"> ▪ Legislative and other measures that ensure that schools and materials are accessible and that individualized reasonable accommodation and support required by persons with disabilities is provided to ensure effective education and full inclusion⁸⁵

2.5 Fundamental Education and Literacy

MINIMUM CORE CONTENT	National strategy which includes provision for fundamental education
GENERAL COMMENT 13 CESCR	<ul style="list-style-type: none"> ▪ Curricula and delivery systems must be devised which are suitable for students of all ages.⁸⁶
GUIDELINES CESCR	<ul style="list-style-type: none"> ▪ To promote literacy, as well as adult and continuing education, in a lifelong perspective.⁸⁷
GUIDELINES CRPD	<ul style="list-style-type: none"> ▪ Ensuring an inclusive education system at all levels and the facilitation of access to lifelong learning⁸⁸. ▪ State Parties should report on: <ul style="list-style-type: none"> ○ Reasonable accommodation provisions and other measures to ensure access to lifelong learning education⁸⁹

2.6 Teaching Profession

CORE CONTENT	Material conditions of teaching staff shall be continuously improved
GENERAL COMMENT 13 CESCR	<ul style="list-style-type: none"> ▪ [Deterioration of the general working conditions of teachers] is a major obstacle to the full realization of students' right to education.

⁸³ CESCR, General Comment 13, par. 59

⁸⁴ *Compilation of Guidelines*, p. 39, par. 61

⁸⁵ *Guidelines on treaty-specific document to be submitted by states parties under article 35, paragraph 1, of the Convention on the Rights of Persons with Disabilities*, CRPD/C/2/3, p. 13, art. 24, par. 4

⁸⁶ CESCR General Comment 13, par. 24

⁸⁷ *Compilation of Guidelines*, p. 39, par. 62

⁸⁸ *Guidelines on treaty-specific document to be submitted by states parties under article 35, paragraph 1, of the Convention on the Rights of Persons with Disabilities*, CRPD/C/2/3, p. 13, art. 24

⁸⁹ *Ibid*, par. 12

	<ul style="list-style-type: none"> ▪ The right of teachers to organize and bargain collectively⁹⁰
GUIDELINES CADE	<ul style="list-style-type: none"> ▪ To guarantee the training for teaching profession without discrimination ▪ Conditions of teaching staff at all levels <ul style="list-style-type: none"> ○ The level of teachers' average salaries, is comparable with other civil servants with equivalent qualification salaries ▪ Measures to improve the living and professional conditions of teaching staff⁹¹
GUIDELINES CRPD	<ul style="list-style-type: none"> ▪ Availability of specific skills-training services for children, adults or teachers who so require in Braille, sign languages, augmentative and alternative communication, mobility and other areas⁹² ▪ Measures taken to ensure education is delivered in the most appropriate languages, modes, means of communication, and environments for the individual⁹³ ▪ Measures to ensure an adequate training on disability to professionals in the education system, as well as measures to incorporate persons with disabilities in the education team⁹⁴

⁹⁰ CESCR General Comment 13, par. 27

⁹¹ p. 4

⁹² *Guidelines on treaty-specific document to be submitted by states parties under article 35, paragraph 1, of the Convention on the Rights of Persons with Disabilities*, CRPD/C/2/3, p. 13, art. 24, par. 5

⁹³ *Ibid*, par. 7

⁹⁴ *Ibid*, par. 8

3. Article 13, Paragraph 3

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.⁹⁵

CORE CONTENT	To ensure free choice of education without interference from the State or third parties, subject to conformity with "minimum educational standards" (art. 13(3) and (4)). ⁹⁶
GENERAL COMMENT 13 CESCR	<ul style="list-style-type: none"> ▪ Article 13 (3) permits public school instruction in subjects such as the history of religion and ethics if it is given in an unbiased and objective way, respectful of the freedoms of opinion, conscience, and expression. ▪ Public education that includes instruction in a particular religion or belief is inconsistent with article 13 (3) unless provision is made for non-discriminatory exemptions or alternatives that would accommodate the wishes of parents and guardians.⁹⁷ ▪ The State has the obligation to ensure that the liberty set out in article 13 (4) does not lead to extreme disparities of educational opportunity for some groups in society.⁹⁸ ▪ Staff and students throughout the education sector are entitled to academic freedom (...) [including] the liberty of individuals to express freely opinions about the institution of system in which they work, to fulfil their functions without discrimination or fear of repression by the State or any other actor, to participate in professional or representative academic bodies, and to enjoy all the internationally recognized human rights applicable to other individuals in the same jurisdiction. The enjoyment of academic freedom carries with it obligations, such as the duty to respect the academic freedom of others, to ensure the fair discussion of contrary views, and to treat all without discrimination on any of the prohibited grounds.⁹⁹

⁹⁵ According to the European Court of Human Rights in its assessment of the case of Folgerø and Others v. Norway, "1 (b) It is on to the fundamental right to education that is grafted the right of parents to respect for their religious and philosophical convictions, and the first sentence does not distinguish, any more than the second, between State and private teaching. The second sentence of Article 2 of Protocol No. 1 aims in short at safeguarding the possibility of pluralism in education which possibility is essential for the preservation of the "democratic society" as conceived by the Convention. [...]" par. 83, Retrieved from <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-81356>

⁹⁶ CESCR General Comment 13, par. 57. Cf. Article 5 of UNESCO CADE.

⁹⁷ Ibid, par. 28

⁹⁸ Ibid, par. 30

⁹⁹ Ibid, pars. 38-39

GUIDELINES CADE	<ul style="list-style-type: none"> ▪ Education policy framework for minimum educational standards as regards the rights of the parents/legal guardians for providing religious and moral education for their children and the choice of educational institutions in accordance with the provisions of the Convention.^{100 101}
GUIDELINES CCPR	<ul style="list-style-type: none"> ▪ Legal regulation and practice of religious education, in particular where religion is taught in State schools, the possibility for children not to attend religious classes and the right of parents to ensure the religious education of their children in conformity with their own convictions.¹⁰²

¹⁰⁰ p. 7, section (ix)

¹⁰¹ According to the European Court of Human Rights in its assessment on the case of Folgerø and others v. Norway, “Article 2 of Protocol No. 1 does not permit a distinction to be drawn between religious instruction and other subjects. It enjoins the State to respect parents’ convictions, be they religious or philosophical, throughout the entire State education programme [...]. That duty is broad in its extent as it applies not only to the content of education and the manner of its provision but also to the performance of all the “functions” assumed by the State. The verb “respect” means more than “acknowledge” or “take into account”. In addition to a primarily negative undertaking, it implies some positive obligation on the part of the State. The term “conviction”, taken on its own, is not synonymous with the words “opinions” and “ideas”. It denotes views that attain a certain level of cogency, seriousness, cohesion and importance [...]” par. 84, section B. 1. (c)

¹⁰² UN Human Rights Committee, *Guidelines for the treaty-specific document to be submitted by States parties under article 40 of the International Covenant on Civil and Political Rights*, October 2010, CCPR/C/2009/1, par. 83

4. Article 13, Paragraph 4

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.

VIOLATIONS	<ul style="list-style-type: none">▪ The prohibition of private educational institutions;▪ The failure to ensure private educational institutions conform to the “minimum educational standards” required by article 13 (3) and (4)¹⁰³
GENERAL COMMENT 13 CESCR	<ul style="list-style-type: none">▪ [Non-state institutions must] conform to the educational objectives set out in article 13(1) and certain minimum standards ¹⁰⁴▪ Everyone, including non-nationals, has the right to establish and direct...all types of educational institutions¹⁰⁵

¹⁰³ According to the European Court of Human Rights in its assessment on the case of *Folgerø and others v. Norway*, “Article 2 of Protocol No.1 constitutes a whole that is dominated by its first sentence. By binding themselves not to ‘deny the right to education,’ the Contracting States guarantee to anyone within their jurisdiction a right of access to educational institutions existing at a given time and the possibility of drawing, by official recognition of the studies which he has completed, profit from the education received [...]” par. 84, section B. 1. (d)

¹⁰⁴ CESCR General Comment 13, par. 29

¹⁰⁵ *Ibid*, par. 30

1.1 States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity.

23. Minority protection is based on four requirements: **protection of the existence, non-exclusion, non-discrimination and non-assimilation of the groups concerned.**

24. The protection of the existence of minorities includes their physical existence, their continued existence on the territories on which they live and their continued access to the material resources required to continue their existence on those territories (...).

25. The second requirement is that minorities shall not be excluded from the national society (...).

26. The third requirement is non-discrimination (...). The Declaration on Minorities elaborates the principle of non-discrimination in its provision that the exercise of their rights as persons belonging to minorities shall not justify any discrimination in any other field, and that no disadvantage shall result from the exercise or non-exercise of these rights (art. 3).

27. The fourth requirement is non-assimilation and its corollary, which is to **protect and promote conditions for the group identity of minorities.** Many recent international instruments use the term “identity”, which expresses a clear trend towards the protection and promotion of cultural diversity, both internationally and internally within States (...).

4.3 States should take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue.

59. (...) In line with the general requirement in article 1 that States shall encourage the promotion of the **linguistic identity** of the minority concerned, measures are required for persons belonging to minorities to learn their mother tongue (which is a minimum) or to have instruction in their mother tongue (which goes some steps further).

63. In regard to non-territorial languages spoken traditionally by a minority within a country, but which are not associated with a particular region of that country, a uniform solution is more difficult to find (...). In this regard, persons belonging to minorities have a right, like others, to establish their private institutions, where the minority language is the main language of instruction. However, the State is entitled to require that the State language also be taught. One question to be addressed is whether the State is obliged to **provide subsidies** for such teaching. It would be a requirement that the State does ensure the existence of and fund some institutions which can ensure the teaching of that minority language.

¹⁰⁶ *Commentary of the WG on Minorities to the United Nations Declaration on the Rights of Persons Belonging to national or ethnic, religious and linguistic minorities.* Doc E/CN.4/Sub.2/AC.5/2005/2. We quote the paragraph.

It follows from the general wording of article 4.3 that everyone should have adequate opportunities “wherever possible”. How far the obligation to fund teaching of minority languages for persons belonging to dispersed groups goes would therefore depend on the resources of the State.

64. Greater difficulties arise in regard to languages used solely by persons belonging to **new minorities** (...). Furthermore, the children have a great need to learn to use the language of the country of immigration as quickly and as effectively as possible. Should, however, some new minorities settle compactly together in a region of the country and in large number, there is no reason to treat them differently from old minorities.

4.4 States should, where appropriate, take measures in the field of education, in order to encourage knowledge of the history, traditions, language and culture of the minorities existing within their territory. Persons belonging to minorities should have adequate opportunities to gain knowledge of the society as a whole.

68. This paragraph of article 4 also emphasizes the complementary duty to ensure that persons belonging to minorities gain knowledge of the society as a whole. This provision should counteract tendencies towards fundamentalist or closed religious or ethnic groups, which can be as much affected by xenophobia and intolerance as the majorities.

Annex II

Main International Instruments on the Right to Education

UN Declarations:

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

UN Conventions:

- Convention on the Rights of the Child, 1989;
- Convention relating to the Status of Refugees, 1951;
- International Convention on the Elimination of All Forms of Racial Discrimination, 1965;
- International Covenant on Economic, Social and Cultural Rights, 1966;
- International Covenant on Civil and Political Rights, 1966;
- Convention on the Elimination of All Forms of Discrimination against Women, 1979;
- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990;
- Convention on the Rights of Persons with Disabilities, 2006.

Other UN Instruments:

- World Program for Human Rights Education (2005-ongoing).

UNESCO Constitution, Conventions and Recommendations

- Constitution of UNESCO, adopted in November 16th, 1945;
- Convention against Discrimination in Education, 1960;
- Convention on Technical and Vocational Education, 1989;
- Recommendation against Discrimination in Education, 1960;
- Recommendation concerning the Status of Teachers, 1966;
- Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms, 1974;
- Recommendation on the Development of Adult Education, 1976;
- Recommendation on the Recognition of Studies and Qualifications in Higher Education, 1993;
- Recommendation concerning the Status of Higher-Education Teaching Personnel, 1997;
- Revised Recommendation concerning Technical and Vocational Education, 2001.

Other UNESCO instruments

- Hamburg Declaration on Adult Learning, 1997;
- World Declaration on Education for All, Jomtien, Thailand, 1990;
- Salamanca Statement on Principles, Policies and Practice in Special Needs on Education, 1994;
- World Declaration on Higher Education for the Twenty-first Century, 1998;

- Dakar Framework for Action, World Education Forum, Dakar, Senegal, 2000;
- Universal Declaration on Cultural Diversity, 2001.

ILO Conventions:

- Convention on the minimum age for employment (convention n° 138, adopted the 6 June 1973);
- Worst Forms of Child Labour Convention (convention n° 182, Adopted on 17 June 1999);
- Indigenous and Tribal Peoples Convention, 1989 (Convention No. 169, Adopted on 27 June 1989).

General Comments adopted by the UN Treaty Bodies, in particular:

- General comment No. 3 (1990) adopted by the Committee on Economic, Social and Cultural Rights (CESCR) on The nature of States parties' obligations (art.2 (1));
- General comment No. 9 (1998) adopted by the Committee on Economic, Social and Cultural Rights (CESCR) on The domestic application of the Covenant;
- General comment No. 11 (1999) adopted by the Committee on Economic, Social and Cultural Rights (CESCR) on Plans of action for primary education (art. 14);
- General comment No. 13 (1999) adopted by the Committee on Economic, Social and Cultural Rights (CESCR) on The right to education (art. 13);
- General comment No. 20 (2009) adopted by the Committee on Economic, Social and Cultural Rights (CESCR) on Non-Discrimination in Economic, Social and Cultural Rights (art. 2, (2));
- General comment No. 1 (2001) adopted by the Committee on the Rights of the Child (CRC) on the aims of education;
- General comment No. 7 (2005) on Implementing Child Rights in Early Childhood;
- General comment No. 9 (2006) adopted by the Committee on the Rights of the Child (CRC) on the rights of children with disabilities.