

THE RIGHT TO EDUCATION

A fundamental human right affirmed by the United Nations and recognized in regional treaties and numerous national constitutions

Part of a series of the Human Rights Programme of the Europe - Third World Centre (CETIM)



CETIM

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The right to education

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Brochure prepared by

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**Part of a series of the Human Rights Programme of the
Europe-Third World Centre (CETIM)**

INTRODUCTION

Although its content and practice have been a source of controversy for as long as anybody can remember and have evolved (or adapted themselves) in function of time and place, education for everybody is unanimously accepted as a necessity. The same can be said for the school, which has become the norm in our contemporary world even if one does not learn only in school (there is also, for example, the family and work, and even prison can furnish a framework for learning) and even if, at times, there have been those who have dreamed of a world without schools.¹

All the same, the apparent unanimity cannot hide the divergences regarding the objectives of education. What education? For what purposes? Is it to train “producers” or “citizens”?²

These two aspects of education are not necessarily antagonistic. On the contrary, they are complementary, for training for citizenship allows everybody a chance to take part in the decision-making processes of a given society regarding essential questions posed by production – for whom, why, how?

However, for the supporters of neo-liberal policies, education should be, above all, at the service of the economy, should concentrate on mainly technical subjects, taught (organized) – preferably – by private actors, including transnational corporations, and at the expense of the individual. One cannot but admit that these policies have been imposed just about everywhere in the world over the past two decades, tending not only to influence negatively the quality of education but also increase the level of exclusion and inequality in this area.

In fact, the education programs now set up have tended to exclude from the field of education not only the teaching of human and civil rights but also subjects such as history, geography, philosophy and the arts, all considered superfluous. It is significant that the OECD’s PISA assessment deals only with the ability of fifteen-year-olds regarding “reading, mathematics and science”.³

These tendencies are a threat to democracy, for high quality education is reserved for the upper crust and the curriculum being promoted simply reproduces already existing social inequalities.⁴ In such a context, the increase in access to schooling does not necessarily mean democratization and does not assure the quality of the education provided.

¹ Ivan Illich, *Une société sans école*, Paris: Seuil Publications, 1971.

² Samir Amin, preparation notes for a presentation at the Assembly of the Council of the World Forum for Alternatives, Caracas, October 2008

³ Since 2000, the PISA test has been given every three years to fifteen-year-olds in the 30 OECD member countries and in many partner countries.

⁴ *The Right to Education and Programs to Remedy Inequalities: Background paper submitted by Ferran Ferrer, Professor of Comparative Education, Autonomous University of Barcelona, E.C.12/1998/20: www.unhchr.ch/tbs/doc.nsf/(Symbol)/E.C.12.1998.20.En?Opendocument.*

A glance at the existing treaties regarding human rights leaves little doubt that education should produce responsible citizens participating in the advancement of civic life equipped with critical knowledge of national and international problems and imbued with values such as respect for human dignity, for the natural environment, for diversity, for peace, for solidarity etc. (v. Chapters I and II.B in particular)

It is worth recalling in this regard that education is very often seen as a means of attaining other objectives (such as a better job or increased earnings) and that education as a human right in and of itself is often lost sight of.

Few groups and social movements, including the NGOs defending the oppressed and the neediest, have acquired a thorough mastery of the international human rights instruments and their potential use at the national level. The present brochure is intended to accompany them in their daily struggle of demanding that the right to a quality education be respected.

Thus, the brochure deals with:

- the definition, purpose and content of the right to education (Chapter I);
- the constitutive elements of this right, including human rights education (Chapter II);
- the pertinent norms at the regional and international levels (Chapter III);
- the obstacles to the realization of the right to education (Chapter IV);
- the obligations of governments and examples of the implementation of the right to education at the national level (Chapter V);
- the monitoring mechanisms at the regional and international levels available to victims when their right to education is violated (Chapter VI).

I. DEFINITION, PURPOSE AND CONTENT OF THE RIGHT TO EDUCATION

The right to education is recognized in numerous international instruments that deal with human rights (v. also Chapters II and III), but the documents that most completely define the content and the scope of this right are the *Universal Declaration of Human Rights*⁵, the *International Covenant on Economic, Social and Cultural Rights* (ICESCR)⁶ and the *Convention on the Rights of the Child*⁷.

Article 13.1 of the **ICESCR** repeats almost word for word Article 26.2 of the *Universal Declaration of Human Rights*. We quote only the ICESCR, which states:

“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.”

In Article 29.1 of the **Convention on the Rights of the Child**, the 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.”

The main U.N. bodies entrusted with monitoring compliance with the right to education have drafted supplementary clarifications regarding the definition of this right. According to the Committee on Economic, Social and Cultural Rights (CESCR), the foremost such body, “education is both a human right in itself and an indispensable means of realizing other human rights. As an empowerment right, education is the primary vehicle by which economically and socially

⁵ Adopted 10 December 1948, ratified by all U.N. member states without exception.

⁶ Adopted 16 December 1966, entered into force 3 January 1976, ratified to date by 160 member states.

⁷ Adopted 20 November 1989 and entered into force 2 September 1990, ratified by all countries except the United States and Somalia, which have nonetheless signed it.

marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities.”⁸

For the *Human Rights Council’s Special Rapporteur on the Right to Education*:

*“Education has a characteristic quality that enables it to be present in and to nourish all areas of life. The interconnectedness of human rights is nowhere more obvious than in educational processes, so the right to education is, moreover, an individual guarantee and a social right which is fully expressed by the individual in the exercise of his or her citizenship”*⁹

UNESCO has formulated the definition as follows:

*“The word ‘education’ implied the entire process of social life by means of which individuals and social groups learn to develop consciously within, and for the benefit of the national and international communities, the whole of their personal capacities, attitudes, aptitudes and knowledge. The process is not limited to any specific activity.”*¹⁰

⁸ Committee on Economic, Social and Cultural Rights, *General Comment N° 13*, adopted in December 1999, E/C.12/1999/10, § 1: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/ae1a0b126d068e868025683c003c8b3b?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/ae1a0b126d068e868025683c003c8b3b?Opendocument).

⁹ Special Rapporteur on the Right to Education, Annual Report, 61st Commission on Human Rights, E/CN.4/2005/50, 17 December 2004, § 6: <http://www2.ohchr.org/english/issues/education/rapporteur/annual.htm>.

¹⁰ *Education for International Understanding, Peace, Human Rights and Fundamental Freedoms*, General Recommendation, adopted 19 November 1974 by the UNESCO General Conference, § 1.1.a.

II. CONSTITUTIVE ELEMENTS OF THE RIGHT TO EDUCATION

If one refers to the *ICESCR*, the primary international instrument dealing with the right to education, the realization of this right comports six aspects: compulsory and free education (at least at the primary level); quality; education in human rights; the freedom of parents or guardians to choose an educational institution; the possibility for physical or legal persons to set up and run educational institutions; the principle of non-discrimination and international cooperation.

A. Compulsory and Cost-Free Education

1. Primary education and fundamental education

All the human rights instruments are unanimous: primary education should be free. For the *ICESCR*, “the States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right: Primary education shall be compulsory and available free to all.” (Article 13.2.a)

Moreover, the *ICESCR* allows two years for governments that have not yet done so to assure, in the territory under their jurisdiction (including dependent or occupied territories) “compulsory primary education, free of charge” thus allowing them time “to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.” (Article 14)

The *Convention on the Rights of the Child* requires of governments that primary education be “compulsory and free to all.” (Article 28.1.a)

It should be noted in this regard that the age when children begin school (generally at six or seven) and the duration of compulsory education (four, six, nine or twelve years) varies widely from one country to another. Faced with such disparities, the Special Rapporteur on the Right to Education has insisted that the end of compulsory schooling be set at 15 years of age.¹¹ This corresponds to the minimum age set by the International Labor Organization.¹² In its convention on the prohibition of the worst forms of child labor, the ILO has since raised this to 18.¹³

The *ICESCR* further stipulates: “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.” (Article 13.2.d)

¹¹ Special Rapporteur on the Right to Education, Annual Reports, 57th Commission on Human Rights E/CN.4/2001/52, 11 January 2001; 58th Commission on Human Rights, E/CN.4/2002/60, 7 January 2002: <http://www2.ohchr.org/english/issues/education/rapporteur/annual.htm>.

¹² ILO *Convention N° 138*, adopted 26 June 1973, entered into force 19 June 1976.

¹³ ILO *Convention N° 182*, adopted 17 June 1999, entered into force 19 November 2000.

2. Secondary education and higher education

Free education does not only concern primary education, the ICESCR requires of States that they grant it progressively to secondary education and higher education:

“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” (art. 13.2.b) “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” (art. 13.2.c)

B. Quality

It is well known that it is not sufficient to have adequate buildings or duly trained teachers to have quality education. While the content of the subject matter is an essential part, the conditions and the process of the teaching must also be taken into account. These aspects are complementary and mutually reinforcing.

For the Special Rapporteur,

“the right to a quality education implies a need to direct learning processes and the entire school environment and infrastructure towards the development of knowledge, abilities and skills within a body politic primed to respect dignity and the higher values of humanity, diversity, peace, solidarity and mutual cooperation. Quality cannot be reduced to a matter of quantifiable efficiency; rather, it encompasses the depth of human commitment to the present and future generations.”¹⁴

With this in mind, the Committee on Economic, Social and Cultural Rights and the Special Rapporteur established four independent criteria for measuring the quality of teaching: availability, accessibility, acceptability and adaptability.¹⁵

1. Availability

Educational institutions and programs should be sufficient in number. The physical facilities should be properly kept up and equipped with electricity, running water, sanitary facilities (for boys and for girls) etc. Teachers, duly trained, should receive a salary that is competitive at the national level. The number of students per class should not be excessively high. The teaching material should be adequate, including – where appropriate – a library, computers and information technology.

¹⁴ Special Rapporteur on the Right to Education, Annual report, 61st Commission on Human Rights, E/CN.4/2005/50, 17 December 2004, §§ 107-108:

<http://www.iidh.ed.cr/Documentos/Informes/Informe-relator-dic04-ingles.pdf>.

¹⁵ Although the first Special Rapporteur set these criteria for primary education, which she concentrated on during her mandate, for the Committee, they should be observed at all levels of teaching and in all its forms. V. Committee on Economic Social and Cultural Rights, General Comment No 13, E/C.12/1999/10, 8 December 1999, § 6.; [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/ae1a0b126d068e868025683c003c8b3b?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/ae1a0b126d068e868025683c003c8b3b?Opendocument); Special Rapporteur on the Right to Education, Annual Report, 55th Commission on Human Rights, E/CN.4/1999/49, 13 January 1999, §§ 51-74: <http://www2.ohchr.org/english/issues/education/rapporteur/annual.htm>.

In this regard, it is worth recalling Article 13.2.e of the *International Covenant on Economic, Social and Cultural Rights*:

“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.”

2. Accessibility

Educational institutions and programs should be accessible to everybody, without discrimination (sex, language, religion, nationality etc.). The teaching should take place in a reasonably accessible place (for example in a neighborhood school) or by means of modern technology (for long-distance education).

The *Convention on the Rights of Persons with Disabilities* requires that governments take the necessary measures to ensure that “reasonable accommodation of the individual's requirements is provided” (Article 24.2.c).

3. Acceptability

“The form and substance of education, including curricula and teaching methods, have to be acceptable (e.g. relevant, culturally appropriate and of good quality) to students and, in appropriate cases, parents; this is subject to the educational objectives required by article 13 (1) [of the International Covenant on Economic, Social and Cultural Rights] and such minimum educational standards as may be approved by the State.”¹⁶

To these elements should be added teaching in the native language of the students and “the mainstreaming of human rights throughout the contents and process of education”¹⁷, which the Special Rapporteurs have championed since the creation of the mandate. In the words of the second Special Rapporteur, “education should be a free space for the exercise and study of all human rights, responsibilities and capacities”¹⁸ and “the ideal solution is to invest in education not only to facilitate economic development but also, and above all, to build values and knowledge aimed at developing human dignity and proactive citizenship committed to the rights of the individual”.¹⁹

In line with this, the Committee on the Rights of the Child states: “The education to which every child has a right is one designed to provide the child with life skills, to strengthen the child’s capacity to enjoy the full range of human rights... Human rights education should be a comprehensive, life-long process and start with the reflection of human rights values in the daily life and experiences of

¹⁶ Committee on Economic, Social and Cultural Rights, *General Comment N° 13*, § 6, c: [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/ae1a0b126d068e868025683c003c8b3b?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/ae1a0b126d068e868025683c003c8b3b?Opendocument).

¹⁷ Special Rapporteur on the Right to Education, Annual Report, 55th Commission on Human Rights, E/CN.4/1999/47, 13 January 1999, § 13: <http://www2.ohchr.org/english/issues/education/rapporteur/annual.htm>.

¹⁸ Special Rapporteur on the Right to Education, Annual Report, 61st Commission on Human Rights, E/CN.4/2005/50, 17 December 2004, § 44: <http://www.iidh.ed.cr/Documentos/Informes/Informe-relator-dic04-ingles.pdf>.

¹⁹ *Ibid.*, § 46.

children.”²⁰ Article 29.1 of the *Convention on the Rights of the Child*, cited above, is unequivocal in this respect.

One can add to all this UNESCO’s recommendation on *Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms*²¹:

“Combining learning, training, information and action, international education should further the appropriate intellectual and emotional development of the individual. It should develop a sense of social responsibility and of solidarity with less privileged groups and should lead to observance of the principles of equality in everyday conduct. It should also help to develop qualities, aptitudes and abilities which enable the individual to acquire a critical understanding of problems at the national and the international level; to understand and explain facts, opinions and ideas; to work in a group; to accept and participate in free discussions; to observe the elementary rules of procedure applicable to any discussion; and to base value judgments and decisions on a rational analysis of relevant facts and factors.

“Education should stress the inadmissibility of recourse to war for purposes of expansion, aggression and domination, or of the use of force and violence for purposes of repression, and should bring every person to understand and assume his or her responsibilities for the maintenance of peace. It should contribute to international understanding and strengthening of world peace and to the activities in the struggle against colonialism and neo-colonialism in all their forms and manifestations, and against all forms and varieties of racialism, fascism, and apartheid as well as other ideologies which breed national and racial hatred and which are contrary to the purposes of this recommendation.”

4. Adaptability

*“Education has to be flexible so it can adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings.”*²²

In our times, it is not uncommon to see in school books and in the media the clichés that contribute to hatred between communities or that degrade the image of women. Whether it be the heritage of colonialism, patriarchal, religious or cultural traditions, this state of affairs is intolerable and incompatible with international human rights instruments.

For example, ILO Convention No 169²³ concerning indigenous and tribal peoples in independent countries sets as a goal that “efforts shall be made to ensure that history textbooks and other educational materials provide a fair, accurate and informative portrayal of the societies and cultures of these peoples”. (Article 31)

Noting that the stereotypes in teaching materials and the values and models represented by the media and advertising contribute to perpetuating inequality and

²⁰ Committee on the Rights of the Child, *General Comment N° 1*, CRC/GC/2001/, 17 April 2001, §§ 2, 15: http://www2.ohchr.org/english/bodies/crc/docs/GC1_en.doc

²¹ Adopted 19 November 1974.

²² Committee on Economic, Social and Cultural Rights, *General Comment N° 13*, § 6, d: [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/ae1a0b126d068e868025683c003c8b3b?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/ae1a0b126d068e868025683c003c8b3b?Opendocument).

²³ *C169 Indigenous and Tribal Peoples Convention*, adopted 27 June 1989, entered into force 5 September 1991: <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C169>.

inferiority, the Committee on the Rights of the Child recommends that governments “change the image of women in the media, in advertising and in school textbooks by adopting suitable messages to combat inequalities, stereotypes and social apathy,” and “incorporate teaching on the rights of the child in the school curriculum and in teacher-training programs”.²⁴

For its part, the Committee for the Elimination of Discrimination Against Women requests governments “effectively to adopt education and public information programs, which will help eliminate prejudices and current practices that hinder the full operation of the principle of the social equality of women”.²⁵

Illustration n° 1

Child Labor

If arrangements have been devised allowing working children to “learn while earning money”, this is because the work of the poor – children included – is a question of survival. In certain conditions, full-time education seems more like a luxury than a basic right of the child, and both political will and considerable financial means are necessary to change the cruel reality. The Indian Supreme Court has accepted the implementation of this arrangement for children under 14 for jobs involving no danger, all while requiring that the work day be reduced to six hours, with at least two hours of teaching at the expense of the employer. For jobs deemed dangerous, the Court recalled that it was not possible to end child labor without tackling the concomitant problem of poverty and suggested providing a job for an adult member of the family instead of a child. Failing that and taking into account the economic ability of the state, it is proposed to pay a minimum income to the family as long as the child remains in school.

Source: Special Rapporteur on the Right to Education, Annual Report, 56th Commission on Human Rights, § 64, E/CN.4/2000/6:
<http://www2.ohchr.org/english/issues/education/rapporteur/annual.htm>.

C. Education in Human Rights

As has just been noted, the international human rights instruments are unequivocal and require the government to integrate human rights education into all levels of teaching. The U.N. human rights monitoring mechanisms (Committee on Economic, Social and Cultural Rights, Special Rapporteur on the Right to Education, Committee on the Rights of the Child) continually remind governments of their obligations in this area. Yet it is still rare to see governments integrate human rights into school curricula. However, the United Nations has been mobilized for more than 20 years so that human rights may become a reality.

²⁴ *Committee on the Rights of the Child, Report on the eighth session (Geneva, 9-27 January 1995)*, §§ 290, 291 and Annex V, § A.3.a, CRC/C/38, 20 February 1995.

²⁵ *General Recommendation N° 3 (sixth session, 1987)*:
<http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom3>.

In fact, in 1988, on the occasion of the fortieth anniversary of the adoption of the *Universal Declaration of Human Rights*, the U.N. launched a world-wide human rights information campaign.²⁶ Based on information, education and sensitizing people, the campaign had as its slogan “Know human rights, know your rights”.²⁷ The purpose of the campaign was “to create a universal human rights culture in which it will be clearly determined that basic human rights are inherent in the human person, without distinction.”²⁸

The coordination of the activities of this campaign was entrusted to the U.N. Human Rights Center (the predecessor of the Office of the High Commissioner for Human Rights). Within this framework, many and varied activities were carried out (publications, seminars, demonstrations, training programs etc.).²⁹

Parallel to that, measures were underway to make human rights education operational. In 1983, the U.N. General Assembly asked UNESCO “to undertake rigorous efforts to spread the teaching of human rights in all education institutions, particularly primary and secondary schools, as well as in the training of relevant professional groups...”³⁰

In 1993, the World Conference on Human Rights declared “human rights education, training and public information essential for the promotion and achievement of stable and harmonious relations among communities and for fostering mutual understanding, tolerance and peace”.³¹ And it called on “all States and institutions to include human rights, humanitarian law, democracy and rule of law as subjects in the curricula of all learning institutions in formal and non-formal settings”.³²

In 1994, the United Nations General Assembly proclaimed the ten-year period beginning on 1 January 1995 the United Nations Decade for Human Rights Education.³³

Two years later, the General Assembly adopted the “Guidelines for national plans of action for human rights education”, which constitute for national governments a veritable blueprint of measures to be taken in this area (in general terms, of course).³⁴

In 2004, the General Assembly proclaimed the “World Program for Human Rights Education, structured in consecutive phases, scheduled to begin on 1 Janu-

²⁶ General Assembly Resolution 43/128, §7, 8 December 1988.

²⁷ Fact Sheet N° 8, *World Public Information Campaign for Human Rights* (under revision, hence temporarily unavailable in English; CETIM translation from the French).

²⁸ *Ibid.*, p. 2.

²⁹ For further information, v. <http://www2.ohchr.org/english/issues/education/training/index.htm>.

³⁰ General Assembly Resolution 38/57, § 4, 9 December 1983.

³¹ World Conference on Human Rights, *Vienna Declaration and Program of Action*, (Vienna, 14-25 June 1993): [http://www.unhcr.ch/huridocda/huridoca.nsf/\(symbol\)/a.conf.157.23.en](http://www.unhcr.ch/huridocda/huridoca.nsf/(symbol)/a.conf.157.23.en).

³² *Ibid.*, § 79.

³³ General Assembly Resolution 49/184, 23 December 1994, § 2.

³⁴ *United Nations Decade for Human Rights Education (1995-2004) and public information activities in the field of human rights, Report of the Secretary-General, Addendum, A/52/469/Add.1 and Corr.1*, 20 October 1997: [http://www.unhcr.ch/huridocda/huridoca.nsf/\(Symbol\)/A.52.469.Add.1%20and%20Corr.1.En?OpenDocument](http://www.unhcr.ch/huridocda/huridoca.nsf/(Symbol)/A.52.469.Add.1%20and%20Corr.1.En?OpenDocument).

ary 2005, in order to advance the implementation of human rights education programs in all sectors”.³⁵

All the efforts undertaken by the U.N. in this area have produced only modest results until now. In fact, in the *Report of the United Nations High Commissioner for Human Rights on the mid-term global evaluation of the progress made towards the achievement of the objectives of the United Nations Decade for Human Rights Education (1995-2004)*, presented to the 55th General Assembly (2000)³⁶, noted the following: in Africa, “there are no separate human rights subjects” (§ 31); in the Americas, “very few Governments in the region have developed national plans of action for human rights education” (§ 47); in Asia and the Pacific, “only two countries are reported to have adopted such plans” (§ 65); in Europe, “very few national plans of action for human rights education already exist, as such or as part of an overall human rights plan” (§ 86); and, generally, “human rights education in the pre-service and in-service training of professional groups, as reported, is very limited” (§ 96.h).

Among the main reasons for this failure, one can list governments’ lack of political will, a lack of resources or of specialists in this area, but also in some countries, political instability, corruption, chronic poverty and illiteracy.³⁷

The situation was hardly different at the end of the decade.³⁸ This is perhaps why the World Program for Human Rights Education, launched in 2005, is not limited in time.³⁹ It is perhaps also why the Human Rights Council asked its Advisory Committee⁴⁰ for “a draft declaration on human rights education and training”⁴¹ in order to have a specific instrument in this area.

The Advisory Committee immediately named a working group⁴² that has already produced a draft declaration on human rights education and training.⁴³ This text must be approved by the Advisory Committee during its January 2010 session and sent on to the Human Rights Council for consideration during its 13th session in March 2010.

It is to be hoped that this future declaration will be an effective tool in the hands of governments and their administrations so that they finally will espouse

³⁵ General Assembly Resolution A/RES/59/113A, 10 December 2004, §2.

³⁶ A/55/360, 7 September 2000: [http://www.unhchr.ch/huridocda/huridoca.nsf/AllSymbols/55DA934A2691B02AC125698400496605/\\$File/N0064037.pdf?OpenElement](http://www.unhchr.ch/huridocda/huridoca.nsf/AllSymbols/55DA934A2691B02AC125698400496605/$File/N0064037.pdf?OpenElement).

³⁷ Ibid.

³⁸ *United Nations Decade for Human Rights Education (1995-2004): Report on achievements and shortcomings of the Decade and on future United Nations activities in this area, Report of the High Commissioner*, 60th Commission on Human Rights, E/CN.4/2004/93, 25 February 2004: <http://www2.ohchr.org/english/issues/education/training/decade.htm>.

³⁹ General Assembly, *Revised draft plan of action for the first phase (2005-2007) of the World Program for Human Rights Education*, A/59/525/Rev.1, 2 March 2005.

⁴⁰ Subsidiary body of the Council comprising 18 independent experts.

⁴¹ Human Rights Council, Resolution 6/10, 28 September 2007, § 1.

⁴² Comprising Halima Embarek Warzazi (chair), Emmanuel Decaux (rapporteur), Hector Felipe Fix Fiero, Vladimir Kartashkin, Purification V. Quisumbing.

⁴³ Available only in French: <http://www2.ohchr.org/english/bodies/hrcouncil/advisorycommittee/session3/docs/A.HRC.AC.3.CRP.4.Corr.1.pdf>.

human rights education and training at all levels of schooling, for all teachers and for all generations.

D. Parents' or Guardians' Freedom to Choose Educational Institutions

Article 13.3 of the *International Covenant on Economic, Social and Cultural Rights* provides for parents and 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”.

It is obvious that this freedom is not absolute, since the institutions in question must correspond to state established criteria, which, in turn, must be in conformity with the framework describe in Chapter I of this brochure.

However, under pressure from neo-liberal policies and religious milieus, public money has been used to finance private schools, including private universities, contravening the right to education, which prohibits all discrimination and elitism. Education vouchers are often used in this way (v. Illustration).

In this regard the Committee on Economic, Social and Cultural Rights has stated:

*“Sharp disparities in spending policies that result in differing qualities of education for persons residing in different geographic locations may constitute discrimination under the Covenant.”*⁴⁴

As for freedom and religious education, they are dealt with in Article 18 of the *International Covenant on Civil and Political Rights* and in Articles 1 and 6 of the *Declaration on the Elimination of All Forms of Intolerance and of Discrimination*.

In the opinion of the Committee on Economic, Social and Cultural Rights, it is possible to provide “public school instruction in subjects such as the general history of religions and ethics if it is given in an unbiased and objective way, respectful of the freedoms of opinion, conscience and expression”.⁴⁵ On the other hand, for the Committee, “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”.⁴⁶

⁴⁴ Committee on Economic, Social and Cultural Rights, *General Comment N° 13*, § 35: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/ae1a0b126d068e868025683c003c8b3b?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/ae1a0b126d068e868025683c003c8b3b?Opendocument).

⁴⁵ *Ibid.*, § 28.

⁴⁶ *Ibid.*

Illustration n°2

Vouchers

Through voucher schemes, Governments either enable individual learners to make payments to the school of their choice or make payment directly to the chosen school. The amount of payments usually corresponds to the admission and/or tuition costs. The purpose of school vouchers is enhancement of consumer (in this case parental) choice and an assumed increase of this choice through competition amongst schools. An additional, albeit implicit reason, has been a wish to subject public schools to competition, for they are seen as having monopolized schooling. The distinction between public and private, state and non-state, fee-charging and free schools – and the diversity which they embody – is likely to be eroded if proposals for the introduction of vouchers gain ground; only schools able to attract learners and/or funding will be left.

The voucher scheme limits the role of governments to merely providing some funding to learners or schools to the detriment of the full range of the governments' human rights obligations, namely to ensure that schooling is available, accessible, acceptable and adaptable.

The Example of Puerto Rico

The voucher scheme introduced in 1993 in Puerto Rico was declared unconstitutional in the part which accorded to selected pupils a financial grant of \$1,500 for transfer from public to private school. The constitutional prohibition on diverting public funds to private schools goes back to the separation between church and State and was upheld, although the voucher scheme did not revolve around secular or religious schools. Rather, it was aimed at financially stimulating transfer from public to private schools (thus also transferring tax revenue to private schools) with the aim of increasing choice, contrary to the constitutional requirement that public funds be used solely for public schools.

The Example of Colombia

Controversies relating to vouchers routinely revolve around economic arguments, thus departing from the meaning and purpose of the right to education. Amongst the existing jurisprudence, the Supreme Court of Colombia has ably clarified why education should not be governed by economic arguments alone: "... although the Constitution protects economic activities, private initiative and competition as well as recognizing the right of private entities to establish schools, these liberties cannot negate nor can they diminish the nature of education as a public service and its social function; education is also and above all else a fundamental right; ... education - even if private - has to be provided in the conditions which guarantee equality of opportunity in access to education, and all forms of discrimination and 'elitism' are thus repugnant to its nature of public service with profound social contents; these, by virtue of excessive economic demands, automatically deny access to intellectually able persons solely because [of] their levels of income."

Source: Special Rapporteur on the Right to Education, Annual Report, 56th Commission on Human Rights, E/CN.4/2000/6, 1 February 2000, §§ 39-41:
<http://www2.ohchr.org/english/issues/education/rapporteur/annual.htm>.

E. Freedom of Physical or Legal Persons to Set Up and Run Schools

Article 13.4 of the *International Covenant on Economic, Social and Cultural Rights* deals with the creation of private schools in these terms:

“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.”

Like the freedom of parents or guardians to choose schools for their children, the freedom to set up and run private schools is not absolute and is subordinated to the objectives of the right to education.

It is worth noting in this regard that many not-for-profit schools also come under the category of private schools – even though sometimes financed, partially or entirely, by public funds – for the simple reason that they are not government run (religious affiliated schools, schools for the handicapped etc.).

It is also worth noting that private schools can be complementary to public schools (in the areas of sports, arts etc.) and can even allow the preservation of languages, cultures and religions in the case of countries and/or regions where dominant groups act in a discriminating way, indeed repressively, toward other peoples or communities that are also part of their country.

F. Non-Discrimination

Non-discrimination is one of the basic principles of human rights, knowing no exceptions. It is formalized in several international instruments. This principle also holds for the right to education. Thus, the *Universal Declaration of Human Rights* (Articles 26, 27), the *International Covenant on Economic Social and Cultural Rights* (Article 2.2), the *International Convention on the Elimination of All Forms of Racial Discrimination* (Articles 5,6), the *Convention on the Elimination of All Forms of Discrimination Against Women* (Article 10), the *Convention on the Rights of the Child* (Article 28) and *International Labor Organization Convention N° 169 on indigenous and tribal peoples* (Article 26) speak of this principle in a most specific way.

In this context, it is useful to mention two other specific conventions relative to the right to education: the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* and the *UNESCO Convention against Discrimination in Education*.

The *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* stipulates: “Each child of a migrant worker shall have the basic right of access to education on the basis of equality of treatment with nationals of the State concerned. Access to public pre-school educational institutions or schools shall not be refused or limited by reason of the

irregular situation with respect to stay or employment of either parent or by reason of the irregularity of the child's stay in the State of employment.” (Article 30)

For the UNESCO *Convention against Discrimination in Education*, “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 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 Convention⁴⁷, of establishing or maintaining separate educational systems or institutions for persons or groups of persons; or (d) Of inflicting on any person or group of persons conditions which are incompatible with the dignity of man.” (Article 1)

Although Article 5 of the *Convention* recognizes the right of minorities “to carry on their own educational activities, including the maintenance of schools” it warns that this right must not be exercised “in a manner... which prejudices national sovereignty”! Such a limitation is disputable, since many governments, as in the past, continue to use it to perpetuate discrimination against national minorities.

For the Committee on Economic, Social and Cultural Rights, the principle of non-discrimination admits of no ambiguity: “The prohibition against discrimination enshrined in article 2 (2) of the Covenant is subject to neither progressive realization nor the availability of resources; it applies fully and immediately to all aspects of education and encompasses all internationally prohibited grounds of discrimination.”⁴⁸

G. International Cooperation

International cooperation and aid are formally dealt with in the *United Nations Charter* (Articles 55, 56), in the *International Covenant on Economic, Social and Cultural Rights* (Article 2.1) and in the *Declaration on the Right to Development* (Articles 3, 4 in particular). By virtue of these instruments, governments that lack means or are unable to honor their human rights commitments to their citizens can rely on the support of other countries since countries are expected, individually and collectively, to realize these rights, including the right to education.

This support should not be limited to financial matters but should include all sorts of cooperation in the realm of education: exchanges of experiences, cultural exchanges, teacher and student training etc.

International organizations and agencies should, depending on their area of activity, contribute to the effective implementation of the right education.

⁴⁷ Article 2 does not consider as discrimination the setting up of separate schools for the two sexes or for linguistic or religious purposes, nor the founding of private schools that do not seek exclusion but complementarity.

⁴⁸ Committee on Economic, Social and Cultural Rights, *General Comment N° 13*, § 31:
[http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/ae1a0b126d068e868025683c003c8b3b?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/ae1a0b126d068e868025683c003c8b3b?Opendocument)

III. PERTINENT NORMS

A. At the International Level

It would be excessive to mention all the international norms dealing with education. Thus, we have decided to cite, besides those already mentioned, the other most important ones, which cover different aspects of the right to education and different categories of persons.

The *Convention Relating to the Status of Refugees*⁴⁹ stipulates:

“The Contracting States shall accord to refugees treatment as favorable as possible, and, in any event, not less favorable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.” (Article 2.2)

Besides its Article 10, which deals with non-discrimination in education, the *Convention on the Elimination of All Forms of Discrimination Against Women*⁵⁰ states:

“States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right: ... (d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency.”

In addition to Articles 28 and 29 mentioned above, several other articles of the *Convention on the Rights of the Child* deal with education. Article 14 pertains to the respect by the government of “the right of the child to freedom of thought, conscience and religion”.

Although Article 18 of this *Convention* formalizes the responsibility of parents to raise and assure the development of their children in the “best interests” of the children, it requires the government to help parents or the legal guardians of children to assume their responsibility (in particular setting up of institutions and services).

Article 30 states: “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 practice his or her own religion, or to use his or her own language.”

⁴⁹ Adopted 28 July 1951, entered into force 22 April 1954, ratified by 144 countries.

⁵⁰ Adopted 18 December 1979, entered into force 3 September 1981, ratified by 186 countries.

The *Convention on the Rights of Persons with Disabilities*⁵¹ states, inter alia, “States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and life long learning...” (Article 24)

In the *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*⁵², countries recognize the right of minorities (national and ethnic, religious and linguistic) “to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination”. (Article 2.1) Moreover, by virtue of this declaration, countries commit themselves, inter alia, to take measures “to create favorable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs... and learn their mother tongue or to have instruction in their mother tongue”. (Articles 4.2, 4.3)

The *Declaration on the Rights of Indigenous Peoples*⁵³ recognizes the right of indigenous peoples to self-determination. By virtue of this right, “they freely determine their political status and freely pursue their economic, social and cultural development” (Article 3). They also “have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions”. (Article 4) This declaration moreover provides that “States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language”. (Article 14.3)

The *Declaration on Social Progress and Development*⁵⁴ stipulates: “Social progress and development shall aim at the continuous raising of the material and spiritual standards of living of all members of society, with respect for and in compliance with human rights and fundamental freedoms, through the attainment of the following main goals: ... (e) The eradication of illiteracy and the assurance of the right to universal access to culture, to free compulsory education at the elementary level and to free education at all levels; the raising of the general level of life-long education.” (Part II, Preamble and Article 4.e)

The *Declaration* stipulates further that “the achievement of the objectives of social progress and development requires the mobilization of the necessary resources by national and international action, with particular attention to such means and methods as: ... the adoption of measures to accelerate the extension and improvement of general, vocational and technical education and of training and retraining, which should be provided free at all levels; raising the general level of education; development and expansion of national information media, and their rational and full use towards continuing education of the whole population and

⁵¹ Adopted 13 December, entered into force 3 May 2008.

⁵² Adopted by the U.N. General Assembly 18 October 1992, Resolution 47/135.

⁵³ Adopted by the U.N. General Assembly 2 October 2008, Resolution 61/295.

⁵⁴ Voted by the U.N. General Assembly 11 December 1969, Resolution 2542 (XXIV).

towards encouraging its participation in social development activities; the constructive use of leisure, particularly that of children and adolescents”. (Part III, Preamble, Article 21.b and c)

The UNESCO *Convention on Technical and Vocational Education*⁵⁵ recognizes that “technical and vocational education meets the global aim of developing both individuals and societies” (Preamble). It further recognizes, in particular, that “equal employment opportunities should be offered, without discrimination, to teachers and other specialized staff in technical and vocational education”, (Article 2.3) and that international cooperation among countries should “encourage collection and dissemination of information concerning innovations, ideas and experience in technical and vocational education and to participate actively in international exchanges dealing with study and teacher-training programs, methods equipment standards and textbooks in the field of technical and vocational education... encourage international exchanges of teachers, administrators and other specialists in technical and vocational education; give students from other countries, particularly from developing countries, the opportunity to receive technical and vocational education in their institutions, with a view, in particular, to facilitating the study, acquisition, adaptation, transfer and application of technology”. (Article 6.a, d, e)

By the UNESCO *Recommendation on the Development of Adult Education*⁵⁶ governments are “convinced that adult education as an integral part of life-long education can contribute decisively to economic and cultural development, social progress and world peace as well as to the, development of educational systems”.

This recommendation calls upon each country to “recognize adult education as a necessary and specific component of its education system and as a permanent element in its social, cultural and economic development policy; it should, consequently, promote the creation of structures, the preparation and implementation of programs and the application of educational methods which meet the needs and aspirations of all categories of adults, without restriction on grounds of sex, race, geographical origin, age, social status, opinion, belief or prior educational standard”. (Article 4.a)

The UNESCO *Recommendation concerning the Status of Teachers*⁵⁷ deals with the training of teachers, their continuing education, advancement and promotion in employment and career, salaries and social security. It also deals with the rights and duties of teachers, professional freedom and conditions favorable to effective teaching.

Several conventions and recommendation of the ILO deal with education and/or professional training.

ILO *Convention N° 140* on paid educational leave⁵⁸ provides for paid educational leave for workers for the purpose of “training at any level; general, social and civic education; trade union education”. (Article 2)

⁵⁵ Adopted 10 November 1989, entered into force 29 August 1991, ratified by 17 countries.

⁵⁶ Adopted 26 November 1976.

⁵⁷ Adopted 5 October 1966.

⁵⁸ Adopted 24 June 1974, entered into force 23 September 1976, ratified by 34 countries.

ILO *Convention N° 142* on human resources development requires states parties to “adopt and develop comprehensive and coordinated policies and programs of vocational guidance and vocational training, closely linked with employment, in particular through public employment services”. (Article 1)

ILO *Convention N° 88* on employment service⁵⁹ stipulates that employment service should help unemployed workers obtain “vocational guidance or vocational training or retraining”. (Article 6.a.i)

Most of the declarations adopted during the numerous U.N. summit conferences also commit the member states to work for the realization of the right to education.

The *World Conference on Human Rights*⁶⁰ reaffirmed: “States are duty-bound, as stipulated in the *Universal Declaration of Human Rights* and the *International Covenant on Economic, Social and Cultural Rights* and in other international human rights instruments, to ensure that education is aimed at strengthening the respect of human rights and fundamental freedoms... Human rights education should include peace, democracy, development and social justice, as set forth in international and regional human rights instruments, in order to achieve common understanding and awareness with a view to strengthening universal commitment to human rights.”⁶¹

The *World Conference on Education for All*⁶² asserted that “education is a fundamental right for all people, women and men, of all ages, throughout our world and established as primary goal “universal access to, and completion of, primary education (or whatever higher level of education is considered as ‘basic’) by the year 2000”.⁶³

This commitment has not been kept and has been postponed to...2015.⁶⁴

The countries represented at the *World Summit for Social Development*⁶⁵ set for a goal universal primary education in all countries before the year 2015⁶⁶ and committed themselves to “promoting and attaining the goals of universal and equitable access to quality education”⁶⁷ They also undertook to “ensure that people living in poverty have access to productive resources, including credit, land, education and training, technology, knowledge and information, as well as to public services, and participate in decision-making on a policy and regulatory

⁵⁹ Adopted 9 July 1948, entered into force 10 August 1950, ratified by 86 countries.

⁶⁰ Held in Vienna, 14-25 June 1993.

⁶¹ *Vienna Declaration and Program of Action*, Part 1, § 33, Part 2, § 80:
[http://www.unhchr.ch/huridocda/huridoca.nsf/\(symbol\)/a.conf.157.23.en](http://www.unhchr.ch/huridocda/huridoca.nsf/(symbol)/a.conf.157.23.en).

⁶² Held in Jomtien, Thailand, 5 to 9 March 1990.

⁶³ UNESCO, Preamble (§ 7) and Framework for Action 3 § 8.2.

⁶⁴ It is not certain that this postponed commitment will be kept either as there has been no change in the orientation of economic policies that might reduce poverty and inequality.

⁶⁵ Held in Copenhagen, 6 to 12 March 1995.

⁶⁶ *Report of the World Summit for Social Development*, Annex II, *Program of Action*, § 36.a:
<http://www.un.org/documents/ga/conf166/aconf166-9.htm>.

⁶⁷ *Ibid.*, Annex I, *Copenhagen Declaration on Social Development*, Commitment 6, preamble.

environment that would enable them to benefit from expanding employment and economic opportunities”.⁶⁸

By adopting the “Dakar Framework for Action”, the country delegates gathered at the *World Forum on Education*⁶⁹ collectively committed themselves “to the attainment of the following goals...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”.⁷⁰

The second of the *Millennium Development Goals*⁷¹ aims to “ensure that, by 2015, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling”.⁷²

Everything indicates that this deadline will not be met, given the failure (rather the lack of a real political commitment) in the fight against poverty, which is the primary Millennium Goal, and the multiplicity of current crises (food, environmental, economical, social, political...).

B. At the Regional Level

1. Europe

According the first additional protocol of the *European Convention on Human Rights, Enforcement of certain Rights and Freedoms not included in Section I of the Convention* (Paris, 20 March 1952)⁷³: “No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religions and philosophical convictions.” (Article 2)

Under the *European Social Charter* (1961, revised in 1996)⁷⁴, the states parties undertake “to provide to children and young persons a free primary and secondary education as well as to encourage regular attendance at schools”. (Article 17.2) They also commit themselves “to take the necessary measures to provide persons with disabilities with guidance, education and vocational training in the framework of general schemes wherever possible or, where this is not possible, through specialized bodies, public or private”. (Article 15.1)

The *European Charter for Regional or Minority Languages* (1992)⁷⁵ provides for, inter alia, teaching in these languages at all levels of education (pre-school, primary, secondary, tertiary, technical and professional). (Article 8)

⁶⁸ Ibid., Commitment 2, § c.

⁶⁹ Held in Dakar, Senegal, 26-28 April 2000.

⁷⁰ § 7, ii: http://www.unesco.org/education/efa/ed_for_all/dakfram_eng.shtml.

⁷¹ Adopted by the U.N. General Assembly, 8 September 2000.

⁷² <http://www.un.org/millenniumgoals/education.shtml>.

⁷³ <http://www.hri.org/docs/ECHR50.html#P1>.

⁷⁴ <http://www.coe.int/t/dghl/monitoring/socialcharter/Presentation/ESCRBooklet/English.pdf>.

⁷⁵ <http://conventions.coe.int/Treaty/EN/Treaties/Html/148.htm>.

By adopting the *Framework Convention for the Protection of National Minorities* (1995)⁷⁶, the European countries undertook to, inter alia, “recognize that every person belonging to a national minority has the right to use freely and without interference his or her minority language, in private and in public, orally and in writing”, to learn that language and to set up and to manage private educational and training establishments. They also committed themselves to take measures to, inter alia, provide adequate opportunities for teacher training and access to textbooks and foster knowledge of the culture, history, language and religion of their national minorities and of the majority. (Articles 10 to 14)

2. Africa

Article 17 of the *African [Banjul] Charter on Human and Peoples' Rights*⁷⁷ is worded as follows: “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.”

The *African Charter on the Rights and Welfare of the Child* (1990)⁷⁸ recognizes the right of all children to education (Article 11) and requires the states parties, taking into account their means and their national situation, to take all appropriate measures “(a) to assist parents and other persons responsible for the child and in case of need provide material assistance and support programs particularly with regard to nutrition, health, education, clothing and housing; (b) to assist parents and others responsible for the child in the performance of child-rearing and ensure the development of institutions responsible for providing care of children; and (c) to ensure that the children of working parents are provided with care services and facilities”.(Article 20.2)

The *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa* (2003)⁷⁹ requires the states parties to “take all appropriate measures to: eliminate all forms of discrimination against women and guarantee equal opportunity and access in the sphere of education and training”. (Article 12.1.a)

3. The Americas

Several articles in the *Charter of the Organization of American States* (1948, revised for the last time in 1983)⁸⁰ are devoted to the right to education and to education per se.

The states parties to the *Charter* undertake to “ensure the effective exercise of the right to education, on the following bases: a) elementary education, compulsory for children of school age, shall also be offered to all others who can benefit

⁷⁶ <http://conventions.coe.int/Treaty/EN/Treaties/Html/157.htm>.

⁷⁷ <http://www1.umn.edu/humanrts/instree/z1afchar.htm>.

⁷⁸ http://www.achpr.org/english/_info/child_en.html.

⁷⁹ http://www.achpr.org/english/_info/women_en.html.

⁸⁰ http://www.oas.org/dil/treaties_A-41_Charter_of_the_Organization_of_American_States.htm.

from it; when provided by the State it shall be without charge; b) middle-level education shall be extended progressively to as much of the population as possible, with a view to social improvement; it shall be diversified in such a way that it meets the development needs of each country without prejudice to providing a general education; and c) higher education shall be available to all, provided that, in order to maintain its high level, the corresponding regulatory or academic standards are met.” (Article 49)

Moreover, the states parties “will give special attention to the eradication of illiteracy, will strengthen adult and vocational education systems, and will ensure that the benefits of culture will be available to the entire population. They will promote the use of all information media to fulfill these aims”. (Article 50)

In accordance with the provisions of the *Charter*: “The education of peoples should be directed toward justice, freedom, and peace” (Article 3.n), and governments “will give primary importance within their development plans to the encouragement of education, science, technology, and culture, oriented toward the overall improvement of the individual, and as a foundation for democracy, social justice, and progress”. (Article 47)

The states parties to the *American Convention on Human Rights* (1969) “undertake to adopt measures, both internally and through international cooperation, especially those of an economic and technical nature, with a view to achieving progressively, by legislation or other appropriate means, the full realization of the rights implicit in the economic, social, educational, scientific, and cultural standards set forth in the Charter of the Organization of American States as amended by the Protocol of Buenos Aires”. (Article 26)

Article 13 of the *Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights* “*Protocol of San Salvador*”⁸¹ copies almost word for word Article 13 of the *International Covenant on Economic, Social and Cultural Rights* (already cited) devoted to the right to education.

⁸¹ <http://www.oas.org/juridico/English/Treaties/a-52.html>.

IV. OBSTACLES TO THE REALIZATION OF THE RIGHT TO EDUCATION

The obstacles to the realization of the right to education are numerous. Among the greatest, one might cite the lack of infrastructure, of teachers, of school material etc. There is also, however, the choice of a teaching language (other than the native language of the children being taught or to be taught), school fees and other costs (even at the primary level) that parents must pay, dropping out of school and cultural and religious traditions preventing girls from attending school.

This said, at the origin of these obstacles one finds the following underlying problems: A. inequality/poverty; B. lack of means; C. discrimination/segregation; D. privatization; E. insufficiency of cooperation and international solidarity.

A. Inequality/Poverty

All objective studies undertaken indicate that during the past three decades inequality and poverty between countries and within countries has increased in an alarming way. Some figures: 1.2 billion persons suffer from hunger⁸², a billion others are deprived of potable water; 2.5 billion have no sanitary facilities⁸³; more than a billion people are without adequate housing⁸⁴; more than 200 million are unemployed⁸⁵ and as many are child laborers. The prospects are grim, given the multiple crises we are experiencing (food, economic, environmental, among others).

In fact, in its last annual report, *Living up to Commitments*, the UNDP evaluated the above mentioned crises in terms of the drop in foreign funding, the rise in unemployment, the reduction of aid and investment, the risk of large-scale malnutrition, the risk of civil turmoil and riots, the rise in prices and the cost of living, the de-schooling of children obliged to leave school in order to work, the drop in agricultural production, the increased exposure to natural catastrophes related to the climate, the increased incidence of sickness in warm climates.⁸⁶

In such a context, it is hardly surprising to see hundreds of millions of more illiterate persons, school drop-outs or persons deprived of training who end up devoting all their energy to simply surviving.

⁸² FAO press release, 19 June 2009: <http://www.fao.org> (direct link is not available!)

⁸³ World Health Organization, *Celebrating water for life: The International Decade for Action 2005-2015*: http://www.who.int/water_sanitation_health/2005advocguide/en/index.html.

⁸⁴ V. the CETIM brochure on the right to adequate housing: http://www.cetim.ch/en/publications_details.php?pid=151.

⁸⁵ The International Labor Office estimates 239 million unemployed (ILO press release, 28 May 2009): http://www.ilo.org/global/About_the_ILO/Media_and_public_information/Press_releases/lang--en/WCMS_106525/index.htm.

⁸⁶ UNDP Annual Report: <http://www.undp.org/publications/annualreport2009/index.shtml>.

B. Lack of Means

Many countries, in the South especially, lack the means and the ability (infrastructure, school material, qualified persons and finances, in particular) to realize the right to education for all. One must, of course, distinguish the lack of political will from the lack of means. But we know very well that certain countries simply do not have enough resources or that they have had to use a significant portion of their resources for the past three decades to pay the service on their debt under the constraint of the of structural adjustment policies imposed by the World Bank and the International Monetary Fund.⁸⁷ For example, the following countries have had to hand over a significant percentage of their budgets between 1992 and 1997: Tanzania (47%), Kenya and Zambia (40%), Cameroon (36%) and Ivory Coast (35%).⁸⁸ In this context, the choice of priorities becomes tragic.

In this regard, there is also the brain drain. Qualified persons, including teachers, trained in the country or not, are very often seduced by the attractive offers of the countries of the North. In this regard, the OECD notes that foreign specialists are “more and more sought after” by its member states: “These evolutions concern most particularly the jobs in the information technology and communication sectors as well as in the health and education sectors. Several countries have in fact set up programs to attract computer specialists (Germany), doctors (United Kingdom) or foreign university professors (United States). These programs also sometimes concern professions of intermediate qualification such as computer and electronic technicians, nurses or secondary school teachers.”⁸⁹

Regarding the political will of governments, the case of Cuba is exemplary. Although considered one of the poorest countries of Latin America and although a systematic victim of natural catastrophes (not to mention the economic embargo imposed by the United States⁹⁰), education in this country constitutes “one of the fundamental bases of the development project and one of the means of reaching the goal of equality. The educational system has as its ultimate goal questioning the capitalist division of labor along with its concomitant social divisions. The principles that orient Cuba’s education policies are universalism and the free and public character of education. Their application has allowed the building of one of the best educational systems in the world, both in terms of access and terms of quality.”⁹¹

⁸⁷ Regarding the foreign of the countries of the South v.: CETIM, *Debt and human rights and Let's launch an enquiry into the debt! A manual on how to organize audits on Third World debts* : <http://www.cetim.ch/en/publications.php>.

⁸⁸ CADTM, *The Debt in Figures*: <http://www.cadtm.org/The-Debt-in-figures>.

⁸⁹ OECD, *Trends in International Migration 2003*, Part I, “Main Trends in International Migration, C. An Overview of Migration Policies”, CETIM translation from the French version (“Tendances des migrations internationales”, p. 69).

⁹⁰ V. inter alia the CETIM intervention at the 2003 Sub-Commission for the Promotion and the Protection of Human Rights: http://www.cetim.ch/en/interventions_details.php?iid=202

⁹¹ Philippe Bayart, Rémy Herrera, Eric Mujlot, “L’Education dans la révolution: le système éducatif cubain depuis la crise des années”, in *Revue internationale d’éducation*, N° 48, October 2008, Paris (French only; CETIM translation).

Illustration n° 3

“Selected Immigration”

Germany

Announced on 24 February, confirmed on 13 March 2000, the decision of Gerhard Schroeder (German chancellor) to grant several thousand work visas (30,000, then revised downward to 20,000) to computer specialists from India and eastern Europe raised a vast debate in Germany – a country with a quarter of a million unemployed. For the chancellor, this initiative was intended to respond to the lack of qualified labor in the new technology industry, which, in the computer sector alone, had 75,000 jobs to fill, but it came up against several prejudices regarding unemployment and the adapting of German workers to globalization and immigration.

Mr Schroeder reckoned that the arrival of these new immigrants would not cost a single job for the Germans – on the contrary. “We have calculated,” he stated, “that each of these highly qualified workers will bring in his wake the creation of three to five new jobs, in other words nearly 300,000 new jobs by 2003, especially for programmers. These are figures that one must take into consideration. I do not want Germany to miss the enormous boom in this industry.” It was an perspective that ran contrary to the left’s traditional ideas on the sharing of work. By seeking to bring in foreigners for these highly qualified jobs, Mr Schroeder came up against another taboo, that of the superiority of the German worker. Perennially persuaded that the high qualifications of its work force would indefinitely let it perpetuate a system with high wages and a short working life, Germany was not prepared to hear that the recourse to foreign workers would create jobs – less qualified – for Germans!

United States

As for the United States, according to *India Abroad*, nearly 35,000 Indians are working in the computer sector in Silicon Valley in California.

Sources: Arnaud Leparmentier, “L’Allemagne face aux tabous de l’immigration”, *Le Monde*, 22 March 2000 (French only);

Ethirajan Anbasaran, “Les Etudiants indiens en quête de l’Eldorado” in *Le Courrier de l’UNESCO*, www.unesco.org/courier/1998_09/fr/dossier/txt33.htm (French only).

C. Discrimination/Segregation

The international human rights instruments are quite clear about the principle of non-discrimination (v. Chapter II.E). Although these instruments have been ratified by the overwhelming majority of countries, discriminatory practices are to be found, in varying degrees, just about everywhere in the world.

Discrimination in education can take the form of ethnic, religious or linguistic discrimination, but it can also be involve gender (against women and girls, especially), social classes (the poor) and migrant workers. This discrimination is later perpetuated in the work place and in all social and economic relations.

Currently, out of 77 million children who don't go to school, 55% are girls and two-thirds of 781 million illiterate adults are women.⁹²

Regarding the language of instruction, the Special Rapporteur on the Right to Education estimates that “90 per cent of learners in Africa are not completely familiar with the major languages of instruction and publishing, which also happen to be the colonial languages”.⁹³

It also happens that some countries want to assimilate – at any price – the peoples under their domination (indigenous peoples, Kurds, Roma of Europe et al.) by forcing them to adopt the dominant language and the culture, with a view to “creating” a single, “homogenous” people. A U.N. expert has pointed out that, as its name indicates, “assimilation is a process of cultural loss and substitution”.⁹⁴

For this expert: “There is discrimination in education when a historical interpretation is given in one country according to which minorities have played a secondary or even negative role. There is discrimination when minority languages do not have adequate status in schooling. There is discrimination – and this is the case in most countries – when the relations between majorities and minorities in education are seen through the prism of the “civilization and barbarity” duality. There is cultural discrimination in the sense that the contents of the educational material do not include the substance of the minority culture or depreciate it or treat it pejoratively.”⁹⁵

D. Privatization

As is the case in other sectors, neo-liberal policies promoted by the international financial and trade institutions commodify the education sector. These institutions would “transform education and research into sources of immediate profit”.⁹⁶ The WTO agreements (GATS⁹⁷ and TRIPS⁹⁸) constitute the spearhead of this commodification. To this can be added the efforts of intergovernmental organizations such as the European Commission and the OECD, which for years have been pushing in the direction of an exclusive consideration of business and employer needs and the financing of higher education by the student.⁹⁹

⁹² <http://www.unesco.org/en/efa-international-coordination/the-efa-movement/10-things-to-know-about-efa/>

⁹³ Annual Report, E/CN.4/2000/6, 1 February 2000, 56th Commission on Human Rights, § 28: <http://www2.ohchr.org/english/issues/education/rapporteur/annual.htm>.

⁹⁴ José Bengoa, *Education and Minorities*, report to the second session of the Working Group on Minorities Sub-Commission on the Prevention of Discrimination and Protection of Minorities, E/CN.4/Sub.2/AC.5/1996/WP.3, 22 March 1996, § 6.

⁹⁵ *Ibid.*, § 18.

⁹⁶ Appeal for mobilization to “save education and research” launched by the association Attac in France, October 2008 (French only; CETIM translation).

⁹⁷ General Agreement on Trade in Services: http://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm6_e.htm.

⁹⁸ Trade Related Aspects of Intellectual Property Rights: http://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm7_e.htm.

⁹⁹ CETRI, *L'Offensive des marchés sur l'université*, Alternative Sud, Vol. X (2003) 3 (French only).

The convergence of these processes is such that today we see the privatization of universities everywhere in the world (v. Illustration N° 4) and/or targeted financing of university research programs by corporations – in the interest, of course, of the corporations. The education business seems to be in a boom. “In Australia and New Zealand, education services rank respectively third and fourth among export services, and fourteenth and fifteenth among all exports.”¹⁰⁰ In 2001, Australia took in US\$ 2.155 billion, the United Kingdom US\$ 3.758 billion and the United States US\$ 10.280 billion for their exports in this area, to cite only the three big education service exporters.¹⁰¹ It is obvious that the \$ 2,000 billion that is estimated to be spent each year on education makes the temple money men salivate.¹⁰²

As for student financing of higher education, if the annual tuition fees, variable from one country to another, have tended to homogenization, the scholarship system has at the same time been transformed into a system of bank loans. For example, in New Zealand, 80% of the overall expenses of higher education are paid for by a system of loans that are paid back in monthly installments.¹⁰³

Although higher education remains the privileged target of privatization, the other levels are not to be spared. The World Bank does not encourage free primary education since its loans “must be repaid”.¹⁰⁴ The same can be said about the proliferation of the voucher system and competition among schools, mentioned above, which only increase inequality in education.

Although free primary schooling (and progressively at all levels) is a formal principle in all international human rights instruments, according to data from UNESCO, the costs of schooling at the primary level remain “a major obstacle to the universalization of access to education” and “are still charged in 89 countries out of the 103 studied”.¹⁰⁵

Even when there are, officially, no school fees at the primary level, in many countries, various fees (school building upkeep, financial contributions for the school or the teachers etc.) are required of the parents. In this regard, one should also keep in mind the “annexed” expenses borne by the parents (books, uniforms, meals, transport etc.), which are never calculated in the national budgets and are so many obstacles to education for children.¹⁰⁶

The international financial institutions impose on the countries of the South budget cuts in social spending, including education. This has been verified by

¹⁰⁰ Kurt Larsen and Stéphan Vincent-Lancrin “Le commerce international de services d’éducation : est-il bon? est-il méchant?” *Politiques et gestion de l’enseignement supérieur*, OCDE, 2002, Vol. 14, n° 3, p. 17: www.cairn.info/article.php?ID_ARTICLE=POL_143_0009 (French only ; CETIM translation).

¹⁰¹ *Ibid.*, p. 21, table 5.

¹⁰² CETRI, *L’Offensive des marchés sur l’université*, Alternative Sud, Vol. X (2003) 3 (French only).

¹⁰³ *Ibid.*

¹⁰⁴ Special Rapporteur on the right to education, Annual Report, 56th Commission on Human Rights, E/CN.4/2000/6, 1 February 2000, § 26: <http://www2.ohchr.org/english/issues/education/rapporteur/annual.htm>.

¹⁰⁵ UNESCO, *Ten things you need to know about Education for All (EFA)*: <http://www.unesco.org/n/efa-international-coordination/the-efa-movement/10-things-to-know-about-efa/>.

¹⁰⁶ V. inter alia Special Rapporteur on the Right to Education, Annual reports: 55th Commission on Human Rights, E/CN.4/1999/49, 13 January 1999; 60th Commission, E/CN.4/2004/45, 15 January 2004: <http://www2.ohchr.org/english/issues/education/rapporteur/annual.htm>.

UNESCO, which notes that “the share of national income devoted to education decreased in 40 of the 105 countries with data between 1999 and 2006”.¹⁰⁷

These privatization policies are diametrically opposite the spirit and the letter of the international human rights treaties, which, nonetheless, have been ratified by the overwhelming majority of countries. The mechanisms overseeing compliance of these treaties have recalled this more than once. For example, the Human Rights Committee estimates that a government “cannot be deemed to act in a discriminatory fashion if it does not provide the same level of subsidy for the two [public and private] types of establishment, when the private system is not subject to State supervision”.¹⁰⁸ The European Human Rights Commission has always affirmed that the government is not obliged to subsidize private institutions, but that it has the right to regulate and control them as it is incumbent upon it to see that the entire educational system conforms to prescribed norms.¹⁰⁹

As for the perverse use of the protection of intellectual property advocated by the WTO¹¹⁰, the Special Rapporteur on the Right to Education has expressed his fears in these terms: “Protection of intellectual property rights threatens to transform knowledge from a public good into a commodity accessible only to those with purchasing power.”¹¹¹

The promotion of the current Western model (commodification of schooling) disturbs numerous observers and specialists. The drafters of UNESCO’s *EFA Global Monitoring Report 2009* express this quite pointedly: “At the same time, donors have no monopoly on insights into what constitutes good governance for education. There is a risk that policies reflecting particular currents of education policy debates in rich countries – such as shifting powers from local authorities to schools, expansion of voucher programs, performance-related pay for teachers, and an increased role for private sector provision – will become routinely promoted. The evidence for their relevance in poor countries is not always strong.”¹¹²

To conclude this chapter, we can affirm, with the Fédération syndicale unitaire (FSU, the French teachers union), that “education is not a trivial product that can be sold in a market. It is one of the essential fundamentals of citizenship, of democratic life and of social cohesion. Free education, the equality of all before access to knowledge and democracy are part of the values of progress on which the public service of education should continue to be built.”¹¹³

¹⁰⁷ <http://www.unesco.org/en/efa-international-coordination/funding/national-budgets/>.

¹⁰⁸ Special Rapporteur on the Right to Education, Annual Report, 56th Commission on Human Rights, E/CN.4/2000/6, 1 February 2000, § 36:

<http://www2.ohchr.org/english/issues/education/rapporteur/annual.htm>.

¹⁰⁹ *Ibid.*, § 37.

¹¹⁰ V. the CETIM brochure on the right to health:

http://www.cetim.ch/en/publications_details.php?pid=136.

¹¹¹ Special Rapporteur on the right to education, Annual Report, 59th Commission on Human Rights, 21 January 2003, E/CN.4/2003/9, § 20:

<http://www2.ohchr.org/english/issues/education/rapporteur/annual.htm>.

¹¹² UNESCO, EFA Global Monitoring Report 2009: Overcoming inequality: why governance matters, p. 233: <http://unesdoc.unesco.org/images/0017/001776/177683e.pdf>.

¹¹³ Supplément à *Nouveaux Regards*, the review of the FSU Research Institute, N° 15, Autumn 2001: http://institut.fsu.fr/omc/02_01_zenith_omc.pdf (French only; CETIM translation).

Illustration n°4

The Example of Guatemala

Guatemala has ratified the main international human rights instruments. Its constitution enshrines the preeminence of the international conventions in this area over its national legislation (Article 46) as well as education that is free in both primary school and the first level of secondary school for children between 6 and 13 years of age (Article 74). However, the Guatemala educational system is one of the worst in Latin America, and privatization has reached a disturbing level.

This country has nine private universities and a single public one. Only 72.5% of children registered for school finish primary school, and a mere 34.7% of them register for secondary school. According to official data, 49% of schools do not have potable water, 36% do not have electricity, 8% have a roof in need of repair, 5% have walls in disrepair and 8% of the floors are in also in disrepair. Only 15% of the institutions in the public sector are of the necessary quality to allow school work to be done.

It is worth noting that between 2001 and 2007, Guatemala devoted only 2.7% of its budget to education, as opposed to the 6% minimum recommended by UNESCO.

Source: Report of the mission of the Special Rapporteur on the right to education to Guatemala: A/HRC/11/8/Add.3, (in Spanish) 28 April 2009, http://www2.ohchr.org/english/bodies/hrcouncil/docs/11session/A.HRC.11.8.Add.3_sp.pdf

E. Insufficiency of Cooperation and International Solidarity

As in many other areas of human rights, the realization of the right to education necessitates international cooperation and solidarity. Yet one finds not only chronic insufficiency of aid in this domain (dating from already well before the current economic and financial crises) but also its manipulation where it does exist.

In 2005-2006, aid to education was US\$ 4.4 billion whereas “on conservative estimates, US\$11 billion of aid is needed annually in low income countries to achieve three of the targets set in the Dakar Framework for Action¹¹⁴: universal primary education (UPE), early childhood programs and literacy”.¹¹⁵ Nonetheless, “at the 2000 World Education Forum in Dakar, rich countries pledged that no credible national plan would be allowed to fail for want of finance”.¹¹⁶

It should be noted that this aid comes essentially from public funds, and it is devoted for the most part to higher education. For example, in 2006, France was the biggest donor with US\$ 1.9 billion for aid to education. Out of this amount, only \$308 was earmarked for basic education, going to countries designated “very poor”, whereas the rest was spent as subsidies for foreign students (especially

¹¹⁴ World Education Forum, Dakar 2000.

¹¹⁵ UNESCO, EFA Global Monitoring Report 2009: Overcoming inequality: why governance matters, p. 204: <http://unesdoc.unesco.org/images/0017/001776/177683e.pdf>.

¹¹⁶ *Ibid.*, p. 203.

from developing countries with moderate income) who attended French universities.¹¹⁷ In 1996, some 100,000 students benefited from French aid to education, and France employed 8,000 teachers in the countries of Africa designated as French-speaking.¹¹⁸

Ironically, it is a French source that confirms that this sort of aid has nothing to do with philanthropy. In fact, according to a document from the French Senate dealing with investments in Australia and Asia, the France's openness to Asia "is not limited to mere economic aspects: Australia also invests in the training of future Asian elites. It accepts at its universities more than 170,000 Asiatic students coming to make the acquaintance of the market economy and new technologies. Once they have finished their training, these students return home, where they become natural contacts for the Australian presence in Asia."¹¹⁹

The Development Assistance Committee of the OECD also favors higher education and "emerging" countries. Out of US\$ 600 million devoted to education in 1999, less than 2% was devoted to primary education, and the main beneficiaries of this aid were Israel, South Korea, Thailand and Turkey.¹²⁰

Within this framework, it should be noted that aid labeled "for development" does not concern only monetary loans but can take multiple forms (donations or guaranteed sales of various products from the donor countries, technical cooperation including military cooperation etc.) and that it generally comes with strings attached. Thus, this aid should be included with unfair trade practices (price-setting by countries of the North of natural resources in the countries of the South for example) and the debt of the countries of the South, which aggravate the poverty and inequalities of these countries. In this regard, although the total aid to development to the countries of the South (including debt forgiveness) was US\$ 98 billion in 2007, these countries paid back (between 1985 and 2007) US\$ 759 billion to their creditors, 102 times what they owed in 1970, while since then their debt has been multiplied by 48.¹²¹

¹¹⁷ *Ibid.*, pp. 214-215.

¹¹⁸ Special Rapporteur on the Right to Education, Annual Report, 56th Commission on Human Rights, E/CN.4/2000/6, 1 February 2000, § 16:
<http://www2.ohchr.org/english/issues/education/rapporteur/annual.htm>.

¹¹⁹ *L'Asie: une priorité pour l'Australie*, www.senat.fr/ga/ga-031/ga-0316.html (French only; CETIM translation).

¹²⁰ OECD, *Cooperation for Development*, 1999.

¹²¹ CADTM, *The Debt in Figures*: <http://www.cadtm.org/The-Debt-in-figures>.

V. GOVERNMENTS' OBLIGATIONS AND IMPLEMENTATION AT THE NATIONAL LEVEL

A. Governments' Obligations

The right to education is a human right recognized in many international, regional and national instruments (v. Chapters I, II, and below). By virtue of this, it imposes obligations on governments. Like other human rights, the right to education demands that governments respect it, protect it and fulfill it. This last obligation also comprises two further obligations: "both an obligation to facilitate and an obligation to provide".¹²²

As we have already dealt in detail with these rights in earlier brochures¹²³, we shall limit ourselves to mentioning the three levels of obligations in question, certain specific obligations of governments regarding the right to education and governments' failings in their obligations, as identified by the Committee on Economic, Social and Cultural Rights.

1. The Three Levels of Governments' Obligations

"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 fulfill (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 fulfill (provide) the right to education. As a general rule, States parties are obliged to fulfill (provide) a specific right in the *Covenant* when an individual or group is unable, for reasons beyond their control, to realize the right themselves by the means at their disposal. However, the extent of this obligation is always subject to the text of the *Covenant*."¹²⁴

2. The Specific Obligations of Governments Regarding Human Rights Education

As we have already emphasized in the previous chapters, the *International Covenant on Economic, Social and Cultural Rights* is unequivocal in asserting that the right to education must result in governments providing free education at all

¹²² Committee on Economic, Social and Cultural Rights, *General Comment No 13*, § 46: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/ae1a0b126d068e868025683c003c8b3b?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/ae1a0b126d068e868025683c003c8b3b?Opendocument).

¹²³ V. especially the CETIM brochure on the right to adequate housing: http://www.cetim.ch/en/publications_brochures.php.

¹²⁴ Committee on Economic, Social and Cultural Rights, *General Comment N° 13*, adopted in December 1999, E/C.12/1999/10, § 47: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/ae1a0b126d068e868025683c003c8b3b?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/ae1a0b126d068e868025683c003c8b3b?Opendocument).

levels (immediately at the primary level and progressively for the rest). In this regard, the Committee on Economic, Social and Cultural Rights stipulates that as regards the *Covenant*, “there is a strong presumption of impermissibility of any retrogressive measures taken in relation to the right to education, as well as other rights”.¹²⁵

Among the specific obligations of governments, the Committee emphasizes the following elements¹²⁶:

- respect the availability of educational services and not close private schools;
- protect the accessibility of education by ensuring that third parties, including parents and employers, do not stop girls from going to school;
- fulfill (facilitate) the acceptability of education by taking positive measures to ensure that education is culturally appropriate for minorities and indigenous peoples, and of good quality for all;
- assure the adaptability of education by designing and providing resources for curricula which reflect the contemporary needs of students in a changing world;
- provide for the availability of education by actively developing a system of schools, including building classrooms, delivering programs, providing teaching materials, training teachers and paying them domestically competitive salaries;
- states parties are obliged to ensure that an educational fellowship system is in place to assist disadvantaged groups.

Moreover, the Committee recalls the obligation of each of the states parties to “to take steps, individually and through international assistance and cooperation, especially economic and technical, towards the full realization of the rights recognized in the *Covenant*, such as the right to education”.¹²⁷

The Committee also recalls: “In relation to the negotiation and ratification of international agreements, States parties should take steps to ensure that these instruments do not adversely impact upon the right to education. Similarly, States parties have an obligation to ensure that their actions as members of international organizations, including international financial institutions, take due account of the right to education.”¹²⁸

3. Governments’ Non-Respect of their Obligations in Human Rights Education

For the Committee on Economic, Social and Cultural Rights, the violations of Article 13 can – by way of illustration – include¹²⁹:

¹²⁵ Ibid., § 45.

¹²⁶ Ibid., §§ 50, 53.

¹²⁷ Ibid., § 56.

¹²⁸ Ibid., § 129.

¹²⁹ Committee on Economic, Social and Cultural Rights, *General Comment N° 13*, adopted in December 1999, E/C.12/1999/10, § 1:
[http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/ae1a0b126d068e868025683c003c8b3b?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/ae1a0b126d068e868025683c003c8b3b?Opendocument).

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

B. Examples of Implementation at the National Level

The right to education is recognized in the constitutions of some 100 countries, explicitly in those of 79 countries¹³⁰ and implicitly in the rest.¹³¹ Other countries have not provided for this possibility in their constitutions but have recognized this right in specific laws (e.g. New Zealand). In the context of this chapter, we have chosen to present the examples of Costa Rica (a “developing” country), Canada (a “developed” country) and Vietnam (an “emerging” country).

¹³⁰ Afghanistan, Albania, Algeria, Andorra, Azerbaijan, Belgium, Burma, Bosnia-Herzegovina, Brazil, Burkina Faso, Burundi, Bolivia, Central African Republic, Chad, Chile, China, Colombia, Comoros, Congo, Czech Republic, Cyprus, Democratic Republic of the Congo, Ecuador, Egypt, Fiji, Finland, Gambia, Guinea Bissau, Guyana, Haiti, India, Indonesia, Iraq, Ivory Coast, Japan, Kazakhstan, Kyrgyzstan, Kuwait, Latvia, Macedonia, Mali, Marshall Islands, Mexico, Mexico, Micronesia, Mongolia, Morocco, Namibia, Nepal, Niger, North Korea, Panama, Paraguay, Poland, Puerto Rico, Qatar, Romania, Rwanda, Sans Salvador, Seychelles, Slovakia, Somalia, South African, South Korea, Spain, Surinam, Sweden, Switzerland, Syria, Tajikistan, Tanzania, Uganda, Ukraine, United Kingdom, Uzbekistan, Venezuela, Vietnam, Yemen, Yugoslavia

¹³¹ These lists were made on the basis of the “country data base” on the website *Right to Education Project*, which tracks all those articles relative to education and/or the right to education in the constitutions of the 192 United Nations member states.

1. Costa Rica

Costa Rica is a small country in Central America with over 4 million inhabitants (2004 figures) of whom some 450,000 are migrants (11% of the population)¹³² 63,876 indigenous people (1.5%) and 72,784 of African descent (1,9%).¹³³

This country is noteworthy for having abolished its army in 1948 and transferred the military budget to social spending for things such as education and health care.¹³⁴

This country is also distinguished for having integrated human rights teaching into its school curriculum in 1986.¹³⁵

According to official figures, free and compulsory primary schooling was instituted in Costa Rica a century ago, and secondary schooling has been accessible and open to the entire population since the 1970s.¹³⁶

The Costa Rican constitution contains a chapter devoted to education and culture whose Article 78 provides that: “Preschool schooling and basic general schooling are compulsory. This schooling and the diversified schooling provided by public institutions are free of charge and funded by the nation. In public education, including in higher education, public expenditure will not drop below 6% per year of the gross domestic product, in conformity with the law. The government shall facilitate the pursuit of higher education for persons who do not have the financial resources. The awarding of scholarships and subsidies shall be at the expense of the appropriate ministry, through the intermediary of the body designated by the law.”¹³⁷

The constitution also guarantees, through Articles 79 and 83, the freedom of public and private schools both.¹³⁸ In 2003, 90.4% of students attended public institutions, and 7.5% private institutions.¹³⁹

In 1997, preschool education became compulsory. According to 2007 data from UNESCO, in Costa Rica, 95.9% of adults and 98% of youth are literate. 61% of children are registered in pre-primary schools, and 91% finish primary school.¹⁴⁰

¹³² For some, this figure would represent only (or half of) the Nicaraguans in the country. V. www.regardcritique.ulaval.ca/numerous_antérieurs/hiver_2009/les_immigrants_nicaraguayens_au_costa_rica_les_defis_de_l'integration/ (French only) and www.alterinfos.org/spip.php?article65 (Spanish only).

¹³³ Official report of the government of Costa Rica, submitted to the Committee on Economic, Social and Cultural Rights, E/C.12/CRI/4, 2 June 2006, §§ 3, 9, 10.

¹³⁴ Apparently, this country has recently been investing more and more in its police forces, and its dependence on the United States is increasing proportionately. V., *inter alia*, www.liberation.fr/monde/0101270043-costa-rica-pays-sans-kaki (French only)

¹³⁵ Secretary-General's Report, *Implementation of the Plan of Action of the United Nations Decade for Human Rights Education, 1995-2004*, E/CN.4/2000/93, § 18.d: [http://www.unhchr.ch/Huridocda/Huridocda.nsf/\(Symbol\)/E.CN.4.2000.93.En?Opendocument](http://www.unhchr.ch/Huridocda/Huridocda.nsf/(Symbol)/E.CN.4.2000.93.En?Opendocument)

¹³⁶ Official report of the government of Costa Rica, submitted to the Committee on Economic, Social and Cultural Rights, E/C.12/CRI/4, 2 June 2006, § 970.

¹³⁷ *Ibid.*, §60.

¹³⁸ *Ibid.*, 972.

¹³⁹ *Ibid.*, 61.

Costa Rica seems to make a particular effort in favor of the rights of the handicapped, given their relatively high number (5.3% of the population, according to 2000 data).¹⁴¹ Their rights are protected by Law N° 7600 on equality of opportunity for the handicapped, which includes the right to education (Articles 14 ff.; this applies to schooling at all levels, including technical training and university education); access to culture and sports, which involves the obligation to use all technical means possible so that the handicapped and take advantage of these activities (Articles 54 & ff.); and the right to health, which prohibits life and health insurance companies from refusing to insure anybody because of a handicap (Articles 31 & ff.).¹⁴²

It should be emphasized moreover that between 1990 and 2004, Costa Rica received more than US\$ 142 million in international educational aid, which corresponds to 3.6% of all aid received for that period.¹⁴³

Although Costa Rica has apparently turned in a remarkable performance in the area of the right to education, its educational system is not exempt from criticism. According to 2007 UNICEF data, “three out of five children leave school before completing their general basic schooling, and eight out of ten do not finish their secondary schooling on schedule. Some 40% of adolescents have left the educational system, in spite of an ever more frequent weakening of school policies.”¹⁴⁴

The proliferation of private universities also represents a serious problem. According to Fanny Siqueira, the vice-president of the Costa Rican teachers union, there are four public universities and 50 private universities of varying quality. For example, a young person can get a teaching diploma in one year in a private university instead of four years in a public university. In spite of this manifestly insufficient training, such a person has as much likelihood of getting a job as somebody who has completed the four-year course, which considerably diminishes the quality of education in Costa Rica.¹⁴⁵

Such criticism corroborates the findings of U.N. human rights bodies. According to the Committee on Economic, Social and Cultural Rights, the number of school drop-outs is on the rise, owing, for the most part, to family disintegration, the lack of attention from teachers, child labor and drug use, in spite of institutional measures and policies adopted.¹⁴⁶

The Committee also noted that the illiteracy rate among the members of the indigenous communities remains considerably higher than the national average even

¹⁴⁰ http://stats.uis.unesco.org/unesco/TableViewer/document.aspx?ReportId=121&IF_Language=eng&BR_Country=1880&BR_Region=40520.

¹⁴¹ Official report of the government of Costa Rica, submitted to the Committee on Economic, Social and Cultural Rights, E/C.12/CRI/4, 2 June 2006, § 12.

¹⁴² *Ibid.*, §§ 309 to 311.

¹⁴³ *Ibid.*, p. 50, table N° 2.

¹⁴⁴ See www.unicef.fr (direct link is not available and French page only; CETIM translation).

¹⁴⁵ Luc Allaire et Claire Lalande, “Quinze ans de réformes néolibérales”. *CSQ international*: www.international.csq.qc.net/index.cfm/2,0,1665,9480,1850,781.html (French only).

¹⁴⁶ *Concluding Observations* of the Committee on Economic, Social and Cultural Rights, Costa Rica, E/C.12/CRI/CO/4, 4 January 2008, § 30: <http://tb.ohchr.org/default.aspx?country=cr>.

though the state party [Costa Rica] has adopted laws, policies and programs that allow indigenous communities access to education.¹⁴⁷

The Committee further noted that in recent years the budget of the Ministry of Culture, Youth and Sports has been drastically reduced.¹⁴⁸

In view of these observations, the Committee requested the Costa Rican government to:

- take all appropriate measures to ensure that the levels of poverty, illiteracy and unemployment of indigenous communities and Afro-descendants be reduced and that the indigenous communities have proper access to water, housing, health and education;
- intensify its efforts to combat secondary school drop-out rate;
- implement existing programs to improve the quality of teaching in secondary schools;
- improve the quality of university teaching and to ensure that public universities perform as a mechanism for social mobility;
- address effectively sexual and commercial exploitation, sex tourism and human trafficking and recommends the adoption of an amendment to the Act against Commercial Sexual Exploitation for that purpose;
- closely monitor the number of women and children trafficked to, from and through its territory each year and to provide mandatory training on trafficking for the police, prosecutors and judges.¹⁴⁹

2. *Canada*

The second biggest country in the world in land mass and considered one of the richest, Canada has 34 million inhabitants among whom “some 50 Aboriginal cultural groups and many ethno-cultural, religious, immigrant and linguistic groups”.¹⁵⁰

According to the 2001 census, “nearly four million people in Canada identified themselves as members of visible minority groups, accounting for 13.4% of the population overall. The three largest visible minority groups are: Chinese, South Asians and Blacks... a total of 976,300 people identified themselves as a member of at least one of the three Aboriginal groups: North American Indian, Métis, or Inuit”¹⁵¹

The two official languages of Canada are English and French.

Canada is a federal state composed of ten provinces and three northern territories. The federation has a central government, and there is a government for each

¹⁴⁷ *Ibid.*, § 29.

¹⁴⁸ *Ibid.*, § 31.

¹⁴⁹ *Ibid.*, §§ 35, 51, 52, 45 respectively.

¹⁵⁰ National report of the government of Canada submitted to Universal Periodic Review of the Human Rights Council, A/HRC/WG.6/4/CAN/1, 6 January 2009, § 3:

http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/CA/A_HRC_WG6_4_CAN_1_E.pdf.

¹⁵¹ Report of the government of Canada submitted to the Committee on the Elimination of Racial Discrimination, CERD/C/CAN/18, 5 April 2006, §§ 11, 20.

province and territory.¹⁵² “Provincial and territorial governments are responsible for most areas of education, while the Government of Canada is responsible for the instruction of children living on Indian reserves or Crown lands.”¹⁵³

In Ontario, for example, the *1990 Education Act* makes it illegal for a child between 6 and 18 not to be attending school (Article 21 (1) a).¹⁵⁴

It is also illegal to refuse admission to school to a child under 18 because he/she or his/her legal guardians do not have immigrant status (Article 49.1).

On the other hand, the same law stipulates that children who do not have permanent resident status must pay to have access even to public schooling, apart from a few exceptions such as refugees (Article 49 (6)).

Given the decentralized character of education, there are differences in school administration. For example, even if the basic structure is similar throughout the country, the age at which one starts school and that at which one finishes are not the same. In Quebec, primary and secondary school lasts 11 years, but in the other provinces, it lasts 12. Moreover, compulsory schooling extends to age 15 or 16 in most provinces, but to age 17 in Manitoba and to age 18 in New Brunswick.¹⁵⁵

Quebec has recently abolished the privileges accorded to the Roman Catholic and Protestant religions in schooling. Since the fall of 2008, a single program of ethics and religious culture is offered to all pupils at the primary and secondary levels, replacing the current Roman Catholic, Protestant and moral education programs.¹⁵⁶

Free public education is guaranteed for all at the primary and secondary levels.¹⁵⁷

Institutions of higher education can be both public and private. The latter “may be ‘recognized’, ‘registered’, or ‘licensed’ by government, or they may not be regulated in any way”.¹⁵⁸

In 2008, there were in Canada “163 recognized public and private universities (including theological schools) and 183 recognized public colleges and institutes, including those granting applied and bachelor’s degrees. In addition to the recognized institutions, there are 68 university-level institutions and 51 college-level

¹⁵² National report of the government of Canada submitted to Universal Periodic Review of the Human Rights Council, A/HRC/WG.6/4/CAN/1, 6 January 2009, § 6: http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/CA/A_HRC_WG6_4_CAN_1_E.pdf.

¹⁵³ *Ibid.*, § 24.

¹⁵⁴ Education Act, 1990:

http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90e02_e.htm#BK25.

¹⁵⁵ Council of Ministers of Education of Canada, *Education Systems(Canada)*: <http://www.educationau-icanada.ca/index.aspx?action=educationssystem-systemeeducation&lang=eng#structures>.

¹⁵⁶ Report of the government of Canada submitted to the Committee on Economic, Social and Cultural Rights, E/C.12/CAN/5, 30 August 2005, § 435: [http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/4f07de4ea236e858c125711500574ff8/\\$FILE/G0543784.pdf](http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/4f07de4ea236e858c125711500574ff8/$FILE/G0543784.pdf).

¹⁵⁷ National report of the government of Canada submitted to Universal Periodic Review of the Human Rights Council, A/HRC/WG.6/4/CAN/1, 6 January 2009, § 25: http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/CA/A_HRC_WG6_4_CAN_1_E.pdf

¹⁵⁸ Council of Ministers of Education of Canada, *Education Systems(Canada)*: www.educationau-icanada.ca/index.aspx?action=educationssystem-systemeeducation&lang=eng.

ones operating as authorized institutions, at which only selected programs are approved under provincially established quality assurance programs.”¹⁵⁹

According to the OECD, the rate of school attendance in Canada for youth between 15 and 19 years of age is 80%, but only 80% of them get their diploma (2006 figures).¹⁶⁰ On the other hand, the rate of school attendance falls to less than 30% for young adults between 20 and 29 years old.¹⁶¹ For those between 25 and 64, 47% have a postsecondary diploma, but the drop-out rate was 28% in Quebec (2000 figures).¹⁶² Women are particularly well provided for in this area since, according to the official figures from 2005, 59.7% of them have a university diploma as opposed to 40.3% of men.¹⁶³

The drop-out rate seems to be higher in Quebec than in most of the other provinces. According to the Montreal daily *Le Devoir*, this fact is a serious stain to the reputation of the province. In 2008, 29% of secondary school students dropped out. This rate was 35% among boys. It is even worse in poor neighborhoods: a 40% drop-out rate whereas in the richest it is only 6%.¹⁶⁴

The indigenous populations suffer from a lack of access to education. Only 8% of these populations have a university diploma.¹⁶⁵ According to UNESCO data, “17% of Canada’s indigenous 15- to 49-year-olds reported no formal schooling or less than Grade 9 as their highest level of education”.¹⁶⁶

The situation of the handicapped¹⁶⁷ is also worrying. Some 40% of handicapped children attend only primary school.¹⁶⁸

Canada has a complex system of financial support for students in higher education. According to the Canadian government, “many financial support programs exist at the federal and provincial/territorial level, such as the Registered Education Savings Plan, student loans and bursary programs”¹⁶⁹ What is worth noting is that parents are encouraged to save in order to finance their children’s higher

¹⁵⁹ Council of Ministers of Education (Canada), *Education in Canada*, “Postsecondary Education: Range of Institutions”: www.cmec.ca/Pages/canadawide.aspx#08.

¹⁶⁰ OECD, *Education at a Glance 2008, OECD Indicators*, Indicators A2 and C2: www.oecd.org/dataoecd/23/46/41284038.pdf.

¹⁶¹ *Ibid.*, Indicator C2.

¹⁶² *Ibid.*, Indicator A4.

¹⁶³ National report of the government of Canada submitted to Universal Periodic Review of the Human Rights Council, A/HRC/WG.6/4/CAN/1, 6 January 2009, § 82: http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/CA/A_HRC_WG6_4_CAN_1_E.pdf

¹⁶⁴ *Le Devoir*, « Statistique Canada - Le décrochage scolaire a augmenté au Québec sous les libéraux », 9 February 2009: www.ledevoir.com/2009/02/09/232633.html (French only).

¹⁶⁵ *Accès des Autochtones aux études universitaires*, www.aucc.ca/policy/priorities/aboriginal-education/documents/Aboriginalsheet2009-fr.pdf.

¹⁶⁶ UNESCO, *Literacy for Life*, Chapter 7 “Mapping the global literacy challenge: Literacy in excluded groups – Indigenous Peoples”, p. 177: <http://unesdoc.unesco.org/images/0014/001416/141639e.pdf>.

¹⁶⁷ According to official figures, in 2001, 13.3% of Canadian women had a disability. Report of the government to the Committee on the Elimination of All Forms of Discrimination against Women, CEDAW/C/CAN/7, 17 August 2007, § 10: <http://www.unhcr.org/refworld/pdfid/476155e42.pdf>.

¹⁶⁸ UNESCO, *Literacy for Life*, p. 190.

¹⁶⁹ National report of the government of Canada submitted to Universal Periodic Review of the Human Rights Council, A/HRC/WG.6/4/CAN/1, 6 January 2009, § 25: http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/CA/A_HRC_WG6_4_CAN_1_E.pdf.

education and that the authorities (federal, provincial and territorial) support the parents and/or the students themselves “through loans, grants, and education tax credits.”¹⁷⁰

The average cost of a university education in 2008 was CA\$ 4,524¹⁷¹ per year (CA\$ 14,000 for foreign students), and at colleges and institutes (in the nine provinces outside Quebec), the average tuition was about \$2,400 (Quebec residents do not pay college tuition)¹⁷².

Canadian academicians are very worried by the privatization trend of the universities in Canada. Although 54.2% of financing still comes from public sources¹⁷³, “university resources are more and more dominated by private interests. The university that behaves like a business concentrates on the needs of the business world. Research is oriented to the needs of business whereas non-lucrative research which benefits society as a whole has no value. According to this model, the university should make profit its priority rather than public and community service”.¹⁷⁴ These academicians are also worried for the freedom of opinion and of expression since “the increased presence of businesses on the campus does nothing to improve transparency, for decisions and the results of research are withdrawn from the public domain in order to be entrusted to the business sector customer who orders it.”¹⁷⁵

The other levels of schooling must also deal with an insidious privatization. The management of schools is in the hands of school commissions and committees. Although the participation of parents and guardians in the running of schools is praiseworthy, the main problem is the financing of both public and private schools on an equal footing. For example, in Alberta, “funded accredited private schools receive 60 percent of the base instruction rate provided to public schools”.¹⁷⁶

In recent years, Canada has been evaluated several times by the U.N. human rights instances for its performance in this area. These instances criticized various aspects of the Canadian educational system. The following are some of their remarks.

The Committee for the Elimination of Racial Discrimination deplored “residual discrimination against First Nations women and their children in matters

¹⁷⁰ Council of Ministers of Education (Canada), *Education in Canada*, “Postsecondary Education: Range of Institutions”: <http://www.cmec.ca/Pages/canadawide.aspx#08>.

¹⁷¹ CA\$ 1.00 = US\$.96 (October 2009).

¹⁷² Council of Ministers of Education (Canada), *Education in Canada*, “Postsecondary Education: Range of Institutions”: <http://www.cmec.ca/Pages/canadawide.aspx#08>.

¹⁷³ This rate is 38.4% in New Brunswick and 68.1% in Quebec. *Ibid.*

¹⁷⁴ *S'organiser* (journal of the Candian public sector union)*“Université inc : privatisation dans les campus canadiens”, Vol. 9 N°. 4, winter 2007, http://scfp.ca/updir/Sorganiser_vol9_4.pdf (French only; CETIM translation).

¹⁷⁵ *Ibid.*

¹⁷⁶ Report of the government of Canada submitted to the Committee on Economic, Social and Cultural Rights, E/C.12/CAN/5, 30 August 2005, § 249: [http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f3314f07de4ea236e858c125711500574ff8/\\$FILE/G0543784.pdf](http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f3314f07de4ea236e858c125711500574ff8/$FILE/G0543784.pdf)

relating to Indian status, band membership and matrimonial real property on reserve lands".¹⁷⁷

The Committee on Economic, Social and Cultural Rights expressed its concern over "the significant disparities still remaining between Aboriginal people and the rest of the population in areas of employment, access to water, health, housing and education... the discriminatory impact of tuition fee increases on low-income persons in many provinces and territories since 1998". It also expressed concern "that African Canadian students face difficulties in accessing education and that they experience a disproportionately high drop-out rate from secondary school... that some categories of workers, such as public servants and employees of Crown corporations, public school teachers and college and university professors, are excluded from the right to strike in Canada".

Among the recommendations of the Committee to the Canadian government was that "the State party ensure by every appropriate means that higher education be made equally accessible to all, on the basis of capacity" and that "the State party undertake the adoption and implementation of concrete plans, with relevant benchmarks and time frames, for the consideration and implementation of the recommendations of the Task Force on Aboriginal Languages and Cultures, as well as in the area of intellectual property for the protection and promotion of ancestral rights and traditional knowledge of Aboriginal peoples".¹⁷⁸

Given its means and abilities, Canada can and should do better in the area of educating its citizens and "residents", permanent or otherwise. However, the most disturbing element is perhaps the quality of schooling in this country, which has been questioned by an international study: "An assessment in Canada (2003) established that 9 million Canadians of working age (42% of people aged 16 to 65) scored at level 2 or below on the prose literacy scale, a figure that had changed little since the previous assessment in 1994."¹⁷⁹

4. Vietnam

With some 54 ethnic groups (including a kinh majority), its many religious persuasions (Buddhism, Roman Catholicism, Protestantism and Islam) and its 86 millions inhabitants, of whom 75% live in rural areas, Vietnam is the thirteenth most populated country in the world.¹⁸⁰

According to the Vietnamese government, after having paid dearly for its independence (30 years of war), "the development of a market economy and the

¹⁷⁷ Committee on the Elimination of Racial Discrimination, *Concluding Observations*, Canada, CERD/C/CAN/CO/18, 25 May 2007, § 15:
<http://www2.ohchr.org/english/bodies/cerd/docs/CERD.C.CAN.CO.18.doc>.

¹⁷⁸ Committee on Economic, Social and Cultural Rights, *Concluding Observations*, Canada, E/C.12/CAN/CO/4 E/C.12/CAN/CO/5, 22 May 2006 §§ 15, 31, 32, 19, 65, 67 respectively:
<http://www2.ohchr.org/english/bodies/cescr/cescrs36.htm>

¹⁷⁹ UNESCO, *EFA Global Monitoring Report 2009: Overcoming inequality: why governance matters*, p. 96: <http://unesdoc.unesco.org/images/0017/001776/177683e.pdf>.

¹⁸⁰ National report of the government of Vietnam submitted to Universal Periodic Review of the Human Rights Council, A/HRC/WG.6/5/VNM/1, 16 February 2009, §5:
http://lib.ohchr.org/HRBodies/UPR/Documents/Session5/VN/A_HRC_WG6_5_VNM_1_E.pdf.

opening-up of the country also had adverse impacts, notably the rich-poor gap, urban-rural disparity and the low level of integration of vulnerable groups such as women, children, ethnic minorities and people with disabilities. These are challenges to Viet Nam in its efforts to strike a balance between increasing economic growth and ensuring social security and the people's full enjoyment of fundamental rights. It is in this particular historical, national and social context that Viet Nam's efforts in human rights protection and promotion will be comprehensively reviewed."¹⁸¹

Today, Vietnam ranks among the countries designated "emerging" and has made considerable progress in trying to bring its people out of poverty. According to official Vietnamese government data, "poverty (according to national poverty line) has been cut from 58.1 per cent in 1993 to 14.82 per cent in 2007, making Viet Nam one of the first countries to fulfill the MDG in poverty reduction".¹⁸²

Using the fruits of its economic development to create basic social services, this country has also made huge strides in education, in particular in primary education. "Viet Nam completed the universalization of primary education in 2000, 15 years prior to the MDG deadline."¹⁸³

Regarding legislation, several articles of the Vietnamese constitution (1992) are devoted to education. Thus, "study is both a right and a duty of the citizen. Primary education is compulsory and free. The citizen has the right to general schooling and to professional training, organized in several ways. The state and society shall create conditions of study allowing gifted students to develop their talents. The state shall define policies regarding school fees and scholarships. The state and society shall create conditions allowing handicapped children and children experiencing particular difficulties to study and learn appropriate trades." (Article 59)

The purpose of education is defined in Article 35 as follows: "To train and perfect the personality, the qualities and the abilities of citizens; to train qualified, dynamic and creative workers imbued with national pride, virtue, and willingness to advance in order to contribute to making the people rich and the country powerful, responding thus to the demands of the building and defense of the homeland."

In this context, the Vietnamese government is required to create "the conditions allowing the development on all levels of the citizens. It shall supervise education of the civil conscience, of the willingness to live and work in conformity with the Constitution and the law, to preserve the good customs and to raise cultivated and happy families, as well as watching over education in patriotism, love of socialism, legitimate international spirit, friendliness and cooperation with the peoples of the world." (Article 31)

The Vietnamese constitution guarantees all citizens equal enjoyment of political, economic, social and cultural rights and equality before the law.¹⁸⁴

¹⁸¹ *Ibid.*, § 6.

¹⁸² *Ibid.*, § 12.

¹⁸³ *Ibid.*, § 34.

¹⁸⁴ *Ibid.*, § 10.

Power in the areas of financial management, budget, investment, health care and education are decentralized.¹⁸⁵

In this regard, according to a UNESCO analysis, although the decentralization has exacerbated inequalities in some countries (China, Indonesia, Nigeria, Philippines), in others, such as Vietnam, it has been, rather, beneficial since this country has “developed models aimed at greater equity, with rules on financial decentralization geared towards the attainment of national goals in education and other areas”.¹⁸⁶

According to official figures, “budget allocation for education has increased annually and now accounts for 20 per cent of State budget expenditures. More schools have been built throughout the country”.¹⁸⁷

Also, according to the Vietnamese government: “There are 30 ethnic groups having writings in Viet Nam. The Ministry of Education and Training has developed curricula for 8 ethnic minority languages, namely Khmer, Cham, Chinese, Ede, Jrai, Ba Na, Thai and H’Mong, which have been officially introduced in ethnic minority primary and secondary schools in 25 provinces with large numbers of ethnic minorities. Viet Nam Television broadcasts Channel VTV5 in 10 ethnic languages; Radio the Voice of Viet Nam has increased broadcasting time and produced more than 4,000 special programs in 13 ethnic languages, thus facilitating access to information for ethnic minority people.”¹⁸⁸

Although the Vietnam’s performance in education is remarkable, given its recent history, it is open to criticism. According to the United Nations High Commissioner for Human Rights: “Although economic progress has meant that many more citizens benefit from access to basic services, access to quality education, for instance, remains difficult especially for the most vulnerable groups. The net primary school completion rate varies from 65.3 per cent in the Central Highlands region to 90.2 per cent in the Red River Delta region; similarly, the rate is 86.4 per cent for the majority Kinh population, compared to only 60.6 per cent for other ethnic groups.”¹⁸⁹

The same can be said of the disparities in pre-primary school attendance: “Viet Nam’s Red River delta region, with the country’s highest average income, has a pre-primary attendance rate of 80%, compared with 40% for the Mekong River delta region, which has some of the worst social indicators.”¹⁹⁰

¹⁸⁵ *Ibid.*, § 31.

¹⁸⁶ UNESCO, *EFA Global Monitoring Report 2009: Overcoming inequality: why governance matters*, p. 15: <http://unesdoc.unesco.org/images/0017/001776/177683e.pdf>.

¹⁸⁷ National report of the government of Vietnam submitted to Universal Periodic Review of the Human Rights Council, A/HRC/WG.6/5/VNM/1, 16 February 2009, §5: http://lib.ohchr.org/HRBodies/UPR/Documents/Session5/VN/A_HRC_WG6_5_VNM_1_E.pdf.

¹⁸⁸ *Ibid.*, §52.

¹⁸⁹ Compilation of U.N. information for the Universal Periodic Review, A/HRC/WG.6/5/VNM/2, 16 March 2009, § 51: http://lib.ohchr.org/HRBodies/UPR/Documents/Session5/VN/A_HRC_WG6_5_VNM_2_E.pdf.

¹⁹⁰ UNESCO, *EFA Global Monitoring Report 2009: Overcoming inequality: why governance matters*, p. 52: <http://unesdoc.unesco.org/images/0017/001776/177683e.pdf>.

Beyond the problems cited, there is an immense difficulty in Vietnam: “The regulatory regime for education is a merger between laws imported from the Soviet Union decades ago and adjusted to the Vietnamese heritage, and as of 1986 they are complemented by free-market-inspired laws. This makes different parts of the law mutually incompatible. Moreover, there is no mechanism to challenge such incompatibilities.”¹⁹¹

Aware of the problem, the Vietnamese government presents it as follows and commits itself to resolving it: “First, the Vietnamese legal system in general, and in the field of human rights in particular, still contains inconsistencies and overlapping and conflicting at several points, leading to difficulties, even misinterpretation in application and enforcement at the grass-roots level. This is the main obstacle to the development of the society and the exercise of human rights. Having identified this challenge, the Vietnamese Government is implementing the Strategy on the Development of the Legal System until 2010 with a vision to 2020. The Strategy first focuses on reviewing the entire system of normative acts to remove those that are overlapping, conflicting or out-dated, ensure the constitutionality, consistency, enforceability, openness, transparency, and accessibility of the normative acts.”¹⁹²

¹⁹¹ Katarina Tomasevski (former Special Rapporteur on the right of education), *The State of the Right to Education World Wide, Free or Fee: 2006 Global Report*, p. 151: http://www.katarinatomasevski.com/images/Global_Report.pdf.

¹⁹² National report of the government of Vietnam submitted to Universal Periodic Review of the Human Rights Council, A/HRC/WG.6/5/VNM/1, 16 February 2009, § 72: http://lib.ohchr.org/HRBodies/UPR/Documents/Session5/VN/A_HRC_WG6_5_VNM_1_E.pdf.

VI. MONITORING MECHANISMS

A. At the National Level

The overwhelming majority of countries have ratified numerous international conventions dealing with the right to education, such as the *Convention on the Rights of the Child*, which is almost universal, the exceptions being the United States and Somalia (which does not have a government). Most of them have also integrated these conventions into their national legislations. (V. also Chapter V.B.)

In most countries, there are two possibilities of domestic redress: judicial and extra-judicial redress.

1. Judicial Redress

In those countries where the right to education is recognized as a fundamental constitutional right, or where it is part of another fundamental right, it is theoretically possible to invoke that right before an administrative or judicial instance at the local or national level.

In practice, the ignorance of human rights by administrative personnel and judges makes this difficult at the local level. However, if local administrations and judges cannot give satisfaction or if it is possible to take a complaint directly to the courts at the national level (which is the case in many countries, on the basis of a constitutional guarantee), it is preferable to demand the respect of the right to education at this higher level. (V. Illustrations 1 and 2.)

2. Extra-judicial Redress

The two main mechanisms of extra-judicial redress available at the national level are national human rights commissions and ombudsmen's offices.

These two together form what could be called national institutions of human rights protection. They exist in more than 100 countries, and, although their effectiveness varies highly from one country to another, they generally have a broad mandate, which allow them to observe government policies and the effect those policies have on human rights. At the same time, their mandate allows them to protect victims of human rights violations through judicial assistance or mediation involving the public powers. Some have a mandate limited to the civil and political right alone, while those defending also the realization of economic, social and cultural rights are ever more numerous.

For example, in Indonesia, "44.5 per cent of the cases dealt with by the Indonesian National Commission on Human Rights in 2000 were classified as violations of the 'right to welfare', while complaints regarding the right to education

include the high costs of education, as well as the non-implementation of laws or policies mandating its realization”.¹⁹³

B. At the Regional Level

1. Africa

The African Commission on Human and Peoples' Rights is entrusted with overseeing compliance with regional human rights protection mechanisms at the African level, including the *African Charter on Human and Peoples' Rights*, which recognizes the right to education in Article 17. To this end, the Commission receives periodic reports from member countries, which must report on measures taken to realize all the rights recognized in the *Charter*, including the right to education.

The African Commission also has a mandate to receive complaints from individuals or from NGOs alleging violations of rights protected by the *Charter*. The Commission rules on alleged violations and issues recommendations to the country in question. These recommendations are not binding, hence the founding of the African Court on Human and Peoples' Rights (v. below), but they bring to bear moral pressure on the governments, which generally implement them.

The African Court on Human and Peoples' Rights was set up in 2008 and is competent to receive reparation and compensation claims following violations of the rights recognized by the *Charter* and its additional protocol. The victims of violations of the right to education thus have the possibility of going before the Court provided that the country of which they are citizens has ratified the protocol setting up this body, that it has recognized the Court's competence to receive individual complaints from its citizens and that all domestic avenues of redress have been exhausted.

It is noteworthy that both the African Commission and the African Court on Human and Peoples' Rights met in Arusha (Tanzania) in July 2009 to harmonize their respective internal rules of procedure. On this occasion, the two bodies examined their complementarity with a view to ensuring the establishment of a procedure and an effective mechanism for the protection of human and peoples' right on the African continent. They also examined “how the Court will give effect to the African Commission's recommendations”.¹⁹⁴

2. Europe

The European Committee of Social Rights has for its mission to judge that states parties are in conformity in law and in practice with the provisions of the *European Social Charter* (revised in 1996). It adopts *Conclusions* in the context of

¹⁹³ Special Rapporteur on the right to education, Annual Report, 58th Commission on Human Rights, E/CN.4/2002/60, 7 January 2002, § 57:

<http://www2.ohchr.org/english/issues/education/rapporteur/annual.htm>.

¹⁹⁴ African Commission on Human and Peoples' Rights, press release, 16 July 2009.

its system of national reports that states parties to the *European Social Charter* must submit every two years and *Decisions* in the context of collective complaints submitted by NGOs and trade unions since the adoption of the 1995 additional protocol to the *Charter*. As the *Charter* recognizes the right to education, free of charge at the primary and secondary level (Article 17.2), and the right of the handicapped to education, including professional training (Article 15.1), the Committee oversees the implementation of these rights when examining country reports and can receive collective complaints alleging violations of these rights.

In a complaint to the Committee against France, the International Association Autisme-Europe reproached the government for “failing to satisfactorily apply its obligations under Articles 15§1 and 17§1 of Part II of the Revised European Social Charter because children and adults with autism do not and are not likely to effectively exercise, in sufficient numbers and to an adequate standard, their right to education in mainstream schooling or through adequately supported placements in specialized institutions that offer education and related services”, further alleging that “France is in violation of the non-discrimination principle embodied in Article E of Part V of the Revised European Social Charter since persons with autism do not benefit from the right to education recognized to persons with disabilities by Article 15§1 and generally set out in Article 17§1 of Part II of the Charter”.¹⁹⁵

In its decision of 4 November 2003, the Committee found in favor of the plaintiffs and stated that “the underlying vision of Article 15 is one of equal citizenship for persons with disabilities and, fittingly, the primary rights are those of ‘independence, social integration and participation in the life of the community’. Securing a right to education for children and others with disabilities plays an obviously important role in advancing these citizenship rights.” Finally, the Committee declared “the situation constitutes a violation of Articles 15§1 and 17§1 whether alone or read in combination with Article E of the revised European Social Charter”.¹⁹⁶

In its *Conclusions 2008*, regarding the right to education and professional training of the handicapped (Article 15.1.) in France, “the Committee concludes that the situation in France is in conformity with Article 1§1 of the Revised Charter”.¹⁹⁷

One can also recur to the European Court of Human Rights, depending on the case, on the basis of certain provisions of the *Convention for the Protection of Human Rights and Fundamental Freedoms* such as the right to education (Protocol N° 1, Article 2), the prohibition of discrimination (Article 14), the right to respect of private and family life (Article 8), freedom of thought, conscience and religion (Article 9), the right to freedom of assembly and association etc.

Following a complaint by Norwegian parents not professing the Christian religion, who requested the total dispensation of their children in public primary

¹⁹⁵ Decision on the Merits, Complaint N° 13/2002, by Autism – Europe against France, § 7, http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/CC13Merits_en.pdf.

¹⁹⁶ *Ibid.*, § 48 and Conclusion.

¹⁹⁷ European Committee of Social Rights, *Conclusions 2008*, p. 308:

http://www.coe.int/t/dghl/monitoring/socialcharter/Conclusions/Year/2008Vol1_en.pdf.

schools from teaching of Christianity, religion, and philosophy, the European Court of Human Rights ruled that there was a violation of Protocol 1, Article 2 (right to education) such as interpreted in the light of Articles 8 (right to respect of private and family life) and 9 (freedom of thought, conscience and religion) of the *Convention*. The Court argued that “it does not appear that the respondent State [Norway] took sufficient care that information and knowledge included in the curriculum be conveyed in an objective, critical and pluralistic manner for the purposes of Article 2 of Protocol No. 1”.¹⁹⁸

In another case concerning the Czech Republic, the Court ruled that “the placement of Roma children in special schools intended for children with learning difficulties had been discriminatory and contrary to Article 14 of the Convention taken in conjunction with Article 2 of Protocol No. 1. It considered that, as a specific type of disadvantaged and vulnerable minority, the Roma required special protection, including in the sphere of education. It affirmed that a difference in treatment that takes the form of disproportionately prejudicial effects of a general policy or measure which, though couched in neutral terms, discriminates against a group, amounts to ‘indirect discrimination’, which does not necessarily require a discriminatory intent on the part of the authorities”¹⁹⁹

3. *The Americas*

The Inter-American Court of Human Rights and the Inter-American Commission on Human Rights oversee compliance by states parties with the *American Convention on Human Rights* and the *Protocol of San Salvador*. The *Protocol of San Salvador* has established formal protection mechanisms. The states parties have the obligation to present periodic reports to the Commission explaining progressive measures adopted for the realization of economic, social and cultural rights. Only violations of civil and political rights protected by the *American Convention on Human Rights* can be invoked before the Court and Commission.²⁰⁰ As Article 26 of the *Convention* includes the right to education, it is possible to lodge a complaint with these two instances regarding the non-respect of this right.

¹⁹⁸ Judgment, Strasbourg, 29 June 2007, In the case of Folgerø and Others v. Norway. § 102: <http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=Norway%20%7C%2015472/02%20%7C%20FOLGERO%20%7C%20Others%20%7C%20v.&sessionid=31858085&skin=hudoc-en>.

¹⁹⁹ *European Court of Human Rights, Annual Report 2007*, “Short Survey of the Main Judgments and Decisions Delivered by the Court in 2007, Right to education (Article 2 of Protocol No. 1)”. p. 76: http://www.echr.coe.int/NR/rdonlyres/59F27500-FD1B-4FC5-8F3F-F289B4A03008/0/Annual_Report_2007.pdf

²⁰⁰ Form for filing petitions alleging human rights violations: https://www.cidh.oas.org/cidh_apps/instructions.asp?gc_language=E.

Illustration n° 5

Right to Education of Children of Haitian Origin in the Dominican Republic

In 1997, Dilcia Yean (10 years old) and Violeta Bosico (12) were refused their request for birth certificates by the Office of Vital Statistics of the Dominican Republic. The two girls, of Haitian descent, were born in the Dominican Republic. Without birth certificates, they were deprived of their right to nationality and, consequently, their civil, economic, political and social rights. They were expelled from school on the claim that only children with birth certificates born in the Dominican Republic could attend school.

The Movement for Dominican Women of Haitian Descent (MUDHA), working with the Center for Justice and International Law and the Human Rights Law Clinic at the University of California, Berkley, filed a complaint with the Inter-American Commission on Human Rights alleging the violation of several articles of the *American Convention on Human Rights*. This avenue was chosen deliberately by those filing the complaint because they considered that the level of discrimination against persons of Haitian origin was so great that the national judiciary system would be biased against them. By bringing the case before an international tribunal, they hoped that the question would be discussed at the international level.

Owing to the high number of cases submitted the Inter-American Commission of Human Rights (2,000 to 3,000 per year), it took five years for the case to be referred to the Inter-American Court of Human Rights, and two more years for the Court to hear the case.

In its judgment handed down in September 2005, the Court ruled that the government of the Dominican Republic had violated the rights defined in Articles 3 (right to judicial personality), 18 (right to a name), 20 (right to nationality) and 24 (right to equal protection) of the *Convention*, in relation to Article 19 (rights of the child) and with Article 1.1 (obligation to respect rights) of the *Convention*, to the detriment of Dilcia and Violeta. The Court also declared that the government had violated the right defined in Article 5 (right to humane treatment), in relation to Article 1.1 (obligation to respect rights) of the *Convention*, to the detriment of Leonidas Oliven Yean, Tiramen Bosico Cofí and Teresa Tucent Mena, the parents of the children.

Regarding compensation, the Court ordered the government to: publish certain parts of the judgment in the official gazette and in a national newspaper with a large circulation; to organize a public event, with the participation of government authorities, to be covered by the media (radio, press and television), to acknowledge its international responsibility and apologize to the victims, their near relatives and their representatives; to adopt, within the framework of national legislation legislative and administrative measures as well as any other measures deemed necessary to regulate the procedure and the conditions of acquiring Dominican nationality (a procedure that should be simple, accessible and reasonable); to establish a redress procedure in case the request for nationality is refused; to accord non-monetary compensation as well as to pay the costs incurred at the national and international level in taking the case before the Inter-American system for human rights protection.

Moreover, the Court also accorded to each girl US\$ 8,000 in compensation.

The Dominica government has not respected certain aspects of the judgment, for it has not yet publicly apologized, nor has it yet paid the \$ 8,000. But it has given the girls birth certificates, and they now have access to education.

On 28 November, the Court demanded that the Dominican government execute the judgment. As the government failed to do so, on 18 May 2009, the Court summoned the parties to a closed-door audition on 8 July 2009 to obtain information on the execution of the judgment.

Sources: *Annual Report 2005* of the Inter-American Court of Human Rights, “Yean and Bosico Children case (Dominican Republic)” p. 22: www.corteidh.or.cr/docs/informes/Inf%20anua%202005%20diag%20ingles.indd.pdf;

Right to Education Project, “Inter-American Commission on Human Rights, Report 28/01, Case 12.189 (22 February (2001))”:

[http://www.right-to-education.org/node/183#Dilcia_Yean_and_Violeta_Bosica_v._Dominican_Republic](http://www.right-to-education.org/node/183#Dilcia_Yean_and_Violeta_Bosica_v._Dominican_Republic;);

Ruling of the Inter-American Court of Human Rights:

<http://www.corteidh.or.cr/supervision.cfm?&CFID=71493&CFTOKEN=19042859> (Spanish only).

C. At the International Level

1. United Nations Human Rights Bodies

The Committee on Economic, Social and Cultural Rights

The Committee on Economic, Social and Cultural Rights was created in 1985. It is composed of 18 independent experts, and it meets twice a year in Geneva for three weeks.

All countries that have ratified the *International Covenant on Economic, Social and Cultural Rights* must submit an initial report to the Committee two years after ratification then again every five years, on the measures they have taken to realize the rights that they have recognized, including the right to education. Subsequent to the submission of the periodic report, they are invited to come to Geneva to discuss it with the Committee, which, having examined it in detail, asks questions of the governmental delegation and addresses to it its concluding observations.²⁰¹

During the entire process, from the submission of the report to the final observations, the role of civil society organizations is crucial. These organizations can – and do – submit parallel (“shadow”) reports to the Committee. They can take the floor before the Committee, attend the discussions between the governmental delegations and the members of the Committee, and they can assure the follow-up to the concluding observations at the national level by putting pressure on their governments. This is especially important when a government is not “motivated” to take into account these observations, for it can mean the difference between

²⁰¹ All the government reports, a report on the discussion and the final observations of the Committee are available on the website of the Office of the United Nations High Commissioner for Human Rights: <http://www2.ohchr.org/english/law/index.htm>.

transforming them into a concrete improvement in the lives of disfavored populations and their remaining a dead letter.

In December 2008, the United Nations General Assembly adopted an optional protocol creating a procedure for filing individual and collective complaints with the Committee.²⁰² This protocol now requires ratification in order to enter into force.

Regarding the examination of the periodic government reports by the Committee, in its concluding observations concerning Angola, the Committee expressed its preoccupations as follows: “(a) indicators for education in the State party are very low; (b) the illiteracy rate among people over 15 years is very high; (c) children from poor families, girls, children with disabilities, victims of mine accidents and children living in both urban and remote rural areas have limited access to education, including education in their mother tongue, and often drop out of school.”²⁰³

The Committee also regrets that “the budget allocated to the education decreased between 2004 and 2006, despite the rapidly rising number of children in the school age. It is also concerned at the lack of schools and training of teachers, especially in remote areas and in slums settlements”.²⁰⁴

In view of the foregoing, the Committee recommended that the government: “(a) adopt a comprehensive plan of action concerning the educational system; (b) ensure the availability of teachers in remote rural areas, and that they are fully trained and qualified; and (c) increase public expenditure on education in general, and take deliberate and targeted measures towards the progressive realization of the right to education for the disadvantaged and marginalized groups throughout the country.”²⁰⁵

The Special Rapporteur on the Right to Education

Through Resolution 1998/33²⁰⁶, the former Commission on Human Rights²⁰⁷ created the post of Special Rapporteur on the right to education for three years. This mandate was to “focus on the right to education, as laid down in article 26 of the Universal Declaration of Human Rights and in the relevant and applicable provisions of the International Covenant on Economic, Social and Cultural Rights, and would comprise the following: (i) to report on the status, throughout the world, of the progressive realization of the right to education, including access to primary education, and the difficulties encountered in the implementation of this right...; (ii) to promote, as appropriate, assistance to Governments in working out and adopting urgent plans of action, wherever they do not exist, to secure the

²⁰² V. The CETIM, *The Optional Protocol to the ICESCR*, a critical report: http://www.cetim.ch/en/documents/report_2.pdf.

²⁰³ *Concluding Observations* of the Committee on Economic, Social and Cultural Rights, Angola, E/C.12/AGO/CO/3, 1 December 2008, § 38, <http://www2.ohchr.org/english/bodies/cescr/cescrs41.htm>.

²⁰⁴ *Ibid.*, § 39.

²⁰⁵ *Ibid.*

²⁰⁶ Adopted 17 April 1998 by 52 for to 1 against (the United States).

²⁰⁷ Replaced in 1006 by the Human Rights Council.

progressive implementation, within a reasonable number of years, of the principle of compulsory primary education free of charge for all, bearing in mind, inter alia, levels of development, the magnitude of the challenge and efforts by Governments; (iii) to take into account gender considerations, in particular the situation and needs of the girl child, and to promote the elimination of all forms of discrimination in education; (iii) to take into account gender considerations, in particular the situation and needs of the girl child, and to promote the elimination of all forms of discrimination in education; ... (vi) to identify possible types and sources of financing for advisory services and technical cooperation in the field of access to primary education.”

Since then, this mandate has been regularly amended and extended, first by the Commission then by the Human Rights Council.

In 2004, the mandate of the Special Rapporteur was modified to request the mandate holder, in particular, “(a) to gather, request, receive and exchange information from all relevant sources, including Governments, intergovernmental organizations and non-governmental organizations, on the realization of the right to education, and to make recommendations on appropriate measures to promote and protect the realization of the right to education; (b) to intensify efforts aimed at identifying ways and means to overcome obstacles and difficulties in the realization of the right to education; ... (e) To review the interdependence and interrelatedness of the right to education with other human rights...”²⁰⁸

Since 2008, the Special Rapporteur has also had to submit a report to the General Assembly.²⁰⁹

Although the first Special Rapporteur concentrated her efforts during her first mandate on the realization of free primary schooling, schooling for girls and the integration of human rights into educational curricula, the second Special Rapporteur initiated thematic studies and drafted reports on “vulnerable” groups such as women and young girls, migrants, refugees, internally displaced persons the handicapped and detainees.²¹⁰

It should be emphasized that the Special Rapporteur, within the framework of her/his mandate, is authorized to receive “communications” (complaints) for which governments can be asked to provide explanations regarding what is being alleged. The Special Rapporteur can take a position, according to the response received from a government, can publish annual reports (or addenda) submitted once a year to the Human Rights Council.²¹¹

The Special Rapporteur is also authorized to conduct visits to countries (two or three per year) and to submit specific reports on the realization or non-realization of the right to education in the country visited. The Rapporteur has so far conducted such visits to the following countries (in chronological order): United Kingdom,

²⁰⁸ 60th Commission on Human Rights, Resolution 2004/25, § 9, adopted without a vote, 16 April 2004.

²⁰⁹ Human Rights Council, Resolution 8/4, § 9,g, adopted without a vote, 18 June 2008.

²¹⁰ All these reports are available on-line:

<http://www2.ohchr.org/english/issues/education/rapporteur/annual.htm>.

²¹¹ *Ibid.*

Uganda, Turkey, United States, Indonesia, Colombia, China, Botswana, Germany, Morocco, Bosnia, Malaysia, Guatemala, Paraguay.²¹²

The United Nations Treaty Bodies

Several other U.N. treaty bodies are implicated in the protection of the right to education in their overseeing of compliance with international human rights treaties.

The *Committee on the Rights of the Child (CRC)* is the United Nations body that oversees compliance with the *Convention on the Rights of the Child*²¹³ by the states parties, including the right to education and to cultural activities (Articles 28 to 30). It also oversees the implementation of the *optional protocols* to the *Convention*, one regarding *involvement of children in armed conflict* and the other on the *sale of children, child prostitution and child pornography*. The CRC examines the periodic reports submitted by the states parties to the *Convention* as well as the complementary reports submitted by those countries that have ratified the optional protocols. This body still does not have a procedure allowing it to receive complaints.

In its concluding observation adopted in October 2008 regarding the United Kingdom, the Committee was concerned to see that “significant inequalities persist with regard to school achievement of children living with their parents in economic hardship. Several groups of children have problems being enrolled in school or continuing or reentering education, either in regular schools or alternative educational facilities, and cannot fully enjoy their right to education, notably children with disabilities, children of Travelers, Roma children, asylum-seeking children, dropouts and non-attendees for different reasons (sickness, family obligations etc.), and teenage mothers”.²¹⁴

Among the recommendations made by the Committee to the United Kingdom government, one might note that it should “invest considerable additional resources in order to ensure the right of all children to a truly inclusive education which ensures the full enjoyment to children from all disadvantaged, marginalized and school-distant groups”.²¹⁵

The *Committee on the Elimination of Racial Discrimination (CERD)* is the United Nations body that oversees compliance by the states parties to the *Convention on the Elimination of All Forms of Racial Discrimination*.²¹⁶ Besides examining the periodic reports of the states parties, the CERD is authorized to receive both individual and collective complaints by virtue of Article 14 of the *Convention*.²¹⁷ Examples would be a case of discrimination with regard to economic,

²¹² Reports available on-line: <http://www2.ohchr.org/english/issues/education/rapporteur/annual.htm>.

²¹³ Adopted in 1989, entered into force in 1991.

²¹⁴ *Concluding Observations* of the Committee on the Rights of the Child, United Kingdom, CRC/C/GBR/CO/4, 20 October 2008:

<http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.GBR.CO.4.pdf>.

²¹⁵ *Ibid.*, § 67.

²¹⁶ Adopted in 1965, entered into force in 1969.

²¹⁷ This article requires that a state party make a declaration acknowledging the competence of the CERD.

social and cultural rights including “the right to education and training” (Article 5.e.v) and omitting to take measures in the areas of “teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination” (Article 7).

In its concluding observation regarding Argentina, the CERD deplored that “the right to a bilingual and inter-cultural education for indigenous peoples recognized by the Constitution is not fully respected in practice”. It also deplored “the lack of adequate training provided to indigenous teachers and discrimination faced by them, as well as the insufficient measures to preserve indigenous languages and to include the history and culture of indigenous peoples in school curricula”.²¹⁸

Consequently, the CERD recommended that the Argentine government “adopt all necessary measures to ensure, in consultation with the indigenous communities, a bilingual and inter-cultural education for indigenous peoples with full respect for their cultural identity, languages, history and culture, bearing also in mind the wider importance of inter-cultural education for the general population. It further recommends that adequate training be provided to indigenous teachers and effective measures be adopted to combat all forms of discrimination against them”.²¹⁹

The *Committee for the Elimination of Discrimination Against Women (CEDAW)* is the U.N. body that monitors the implantation of the *Convention on the Elimination of All Forms of Discrimination against Women*.²²⁰ The CEDAW examines the periodic reports submitted by the states parties and has been able to receive individual and collective complaints since the entry into force in 2000 of the optional protocol to the Convention. Such complaints typically deal with cases of discrimination involving rights that include the right to education and to professional status (Articles 10 and 14.d).

In its concluding observation concerning Rwanda, the CEDAW noted: “While appreciating the State party’s efforts in reducing female illiteracy, achieving parity in primary education, and introducing free and compulsory nine-year public school education, the Committee is concerned at the low enrollment rate of girls in secondary and higher education and at the high dropout rate of girls. The Committee is further concerned that traditional attitudes and early pregnancies are among the causes of girls dropping out of education and that pregnant girls who leave school as a result of the measure of suspension encounter difficulties in resuming their studies. It is also concerned about the low number of female teachers, especially in secondary and higher education and in leadership positions.”²²¹

²¹⁸ *Concluding Observations* of the Committee on the Elimination of Racial Discrimination, CERD/C/65/CO/1, 10 December 2004, § 19: <http://www2.ohchr.org/english/bodies/cerd/cerds65.htm>.

²¹⁹ *Ibid.*

²²⁰ Adopted in 1979, entered into force in 1981.

²²¹ *Concluding Observations* of the Committee on the Elimination of Discrimination Against Women, Rwanda, CEDAW/C/RWA/CO/6, CCEDAW/C/RWA/CO/6, 8 September 2009, § 31: <http://daccessdds.un.org/doc/UNDOC/GEN/N09/236/44/PDF/N0923644.pdf?OpenElement>.

Among the recommendations of the Committee to the Portuguese government, one might note that it should “promote sexual health education targeted at adolescent girls and boys, and ensure access to sexual health information and all services, including those directed at interruption of pregnancies, for all women and girls”. The government should also “continue its efforts to strengthen rural women’s and girls’ access to education and formal vocational training and to encourage them to pursue their education after primary school”.²²²

The *Committee on Migrant Workers* was set up following the entry into force in 2003 of the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*.²²³ This document is based on the proposition that “each child of a migrant worker shall have the basic right of access to education on the basis of equality of treatment with nationals of the State concerned” (Article 30). All the states parties are thus required to submit to the CMW periodical reports on their implementation of the rights specified in the *Convention*. The CMW examines each report and communicates its concerns and its recommendations to the states parties in the form of concluding observations. The CMW can also receive complaints, both intergovernmental (Article 76) and individual (Article 77), but only from citizens of a state party accused of a violation of the rights listed in the *Convention* and only after 10 states parties to the *Convention* will have acknowledged the competence of the CMW in this area.²²⁴ It is worth noting that this convention has been ratified by only 42 countries so far and that no Western country is among them.²²⁵

In the Committee’s concluding observations on Egypt, it expresses concern that “most children of documented migrant workers do not have access to public schools and that the children of undocumented migrant workers do not have any access to the schooling system”, recommending that the Egyptian government “grant all children of migrant workers, whether documented or undocumented, access to schools on the basis of equality of treatment with Egyptian children in accordance with article 30 of the *Convention*”.²²⁶

The *Human Rights Committee* is entrusted with monitoring the implementation of the *International Covenant on Civil and Political Rights*. All states parties are required to submit to the Committee their national report on the implementation of the rights specified in the *Covenant*. An initial report must be presented one year after ratification and subsequently each time that the Committee requests another (usually every four years). The Committee examines the report of each state party and communicates to it its concerns and its recommendations in the form of concluding observations. By virtue of Article 41 of the *Covenant*, the

²²² *Concluding Observations* of the Committee on the Elimination of Discrimination Against Women, Portugal, CEDAW/ C/PRT/CO/7, 1 April 2009, §§ 43 and 49: <http://daccessdds.un.org/doc/UNDOC/GEN/N08/603/37/PDF/N0860337.pdf?OpenElement>.

²²³ Adopted in 1999.

²²⁴ http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsq_no=IV-13&chapter=4&lang=en.

²²⁵ *Ibid.*

²²⁶ *Concluding Observations* of the Committee on Migrant Workers, CMW/CEGY/CO/1, 25 May 2007, §§ 36, 37: http://www2.ohchr.org/english/bodies/cmw/docs/cmw_c_egy_co1.doc.

Committee can also examine intergovernmental communications (complaints) and, by virtue of the optional protocol, communications emanating from individuals. A communication can be made to the Committee for non-respect by a state party to the *Covenant* of the freedom of parents to “ensure the religious and moral education of their children in conformity with their own convictions” (Article 18.4) or of other rights related to the right to education such as the principle of non-discrimination (Article 26) or the rights of minorities (Article 27).

For example, during the examination of the report of Japan, the Committee noted that “State subsidies for schools that teach in the Korean language are significantly lower than those for ordinary schools, making them heavily dependent on private donations, which are not exempted or deductible from taxes, unlike donations to private Japanese schools or international schools, and that diplomas from Korean schools do not automatically qualify students to enter university”. Consequently, it requested that the Japanese government “ensure the adequate funding of Korean language schools by increasing State subsidies and applying the same fiscal benefits to donors of Korean schools as to donors of other private schools, and recognize diplomas from Korean schools as direct university entrance qualifications”.²²⁷

The *Committee on the Rights of Person with Disabilities*, which monitors the implementation of the *Convention on the Rights of Persons with Disabilities*²²⁸, including their right to education (Article 24), held its first meeting in February 2009 and will be competent to receive both individual and collective complaints on condition that the country accused has ratified the optional protocol to the *Convention*.

2. UNESCO

The monitoring of UNESCO’s norms is carried out through the examination of periodic reports of the institution’s member states. The UNESCO charter provides that “each Member State shall submit to the Organization, at such time and in such manner as shall be determined by the General Conference, reports on laws, regulations and statistics relating to its educational, scientific and cultural institutions and activities, and on the action taken upon the recommendations and conventions (....)” (Articles VI (4) and VIII)²²⁹

The periodic reports submitted by the member states are examined by the Committee on Conventions and Recommendations, a subsidiary body of UNESCO’s Executive Board.

In 1978, through its Decision 104 EX/3.3, the UNESCO Executive Board created a complaints procedure for human rights violations coming under the areas in

²²⁷ *Concluding Observations* of the Human Rights Committee, Japan, CCPR/C/JPN/CO/5, 18 December 2008, § 31:
<http://daccessdds.un.org/doc/UNDOC/GEN/G09/401/08/PDF/G0940108.pdf?OpenElement>.

²²⁸ Adopted 13 December 2006.

²²⁹ UNESCO Instruments:
<http://www.unesco.org/en/right-to-education/monitoring/unesco-instruments/>

which this institution has competence: education, science, culture and information.²³⁰

The Committee on Conventions and Recommendations is also competent to examine complaints submitted within the framework of the complaints procedure.

The Executive Board is composed of 58 UNESCO member states, elected for four years. The thirty members of the Committee on Conventions and Recommendations are elected from within the Executive Board.

Individuals, groups of individuals and NGOs, in their own name or in the name of one or more victims may submit complaints to UNESCO.

The admissibility of complaints is subject to conditions. They must, *inter alia*, be related to violations of human rights pertaining to the competence of UNESCO (the right to education; the right to enjoy the benefits of scientific progress and its applications; the right to take part in cultural life; the right to seek, receive and impart information and ideas through any media and regardless of frontiers; the right to information, including freedom of opinion and expression); they must be presented within a reasonable period of time from the date of the facts that constitute the violation or from the date when these facts became known; they must indicate if domestic avenues of redress have been exhausted.²³¹

The UNESCO director general can carry out “personally various humanitarian measures for the benefit of persons alleged to be victims of human rights violations in the areas of competence of UNESCO” if the case submitted requires an urgent examination.²³²

The Committee meets twice a year, and its work is strictly confidential, including the reports it submits to the Executive Board and to the General Conference.²³³ However, these two administrative bodies of UNESCO may undertake the examination of a complaint at a sitting open to the public if it concerns “massive, systematic or flagrant human rights violations”²³⁴ In the 30-year life of the complaints procedure, this option has never been used.

The UNESCO procedure is “not treaty-based but rights-oriented; is not a judicial or quasi-judicial procedure but instead focuses on establishing and maintaining a dialogue with the State concerned; is almost entirely confidential; and the Committee comprises representatives of States and not independent experts”.²³⁵

²³⁰ http://portal.unesco.org/shs/en/ev.php-URL_ID=8045&URL_DO=DO_TOPIC&URL_SECTION=201.html.

²³¹ http://portal.unesco.org/fr/files/19096/10790144001Brochure_CR.pdf/Brochure%2BCR.pdf

²³² *Idem*.

²³³ The General Conference comprises all UNESCO member states. It meets every two years, and the member countries are often represented at the ministerial level : <http://www.unesco.org/en/general-conference-35session/>.

²³⁴ *Comparative summary of existing communications and inquiry procedures and practices under international human rights instruments and under the United Nations system, Report of the Secretary-General, E/CN.4/2005/WG.23/2, 22 November 2004, § 72:*

http://www.bayefsky.com/reform/e_cn_4_2005_wg_23_2.pdf.

²³⁵ *Ibid.*, § 74.

3. ILO

Founded in 1919, the International Labor Organization (ILO) is the main organization at the international level dealing with work related matters and is distinguished from the other specialized U.N. agencies by its tripartite structure. It is administered by a Governing Body composed of 56 members 26 of whom are governmental, 14 representing workers and 14 representing employers. The ten most industrialized countries (Brazil, China, France, Germany, India, Italy, Japan, Russia, United Kingdom, United States) hold a permanent seat on the Governing Body, while the other are elected for three-year terms.

The ILO's main task is elaborating international work standards in the form of conventions (binding) and recommendations (non-binding), "setting minimum standards of basic labor rights: freedom of association, the right to organize, collective bargaining, abolition of forced labor, equality of opportunity and treatment and other standards addressing conditions across the entire spectrum of work-related issues"²³⁶

The ILO also has several control mechanisms for monitoring the respect and implementation of its standards. These mechanisms can be resorted to by national or international trade unions. As emphasized above, certain ILO standards have a direct or indirect connection to the right to education. Thus, the ILO instances are often used by teachers' trade unions for violations for their rights.

For example, in a complaint filed in 1996, in conformity with Article 24 of the ILO constitution, the Education International and the Education and Science Employees' Union of Russia alleged the non-observance by the Russian Federation of ILO *Protection of Wages Convention, N° 95 (1945)*. In its 1997 ruling, the committee entrusted with hearing the case, requested, among other things that the Russian government "a. (i) to take all necessary measures, in full consultation with workers' and employers' representatives, to ensure the prompt payment of wage arrears owed by different state budgets, enterprises and organizations; (ii) to strengthen the supervision of payment of wages, notably through the reinforcement of the activities of the labor inspectorate; (iii) to ensure effective enforcement of dissuasive sanctions for the non-payment of wages; (iv) to take specific measures to prevent the diversion to other illicit purposes of funds that should be used to pay wages; (v) to ensure that measures taken with a view to reimbursing wage arrears do not result in the violation of other provisions of the Convention; ensure the full application of the Convention and in this regard".²³⁷

In a complaint filed in 2007, the Ethiopian Teachers Association alleged serious violations in the ETA's trade union rights including continuous interference in its internal organization preventing it from functioning normally, and interference by way of threats, dismissals, arrest, detention and maltreatment of ETA members. In its decision published in 2009, the committee that heard the case urged the Ethiopian government, among other things, "to take all necessary measures to

²³⁶ http://www.ilo.org/global/About_the_ILO/Mission_and_objectives/lang--en/index.htm.

²³⁷ Representation (article 24) - 1996 - Russian Federation - C095 -Report of the Committee: <http://www.ilo.org/ilolex/cgi-lex/single.pl?query=161997RUS095@ref&chspec=16>.

ensure that the National Teachers' Association is registered without delay so that teachers may fully exercise their right to form organizations for the furtherance and defense of teachers' occupational interests without further delay... to ensure that the freedom of association rights of civil servants, including teachers in the public sector, are fully guaranteed". It also requested that Mr Mengistu (one of the imprisoned leaders of the ETA be released or "brought to trial without delay before an impartial and independent judicial authority". It also asked the government "to initiate without delay an independent inquiry into the allegations of torture and maltreatment of the detained persons to be led by a person that has the confidence of all the parties concerned, and if it is found that they have been subjected to maltreatment, to punish those responsible and to ensure appropriate compensation for any damages suffered... to initiate a full and independent investigation into the allegations of harassments in September-November 2007 of Ms Berhanework Zewdie, Ms Aregash Abu, Ms Elfinesh Demissie and Mr Wasihun Melese, all members of the National Executive Board of the complainant organization; as well as over 50 of its prominent activists in order to determine responsibilities, punish the guilty parties and prevent the repetition of similar acts... ensure the payment of lost wages to Ms Demissie, as well as adequate indemnities or penalty constituting a sufficiently dissuasive sanction against any further act of anti-union discrimination".²³⁸

²³⁸ <http://www.ilo.org/ilolex/cgi-lex/pdconv.pl?host=status01&textbase=iloeng&document=4893&chapter=3&query=%23CASE%3D2516&highlight=on&querytype=bool&context=0> .

CONCLUSION

As has been stated above, the right to education has been recognized as a human right for more than 60 years. In spite of the existence of numerous international treaties in this area that are legally binding on the states parties, not only is this right violated daily in many countries, but, worse, governments have a tendency to shirk their responsibilities, opening the way to privatization in education with all its known consequences.

One thing should be clear: education is a public service, and it must remain a public service if one wishes to promote democracy and citizenship in ever more globalized societies.

Budgetary constraints are not an admissible excuse for consigning hundreds of millions of persons to ignorance and darkness. A world that spends more than a thousand billion United States dollars per year for arms and which can come up with three times that amount in one year to save the banking system cannot decently avail itself of such excuses. Moreover, at a time when extremism of all sorts (not just religious but also economic) is polluting people's minds, we cannot afford to skimp on education.

The right to education "is both a human right in itself and an indispensable means of realizing other human rights".²³⁹ Consequently, it must be placed among the priorities of all governments. Once more, it is for citizens and social movements to remind their governments of their responsibilities and to demand that the right to a quality education become a reality. Let us hope that this brochure will contribute to the efforts of all persons and organizations that mobilize to make this elementary right respected.

²³⁹ Committee on Economic, Social and Cultural Rights, *General Comment N° 13*, adopted in December 1999, E/C.12/1999/10, § 1:
[http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/ae1a0b126d068e868025683c003c8b3b?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/ae1a0b126d068e868025683c003c8b3b?Opendocument).

VII. ANNEXES

Main Reference Websites and Instances to Which One May Recur

MAIN REFERENCE WEBSITES

Office of the High Commissioner for Human Rights: www.ohchr.org
United Nations Educational, Scientific and Cultural Organization (UNESCO):
<http://portal.unesco.org>
International Labor Organization: www.ilo.org
United Nations Children's Fund: www.unicef.org
United Nations Development Programme: www.undp.org
World Bank: www.banquemondiale.org
Organization for Economic co-operation and Development (OCDE):
www.ocde.org
Right to Education Project: www.right-to-education.org
Education International: www.ei-ie.org
Public Services International: www.world-psi.org
World Association of School as an Instrument of Peace: www.eip-cifedhop.org
Association internet pour la promotion des droits de l'homme (AIDH):
www.droitshumains.org

INSTANCES TO WHICH ONE MAY RECUR

At the international level

Committee on Economic, Social and Cultural Rights, CESCR (to request information)

OHCHR – Palais Wilson

United Nations Office at Geneva, 1211 Geneva 10, Suisse

Fax: +41229179022 E-mail: smathews@ohchr.org

Committee on the Elimination of Discrimination Against Women, CEDAW (to file complaints and request information)

OHCHR – Palais Wilson

United Nations Office at Geneva, 1211 Geneva 10, Suisse

Fax: +4122 9179022 E-mail: cedaw@ohchr.org ou tb-petitions@ohchr.org

Committee on the Elimination of Racial Discrimination, CERD (to file complaints and request information)

OHCHR – Palais Wilson

United Nations Office at Geneva, 1211 Geneva 10, Suisse

Fax: +4122 9172029 E-mail: tschackel@ohchr.org ou tb-petitions@ohchr.org

Committee on the Rights of the Child, CRC (to request information)

OHCHR – Palais Wilson
United Nations Office at Geneva, 1211 Geneva 10, Suisse
Fax: +4122 9179022 E-mail: mandrijasevic@ohchr.org

Human Rights Committee, HRC (to file complaints and request information)

OHCHR – Palais Wilson
United Nations Office at Geneva, 1211 Geneva 10, Suisse
Fax: +4122 9179022 E-mail: nprouvez@ohchr.org ou tb-petitions@ohchr.org

Committee on Migrant Workers, CMW (information)

OHCHR – Palais Wilson
United Nations Office at Geneva, 1211 Geneva 10, Suisse
Fax: +4122 9179022 E-mail: cedelenbos@ohchr.org

At the regional level

African Commission on Human and People's Rights (to file complaints and request information)

Avenue Kairaba, P.O. Box 673, Banjul, Gambie.
Tel.: +220 4392962 Fax: +220 4390764
E-mail: achpr@achpr.org Web: www.achpr.org

Inter-American Commission on Human Rights (to file complaints and request information)

1889 F Street, N.W., Washington, D.C. 20006, Etats-Unis d'Amérique.
Fax: +202 458-3992 E-mail: cidhoea@oas.org Web: www.cidh.oas.org

Inter-American Court of Human Rights (to file complaints)

Corte Interamericana de Derechos Humanos
Avenida 10, Calles 45 y 47 Los Yoses, San Pedro, Apartado Postal 6906-1000,
San José, Costa Rica
Tel.: +506 2340581 Fax: +506 2340584.
E-mail: corteidh@corteidh.or.cr Web: www.corteidh.or.cr

European Committee of Social Rights (to file collective complaints and request information)

Secrétariat de la Charte sociale européenne
Direction générale des Droits de l'Homme – DG II
Avenue de l'Europe, 67075, Strasbourg Cedex, France
Tel.: +333 88413258 Fax: +333 88413700.
E-mail: social.charter@coe.int Web: www.coe.int

European Court of Human Rights (to file complaints)

Conseil de l' Europe
Avenue de l'Europe, 67075 Strasbourg Cedex, France
Tel.: +333 88412018 Fax: +333 88412730 Web: www.coe.int