



UNESCO Conference on the Right to Education

Boston University

Boston University School of Education will host, 2-5 April 2008, a Working Group and Conference on the Right to Education as guaranteed by international and national laws, with special focus on sub-Saharan Africa. The Working Group will consist of 6-8 experts from Africa, with roughly an equal number of experts from North America and Europe; over the course of two days, they will further elaborate and make specific the document 'Indicators for Measuring the Quality of Educational Legislation,' developed by a group of specialists on education law and policy meeting at UNESCO in July and October 2007. The Conference will be a subsequent one-day event open to a wider public, intended to increase understanding of the Right to Education, especially in developing nations, and the role of non-governmental organizations in advocating for those rights.

Background

In 2004, the European Association for Education Law and Policy (ELA) in cooperation with UNESCO, and with the participation of the Association for Education Law of the United States, SAELPA (South African Education Law and Policy Association), the League of Education Law (Russian Federation), ANZELA (Australia and New Zealand Education Law Association), CAPSLE (Canadian Association of the Practical Study of Law in Education), and other education law associations around the world, organized the first World Conference on the Right to Education and Rights in Education in Amsterdam, resulting in a widely-noted *Declaration on the Right to Education*. Follow-up conferences were held in Jakarta (2005), Brazil (2005 and 2006) and Potsdam (2007).

In 2007, Prof. Dr. Jan De Groof, President of ELA, was appointed Chargé de mission to UNESCO for the Right to Education to promote and monitor UNESCO's normative acts on education and support UNESCO's Education for All goals through capacity building at the international and national levels. He has established a task force, of which SED Dean *ad interim* Charles Glenn is a member, to work with him on elaborating international standards by which legal and policy frameworks guaranteeing the Right to Education in nations worldwide may be assessed, and indicators and strategies for monitoring the effects of those frameworks in practice.

The Right to Education is an internationally recognized right. It is at the heart of UNESCO's mission, and central to the Education for All (EFA) process. The Constitution of UNESCO expresses the belief of its founders in 'full and equal opportunities for education for all'. The normative framework for the Right to Education is essentially contained in the Convention against Discrimination in Education (1960), which occupies foremost place among UNESCO's instruments. Article 4 enjoins upon the States Parties to the Convention "the obligation (...)

- To make primary education free and compulsory; make secondary education in its different

forms generally available and accessible to all; make higher education equally accessible to all on the basis of individual capacity; ensure compliance by all with the obligation to attend school prescribed by law;

- To ensure that the standards of education are equivalent in all public educational institutions of the same level, and that the conditions relating to the quality of the education provided are also equivalent;
- To encourage and intensify by appropriate methods the education of persons who have not received any primary education or who have not completed the entire primary education course and the continuation of their education on the basis of individual capacity; and
- To provide training for the teaching profession without discrimination.

The conference and Working Group at Boston University in April 2008 will make an important contribution to clarifying the requirements of the Right to Education and to identifying 'best practices' in measuring the extent to which this fundamental right is respected in different countries and in advocating for those to whom it has been denied. It is one of a number of events whose results will help to shape the international standards of equity in education.

Framework for Discussion

The Working Group and the conference will consider how, in practice, the legal and policy framework in a society guarantees the Right to Education, in such a manner that individuals have legal recourse when that right has been violated for themselves or their children, and that non-governmental organizations (NGOs) may do so on behalf of population groups.

It has been said that "the modern state has emerged as both the principal threat to the enjoyment of human rights and the essential institution for their effective implementation and enforcement" (Donnelly 2003, p. 35). Both sides of the role of government will be considered. International discussion of the Right to Education distinguishes three government obligations: *to respect rights*, *to protect rights*, and *to fulfill rights*.

To respect rights means that the state must not interfere directly with people realizing their rights. Government should have an explicit legal obligation

- to respect free access to public education in legislation, policy and practice without discrimination;
- to respect the religious and philosophical convictions of pupils and staff;
- to respect the freedom of school choice by parents and older youth;
- to respect human dignity;
- to permit teaching in minority languages;
- to permit the establishment and operation of non-state schools (subject to legal and educational standards);
- to respect cultural diversity.

To protect rights means that the state must also prevent others from interfering with rights. Government should have an explicit legal obligation:

- to apply and uphold equal access to education in legislation, policy and practice against violations by employers, parents, or other persons;
- to adopt, implement and uphold legislation against child labor;
- to regulate recognition of private educational institutions and diplomas to protect their clients;
- to combat indoctrination or coercion by others;
- to combat unlawful discrimination in the admission of students to institutions, with particular attention to members of racial and linguistic minority groups and to girls;
- to apply and uphold the principle of equality of treatment in education, with particular attention to members of racial and linguistic minority groups and to girls;
- to provide legal protection to non-state teacher training institutions and diplomas.

To fulfill rights means that the state should provide the resources and the legal and institutional framework necessary to the full enjoyment of the rights guaranteed by international standards.

Government should have an explicit legal obligation

- to ensure that every child receives free pre-primary and primary education
- to ensure that every person, of any age, has access to free basic education in the fundamental skills and knowledge required to participate in the society and economy;
- to ensure the adequate quality of all formal schooling at every level;
- to promote the availability and quality of non-formal education for children, youth, and adults;
- to provide specialized educational facilities and support for persons who cannot otherwise enjoy the benefits of education to the highest level of which they are capable;
- to introduce progressively free secondary and higher education for those capable of making use of it;
- to ensure that educational facilities are accessible both with respect to transportation as needed and to physical barriers;
- to promote throughout the curriculum respect for human differences;
- to enable parents to exercise their right of educational choice through providing financial and other support to institutions offering alternatives to public schools of acceptable quality.

Please note that the examples above are by no means exhaustive.

In 2003, the United Nations Committee on Economic, Social and Cultural Rights (UNCESCR), in collaboration with UNESCO, issued a detailed commentary on the Right to Education as guaranteed by Article 13 of the International Covenant on Economic, Social and Cultural Rights. Particularly notable was its stipulation that “education in all its forms and at all levels shall exhibit the following interrelated and essential features:

Availability - functioning educational institutions and programmes have to be available in sufficient quantity within the jurisdiction of the State party. What they require to function depends upon numerous factors, including the developmental context within which they operate; for example, all institutions and programmes are likely to require buildings or other protection from the elements, sanitation facilities for both sexes, safe drinking water, trained teachers receiving domestically competitive salaries, teaching materials, and so on; while some will also require facilities such as a library, computer facilities and information technology;

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

i) Non-discrimination - education must be accessible to all, especially the most vulnerable groups, in law and fact, without discrimination on any of the prohibited grounds (see paras. 31-37 on non-discrimination);

ii) Physical accessibility - education has to be within safe physical reach, either by attendance at some reasonably convenient geographic location (e.g. a neighbourhood school) or via modern technology (e.g. access to a “distance learning” programme);

iii) Economic accessibility - education has to be affordable to all. This dimension of accessibility is subject to the differential wording of article 13 (2) in relation to primary, secondary and higher education: whereas primary education shall be available “free to all”, States parties are required to progressively introduce free secondary and higher education;

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 (I) and such minimum educational standards as may be approved by the State (see art. 13 (3) and (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.”

In order to promote the Right to Education as so defined, educational legislation at the national level should provide for

- basic skills (literacy, numeracy, life skills);
- language skills necessary to success in education, in employment, and in citizenship;
- vocational skills;
- the ability to learn independently;
- the ability to use technology;
- the habits and skills supporting active participation in society and the economy;
- health and safety skills.

Again, the examples are not intended to be exhaustive, but these skills can be considered as necessary for the full development of human personality and self-sustaining life.

In considering to what extent the Right to Education is protected and promoted in any country, it is necessary to consider whether disparities by characteristics such as ethnicity, gender, region, disability, religion, and income are reflected in

- the participation of pupils in all schools, courses of study, classes, and activities;
- planning and organization of teaching and learning with all pupils in mind;
- a curriculum which develops understanding and respect for individual and cultural differences;
- use of a variety of teaching styles and strategies;
- experience by all pupils of success in their learning, according to their capacity;
- commitment to using difficulties in learning as opportunities for the development of practice;
- regular attendance by pupils . . . and by school staff.

Purpose of the Working Group

The task, in April 2008, of the Working Group of approximately fifteen persons will be to identify

- I. model legislative and policy provisions in various countries, especially in sub-Saharan Africa, that provide a basis for enforcing the Right to Education;
- II. model practices in those countries of advocacy for the Right to Education for individuals and for groups, especially practices making use of the national or international legal system;
- III. appropriate and available 'indicators' for the extent to which the Right to Education is respected, protected, and promoted in various countries; and
- IV. the role and relevance of international norms protecting the right to education in the national setting.

UNESCO *Chargé de Mission* De Groof will participate in the Working Group, as will UNESCO official Dr. Kishore Singh, ensuring that the results of the discussion become part of the process of promoting the Right to Education worldwide. In addition, a report on the findings of the Working Group will be published in the *International Journal of Education* and in the *Journal of Education* (Boston University). Any background papers prepared by members of the Working Group will also be considered for such publication.