

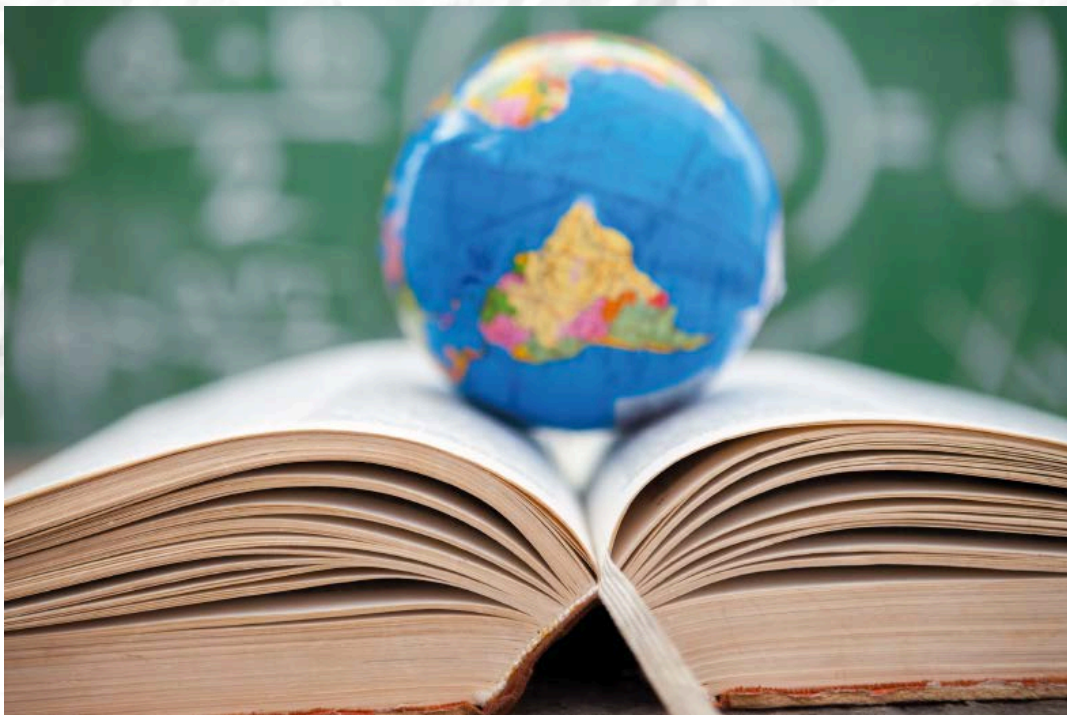


UNITED NATIONS
HUMAN RIGHTS
SPECIAL PROCEDURES

SPECIAL RAPPORTEURS, INDEPENDENT EXPERTS & WORKING GROUPS

THE RIGHT TO EDUCATION AS A CULTURAL RIGHT

SPECIAL RAPPORTEUR ON THE RIGHT TO EDUCATION



UNDERSTANDING THE RIGHT TO EDUCATION AS A CULTURAL RIGHT

The right to education has strong **cultural dimensions** and can be considered as a **CULTURAL RIGHT in itself**.



Education must be based on a "**diversity of diversities**":

1. Diversity of the people; 2. Diversity of actors who participate in educational life;
3. Diversity of knowledge and disciplines.

The right to education should be understood as the right of each person to the cultural resources necessary to freely follow a process of identification, to experience mutually rewarding relations his or her life long, to deal with the crucial challenges facing our world, and to engage in the practices that make it possible to take ownership of and contribute to these resources.

The limited cultural relevance of education systems seriously impedes the realization of the right to education. The major challenge is to determine how these systems can be used to provide an **inclusive** and **quality** education that promotes cultural diversity and cultural rights, and that reflects and draws on that diversity.

Education systems, which are often highly centralized, remain ill-suited to the needs of multicultural societies. They establish a hierarchy of different cultures, world views, and ways in which people identify as human beings.

They are thus far from fulfilling the objectives of the right to education as set out in international instruments, perpetuating **discrimination**, **exclusion**, and **segregation**, processes that run counter to the principle of the Sustainable Development Goals of ensuring that no one is left behind.

THE EFFECTIVE REALIZATION OF THE RIGHT TO INCLUSIVE AND QUALITY EDUCATION DEPENDS ON 3 CAPACITIES:

A) **The capacity of the actors** of education systems to adapt to the diversity of learners' cultural resources and the cultural resources available locally, which also necessitates the capacity to take ownership of these resources.

B) **The capacity of everyone to be enriched** by the value of these particular cultural resources, while respecting human rights as a whole.

C) **The capacity to include** people and resources in educational life.

SHIFTING PERSPECTIVES

- 1 We might think that cultural diversity makes universality impossible. However, a universal right that is not informed by proper appreciation of **cultural diversity** cannot be truly universal.



UNIVERSALITY IS IN FACT INVENTED AND TRANSMITTED THROUGH CULTURAL PRACTICES

Recognizing the cultural dimension of the right to education does not translate into encouragement to appreciate nothing but the diversity of cultural identities; it is also about cultivating what underpins our common identities, our common humanity. Put simply, it is impossible to have one without the other.

- 2 The adjective “cultural”, in its broadest sense, covers not only the arts and heritages but also **all educational disciplines**. The aim must be to create synergy among all these fields, not, as is common practice, to create compartments.

- 3 A third shift in perspective involves the frequent treatment of cultural issues as though they pertained only to linguistic, religious or ethnic communities. However, to address cultural diversity we must **incorporate all forms of diversity**, including those that are historical, social or related to heritage, gender or disability, and those resulting from migration, displacement or from situations of poverty and violence.

- 4 The right to education is not just the right to receive knowledge; it is as much about making the most of the capacity of learners and teachers to participate in educational life. **The right to participate** in quality education means the opportunity for each person to access, use and contribute to a diversity of knowledge that is built, developed and shared by any number of human beings.

- 5 To educate oneself and to be educated mean not just having access to and **participating** in cultural fields but also interacting with people, communities and institutions.

- 6 Understanding the **strength in vulnerability** and drawing on that strength constitute the sixth shift in perspective. This understanding unlocks the cultural potential of groups of people who are severely disadvantaged and whose rights are violated.

- 7 Educational life and all cultural resources are **common goods**.

IMPLEMENTATION

Key factors to ensuring respect for diversity and the cultural rights of everyone in education:

- A** **Making the most** of cultural resources.
- B** **Participation** in educational life of all relevant actors.
- C** **Decentralization** in favour of local actors and the granting of a degree of autonomy for schools to ensure the cultural relevance of their teaching.
- D** Participatory and holistic **observation methods**.
- e** **Respect for freedoms** in the field of education.

RECOGNIZING THE RIGHT TO PARTICIPATE IN EDUCATIONAL LIFE

Educational life is based on living relationships between actors (students, educators, organizations, and other associated actors) and collections of knowledge that form shared resources.

Participation entails an **access-practice-contribution** loop, all three components of which are essential, each in its own way, to all parties with a stake in educational life.

Productions (languages, for example, sciences, arts, books, games, classrooms), are cultural resources because they are vectors of **“identity, values and meaning”**, and constitute the potential without which action is impossible.

THE 4 KEY VALUES OF EDUCATIONAL LIFE

- 1 Reciprocity. Learning experiences are both reciprocal and asymmetrical.
- 2 Recognition of oneself, of others, and of things with the help of communities of knowledge.
- 3 Access, practice, and contribution: experience of progress at 3 levels.
- 4 Experience of interrelationships in an ecosystem in which many public and private actors are active.

UNDERSTANDING THE 4 CONDITIONS IN VIEW OF ITS CULTURAL DIMENSIONS

- **Availability:** culturally relevant educational institutions and programmes are available and allow everyone to be an active member of a relevant and high-quality system of cultural resources. All partners are respected and invited to contribute as repositories of a diversity of important knowledge. The partners know how to and can use the equipment.
- **Accessibility:** educational institutions and programmes are accessible without discrimination. Discrimination must be countered by turning grounds for discrimination into advantages.
- **Acceptability:** the form and content of education, including curricula and teaching methods, are acceptable to students and parents and oriented towards the aims and objectives guaranteed by international human rights law. The right of everyone to experience universal values in an appropriate manner is respected.
- **Adaptability :** education is flexible so that it can meet the needs of changing societies and communities and responds to the needs of students in their social and cultural milieu. The partners have the permanent freedom to find the best possible links between one available resource and another, and know how to make the most of the diversity of cultural resources.

ENSURING AN INTERCULTURAL AND INTERDISCIPLINARY EDUCATION

- 1 The form of education best suited to achieving such objectives is **intercultural** education.
- 2 Education should also be **interdisciplinary**:
 - Access must be provided to specific disciplines (including arts education, heritage education, language education, education on the contributions of various religions and citizenship and human rights education), to ensure that the cultural dimension of the right to education is not neglected.
 - There should be dialogue among disciplines and knowledge.
 - For example, intangible cultural heritage should be integrated as fully as possible into the content of educational programmes of all relevant disciplines.

SYNERGIES OF ACTORS IN EDUCATIONAL LIFE

1 DIVERSE EDUCATIONAL LANDSCAPES

Among the participants of educational life are private actors, including private schools, which allow the diversity of the educational landscape.

Public action, respectful of educational freedoms, can, depending on the situation, take the form of any of a wide range of measures, from funding private schools to including intercultural and multicultural education reflecting the diversity of learners in the general education system.



These 2 possibilities should not be seen as mutually exclusive alternatives. What counts is the effectiveness of the right as a cultural right respectful of cultural diversity and capable of apprehending what is universal.

2 THE PRINCIPLE OF SUBSIDIARITY

Private and **civil society actors**, for example, often make up for public shortcomings, but the reverse – when a private or civil society actor is subsidized by a public actor, for instance – is also true.

3 THE ABIDJAN PRINCIPLES ON THE RIGHT TO EDUCATION

- Being alert to the possible commodification of education.
- Regulating private involvement in education.
- Prioritizing the funding of free, quality public education.
- Due regard for cultural diversity and the cultural rights of learners is a responsibility of both public and private educational institutions.
- The right to education does not entail an obligation for States to fund private educational institutions.
- State funding is nonetheless possible as long as several requirements are met, in particular to promoting respect for cultural diversity and ensuring the realization of the cultural rights of learners.

RELEVANT REFERENCES IN INTERNATIONAL LAW

✓ **Article 26 of the Universal Declaration of Human Rights:** education should be directed to the full development of the human personality and the sense of its dignity and should strengthen respect for human rights.

✓ **The World Declaration on Education for All,** Jomtien, 1990.

A fundamental aim of education is the transmission and enrichment of common cultural and moral values.

✓ **Article 29 of the Convention on the Rights of the Child.**

✓ **Article 5 of the Universal Declaration on Cultural Diversity:** "All persons are entitled to quality education and training that fully respect their cultural identity".

✓ **The UNESCO Guidelines on Intercultural Education:** "Intercultural education respects the cultural identity of the learner through the provision of culturally appropriate and responsive quality education for all".

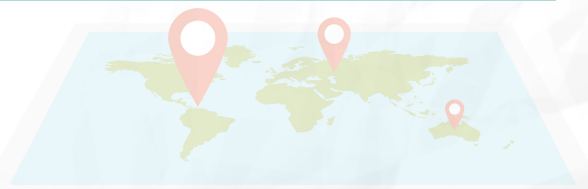
✓ **Article 13 of the International Covenant on Economic, Social and Cultural Rights.** Freedom of parents' education choice and freedom of education.

✓ **Article 18** of the ICESCR and **Article 13** of the ICESCR: protect the right of every person to be exempted from instruction in a particular religion.

✓ **Many instruments protecting minorities, indigenous peoples, migrants and persons with disabilities prohibit forced assimilation, and advocate the inclusion and participation of all in a society respectful of diversity, an approach that inevitably has an impact on education, without segregation or confinement to a community.**

✓ **Article 4 of the Universal Declaration on Cultural Diversity:** No one may invoke cultural diversity to infringe upon human rights guaranteed by international law, nor to limit their scope.

SELECTED NATIONAL EXPERIENCES



Argentina, Nicaragua, Ecuador: legislative tools on intercultural education.

Mexico: schools must provide an education to indigenous, migrant and Afro-Mexican children as subjects of law, with a focus on inclusion, equity, excellence and intercultural relations.

Switzerland and **Chile:** intercultural education is considered to play an important role in addressing the needs not only of national minorities and indigenous communities but also of persons of African descent, migrants and refugees.

Colombia: the law also provides for bilingual and bicultural education for hard-of-hearing persons, involving the use of sign language.

Denmark: a variety of teaching approaches are based on the principle of differentiated education, which involves taking into account the interests, skills and needs of each student.

Lithuania and **Andorra** report that they are adopting, in some cases as a supplement, a cross-cutting approach to ensuring openness to cultural diversity in all subjects.

Niger promotes national languages in all their diversity paves the way for providing more culturally relevant education.

Morocco has promulgated a new law confirming the official status of the Amazigh language, which covers the inclusion of that language in school curricula.

Côte d'Ivoire: there are plans to develop a system whereby rural communities choose members of the community to serve as preschool teachers.



RECOMMENDATIONS

CULTURAL DIVERSITY AND UNIVERSALITY OF HUMAN RIGHTS

STATES AND OTHER ACTORS MUST RECOGNIZE THAT CULTURAL DIVERSITY IS A FUNDAMENTAL CHARACTERISTIC OF CONTEMPORARY SOCIETIES THAT MUST BE BOTH REFLECTED AND MADE THE MOST OF AT ALL LEVELS OF THE EDUCATION SYSTEM, FORMAL OR NOT.

Cultural diversity should be understood in a broad sense, including all forms of diversity;

- Linguistic, ethnic and religious diversity but also social and gender-related diversity, poverty or disability.
- Members of educational staff but also of everyone else involved in educational life.
- Diversity of the cultural resources.
- Diversity of educational disciplines.

ALL EDUCATIONAL INSTITUTIONS, PUBLIC OR PRIVATE, SHOULD SEEK TO PROMOTE RESPECT FOR UNIVERSAL VALUES AND THE DIVERSITY OF CULTURAL REFERENCES.

NO ONE MAY INVOKE CULTURAL DIVERSITY TO INFRINGE UPON HUMAN RIGHTS GUARANTEED BY INTERNATIONAL LAW, NOR TO LIMIT THEIR SCOPE.

STATES AND OTHER ACTORS MUST RECOGNIZE AND RESPECT:

- The right of learners to a culturally appropriate and relevant education.
- The right of learners not to be, directly or indirectly, discriminated or segregated.
- The right to recognition and reciprocal learning in respect of cultural references.
- Academic freedom for teachers at all levels.
- The right of learners not to be subjected to indoctrination.
- The freedom of parents to ensure the religious and moral education of their children in conformity with their own convictions.
- The liberty of individuals and bodies to establish and direct educational institutions.
- The rights of the child.
- The importance of modes and methods of transmission of cultural heritage.

SYSTEMS GOVERNANCE AND EDUCATIONAL SYNERGIES IN A CULTURE OF THE COMMONS

THE CULTURAL DIMENSIONS OF THE RIGHT TO EDUCATION REQUIRES RESPECT FOR AND PROMOTION OF THE DIVERSITY OF THE EDUCATIONAL LANDSCAPE IN ADDITION TO:

- A degree of decentralization allowing local public authorities to place an appropriate value on local cultural resources.
- A degree of autonomy by educational institutions seeking to set up an educational project that may be oriented towards specific cultural references, including religious or instructional ones.

STATES AND OTHER ACTORS SHOULD:

- Ensure the participation of everyone in the diversity of knowledge, also in the participatory decision-making process.
- Guarantee the inclusion of people, actors, cultural resources, and disciplines in the educational life by developing a culture of interdisciplinarity and the crossing of knowledge.
- Consider and observe educational ecosystems in a participatory way, at the "micro", "meso" and "macro" levels.
- Encourage educational institutions to have a look at their place and their link with the territory and set up mechanisms for the participation of the different actors in education at various levels.

TRAINING OF TEACHERS AND OTHER EDUCATION PERSONNEL

STATES AND OTHER ACTORS SHOULD STRENGTHEN INSTITUTIONAL TRAINING, INCLUDING IN-SERVICE TRAINING, OF TEACHERS AND ALL MEMBERS OF STAFF OF EDUCATIONAL INSTITUTIONS TO ENSURE QUALITY INCLUSIVE AND INTERCULTURAL EDUCATION, NOT LEAST WITH A VIEW TO:

- Recognizing the mechanisms of cultural exclusion and actively combating them.
- Encouraging the adoption of diverse and inclusive stories.
- Teaching subjects often considered sensitive and controversial.
- Enlisting parents and the various local communities in efforts to promote respect for cultural diversity.

ABOUT THE REPORT

This summary is based on the report (A/HRC/47/32) submitted by the Special Rapporteur on the right to education reports to the Human Rights Council resolutions 8/4 and 44/3.

The Special Rapporteur examines the cultural dimensions of the right to education, which are crucial to the realization of the universal right to inclusive and quality education.

The report was presented at the 47th session of the Human Rights Council (June 21 to July 15, 2021).

ABOUT THE SPECIAL RAPPORTEUR

The Special Rapporteur is mandated by the United Nations Human Rights Council 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, taking into account information and comments received from Governments, organizations and bodies of the United Nations system, other relevant international organizations and non-governmental organizations”.

The Special Rapporteur reports to the Human Rights Council and to the General Assembly on a yearly basis.



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