|  |  |  |  |
| --- | --- | --- | --- |
|  |  | A/HRC/53/27 | |
|  | **Advance unedited version** | | Distr.: General  17 May 2023  Original: English |

**Human Rights Council**

**Fifty-third session**

19 June–14 July 2023

Agenda item 3

**Promotion and protection of all human rights, civil,**

**political, economic, social and cultural**

Securing the right to education: advances and critical challenges

Report of the Special Rapporteur on the right to education, Farida Shaheed[[1]](#footnote-2)\*

|  |
| --- |
| *Summary* |
| In her first report to the Human Rights Council, 25 years after the establishment of the mandate on the right to education, the Special Rapporteur reviews achievements, particularly on how the right to education is understood today and the obligations it entails, as well as contemporary and emerging issues that need to be considered to ensure the right to education for all, today and in the future. |
|  |

Contents

*Page*

I. Introduction 3

II. Legal and monitoring frameworks 4

A. Universal acceptance of the right to education, a norm of international customary law 4

B. Education as a public and common good 5

C. The need to reinforce implementation, accountability and monitoring processes 5

III. The content of the right to education 6

A. The aims of education: the right to learn 6

B. The right to life-long learning 8

C. A right to free quality education 9

D. From an equal right to education to the right to equitable and inclusive education 9

E. A right to participate in educational life 11

F. A right to public education 11

G. The right to educational freedoms 12

H. Education should not be reduced to schooling 13

I. The right to be safe in education 13

IV. Legal obligations for realizing the right to education 14

A. Fully implementing the right to education 14

B. Financing education 15

C. Regulating private actors 16

D. Enforcing the 4As scheme 17

E. Controlling the digitalization of education 19

F. Recognizing the role of teachers 20

V. Conclusions and recommendations 20

I. Introduction

1. This first thematic report of the new Special Rapporteur on the right to education, Ms. Farida Shaheed, submitted in pursuance of Human Rights Council resolutions 8/4 and 44/3, coincides with the mandate’s 25th anniversary, and identifies key achievements and challenges.

2. 2023 also marks the 75th anniversary of the Universal Declaration of Human Rights and the 30th anniversary of the Vienna Declaration, which reiterated the universality, inalienability, indivisibility and interdependence of human rights, and recalled States’ duties, regardless of political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms, including the right to education (art. 5).

3. Over the years, a widening consensus has been achieved on the right to education as an empowering right to life-long learning for all and on the importance of learning spaces as platforms for child protection, inclusion, physical and mental health, psychosocial support, improved nutrition, the delivery of social services and the overall well-being and development of children, their families and communities.

4. Realizing the right to education confronts many challenges, however. Worldwide, in 2021, 244 million children aged 6-18 were out of school.[[2]](#footnote-3) Education sectors were hard-hit by Covid19, whose fallout further jeopardizes Sustainable Development Goal 4 (SDG4) to ensure inclusive and equitable quality education and promote lifelong learning for all.[[3]](#footnote-4) In many places, education confronts emergencies because of conflicts or environmental disasters but systems lack resilience. An estimated 222 million crisis-affected children and adolescents need education support,[[4]](#footnote-5) while 773 million adults, mostly women, are illiterate.[[5]](#footnote-6) Worldwide, poverty and inequality remain striking, with too often weak mobilization of domestic financial resources. Furthermore, school access does not always result in effective learning or empowerment. In many countries, increased societal polarization around cultural diversity, history teaching, decolonization of curricula, critical race and gender theories, and comprehensive sexual education impacts educational systems, compounded by insufficient protection of academic freedoms.

5. A renewed social contract for education, anchored within a human rights framework, is vital, as called for by the United Nations Secretary General’s Common Agenda,[[6]](#footnote-7) and the UNESCO-led International Commission on the Futures of Education (henceforth ‘UNESCO Commission’). The UNESCO Commission’s landmark 2022 report underscored that this new social contract must be firmly grounded in two foundational principles: an expanded vision of the right to education throughout life, and a commitment to education as a public societal endeavor and a common good.[[7]](#footnote-8) This new social contract is necessary at the global, national and local levels.

6. The principles underpinning the UNESCO Commission’s recommendations concur with the vision developed by successive education mandate-holders over the years. This report reviews the achievements around the right to education and contemporary understanding of the ensuing obligations it entails, to better address critical emerging and persistent issues.

7. The Special Rapporteur is grateful to the numerous States, public authorities, national human rights institutions and other national bodies, non-governmental organizations and experts who responded to her call for contributions. Although it was not possible to reference them all, they all substantially informed this report.[[8]](#footnote-9)

II. Legal and monitoring frameworks

A. Universal acceptance of the right to education, a norm of international customary law

8. Considerable evidence supports the right to education as a norm of international customary law, based on the universality of treaty provisions, practice at national level, and States’ engagement with monitoring mechanisms. Indeed, “there may be no better case for recognition of a fundamental human right as a matter of customary international law than the right to education”. [[9]](#footnote-10)

9. The right is enshrined in the International Covenant on Economic, Social and Cultural rights (ICESCR), ratified by 171 States and the Convention on the Rights of the Child (CRC), ratified by 196 – all but one (the United States of America having only signed). Many other international and regional human rights instruments protect the right to education or some aspects of it, including for specific categories of people. An important body of interpretation and jurisprudence has developed.

10. SDG4 and the Education 2030 Framework for Action further demonstrate States’ commitments to implementing the right to education. These instruments should be considered as guides for implementing the right to education and applied in a human rights’ compliant manner, an approach adopted by the General Assembly, the Human Rights Council, various treaty bodies and UNESCO.[[10]](#footnote-11)

11. The Special Rapporteur welcomes UNESCO’s initiatives, following up on the UNESCO Commission. These facilitate discussion on the Futures of Education, i.e. on how to understand the evolving right to education in the light of existing human rights standards, changing contexts, and new demands placed on education. Consensus on the right to education is continuously evolving through commitments made in international living instruments and interpretations of the monitoring mechanisms States specifically created for this purpose.

12. Evolving norms relate to, for instance, protecting the right to education in times of conflict, when human rights norms continue to apply. The right to education suffers no derogation under the ICESCR. The Special Rapporteur welcomes the endorsement by 117 countries, as of 8 May 2023, of the Safe Schools Declaration, an intergovernmental commitment to protect education during armed conflict, and its related Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict.

13. The Safe Schools Declaration, urging parties to armed conflict to avoid using educational facilities for any purpose in support of their military efforts, is a crucial step. The International Committee of the Red Cross, stressed that recommended actions, which go beyond what is required under international humanitarian law, are “not at odds with international humanitarian law”, as “avoiding that education facilities become military objectives and therefore liable to attack goes a long way in ensuring the safety of civilians – students and education personnel – and in preserving the civilian character of schools and their corresponding protection from attack, so that they can continue to safely operate during armed conflict.”[[11]](#footnote-12) This also contributes to rebuilding post-conflict societies. Many reports demonstrate the use and destruction of educational facilities in Ukraine, Syria and elsewhere, and make the endorsement and implementation of the Safe Schools Declaration and its guidelines crucial. Importantly, good practices have started emerging.[[12]](#footnote-13)

14. The establishment of the Geneva Global Hub on Education in Emergencies is additional proof of international commitment to uphold the right to education at all times. As a Hub member since 2022, the Special Rapporteur looks forward to building on the work of her predecessors, in stressing States’ obligations to ensure the inherent right of each individual to education, including in emergency situations.[[13]](#footnote-14)

B. Education as a public and common good

15. States have rightfully recognized their primary responsibility to deliver education as a public good, and their central role as custodians of efficient, equitable and effective management and financing of public education accessible to all.[[14]](#footnote-15)

16. Further recognition of education as a common good is crucial for a new social contract; the aim of which goes beyond guaranteeing adequate sustainable public funding, to recognizing education as both an individual and co-creative activity which contributes to the enjoyment of humanity’s shared cultural heritage; and to ensure that education is governed in common, at all levels in an inclusive and participatory way.[[15]](#footnote-16)

C. The need to reinforce implementation, accountability and monitoring processes

17. Realizing the right to education necessitates more than an acceptance of established norms. International instruments must be sufficiently robustly worded and detailed, and, simultaneously, efficient guidance tools for States and other stakeholders must be available, including through technical assistance and strong monitoring mechanisms.

18. One added value of the education mandate is its capacity to engage with States and other stakeholders and ensure accountability based on international human rights law – albeit with inadequate resources. Other international monitoring bodies address issues related to the right to education as one of many other issues. Overall, international monitoring of the right to education remains poor. This must be reinforced to feed into policy plans and reform.

19. Since the education mandate was established, 31 country or other visits have been conducted. The Special Rapporteur thanks stakeholders who have provided post-visit updates,[[16]](#footnote-17) and intends to follow-up on the recommendations made by her predecessors.

20. During the period from December 2010 until April 2023, the education mandate has been involved in approximately 139 communications, quite well distributed across regions, with a generally good response rate. The highly diverse issues addressed in communications have included: discrimination in access to education, including for children with disabilities; respect for cultural rights and diversity, including minority language instruction; child protection in relation to harassment, early-age and forced marriage, labor, exploitation and abduction; curricula issues; arbitrary restrictions on academic freedom, freedom of expression and peaceful assembly, of learners and educational staff; banning NGOs and attacks against human rights defenders promoting the right to education; military attacks on schools and physical blockades limiting access to educational institutions; restricting comprehensive sexual education, education on LGBTQI+ rights and gender studies; detained minors; forced evictions affecting access to education, including indigenous and peasant communities; the impact of privatization on education; budget cuts targeting basic services including education; and the lack of access to education in informal settlements.

21. Regrettably, limited resources prevent the mandate from responding to all allegations received and ensuring comprehensive follow-up. The Special Rapporteur intends to develop this aspect of her mandate and welcomes the Right to Education Initiative’s Monitoring Guide, which facilitates civil society actors’ invaluable contribution to the monitoring process.[[17]](#footnote-18)

22. Effective implementation and monitoring require reliable data. Limitations in education-related data regimes undermine the ability to effectively address inequalities and can even reinforce inequality.[[18]](#footnote-19) Particular concern has been raised on missing or unreliable data as well as failures to take into account intersectionalities,[[19]](#footnote-20) for example regarding children with visual impairments, or forcibly displaced, asylum-seeking and refugee children worldwide. Efforts to harmonize data collection methodologies in emergencies and protracted crises should be encouraged.[[20]](#footnote-21)

III. The content of the right to education

A. The aims of education: the right to learn

23. Since the adoption of the Universal Declaration of Human Rights, States have reiterated in numerous instruments that “education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace”.[[21]](#footnote-22)

24. These aims, centred around both individual and collective development, are continuously refined as new commitments are adopted, particularly through article 29 of the CRC, SDG Target 4.7, the Incheon Declaration (para. 5) and the Education 2030 Framework for Action (para. 6), as well as initiatives to develop Human Rights Education, Global Citizenship Education, and Education for Sustainable Development. The right to education must empower people to reach their fullest potential, not only as individuals but also as members of their communities and society through meaningful social, cultural, economic, and political participation. In addition, “the new social contract for education must aim to unite us around collective endeavours and provide the knowledge, science, and innovation needed to shape sustainable futures for all anchored in social, economic, and environmental justice. It must redress past injustices while preparing us for environmental, technological, and social changes on the horizon.”[[22]](#footnote-23)

25. These aims must be read in conjunction with proposals made by the International Commission on Education for the Twenty-first Century, *Learning: The Treasure Within* (“Delors report”), which proposed centering long-life education on four key pillars: learning to know, to do, to live together and to be.[[23]](#footnote-24) In this regard, the Special Rapporteur warns against any potential confusion arising from the expressions “learning poverty”. based on the criteria of 10-year-olds inability to read and understand a simple text. What the approach reveals is useful: latest estimates suggest 64.3 percent of 10-year-olds globally are unable to meet the criteria.[[24]](#footnote-25) However, this statistic only relates to one of the four essential features of the right to education as a right to learn: the right to know. It also inadvertently suggests the problem lies with learners not educational systems.

26. The education mandate has contributed to discussions about the aims of education, emphasizing that its widely recognized objectives today are peace, acceptance, participation of all in developing society, understanding the “other”, recognition of cultural diversity and an education that is adequate and adapted to the specific needs of people in their own context.[[25]](#footnote-26) Furthermore, understanding the right to education as a cultural right means that each person has the right to access all the cultural resources necessary to freely follow a process of identification, experience mutually rewarding lifelong relations, deal with the crucial challenges facing the world, and to engage in practices that make it possible to take ownership of, and contribute to, cultural resources.[[26]](#footnote-27) Beyond the transmission of cognitive learning and knowledge, education must always promote an ABCDE framework: Acceptance, Belonging, Critical thinking, Diversity, and Empathy.[[27]](#footnote-28) In particular, education must be free of propaganda and must always imply a focus on the free development and exercise of critical thinking, which is at the core of the right to learn.[[28]](#footnote-29) The Special Rapporteur also notes the increasing recognition of the vitality of socio-emotional learning.[[29]](#footnote-30)

27. The right to education necessarily includes access to information and learning about issues important for reaching the aims of education, notably human rights education, which should be systematically and holistically integrated.[[30]](#footnote-31) The 2011 United Nations Declaration on Human Rights Education and Training specifies that everyone has the right to know, seek and receive information about, and to access education and training on, all human rights and fundamental freedoms.

28. The right to learn about important issues includes accessing comprehensive sexual education, as mentioned in the 2030 Framework for Action (para. 63) and SDG indicator 4.7.2. In 2023, the Special Rapporteur and other Special procedures published a Compendium on Comprehensive Sexuality Education recalling international standards obliging States to ensure the right to comprehensive sexual education, without discrimination.[[31]](#footnote-32) The mandate regularly receives allegations regarding States’ failure to respect and protect this element of education.

29. Curricula, pedagogy and assessment must align with the objectives of education as a human right and the leave-no-one-behind principle. In 2014, the mandate expressed concern that prevalent performance assessments reflect an instrumental role for education, driven by the concept of educational development in mere economic terms, over-emphasising learning outcomes in mathematical and language skills, to the detriment of other skills and talents, e.g. in the creative arts and other non-academic pursuits. Such a narrow approach is contrary to the objectives assigned to education internationally. Assessment systems should embody in full measure the key objectives of the right to education.[[32]](#footnote-33)

30. Overall, education systems are not meeting these objectives and often not genuinely pursuing them or worse, moving in the opposite direction. The previous mandate holder expressed regret that some education systems are perpetuating discrimination, exclusion and segregation, as well as assimilation, with reductive objectives, ill-suited to the needs of multicultural societies.[[33]](#footnote-34) As mentioned by the UNESCO Commission, they wrongly instil a belief that short-term prerogatives are more important than longer-term sustainability. They have emphasized values of individual success, national competition and economic development, to the detriment of solidarity, understanding interdependencies, and caring for each other and the planet. Moreover, there is a need to “learn to unlearn” and critically examine established dominant knowledge.[[34]](#footnote-35) Some contributors reported that the aims of education remain at the unfettered discretion of ministries of education, without any mechanism for monitoring or evaluation.[[35]](#footnote-36) The Special Rapporteur considers these issues as crucial for addressing current and future challenges.

B. The right to life-long learning

31. The right to education is a right to life-long learning not limited to school-age children and youth, as previously emphasized by the mandate,[[36]](#footnote-37) and reasserted by the Agenda 2030 Framework, amongst others. In many circles, the emphasis is on accessing primary, and sometimes secondary, education to attain SDG4. However, while these dimensions are crucial, they are insufficient to realize the right to education as a universal human right. Everyone has a right to fundamental education, early childhood care and education (ECCE), technical and vocational education, training/retraining, and higher education, regardless of age and other factors, embracing the transformative possibilities of education at all stages of life, in a system that links formal, informal and non-formal education,[[37]](#footnote-38) including opportunities for older adults.

32. ECCE lays the foundations for the right to lifelong education, as highlighted by the mandate’s reports.[[38]](#footnote-39) Yet, only half of States provide free pre-primary education, with costs prohibiting access for the most disadvantaged.[[39]](#footnote-40) Adopting guidelines for implementing ECCE would be a useful step, as proposed by experts and civil society groups.

33. The right to higher education is jeopardized in many ways.[[40]](#footnote-41) Institutional models perpetuate structural inequalities. Of particular concern are the worldwide vertical stratification of higher education systems, and the impact of concepts of ‘merit’, or ‘capacity’ that sustain, justify, and legitimize inequalities. Based on social justice principles, ‘merit’ should better reflect different pathways into higher education and reward individual capacities.[[41]](#footnote-42)

34. UNESCO’s Revised Recommendation concerning Technical and Vocational Education (para 2(c)), advocates for understanding technical education as “an aspect of lifelong learning and a preparation for responsible citizenship”. At the juncture of the right to education and the right to work, technical and vocational education/ training is integral to lower, upper and post-secondary through to tertiary education, and across all educational sectors (formal or school-based, non-formal or enterprise-based, informal or traditional apprenticeship). Therefore, States should ensure that technical and vocational education integrate broader education goals, including the development of social skills and critical thinking, in addition to technical occupational requirements.[[42]](#footnote-43)

C. A right to free quality education

35. The right to education cannot be fulfilled if that education is not of quality, meaning that it must be available, accessible, acceptable and adaptable, at all levels.[[43]](#footnote-44)

36. International human rights law specifies the right to compulsory, free primary education and progressive implementation of free secondary and higher education (ICESCR, art. 13 and 14; CRC, art. 28).

37. Although the education mandate and Treaty bodies have repeatedly recommended ensuring free education at all levels, and SDG target 4.1 commits States to ensure that all girls and boys complete free, equitable and quality primary and secondary education by 2030, there are proposals to expressly state a right to free education at the pre-primary and secondary levels of education through an international instrument.[[44]](#footnote-45) Reaffirming such commitments in a clear and more detailed legal instrument might be useful, as this element of the right to education is far from being implemented, with costs remaining an important obstacle to accessing education in many countries.

38. Many States already recognize the right to free education before and after the primary level, including up to higher education.[[45]](#footnote-46) However, students unions regret the lack of progressive introduction of free education, and even increasing costs, effectively blocking access to many from disadvantaged backgrounds. Some consider that higher education tuition fees remain acceptable when financial support mechanisms are provided for students who cannot afford the fees. The Special Rapporteur stresses, however, that such schemes are often for restricted numbers and accompanied by specific merit requirements that further entrench existing barriers.

39. When education is compulsory, it must be free. International law only requires compulsory primary education. However, national laws often extend the compulsory aspect to secondary education, sometimes up to 18 years of age.

40. The mandate and treaty bodies have highlighted that providing free education includes removing fees but also indirect costs. These include, inter alia, books, school materials, uniforms, transportation, examination fees, utility contributions, security, parent-teacher association fees, paying volunteering teachers, and boarding-school costs when parents have no other choice, and increasingly digital devices and internet connection costs. Free lunches, particularly for those unable to pay, should also be provided for. States have also made efforts to financially support teaching aids. Contributions also highlighted financial assistance to students with economic difficulties or social assistance schemes as a way to achieve free education and ensure economic accessibility.

41. There are other, less tangible, costs. The mandate has previously warned that children and families bear the costs of the digitalization of education through, for instance, the mining of their data and violations of their right to privacy.[[46]](#footnote-47) Commercial advertising and marketing in education settings are other hidden costs and should be banned.[[47]](#footnote-48) Ending the hidden cost of corruption will also help overcome inequalities and improve governance.

D. From an equal right to education to the right to equitable and inclusive education

42. Removing direct and indirect discrimination in education, as well as de jure and de facto barriers are now well-established States obligations. The necessity of intersectional approaches is widely accepted, as is the requirement for States to go beyond prohibiting discrimination by ensuring that the principle of equal opportunity fully translates into concrete reality.[[48]](#footnote-49)

43. The mandate has underlined that States must pursue inclusive and equitable approaches to education. This is echoed in SDG4 and the Education 2030 Framework for Action. SDG target 4A further **requires building**/upgrading facilities to be child, disability and gender-sensitive, as well as safe, nonviolent, inclusive and effective learning environments for all.

44. Non-discrimination, equality, equity and inclusion are sine qua non conditions for ensuring the right to education for all. Equity means ensuring that individual learners, particularly those with specific educational needs, receive the support they require to succeed, according to their individual circumstances. Exclusion must be redressed through inclusive education, which is the best guarantee of equity, enabling all learners, regardless of background, physical and mental abilities or other characteristics, to learn in an adapted and supportive environment.[[49]](#footnote-50)

45. The right to inclusive education developed as an international legal norm for persons living with disabilities, based on this mandate’s 2007 report,[[50]](#footnote-51) the Convention on the Rights of People with Disabilities (art. 24), and its supervisory Committee’s General Comment no. 4.[[51]](#footnote-52) Many contributions have noted achievements but also further efforts required, notably to develop a robust system of screening to ensure learners get appropriate educational intervention on time, and public advocacy efforts to reduce stigma and misconceptions.

46. Using the approach developed for persons living with disabilities, the right to inclusive education should be applied to all marginalised groups. Inclusion is not integration, however. Integration places everyone in mainstream educational institutions necessitating individuals to adapt; inclusion means modifying educational content, teaching methods, approaches, structures and strategies to overcome barriers so that all students enjoy an equitable learning experience and appropriate environment.[[52]](#footnote-53) It also requires intercultural education, an approach increasingly adopted in many parts of the world.[[53]](#footnote-54)

47. Contributions demonstrate that despite commitments, discrimination, inequality, inequity and exclusion remain high, with increasing segregation in some cases. Many groups still lack equitable opportunities, for which the mandate has repeatedly made recommendations.[[54]](#footnote-55) Contributions highlighted, for example, girls who are pregnant, married, or mothers; out-of-school refugee children; girls in conflict-affected countries; stateless or displaced children; minorities including the Roma, people living in poverty, those living in remote, rural or indigenous areas, migrant and working children, children with disabilities and chronically-ill children. Laws against discrimination, where they exist, do not always explicitly mention sex, sexual orientation, gender identity and expression in a manner that applies to education. Issues are also raised regarding prohibitive tuition fees for foreign students in European countries, students in detention, discrimination based on political or religious grounds, and the compounding impact of school districts and local funding systems. Furthermore, plans proposing differentiated approaches for various groups lack concrete guidelines and indicators.

E. A right to participate in educational life

48. Inclusivity means recognizing the right of all stakeholders to participate in educational life, based on active interpersonal relationships between students, educators, organizations and others associated actors and the sharing of cultural resources, as vectors of “identity, values and meaning”.[[55]](#footnote-56) Many contributions highlighted the need to adopt a child-centered and child rights-based approach, allowing their meaningful participation in decision-making.[[56]](#footnote-57)

49. Challenges may result from divergent views within countries and communities; these need to be addressed. Cultural resources must be used to enable informed debate and to gather contributions so as to ensure full participation from all and provide representative perspectives.[[57]](#footnote-58) However, cultural resources may be misunderstood or apprehended from a prejudiced point of view. Some may also be used to justify discrimination and restrictions on freedoms. The Special Rapporteur recalls the vitality of ensuring cultural rights while guaranteeing that no one may invoke cultural diversity to infringe upon human rights guaranteed by international law, or to limit their scope.[[58]](#footnote-59) She also stresses the work of the Special Rapporteur on cultural rights on the writing and teaching of history, inter alia.[[59]](#footnote-60)

50. The right to education is that of learners, not their families or communities. The responsibilities, rights and duties of parents or family or community members to provide appropriate direction and guidance are to be respected, but the primacy of children’s best interests must be ensured. This includes fully respecting their rights to education, to information, to freedom of expression, thought, conscience and religion, and to express their views freely in matters affecting them, in accordance with their capacity.[[60]](#footnote-61) Demands from parents and communities that children be barred from certain educational content (e.g. sports, arts, human rights education, comprehensive sexual education, science, etc.), would be at odds with the right to education.[[61]](#footnote-62)

51. De-colonial and intersectional perspectives provide a vocabulary with which to examine the quality of inclusion. This entails, inter alia: changing curricula to include historically excluded stories; human rights education and rebuilding trust in institutions, changing “chalk-and-talk” teaching rather than punishing those who do not respond well to these methods; bringing students’ identity vectors into the classroom; exploring other ways of knowing and recognizing diverse knowledge systems, such as those of indigenous and traditionally marginalized populations. Without such actions, pupils may be formally included in educational systems that, in fact, exclude their needs, contributions and contexts.[[62]](#footnote-63)

F. A right to public education

52. As underscored by the mandate, the right to education requires States to deliver free, quality, public education for everyone. This position is supported by the wording of relevant legal provisions (for instance, parents’ freedom to choose private schools for their children other than those established by the public authorities is meaningless without universal access to public schooling), and by international and domestic mechanisms, reflecting international consensus. Public education remains the main conduit for delivering education in a large majority of States and is often constitutionally protected. The Human Rights Council itself recognized the criticality of investing in public education.[[63]](#footnote-64)

53. The Special Rapporteur reiterates the recommendation made by the previous mandate-holder that States utilise the Abidjan Guiding Principles on the human rights obligations of States to provide public education and to regulate private involvement in education.[[64]](#footnote-65)

G. The right to educational freedoms

54. Educational freedoms are essential. Under article 13 of ICESCR, parents have the liberty to choose schools for their children, to ensure their education is in conformity with their own convictions; individuals and bodies have the liberty to establish and direct educational institutions. These liberties include the right to opt out of any religious education, including one’s own.[[65]](#footnote-66) This allows for diversity in education, without absolving public education systems from their obligations to protect cultural diversity.[[66]](#footnote-67)

55. Measures which impinge on cultural pluralism, or the rights of indigenous or minority groups in education, in favour of assimilation, whether in the name of nationalism, secularism or social cohesion, are contrary to States’ obligations. The rights of minorities and indigenous people to establish and operate their own educational services, in their own languages and according to their cultural methods of teaching and learning, are recognized based on articles 27 of ICCPR, 30 of CRC, 3 and 4 of the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities;[[67]](#footnote-68) and 14 of the UN Declaration on the Rights of Indigenous Peoples.

56. The right to education implies respect for academic freedom, to be understood as the freedom of individuals, as members of academic communities (e.g. faculty, students, staff, scholars, administrators and community participants), or in their own pursuits, to conduct activities involving the discovery and transmission of information and ideas with the full protection of human rights law.[[68]](#footnote-69) The mandate regularly receives worrying information indicating an increasing trend of violations of academic freedom in many parts of the world. Particularly, students’ unions report the shrinking civic space for student engagement in higher education governance.[[69]](#footnote-70) This needs further development based on the work of the Committee on Economic, Social and Cultural Rights,[[70]](#footnote-71) and the Special Rapporteur on freedom of opinion and expression.[[71]](#footnote-72) The Special Rapporteur supports the process leading to the draft Principles for Implementing the Right of Academic Freedom, which can provide useful guidance to UN mechanisms, States and other stakeholders.[[72]](#footnote-73)

57. A specific challenge at the intersection between the rights to an inclusive education and academic freedom concerns concepts colloquially known as “wokeism” and “cancel culture”. Legitimate efforts to review curricula to include historically excluded narratives, be they of women or other marginalized groups in various contexts, have sometimes led to teaching staff being threatened and intimidated, or to calls for censoring books in school libraries. This is of great concern given the importance of encouraging debate while safeguarding the right to education, freedom of expression and academic freedoms, which the Special Rapporteur intends to address further.

H. Education should not be reduced to schooling

58. Schools must be protected as spaces where students encounter challenges and possibilities not available elsewhere. COVID-19 underscored the central and multiple roles schools play in implementing the right to education and many other rights. Formal and physical educational facilities are irreplaceable.[[73]](#footnote-74)

59. Education should not be reduced to schooling, however. Learning must be recognized regardless of where and how it is achieved. Numerous other spaces, e.g. cultural centers, libraries, families and communities participate in education, and need support, which should be more clearly identified. As the UNESCO Commission has reported, a major task “is to broaden thinking about where and when education takes place, expanding it to more times, spaces, and stages of life”, relying on what can be called “educational ecosystems” that connect natural, built, and virtual learning sites.[[74]](#footnote-75)

60. The mandate has long recommended that non-formal education be acknowledged as an important means for realizing the right to education. It can provide “second chance” education to out-of-school children and adult learners, by expanding educational opportunities beyond mainstream public-school systems, as well as providing multiple other benefits. Within lifelong learning, it is essential to recognize, validate and accredit learning, wherever it may have occurred. Human rights considerations must be integrated into the design and oversight of non-formal education programmes, as for any form of education. Education systems should be reformed to allow for a fluid transition between non-formal and formal programmes.[[75]](#footnote-76)

61. Under article 13 of ICESCR, it is primary education, not schooling, that is compulsory. Home-schooling may therefore be considered as part of educational freedom, with families retaining the liberty to ensure the education of their children at home. Nevertheless, the same guarantees must apply for the right to education in all dimensions.

I. The right to be safe in education

62. Every learner has the right to physical, psychological and emotional safety and security in pursuing education.[[76]](#footnote-77) As an estimated 246 million children experience violence in education,[[77]](#footnote-78) measures are required to prohibit corporal punishment and bullying in schools; prevent threats to (and by) learners, teachers and other school staff; stop violence en route to school, in classes, playgrounds and online.

63. States must adopt safety regulations, ensure emergency preparedness for crisis response, and guarantee that all educational settings comply. Useful tools include the [Minimum Standards in Education handbook](https://inee.org/resources/inee-minimum-standards-2010) by the Interagency Network for Education in Emergencies and the Comprehensive School Safety Framework of the Global Alliance for Disaster Risk Reduction and Resilience in the Education Sector.

64. Safety is of course at greatest risk during periods of armed conflict, as stressed by many contributions. In 2020 and 2021, over 5,000 reported attacks and instances of military use of educational facilities were documented in 84 countries with systematic patterns in 28 countries. Over 9,000 students and educators were abducted, arrested, injured, or killed. Globally, this is an increase compared to the period 2018-2019 – an upward trend continuing in 2022. The impacts on the right to education and lives of learners are devastating.[[78]](#footnote-79)

65. The content and orientation of education is often instrumentalized during and after conflicts for political ends. This includes changing historical narratives in textbooks, introducing hate speech and war propaganda in educational material, militarizing education, disrupting minority language education, banning or destroying schoolbooks, punishing political expression, and segregating students according to national/ethnic origin or religion.[[79]](#footnote-80)

66. The impact of climate change on the right to education, and conversely the impact education has on climate change, are crucial too. As one billion children are at ‘extremely high risk’ of climate change impact,[[80]](#footnote-81) climate-displaced persons are predicted to suffer exceptional educational vulnerabilities while an international protection framework is lacking.[[81]](#footnote-82) To address climate change, education systems should introduce system-wide environmental education, which currently many countries lack.

IV. Legal obligations for realizing the right to education

A. Fully implementing the right to education

67. It is widely accepted today that States must respect, protect, and fulfil the right to education of everyone within their jurisdiction. This entails taking steps to the maximum of available resources, nationally and through international assistance, to progressively achieve the full realization of the right to education by all appropriate means (ICESCR, art. 2). Various obligations have immediate effect, however, such as obligations to respect and protect, including through the guarantee of non-discrimination, and the obligations to take deliberate, concrete and targeted steps towards the full realization of the right to education and to move as expeditiously and effectively as possible in that direction. In addition, there are core obligations in relation to the right to education and a strong presumption of impermissibility of any retrogressive measures.[[82]](#footnote-83)

68. The notion of progressive implementation to the maximum of available resources has led to de facto non-implementation of the right to education and has been used as an easy excuse for failure to take action. The ICESCR was adopted more than half a century ago. Hence, many States may be considered to be in violation of their obligations regarding the right to education, as efforts to mobilize domestic financial resources and address inequalities, prioritizing most marginalized people, are still falling well below achievable objectives. The progressive implementation and non-retrogression principles require States to demonstrate that any failure to meet their obligations is demonstrably attributable to inadequate resources, rather than the result of political expediency to mobilize these. Any retrogression must be temporary, proportionate, limited in time, adequately monitored, and must ensure that the core obligations of non-discrimination, accountability, transparency, and participation are respected.

69. Progressive implementation is not an obstacle to the enforceability and justiciability of the right to education. As noted by a previous mandate-holder, international, regional and national jurisprudence has demonstrated the right to education to be legally enforceable through adjudicative mechanisms, including domestic courts. Such justiciability should be publicly recognized and endorsed by governments and enacted through the national constitution and domestic legislation.[[83]](#footnote-84)

70. Many contributions validate the full enforceability and justiciability of the right to education in respective countries. This is further supported by the Optional Protocol to ICESCR. Some contributors reported however that justiciability is limited to access issues. Furthermore, court decisions are not always implemented in a satisfactory manner, and in many countries no provision exists for a collectivized student union approach to protect student rights.

71. Remedies and adjudication should be included as necessary elements of good governance in asserting the right to education. Accessible, free or inexpensive mechanisms enabling students, parents and other stakeholders to challenge and redress alleged violations of their rights range from regular parent-teacher meetings, school boards and appeal bodies, to national human rights institutions and national courts. Guidance must be provided to the judiciary and legal profession on how the right to education should be understood.[[84]](#footnote-85)

72. The Special Rapporteur also considers that confirmed violations of the right to education should result in tangible reparation, including access to free quality education for those to whom it has been denied (for example through basic education and adult education). She also notes that education may be considered as a form of reparation in other cases, for example for victims of conflict-related sexual violence and other serious human rights violations,[[85]](#footnote-86) an issue the Special Rapporteur is interested in addressing further.

B. Financing education

73. Financing education is a legal obligation under international law. However, systemic issues in national and global education funding mean that certain groups of children and youth are falling further behind. UNICEF estimates that in one out of 10 countries, learners from the richest 20 percent of households benefit from four or more times the amount of public education spending than the poorest.[[86]](#footnote-87)

74. The Transforming Education Summit (TES) called on Governments to increase the fiscal space for education at the national level, and to commit to ring-fencing funds for social protection and education systems. The Incheon and Paris Declarations call upon governments to allocate at least 4-6% of GDP and at least 15-20% of total public expenditure to education, protecting public education budgets from the fiscal constraints resulting from the COVID-19 and global economic crises. Further, Governments should commit to reaching an adequate tax-to-GDP ratio through ambitious and progressive tax reforms with linked commitments towards financing educational investment.[[87]](#footnote-88) Progressively realizing the right to education using maximum available resources means going beyond the resources currently at governments’ disposal; it includes resources that could potentially be mobilised, in particular through progressive taxation.[[88]](#footnote-89)

75. Resources must reach the poorest and most marginalized. The TES further called on Governments to establish specific goals regarding “the percentage of educational investment going to the 40% and 20% of families with lowest income, to those living in rural or remote areas, children with disabilities and the especially vulnerable”.[[89]](#footnote-90) The Special Rapporteur stresses the milestone benchmark, adopted by UNICEF, of at least 15 percent of public education resources going to the poorest 20 percent of learners.[[90]](#footnote-91)

76. Although governments are the largest funders of education in all countries, where needed, development assistance is also important. As the TES has called for, the international community shall support, complement and stimulate national efforts in educational investment; fulfill the established benchmark 0.7% of donor Gross National Income (GNI) for official development assistance (ODA); increase the proportion of such aid going to education to 15% - 20% of total ODA and allocate these to the countries where the need is greatest.

77. Such international assistance must not lead to undue influence by international actors or other States on domestic educational policy concerns, particularly with respect to austerity measures and privatization of the sector. Austerity measures exacerbate inequality, including in education, and predictably lead to an exponential increase in privatization and commercialization of education. As specified in the Maastricht Principles on Extra-Territorial Obligations, all States have extraterritorial obligations to respect, protect and fulfil economic, social and cultural rights, including as members of international organizations. A State that transfers its competence to, or participates within, an international organization must take all reasonable steps to ensure that the relevant organization acts consistently with the international human rights obligations of that State.[[91]](#footnote-92)

C. Regulating private actors

78. The role of non-state actors in education has grown exponentially in recent years in many countries, assuming a growing share of education provision.[[92]](#footnote-93)

79. Human rights provide a solid framework of legally binding obligations regarding the role of States and private actors to guide SDG4 implementation. A major challenge is respecting educational freedoms within the framework of education conceived as a public and a common good, while preventing systemic negative impacts of the growth of private actors, particularly commercial actors, on the right to education. Getting rid of private educational institutions, such as universities, for political or ideological reasons under the guise of stringent regulation, would be at odds with international standards, for example. The growth of commercial school chains that can undermine human rights and social cohesion, however, is of concern, with the increasing use of digital technologies in education and the influence of EdTech adding urgency. The education mandate has dedicated four reports to the issue,[[93]](#footnote-94) warning about the danger of privatization “supplanting public education instead of supplementing it”.[[94]](#footnote-95)

80. States must prioritize the funding of free, high-quality public education and ensure that it is truly inclusive. While there is no State obligation to fund private schools, the protection and promotion of cultural diversity, and particularly the protections due to minorities, strongly support such measures. Free, community-run schools merit consideration too.[[95]](#footnote-96) However, support given to private educational institutions must comply with the prohibition on discrimination.[[96]](#footnote-97) State funding must meet certain requirements, especially with regard to respecting minimum human rights standards.

81. The Special Rapporteur welcomes the shifts by the World Bank's International Finance Corporation and the Global Partnership for Education, which have resolved not to provide funding to fee-charging/for-profit private education providers,[[97]](#footnote-98) the previous mandate holder having been in contact on this issue with the latter.[[98]](#footnote-99)

82. Under their obligation to protect, States must establish minimum educational standards and ensure these are also implemented by both public and private educational institutions in a manner that ensures the right to education, the rights of the child and educational freedoms. The Human Rights Council urged States to put into place “a regulatory framework for education providers, including those operating independently or in partnership with States, guided by international human rights obligations, that establishes, inter alia, minimum norms and standards for the creation and operation of educational services, addresses any negative impact of the commercialization of education, and strengthens access to appropriate remedies and reparation for victims of violations of the right to education.[[99]](#footnote-100)

83. The UN Guiding Principles on Business and Human Rights and the Abidjan Principles provide important guidance in this respect. The Abidjan Principles stress that States should impose public service obligations on private actors in education to ensure they contribute to the realisation of the right to education in such a way that: a) institutions deliver education consistent with applicable human rights law and standards; and b) there are no adverse effects of private educational institutions on the enjoyment of the right to education or other rights.

84. Education as a common public good means that all stakeholders, including non-state providers, where applicable, must meaningfully participate in decision-making on a basis of fair access. However, the increased commercialization of education shifts decision-making powers away from democratic –albeit flawed –structures, to unaccountable and often powerful corporate actors. Powerful corporations increasingly influence educational policies and the use of public resources in ways that benefit corporate interests. Civil society is increasingly concerned about closed-door, non-transparent decision-making and the disproportionate voice increasingly accorded to big donors and private actors in international fora. Allowing consumerism to overshadow human rights considerations, and even allowing human rights language to be instrumentalized to enhance profit, negatively impacts all stakeholders: students, teachers, other staff and parents as well as wider communities and society at large.

D. Enforcing the 4As scheme

85. The education mandate’s very first report proposed the 4As framework: making education available, accessible, acceptable and adaptable,[[100]](#footnote-101) an approach since adopted by the Committee on Economic, Social and Cultural Rights,[[101]](#footnote-102) that is now the most common analytical framework used for interpreting and understanding the normative content of the right to education. This scheme, systematically used in the mandate’s reports, has been extended to other rights, and is widely used by other mechanisms and stakeholders, including UNESCO, and States. Based on existing practice, a useful summary of the 4As scheme, is as follows:

86. Availability requires inter alia:

(a) functioning educational institutions and programmes to be available in sufficient quantity;

(b) sufficient numbers of teaching and other staff with the necessary skills, qualifications, and training receiving domestically competitive salaries;

(c) adequate curricula, and pedagogical material, methodologies, and practices;

(d) adequate sanitation facilities;

(e) safe drinking water;[[102]](#footnote-103)

(f) safe, adequate, and maintained infrastructure;

(g) safe and protective learning environments;

(h) library, computer facilities and information technology where appropriate; and

(i) decent working conditions, and social protection for staff. Arrangements necessary to construct, maintain and manage service delivery in relation to educational infrastructure and equipment are also necessary.[[103]](#footnote-104)

87. As education is not reducible to schooling, one aspect the Special Rapporteur intends to address is how far the concept of availability must be broadened to include, for example, the availability of books as well as digital technologies not just in educational institutions but in homes, community centres and libraries, inter alia. The “right to read” for example,[[104]](#footnote-105) should be expanded beyond school walls.

88. Accessibility, which includes physical, economic, and information accessibility, requires that educational institutions and programmes be accessible to everyone without any discrimination. The information element refers to the right to seek, receive and impart information concerning education issues and is linked to the right to participate in decision-making processes that may affect rights.[[105]](#footnote-106) This also includes information necessary for learners, education staff, as well as families and communities, on how to use, maintain and repair educational infrastructure and equipment, including digital ones.

89. The Committee on Economic, Social and Cultural Rights specified that the accessibility element can also be fulfilled via modern technology and distance learning programmes, particularly in emergencies. However, most accessible approaches to distance learning may be low-tech or no-tech.[[106]](#footnote-107) Furthermore, digital technology should not be used as a justification for the unavailability of schools or campuses for all learners; it should aim to support – and not replace – schools and teachers.[[107]](#footnote-108) Internet shutdowns are also problematic for the accessibility element as they can, for example, foreclose access to online classes and information needed for studies, and prevent registering for exams.

90. Acceptability requires, inter alia, that the form and substance of education, including curricula and teaching methodologies, are acceptable (e.g. relevant, culturally appropriate and of good quality) to students and, in appropriate cases, parents or legal guardians; and are directed towards the aims and objectives guaranteed under international human rights law. Curricula should be human rights compliant, including being free from stereotypes. This condition particularly entails the recognition of cultural rights within education systems, to ensure their relevance.[[108]](#footnote-109) It also requires, for example, having discussions about the possible effects of the digitalization of education, such as student isolation and health, students’ development, respect for the right to privacy of students and data protection.[[109]](#footnote-110)

91. Adaptability is a continuous system-wide ever-evolving requirement. It requires that education be flexible so it can adapt to the needs of changing societies and communities and the needs of students in diverse socio-cultural settings, taking into consideration, particularly, migration and refugee flows, new conflicts, environmental disasters and climate change, as well as crises like the Covid19 pandemic. For example, Ukraine reported on efforts made to ensure the continuation of education, including for learners forced to relocate abroad.[[110]](#footnote-111) Adaptation necessitates measures to develop multiple talents and literacies – digital, scientific, textual, ecological, mathematical – enabling individuals to enhance their agency facing the rapid spread of misinformation and disinformation, and identify true from false information.[[111]](#footnote-112)

92. Implementing the 4As framework demands the involvement of numerous ministries other than education (e.g. water and transport), as well as close cooperation among institutions, teachers, families and communities to ensure that the needs of learners and their families are understood and incorporated. This is at odds with certain authoritarian and top-down attitudes reinforced in times of crisis, as exemplified in many parts of the world during the Covid-19 pandemic.[[112]](#footnote-113)

93. The Special Rapporteur notes that, beyond the original 4As framework, there has been an evolution towards adding accountability as a fifth dimension, as a means to better understand the status of the right to education and to encourage States to adopt and implement solid legal and policy frameworks protecting this right.[[113]](#footnote-114)

E. Controlling the digitalization of education

94. The impact of the digitalization of education on the right to education is a central concern of the mandate. The Special Rapporteur agrees with her predecessors that digital technology opens new learning pathways but brings serious challenges. A rigorous stock-taking on “techno-solutionism” is yet to take place, particularly on lessons learned during the Covid-19 pandemic. We do know that students from already disadvantaged backgrounds suffered the most through lack of access to good teaching and social isolation. Online learning opportunities were hampered by a lack of access to digital devices and poor internet connectivity. Usage must not exacerbate educational inequalities in a context where the gender digital divide is increasing, nor lead to human rights violations within education, particularly of the right to freedom of opinion and expression, information, privacy, health, cultural rights as well as academic freedoms.[[114]](#footnote-115) On-line safety, digital literacy, accessible learning platforms and mental health support are also critical in future policy development.

95. A critical emerging issue is artificial intelligence, the impact of which remains little understood while it can have important consequences for human creativity, acquiring knowledge, intellectual and cultural property rights and gauging learning. This needs urgent attention, as investments rapidly expand this technology. The Special Rapporteur welcomes the UNESCO Recommendation on the Ethics of Artificial Intelligence, and notes precautionary measures already adopted by some States. Italy, for example, is reported to have recently banned ChatGPT due to privacy concerns of students and minors.[[115]](#footnote-116) Further, it is important to examine who populates digital spaces, in which languages, with which cultural backgrounds, and to secure the protection of cultural diversity in such context.[[116]](#footnote-117) Algorithms are not neutral. These are developed using metadata that exclude information on marginalized groups and are therefore unrepresentative or biased. Separately, civil society organizations have called for a ban on biometric recognition systems that enable mass surveillance. The Special Rapporteur notes with interest reports that data protection authorities in France and Sweden rejected consent as a legal basis for facial recognition systems in schools given the power imbalance between students and schools and directed schools to use less intrusive means to track attendance or give access to school buildings.[[117]](#footnote-118) So-called ‘enhancement technologies’ are another type of ‘emerging technology’ that can potentially impact the right to education.[[118]](#footnote-119)

96. Another aspect of the digital discussion is whether, and to what extent, a right to internet connectivity should be recognized as one aspect of the right to education. Several elements must be considered. Firstly, States should support everyone’s right of access to, and use of, information and communications technology in self-determined, empowering ways, most notably through ensuring basic services, including electricity and telephone and computer/Internet connections.[[119]](#footnote-120) Further, the understanding of the right to education should be broadened to include digital competencies and access to the internet as a means of supporting the right to education, the right to information and cultural rights.[[120]](#footnote-121) Additionally, while access to quality education may be progressively realized, the right to non-discrimination is immediately applicable. In this light, the right to education guarantees access to the internet insofar as this is necessary to ensure equitable access and equal participation.[[121]](#footnote-122) As stated in UNESCO’s 2021 Rewired Global Declaration on Connectivity for Education: “Connectivity initiatives should be guided by an ethic of inclusion and begin with those facing disadvantage.”[[122]](#footnote-123)

97. These issues must be addressed while understanding the profits-driven agenda of digital technology companies. The digitalization of education should be focused on adding significant value to improving implementation of the right to education for all. The best interests of students should always be the primary consideration, and, having regard to their age and maturity,[[123]](#footnote-124) understood through their meaningful and representative participation.

F. Recognizing the role of teachers

98. Teachers are pivotal for the right to education and therefore our collective future. Yet, their role is woefully undervalued and undercompensated. One study indicates that educators were earning, on average, 48% below the local average cost of goods and services across 100 countries surveyed, with teachers living below the poverty line, even in high income countries.[[124]](#footnote-125)

99. Restrictions are also imposed on teachers’ human rights, particularly their academic freedom, trade union rights, and their right to participate in decision-making. In conflict or politically fractious environments, teachers are on the frontline, being punished for expressing their views or not supporting prevailing narratives, being subjected to threats and coercion, being dismissed, demoted, unpaid, arbitrarily detained, even attacked and killed.

100. The mandate continues to insist on the importance of teachers’ rights and recognition of their invaluable contribution to the right to education, including during the Covid19 pandemic.[[125]](#footnote-126) As new demands are placed on educators to adapt to ever evolving demands, technologies and contexts,[[126]](#footnote-127) it is crucial that they benefit from sufficient support and training as lifelong learning themselves. This requires sound relationships to be established among Governments, educators, learners, parents and communities.[[127]](#footnote-128) The Special Rapporteur will devote her next report to teachers.

V. Conclusions and recommendations

101. **The mandate of the Special Rapporteur on the right to education, over the 25 years since its establishment, has substantially contributed to an evolving understanding of the right to education and the obligations it entails, catalyzing, accompanying or reflecting developments and progresses also achieved at the national level or by other human rights mechanisms.**

102. **Reflections around the evolving right to education, initiated by UNESCO following the Transformation Education Summit and the report of the UNESCO-led International Commission on the Futures of Education must continue. The intention is to identify what significant in-depth changes are required in the way education is conceptualized and delivered. To do this, we must simultaneously have a foot in the past and future. The foot in the past is necessary to address the continued exclusion of many from quality education systems and the failure to ensure effective and relevant learning outcomes for diversely situated people, which in themselves are sufficient to justify re-thinking models and approaches. The foot in the future is necessary to address more recent and emerging challenges, such as increased polarizations in societies accompanied by democratic backslides, climate change, and the digital revolution including the emergence of artificial intelligence.**

103. **The right to education as collectively understood today, must be considered the backbone of rethinking education models. In such exercises, it is important to carefully assess what to reiterate, keep, strengthen, adapt and adjust, and what needs to be changed significantly. The difficulty is to be open to positive changes while resisting forces detrimental to education, particularly voices calling for change under the guise of human rights language but pursuing other agendas, such as ensuring education systems become marketable products and services. An approach based on the right to education can guide actions for transforming education towards more efficient systems, able to respond to new challenges. Considering education as a public and as a common good further opens new ways of ensuring participation of all relevant stakeholders in educational life, including at the local level, and allows reinforcing the interrelation between education, science and culture. The right to education understood as a right to life-long learning, in a system that links formal, non-formal and informal spaces for education, must be at the center of all reflections leading to a new social contract on education, at the local, national and international levels. At stake is also the promise made after the Covid-19 pandemic to build back better, rather than pursuing business as usual.**

1. \* The present report was submitted after the deadline in order to reflect recent developments. [↑](#footnote-ref-2)
2. <https://unesdoc.unesco.org/ark:/48223/pf0000382577>, p. 1. [↑](#footnote-ref-3)
3. [The-Sustainable-Development-Goals-Report-2022.pdf (un.org)](https://unstats.un.org/sdgs/report/2022/The-Sustainable-Development-Goals-Report-2022.pdf), pp. 34-35. [↑](#footnote-ref-4)
4. [ecw\_222million\_study\_advocacypaper.pdf (educationcannotwait.org)](https://www.educationcannotwait.org/sites/default/files/2022-06/ecw_222million_study_advocacypaper.pdf). [↑](#footnote-ref-5)
5. [Literacy | UNESCO UIS](http://uis.unesco.org/en/topic/literacy). [↑](#footnote-ref-6)
6. Chapter II. Para. 29. [↑](#footnote-ref-7)
7. International Commission on the Futures of Education, Reimagining our futures together, A new social contract for education, UNESCO, 2021, p 11 and 146. [↑](#footnote-ref-8)
8. Responses are available on the website of the Special Rapporteur, at: <https://www.ohchr.org/en/special-procedures/sr-education>. Some are referred to directly in footnotes. [↑](#footnote-ref-9)
9. William A. Schabas, The Customary International Law of Human Rights, Oxford University Press, 2021, p. 312. [↑](#footnote-ref-10)
10. A/HRC/41/37, paras. 4-6. [↑](#footnote-ref-11)
11. [The Safe Schools Declaration and the Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict | International Committee of the Red Cross (icrc.org)](https://www.icrc.org/en/document/safe-schools-declaration-and-guidelines-protecting-schools-and-universities-military-use). See also Global Coalition to Protect Education from Attack (GCPEA), “Practical Impact of the Safe Schools Declaration: Fact Sheet,” January 2022, <http://protectingeducation.org/wp-content/uploads/documents/SSD-Fact-Sheet.pdf>, and Commentary of the Guidelines, [Human Rights Watch (protectingeducation.org)](https://protectingeducation.org/wp-content/uploads/documents/documents_commentary_on_the_guidelines.pdf). [↑](#footnote-ref-12)
12. GCPEA, paras. 19-28; Hala Systems and Starling Lab. [↑](#footnote-ref-13)
13. A/HRC/8/10, para. 37. See also A/69/269. [↑](#footnote-ref-14)
14. Brussels Declaration, 2018, para. 15; Transforming Education Summit, 2022, [Digital Learning For All | United Nations](https://www.un.org/en/transforming-education-summit/digital-learning-all). [↑](#footnote-ref-15)
15. UNESCO Commission, pp. 12-13, and 149. UNESCO, Rethinking education, Towards a global common good?, 2015. [↑](#footnote-ref-16)
16. Ecuador, 7; Kazakhstan, page 5; Qatar, page 10; National CRPD Monitoring Mechanism of the German Institute for Human Rights. [↑](#footnote-ref-17)
17. [Monitoring Guide | Right to education project (right-to-education.org)](https://www.right-to-education.org/monitoring/). [↑](#footnote-ref-18)
18. [NORRAG –We Need More and Better Data on Education: 38 Organizations Issue a Collective Call to Fund Education Data that Will Allow the World to Reach Sustainable Development Goal 4 - NORRAG -](https://www.norrag.org/we-need-more-and-better-data-on-education-38-organizations-issue-a-collective-call-to-fund-education-data-that-will-allow-the-world-to-reach-sustainable-development-goal-4-by-unesco-institute-for-sta/); [Education and the New Inequality Divides | Global Challenges](https://globalchallenges.ch/issue/9/education-and-the-new-inequality-divides/) [↑](#footnote-ref-19)
19. [Missing Data project - NORRAG -](https://www.norrag.org/missing-data-project/) [↑](#footnote-ref-20)
20. [ecw\_222million\_study\_advocacypaper.pdf (educationcannotwait.org)](https://www.educationcannotwait.org/sites/default/files/2022-06/ecw_222million_study_advocacypaper.pdf) ; [NORRAG –New INEE Reference Group to drive reforms and set global standards for EiE data by ECW, FHI 360, INEE, NORRAG, and UIS - NORRAG -](https://www.norrag.org/new-inee-reference-group-to-drive-reforms-and-set-global-standards-for-eie-data-by-ecw-fhi-360-inee-norrag-and-uis/). [↑](#footnote-ref-21)
21. Article 26. See also Convention against Discrimination in Education (art. 5), ICESCR (art. 13) and CRC (art. 29). [↑](#footnote-ref-22)
22. UNESCO Commission, p. 11. [↑](#footnote-ref-23)
23. A/71/358 (Life-long learning). [↑](#footnote-ref-24)
24. UNICEF, para. 6. [↑](#footnote-ref-25)
25. A/74/243, para. 20 (Contributions of the right to education to the prevention of atrocity crimes). [↑](#footnote-ref-26)
26. A/HRC/47/32 (Cultural dimensions of the right to education or the right to education as a cultural right), para. 52. [↑](#footnote-ref-27)
27. A/74/243, para. 68. [↑](#footnote-ref-28)
28. A/74/243, para. 36. [↑](#footnote-ref-29)
29. [Guidelines for implementing Social and Emotional Learning in schools](file:///C:\Users\mariateresa.nieto\AppData\Local\Downloads\files\04c02568-c63a-4ca4-99e7-4f537f79abf7_SEL%20Guideline_Final.pdf%20(d1c337161ud3pr.cloudfront.net)), Mahatma Gandhi Institute of Education for Peace and sustainable Development, UNESCO. [↑](#footnote-ref-30)
30. CRC/GC/2001/1, paras. 15, 16 and 19. [↑](#footnote-ref-31)
31. [A Compendium on Comprehensive Sexuality Education | OHCHR](https://www.ohchr.org/en/documents/thematic-reports/compendium-comprehensive-sexuality-education). [↑](#footnote-ref-32)
32. A/HRC/26/27, (Assessment of the educational assessment of students). [↑](#footnote-ref-33)
33. A/HRC/47/32, para. 9. Belarus Helsinki Committee, paras. 2 and 15. [↑](#footnote-ref-34)
34. UNESCO Commission, p. 11. [↑](#footnote-ref-35)
35. Cypriot Commissioner for Children's Rights, 3. [↑](#footnote-ref-36)
36. A/71/358, paras 41 and ff. [↑](#footnote-ref-37)
37. A/71/358; UNESCO Commission, p. 12, 117 and 152. [↑](#footnote-ref-38)
38. A/77/324 (ECCE); Right to Education Initiative, 2022, [Early Childhood Care and Education as a gateway to inclusive education: an analysis of UN Special Rapporteurs’ Reports](https://www.right-to-education.org/resource/early-childhood-care-and-education-gateway-inclusive-education-analysis-un-special). [↑](#footnote-ref-39)
39. [Why early childhood care and education matters | UNESCO](https://www.unesco.org/en/articles/why-early-childhood-care-and-education-matters). [↑](#footnote-ref-40)
40. European Students Union, 1; Fédération des Etudiant.e.s Francophones, p. 1. Italian Students’ Union, p. 4. [↑](#footnote-ref-41)
41. UNESCO International Institute for Higher Education in Latin America and the Caribbean (IESALC), paras. 42 and 45. [↑](#footnote-ref-42)
42. A/67/310, para. 25, 31 and 89; A/71/358, para. 67. [↑](#footnote-ref-43)
43. Abidjan Principles, 9 and 14; A/HRC/20/21 (Normative action for quality education). [↑](#footnote-ref-44)
44. Human Rights Watch, p. 2. See also Tashkent Declaration, 2(V) and 3(VIII). Right to Education Initiative, p. 4. [↑](#footnote-ref-45)
45. For example, Ecuador, question 3; Djibouti, p. 5. [↑](#footnote-ref-46)
46. A/HRC/50/32, paras. 4 and 97 d). [↑](#footnote-ref-47)
47. A/69/286, paras. 69 and 104 e). [↑](#footnote-ref-48)
48. A/72/496, para. 20 (Inclusion, equity, and the right to education); A/HRC/17/29 (Equality of opportunity in education). [↑](#footnote-ref-49)
49. A/72/496, para. 19. and 110. [↑](#footnote-ref-50)
50. A/HRC/4/29; Contribution, Inclusion International, p. 7. [↑](#footnote-ref-51)
51. Committee on the Rights of People with Disabilities, General Comment 4, para. 10 a). See also A/HRC/25/29. [↑](#footnote-ref-52)
52. Committee on the Rights of People with Disabilities, General Comment 4, para. 11. [↑](#footnote-ref-53)
53. A/HRC/47/32, paras. 4-5 and 32-41., Contribution, El Salvador, 6 a). [↑](#footnote-ref-54)
54. Notably, A/72/496 (Inclusion, equity, and the right to education); A /76/158 (migrants) A/73/262 (refugees), A/HRC/14/24 (migrants, refugees and asylum-seekers); A/HRC/11/8 (persons in detention); E/CN.4/2006/45 (Girls’ right to education). [↑](#footnote-ref-55)
55. A/HRC/47/32, para. 53-59, 82. See also UNESCO, Culture Sector. [↑](#footnote-ref-56)
56. For example, Cypriot Commissioner for Children's Rights, 10. [↑](#footnote-ref-57)
57. A/HRC/47/32, para. 55. [↑](#footnote-ref-58)
58. UNESCO Universal Declaration on cultural diversity, article 4. [↑](#footnote-ref-59)
59. A/68/296. [↑](#footnote-ref-60)
60. A/HRC/47/32, para. 79 h) [↑](#footnote-ref-61)
61. On an emblematic court case, see contribution of Portuguese Ombudsman Institution, 5. [↑](#footnote-ref-62)
62. Moira V. **Faul**, Patrick **Montjouridès** and Arushi **Terway**, [Education and the New Inequality Divides | Global Challenges](https://globalchallenges.ch/issue/9/education-and-the-new-inequality-divides/). [↑](#footnote-ref-63)
63. A/HRC/41/37, paras. 31, 38-40, 80. [↑](#footnote-ref-64)
64. A/HRC/41/37, para. 77. [↑](#footnote-ref-65)
65. Human Rights Committee, General Comment No. 22 (1993), para. 6, and OHCHR, #Faith4Rights toolkit, module 12. [↑](#footnote-ref-66)
66. A/HRC/47/32, para. 24. [↑](#footnote-ref-67)
67. See also Language Rights of Linguistic Minorities, A Practical Guide for Implementation, p. 21. [LanguageRightsLinguisticMinorities\_EN.pdf (ohchr.org)](https://www.ohchr.org/sites/default/files/Documents/Issues/Minorities/SR/LanguageRightsLinguisticMinorities_EN.pdf), [↑](#footnote-ref-68)
68. A/75/261, para. 8. [↑](#footnote-ref-69)
69. European Students Union, para. 16. [↑](#footnote-ref-70)
70. General Comment 13, paras. 38-40. [↑](#footnote-ref-71)
71. A/75/261. [↑](#footnote-ref-72)
72. [Untitled | Scholars at Risk](https://www.scholarsatrisk.org/principles/). [↑](#footnote-ref-73)
73. A/HRC/44/39 (Impact of the COVID-19 crisis on the right to education; UNESCO Commission, p. 152. [↑](#footnote-ref-74)
74. UNESCO Commission, pp. 152-153. [↑](#footnote-ref-75)
75. A/HRC/35/24 (Realizing the right to education through non-formal education). [↑](#footnote-ref-76)
76. E/CN.4/2004/45, paras. 50-52, “Schools can be deadly”; A/CN.4/2005/50, Chapter IV. [↑](#footnote-ref-77)
77. [Safe to Learn | End Violence (end-violence.org)](https://www.end-violence.org/safe-to-learn), Festus Fajemilo Foundation (FFF), p. 2. [↑](#footnote-ref-78)
78. GCPEA, para. 37. [↑](#footnote-ref-79)
79. A/68/296. [↑](#footnote-ref-80)
80. UNICEF, para. 20. [↑](#footnote-ref-81)
81. UNESCO, Education Sector, p. 4. [↑](#footnote-ref-82)
82. General Comment 13, paras. 43-45 and 57. [↑](#footnote-ref-83)
83. A/HRC/23/35 (Justiciability and the right to education), para. 81. [↑](#footnote-ref-84)
84. A/HRC/38/32 (Governance and the right to education), paras. 95-97. [↑](#footnote-ref-85)
85. Global Survivors Fund. [↑](#footnote-ref-86)
86. UNICEF, para. 19. [↑](#footnote-ref-87)
87. [Financing Education | United Nations](https://www.un.org/en/transforming-education-summit/financing-education), “More investment”. [↑](#footnote-ref-88)
88. TaxEd Alliance, page 2. [↑](#footnote-ref-89)
89. [Financing Education | United Nations](https://www.un.org/en/transforming-education-summit/financing-education), “More equitably”. [↑](#footnote-ref-90)
90. UNICEF, para. 18. [↑](#footnote-ref-91)
91. [Maastricht\_ETO\_Principles\_21Oct11.pdf (ciel.org)](https://www.ciel.org/wp-content/uploads/2015/05/Maastricht_ETO_Principles_21Oct11.pdf), art. 15. [↑](#footnote-ref-92)
92. Global Education Monitoring (GEM) Report 2021/22 on Non-State Actors, p. 32. [↑](#footnote-ref-93)
93. A/HRC/41/37, A/70/242, A/HRC/29/30, and A/69/402. [↑](#footnote-ref-94)
94. A/69/402, para. 38. [↑](#footnote-ref-95)
95. The contribution from OIDEL discusses this issue, question 1. [↑](#footnote-ref-96)
96. Linguistic Rights of Minorities, op. cit., p. 22-23. [↑](#footnote-ref-97)
97. Coalition of the Global Initiative for Economic, Social and Cultural Rights (GI-ESCR), Actionaid, Amnesty International, the Coalition for Transparency and Accountability in Education (COTAE), The East African Centre for Human Rights (EACHRights), the Initiative for Social and Economic Rights (ISER), the Mouvement Ivoirien des Droits Humains (MIDH) and OXFAM, para. 6. [↑](#footnote-ref-98)
98. OTH 34/2019. [↑](#footnote-ref-99)
99. Resolution 47/6, para. 12. [↑](#footnote-ref-100)
100. E/CN.4/1999/49, Chapter II, E/CN.4/2000/6. [↑](#footnote-ref-101)
101. General Comment 13, para. 6. [↑](#footnote-ref-102)
102. See also A/75/718, (Interrelations between the right to education and the rights to water and sanitation). [↑](#footnote-ref-103)
103. A/HRC/47/32, para. 61; A/75/178, para. 24. [↑](#footnote-ref-104)
104. Lea Shaver, [Ending Book Hunger](https://www.bookhunger.org/). [↑](#footnote-ref-105)
105. For example, A/75/178, para. 36; A/HRC/25/32, para. 25-26. [↑](#footnote-ref-106)
106. A/HRC/44/39, paras. 33 and 84 e). [↑](#footnote-ref-107)
107. A/HRC/50/32 (Impact of the digitalization of education on the right to education), para. 24. [↑](#footnote-ref-108)
108. A/HRC/47/32, para. 63. [↑](#footnote-ref-109)
109. A/HRC/50/32, para. 32. [↑](#footnote-ref-110)
110. pp. 5-9. [↑](#footnote-ref-111)
111. UNESCO Commission, p. 149. [↑](#footnote-ref-112)
112. A/HRC/44/39, para. 15. [↑](#footnote-ref-113)
113. UNESCO, Education Sector, 2. [↑](#footnote-ref-114)
114. A/HRC/32/37 (Issues and challenges to the right to education in the digital age); A/HRC/50/32. [↑](#footnote-ref-115)
115. [ChatGPT banned in Italy over privacy concerns - BBC News](https://www.bbc.com/news/technology-65139406) [↑](#footnote-ref-116)
116. New Humanity, p. 4. [↑](#footnote-ref-117)
117. Access Now, paras 17-18. [↑](#footnote-ref-118)
118. New Humanity, p. 4. [↑](#footnote-ref-119)
119. A/HRC/50/32, paras. 13-14. [↑](#footnote-ref-120)
120. UNESCO Commission, p. 34. [↑](#footnote-ref-121)
121. Access now, para 4. [↑](#footnote-ref-122)
122. https://unesdoc.unesco.org/ark:/48223/pf0000380598/PDF/380598eng.pdf.multi [↑](#footnote-ref-123)
123. A/HRC/50/32, summary and para. 95. [↑](#footnote-ref-124)
124. [Teaching Salary Index | Teaching Abroad Direct](https://www.teachingabroaddirect.co.uk/blog/teaching-salary-index) [↑](#footnote-ref-125)
125. A/HRC/44/39, III D. [↑](#footnote-ref-126)
126. A/HRC/50/32, IV F and para. 98. [↑](#footnote-ref-127)
127. HRC/44/39, para. 84 s)). See also, El Salvador, AE. [↑](#footnote-ref-128)