

# Right to Education



Federal Ministry  
for Foreign Affairs  
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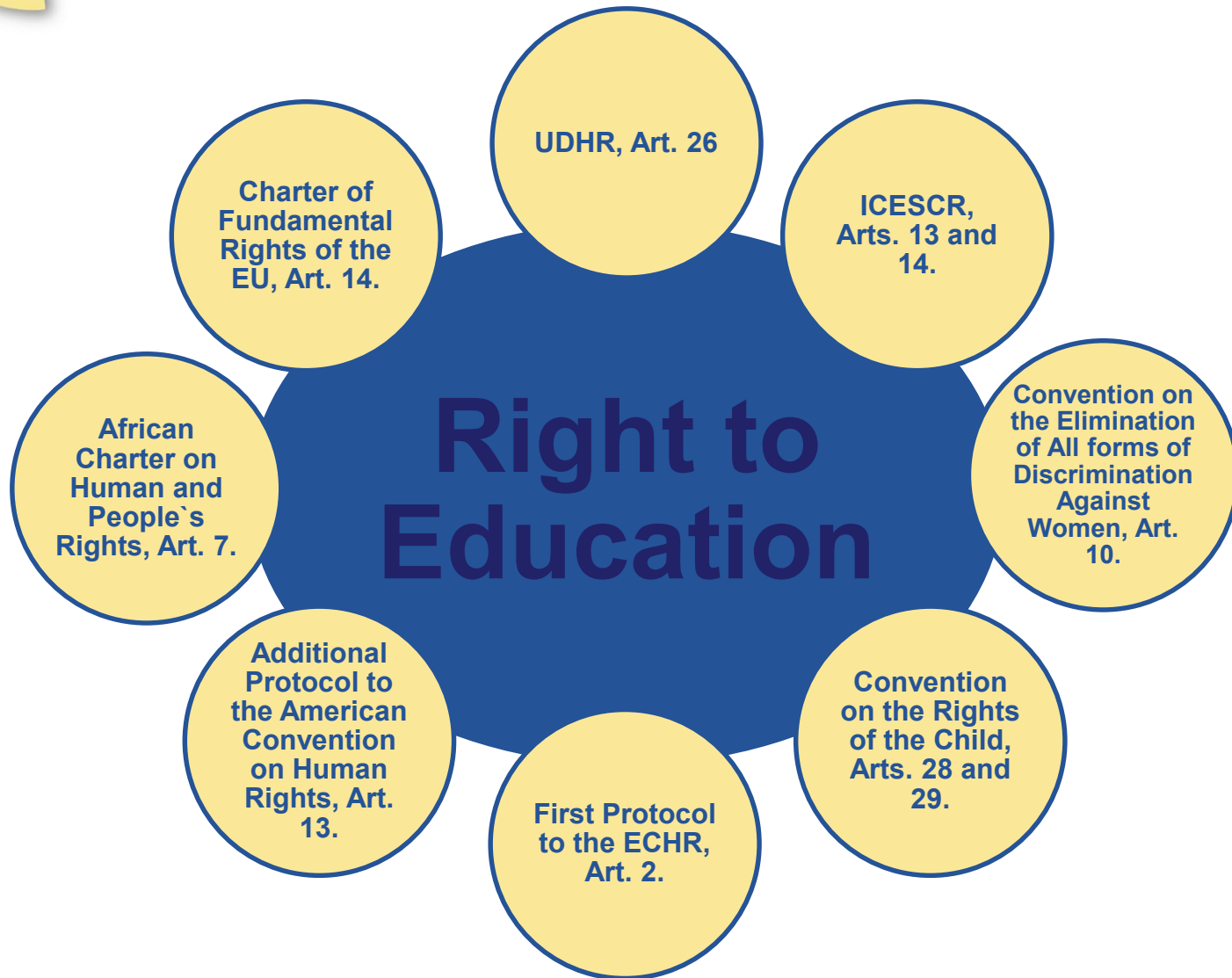
**“Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms...”**

**Art. 26 (2), Universal Declaration of Human Rights, 1948.**

## Right to Education History

- ▶ Prior the age of enlightenment, education was the primary responsibility of parents.
- ▶ Initial civil instruments did not foresee education.
- ▶ In the **19<sup>th</sup> century**, education became an aspect of human rights.
- ▶ During the **20<sup>th</sup> century**, aspects of education were incorporated in laws and even constitutions.
- ▶ **Nowadays**, the human right to education is an empowerment right which allows the individual to have control over the course of her or his life.

# Right to Education Legal Framework



- ▶ The right entitles all individuals to certain forms of behaviour by their governments.
- ▶ The state has the obligation to:
  - **Respect:** the state must not interfere, e.g. has to obey freedom to choose between private and public schooling.
  - **Protect:** the state has to prevent and prohibit any violations of the right.
  - **Fulfil:** the state has to ensure progressive realization of the right.

Art. 13(2) of the ICESCR establishes the **standards to be achieved** for the full realization of the right:

- ▶ Primary education: free and compulsory.
- ▶ Secondary education: available and accessible for all.
- ▶ Higher education: accessible to all based on their capacity.
- ▶ Intensified fundamental education for those who did not finish primary education.
- ▶ Establishment of an adequate fellowship system and continuous improvement of the teachers' position.

## General Comment No. 13

### Four elements of state obligation

- ▶ **Availability:** from primary to tertiary education, states have to make them accessible and must progressively realize them.
- ▶ **Accessibility:** all boys and girls need to have access based on the principles of equality and non-discrimination.
- ▶ **Acceptability:** Private schools need to be made possible; people have to be able to choose to be free from indoctrination.
- ▶ **Adaptability:** states have to enable educational systems to react to changes in society as well as to the children and serve the children's best interest.

- ▶ Denial of education harms social, economic and democratic progress.
- ▶ Instruction in the mother tongue sparks a controversy everywhere, *e.g.* Africa where often the language of the former colonial power is used in primary education.
- ▶ Barriers to education are often higher for girl children and children of a minority group.
- ▶ Inclusive education giving people with disabilities access to education should be considered.



- ▶ Adoption of reliable indicators is needed, such as: literacy rates, enrolment ratios, completion and drop-out rates, pupil-teacher ratios and public expenditure on education.
- ▶ **UNESCO** promotes education as a fundamental right. It established a confidential procedure for violations of rights under its scope by member states.
- ▶ **Committee on Economic, Social and Cultural Rights:** receives and examines state reports closely cooperating with UNESCO with regard to the right to education.
- ▶ **NGOs:** may submit shadow reports.
- ▶ **UN Special Rapporteur on the Right to Education.**

## Problems of implementation

- ▶ Main obstacles: **poverty and child labour**, which together are particularly impeding girls to enjoy their right to education.
- ▶ **HIV/AIDS**: health problems of both teachers and pupils endanger education.
- ▶ **Armed conflicts**: despite being protected under international humanitarian law, schools are very often targets of war, which, additionally makes children orphans and vulnerable to registration as child soldiers.
- ▶ **The global military budget spent in only 7 days could ensure the achievement of universal primary education within a decade (\$ 7 to 8 billion).**

- ▶ The achievement of universal primary education is one of the eight Millennium Development goals.
- ▶ The World Bank reacted to criticism and developed a global partnership to ensure faster progress to universal primary education.
- ▶ Commercialisation of Education as part of globalization needs to be counteracted.
- ▶ A lot of problems remain despite heightened public interest.

- 1946 Constitution of UNESCO: ideal of equality of educational opportunities.
- 1948 Universal Declaration of Human Rights, Art. 26.
- 1959 Declaration of the Rights of the Child, Principle 7.
- 1960 UNESCO Convention against Discrimination in Education.
- 1965 The International Convention on the Elimination of All Forms of Racial Discrimination, Art. 5.v.
- 1966 International Covenant on Economic, Social and Cultural Rights, Art. 13.
- 1973 ILO Convention on the Minimum Age of Employment.
- 1979 The Convention on the Elimination of All Forms of Discrimination against Women, Art. 10.

- 1985 Third World Conference on Women.
- 1989 Convention on the Rights of the Child, Arts. 28, 29.
- 1990 World Declaration on Education for All.
- 1993 E-9 Education Summit in New Delhi. World Plan of Action on Education for Human Rights and Democracy in Montreal.
- 1994 The World Conference on Special Needs Education: Access and Equality in Salamanca.
- 1997 International Conference on Child Labour.
- 1998 UN Special Rapporteur on the Right to Education
- 1999 General Comment No. 13 on the Right to Education
- 1999 ILO Convention on the Worst Forms of Child Labour.

- 2000 Dakar Framework for Action of the World Education Forum.
- 2000 Millennium Assembly: Primary education and equal access for all children by 2015.
- 2003 UN Literacy Decade (2003-2012).
- 2004 World Conference on the Right to and the Rights in Education.
- 2005 UN Decade “Education for Sustainable Development” (2005-2014).
- 2005 World Programme for Human Rights Education (2005-2009)
- 2006 UN Convention on the Rights of Persons with Disabilities, Art. 24.
- 2009 UNESCO World Conference on Education for Sustainable Development.

2010 World Programme for Human Rights Education  
(2010 - 2014).

2015 World Programme for Human Rights Education  
(2015-2019).