



United Nations  
Educational, Scientific and  
Cultural Organization

**The right to education for all**

# Ten Reasons Why

**The Convention  
against  
Discrimination  
in Education  
is highly significant  
in today's world**

**1** The Convention occupies the foremost place among UNESCO's standard-setting instruments in the field of education. It provides a **normative framework and essential elements of the right to education, with international obligations.**

■ Article 4 enjoins upon the States Parties to make:

- ▶ *Primary education free and compulsory*
- ▶ *Secondary education in its different forms generally available and accessible to all*
- ▶ *Higher education equally accessible to all on the basis of individual capacity*

■ These essential elements figure in various instruments of the United Nations, elaborated subsequently, and containing provisions on the right to education. Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and Article 28 of the Convention on the Rights of the Child (CRC) lay down similar entitlements to education at various levels as a fundamental human right.

**2** The Convention expresses the fundamental principle of **equality of educational opportunities**, enshrined in UNESCO's Constitution. It enjoins upon the States Parties the obligation to: *"undertake furthermore to formulate, develop and apply a national policy which, by methods appropriate to the circumstances and to national usage, will tend to promote equality of opportunity and of treatment in the matter of education."* This is of critical importance in face of growing disparities in education and the need to ensure equality as well as equity.

■ Governments have primary responsibility to ensure access to education for all, with special consideration for millions of children and adults who remain deprived of education in today's learning societies.

***The Convention against Discrimination in Education  
is recognized by UNESCO's Executive Board  
as a "Key Pillar of EFA"***

(Decision 171 EX/ 28, taken in April 2005)

**3** The Convention expresses another fundamental principle, that of **non-discrimination**. This principle is inextricably linked with the principle of equality of educational opportunities. The Convention prohibits any ‘discrimination’ or any distinction, exclusion, limitation or preference, *“based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth”*. The principle of non-discrimination as enshrined in the United Nations charter is an overarching principle, and its significance is being recognized increasingly.

- Education must be accessible to all, especially the most vulnerable and disadvantaged groups, in law and fact, without discrimination on any of the prohibited grounds.

This principle is highlighted in the resolutions adopted by the UN General Assembly as well as by the former Commission on Human Rights and the Human Rights Council.

**4** The Convention lays down obligation for the States Parties *“to encourage and intensify by appropriate methods the education of persons who have not received any primary education or who have not completed the entire primary education course and the continuation of their education on the basis of individual capacity”*. Similar provisions are also contained in Article 13 of the ICESCR.

- These provisions provide normative basis for **continuing education and learning**, and the **right to basic education** for youth and adults.

*Although the Convention was adopted more than forty years ago now, its provisions continue to be a matter of the great importance to human kind*

(Report of Portugal submitted to UNESCO for the Seventh Consultation of Member States on the Implementation of the Convention and Recommendation against Discrimination in Education, 2007)

**5.** The Convention lays down the objectives of **human rights education and training for teaching profession and other features of the right to education.** These have been developed since the adoption of the Convention by way of various Recommendations adopted by UNESCO in the field of education, or by the General Comments elaborated by the United Nations human rights treaty bodies.

**6.** The Convention provides for the **parental choice of education and freedom in education.** It enjoins upon States Parties the obligation to respect the liberty of parents and, where applicable, of legal guardians, firstly to choose for their children institutions other than those maintained by the public authorities. Such education should, however, conform to minimum educational standards as may be laid down or approved by the competent authorities.

**7.** The Convention is the first legally binding instrument which provides for **standard and quality of education.** The Article 4 § b lays down the obligation for the States Parties *“to ensure that the standards of education are equivalent in all public educational institutions of the same level, and that the conditions relating to the quality of the education provided are also equivalent.”*

■ Ensuring education of good quality – in particular primary education – is a major concern of the international community.

***“The particular significance of the Convention is demonstrated by the frequency with which it is mentioned in other instruments concerning the right to education adopted by the United Nations and by its recognition under modern international law”***

(Significance of the Convention against Discrimination in Education (1960), UNESCO publication, 2005)

**8** The Convention has been cited in **landmark decisions** by the law courts. Rich jurisprudence exists as regards the principle of equality of educational opportunities in several countries, notably in the USA, India, South Africa, Canada, and several other European countries. One can mention, as example, the decisions such as:

- The Supreme Court of India stated the law with respect to the application of the fundamental principle of equality of educational opportunities: “The philosophy and pragmatism of universal excellence through equality of opportunity for education and advancement across the nation is part of our founding faith and constitutional creed. [...]” (Km. Chitra Ghosh and Another vs. Union of India and Others [(1969) 2 SCC 228])
- Another landmark judgment by the Supreme Court of Mauritius has brought into prominence the importance of abiding by the *Convention*. The Court considered the issues in the light of the provisions of the Convention and held that “*it is a well-recognized canon of construction that domestic legislation, including the Constitution, should if possible, be construed so as to conform to such international instrument as the Convention*”. This judgment stated that the overall purpose behind the Convention is to combat all forms of discrimination in education.

**9** The international community made collective commitment at the World Education Forum, in 2000, to achieving EFA. This is UNESCO’s high priority. Recognized as a **key pillar of EFA**, the Convention has assumed greater significance in this process.

The decision 6.3 taken by the Executive Board at its 170<sup>th</sup> session in November 2004 “reminds Member States of the obligation “to make the text of any convention or recommendation known to the bodies, target groups and other entities interested in matters dealt with therein” in accordance with Article 16(2) of the Rules of Procedure concerning recommendations to Member States and international conventions, as amended by the General Conference in October 2003”.

- It is crucial to give further dissemination to the Convention.
- UNESCO conducts periodic consultations of Member States for monitoring its implementation.

***The Convention needs to be disseminated broadly, projecting the principles and norms which it lays down so that these are widely embraced. It is imperative to create greater awareness about the Convention. Action aimed at giving the Convention large publicity, including its translation into national and local languages, deserves to be encouraged and supported.***

Letter addressed by the Director General of UNESCO  
to Member States (CL 3749)

**10.** The Convention has a special procedure for resolving **inter-state conflicts** and settle disputes between the States Parties “*concerning the interpretation or application of this Convention*” (Article 8 of the Convention). For this purpose, a Conciliation and Good Offices Commission was established in 1962.

- Unlike the International Court of Justice, which may consider matters only with the joint submission and consent of the States Parties concerned, the Conciliation and Good Offices Commission may be petitioned unilaterally by a State.
- Any dispute, which is not settled by negotiation, shall at the request of the parties to the dispute be referred to the International Court of Justice for decision.

Text of the Convention: [www.unesco.org](http://www.unesco.org)

#### **For more information**

UNESCO’s website on the right to education and standards and norms in education:

[www.unesco.org/education](http://www.unesco.org/education)