



THE ASIA PACIFIC FORUM
OF NATIONAL HUMAN RIGHTS INSTITUTIONS

... a partnership for human rights in our region

ABN 98 099 972 997

Advisory Council of Jurists

Terms of Reference on the legal obligations of States for the implementation of economic, social and cultural rights, with respect to the right to education

Questionnaire for the Background Paper on the Right to Education

Please complete the questionnaire and send all responses by e-mail to Stephen Clark: stephenclark@asiapacificforum.net

Responses to this questionnaire will be used in the Background Paper on the Right to Education which will be distributed to the Advisory Council of Jurists.

The APF Secretariat requests APF members to submit all responses to the questionnaire by **Friday 12 May 2006**. Thank you in advance for your time and contribution.

Information about the Advisory Council of Jurists and the terms of reference on the right to education is available at <http://www.asiapacificforum.net/jurists/>

Documentation

Please provide the APF Secretariat with the following documentation:

Constitutional provisions relating to:

- Right to education;
- Non-discrimination and the access for all; and
- Relevance of international law in the national jurisdiction.

Relevant legislation referring to:

- Right to compulsory and free primary (or basic) education on a non-discriminatory basis;
- Right to secondary and higher education;
- Financing of education;
- Minimum age of employment;
- Minimum age of marriage; and
- Minimum age of criminal responsibility

NGO reports

- Reports on education by local, national and / or international non-governmental organisations within your country, especially the shadow reports produced for the country sessions of the UN Treaty Bodies.

Part 1: Issues raised in the Terms of Reference

Preliminary Questions

Education Policy and Programs

1. Please provide an overview of the framework of government education policies and programs in your country, including the division of responsibilities and financing between national, state and local governments.

Justiciability of economic, social and cultural rights with respect to the right to education

2. Please provide details of cases from the national courts of your country with respect to the justiciability of economic, social and cultural rights, with a particular focus on the right to education.
3. Please provide information about remedies available and the enforceability of the decisions of national courts with respect to the right to education.
4. Please provide information relevant to your government's position regarding the proposed Optional Protocol for the International Covenant on Economic, Social and Cultural Rights.

The right to receive an education: available, accessible, acceptable, and adaptable

Availability

Functioning educational institutions and programmes have to be available in sufficient quantity within the jurisdiction of the State party. (CESCR General Comment No. 13)

Expenditure

5. Please provide an overview of government expenditure on all levels of education in your country. Where there is a divide in education expenditure between national, state and local governments please provide this information. Where possible, figures should be disaggregated (primary, secondary, higher education, formal and non-formal) and expressed in both real terms and as a percentage of gross national product.
6. Please provide information about education funding models used in your country. Issues for consideration could include (but are not restricted to):
 - Funding for state and non-state (private) education institutions;
 - The dependence on school fees in any form, direct or indirect
 - Use of education vouchers;
 - Privatization of the education system.
7. Please provide information about your government's laws, policies and programs regarding acceptance of international assistance and cooperation in relation to education.

8. Please describe the role and impact of non-state actors such as international financial institutions and trans-national corporations on the realisation of the right to education in your country. For example, if your country has adopted a structural adjustment program, has this impacted upon government expenditure on education policies and programs?

Infrastructure

9. Please provide information the availability and adequacy of infrastructure, especially for girls, for schools and other educational institutions in your country, including classrooms, library, sanitation facilities, safe drinking water and any other relevant facilities.

Teachers and support staff

10. Please provide information about the availability of qualified teachers and support staff for all levels of education in your country, on teacher training initiatives to meet 'education for all' goals, and any other relevant issues that impact upon this availability.

Teaching facilities and materials

11. Please provide information about the availability and adequacy of teaching facilities and materials including: classrooms, books and writing materials, information and communications technology equipment, libraries, laboratories, workshops, sporting equipment and facilities and other relevant materials.

In answering questions 5-11, please give consideration to the issue of diversity and the impact of 'availability' on the rights of minorities and indigenous people.

Accessibility

Educational institutions and programmes have to be accessible to everyone, without discrimination, within the jurisdiction of the State party. (CESCR General Comment No. 13)

Non-discrimination

12. Please provide details of legislation and government policies and programs relevant to issues of non-discrimination, equal treatment and equality of opportunity in education. Information provided should include (but is not limited to) consideration of issues of access for people living with disabilities, internally displaced persons, non-nationals, prisoners, refugees and other minorities.

Gender parity and gender equality

13. Please provide details of legislation and government policies and programs directed to improving gender parity and gender equality in education at all levels.

Physical accessibility

14. Please describe the main issues regarding geographical location of and physical access to educational institutions for people from urban, rural and remote communities, as well as for people with physical disabilities.

Economic accessibility

Primary education

15. Is primary education compulsory and free for all? Please provide details of relevant legislation and government policies and programs. For example, does your government have a plan of action for making primary education free?

16. Please provide information about any school fees, charges and other costs imposed on parents or guardians for primary education. Please describe the extent of financial assistance available for the completion of primary education.

Secondary education

17. Is secondary education compulsory and free for all? Please provide details of relevant legislation and government policies and programs.

18. Please provide information about any school fees, charges and other costs imposed on parents or guardians for secondary education. Please describe the extent of financial assistance available for the completion of secondary education.

Higher education

19. Please provide information about fees, charges and other costs for higher education. Please describe the extent of financial assistance (if any) available for the completion of higher education.

Non-formal education

20. Please provide information about access to non-formal education in your country. Issues for consideration include (but are not restricted to):

- The existence of and support for Community Learning Centres
- The legal and policy framework for the improvement of literacy for women.

Acceptability

The form and substance of education, including curricula and teaching methods, have to be acceptable (eg – relevant, culturally appropriate and of good quality) to students and, in appropriate cases, parents. (CESCR General Comment No. 13)

Quality education and minimum standards

21. Please identify the relevant national and/or local institutions which are responsible for the implementation of the right to education. In particular, are there any specialised agencies, authorities or officials that have a mandate on the right to education?

22. Please provide information about measures adopted by education authorities to provide quality education and to establish minimum education standards and an effective and transparent system for monitoring standards.
23. Please describe the indicators (including human-rights-based indicators) used by education authorities to monitor the realisation of the right to education in your country.
24. Please provide details of legislation and government policies, practices and programs which may impact upon academic freedom and the autonomy of educational institutions.

Discipline

25. Please provide information about the legal status of corporal punishment and other forms of discipline that operate within the education system in your country.

Curriculum

26. Please provide an overview of how education authorities determine curriculum development at all levels of education within your country.
27. To what extent is human rights education incorporated into the curriculum of primary, secondary and higher education?

Parents / Legal Guardians

28. Please describe the extent to which parents and legal guardians are able to exercise freedom of choice with regards to educational institutions and educational programs.

Religious and cultural practices, languages of minority groups

29. Please provide details of relevant legislation and government policies and programs regarding respect for religious and cultural practices and the use of languages of minority groups within schools and other educational institutions.

Adaptability

Education has to be flexible so it can adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings. (CESCR General Comment No. 13)

Education and work

30. Please provide details of legislation which prescribes the age for the completion of compulsory education and the minimum age of employment in your country.
31. Please provide an overview of the strategies, policies and programs of governments and education institutions which enable the education system in your country to adapt to the education needs of those people who would

otherwise not be able to undertake education. For example: working children and young people; children and young people in juvenile detention; working women; prisoners and other people in detention.

Education for women

32. Please provide details of legislation which impacts upon the right to education of women. Issues for consideration could include (but are not restricted to):

- The minimum age of marriage
- Pregnancy

33. Please provide an overview of the strategies, policies and programs of governments and education institutions which enable the education system in your country to adapt to the education needs of women.

Special Needs Education

34. Please provide information about any special needs education policies and programs that have been developed and implemented by government and non-governmental organisations in your country.

35. To what extent are schools able to adapt to the special education needs of individual students?

Part 2: Activities of National Human Rights Institutions

1. Please describe the mandate of your Commission for the protection and promotion of economic, social and cultural rights. What methods and approaches does your Commission use for the protection and promotion of human rights?
2. Has your Commission received complaints from individuals or groups relating to the right to education? If so, please provide a breakdown of the different type of complaints and, where possible, describe some of the most important cases and the role of your Commission in resolving these complaints.
3. Has your Commission conducted research and/or public inquiries on the issue of the right to education? If so, please provide the results of this research and the outcomes and recommendations of any public inquiries.
4. To what extent has your Commission identified laws / policies / practices in your country that impact on the realisation of the right to education?
5. Has your Commission conducted awareness and education campaigns relating to the right to education? If so, please provide information about these campaigns, identify the individuals or groups who have been trained and estimate how many people have been trained.
6. Please provide information about your Commission's general human rights education activities, including: materials used, information produced and how these activities have been made accessible to the community.
7. Has your Commission addressed the issue of the right to education in its annual reports? If so, please provide a copy of the relevant sections.
8. Has your Commission intervened in court proceedings on an issue related to the realisation of the right to education? If so, please provide details of the cases, the role of the Commission and the outcomes of the cases. Please provide copies of any submissions and court decisions.
9. If your government has ratified any of the international human rights conventions listed below, has your Commission been approached by the government to contribute to the periodic reports to the relevant Committees, or alternatively, has your Commission provided a shadow report to the relevant Committees? If so, please provide copies of the sections relevant to the issue of the right to education.
 - Universal Declaration of Human Rights;
 - International Covenant on Economic, Social and Cultural Rights;
 - International Convention on the Elimination of All Forms of Racial Discrimination;
 - Convention on the Elimination of All Forms of Discrimination Against Women;
 - Convention on the Rights of the Child
 - Convention Against Discrimination in Education;

- Minimum Age Convention 1973
- Worst Forms of Child Labour Convention 1999

10. Does your Commission work in collaboration with civil society including the private sector, government or United Nations agencies or multilateral donors such as the World Bank, the International Monetary Fund and the Asian Development Bank on the issue of the right to education? If so, in what way?

This is the end of the questionnaire. Thank you for taking the time to respond.