

Foreword

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As the UN Independent Expert on Minority Issues, over the past three years I have travelled to countries in practically every region of the world. I have talked extensively to people who belong to disadvantaged minorities on every continent. When I ask them to tell me their greatest problem, their most deeply felt concern, the answer is always the same. They are concerned that their children are not getting a quality education because they are minorities. They see educating their children as the only way out of their poverty; their under-dog status, their isolation.

This is a plight that resonates with my own personal story. Slaves in the USA were denied the right to learn to read and write: those in charge realized that knowledge inexorably leads to freedom. Slaves who learned in secret were subject to severe physical abuse.

The public education system in the south of the USA was created to address the education needs of recently emancipated slaves. That promise, however, was short lived. For nearly a century after slavery ended, African Americans in the southern states of the USA were segregated into grossly inferior schools. Even when the Supreme Court in the 1954 landmark decision of *Brown v. Board of Education* decided that racially segregated schools violated the US Constitution, what followed were decades of white resistance to integrating the schools that at times turned violent.

The struggle to achieve equal education regardless of race or class, and the struggle of white communities to avoid integrated schools has been a defining dynamic in the US since the end of slavery.

I am a product of inferior, racially segregated schools – but not a typical product. I was born in the apartheid-like southern state of Georgia when every aspect of life there was segregated along racial lines – most particularly, public education. The Supreme Court decided *Brown v. Board of Education* when I was in primary school, but eleven years later, when I graduated from secondary school, complete segregation was still the reality.

In my secondary school – the first ever for black students in the state – there were upwards of 4,000 students crammed into an ageing and neglected building. Many of my close friends were from homes struggling with poverty. Many in my graduating class could barely write their names. The governing school boards were all white, so the lion's share of financial support went to schools reserved

for white children. There was little doubt that black children were always denied the best equipment, books and opportunities for advanced courses. We had a bare skeleton of the full education experience afforded to the children of the white community.

But we had caring teachers who laboured with little support to overcome all of the educational deficits that had been created by racial prejudice. The remarkable thing was that at times they were able to succeed. Most often, they could not.

Worldwide, minority children suffer disproportionately from unequal access to quality education. Disadvantaged minorities are far more likely to receive an inferior education than a good one. Disadvantaged minority children are more likely to start school later than the prescribed age, if at all; they are less likely to be ready or well prepared for school; and more prone to drop out or fail to achieve in school. That perpetuates the cycle of poverty, leaving them unable to later fulfil their human potential, to gain meaningful employment and to become respected members of society.

Minority girls are disadvantaged, both as a group and as a sub-group of the disadvantaged. They are the most likely to be totally excluded from schooling. Girls may face particular barriers to education based on traditional or religious customs or practices, including those governing their freedom to leave the home without a male escort. Their exclusion from education has a profound impact on their ability to later claim other rights and achieve status in society, such as economic independence and freedom from domestic violence. Educated mothers are more likely to send their girls to school, to look after the health of their families and have smaller families. Educated women are less likely to be exposed to exploitation and risks such as HIV and AIDs.

In many countries, a primary problem is poverty and the under-development of the country as a whole. In societies where there is long-standing endemic discrimination against particular minority groups, they tend to be the poorest of the poor. Even when resources are available, disadvantaged minorities rarely get a fair share. In some countries where resources may not be a major problem, the larger society may have racist attitudes about having their children sit next to a minority child in school. In other countries the majority may not be willing to grapple with the extra cost of redressing the legacy of discriminatory education suffered by minority children.

The harm done by these realities goes far beyond the children and parents whose dreams of a better future are denied. The future of the entire society is impacted negatively. Every year of quality education denied to members of the society robs the country of future leaders and economic engines. Further, education in diverse classrooms is the best way to shape a socially cohesive society and prepare students to perform in a 21st-century globalized world. To achieve that outcome, education should be grounded in an intercultural approach which builds an anti-racism capacity at all levels of educational institutions and which informs all policy decisions

These were the issues and challenges that we sought to consider in the inaugural session of the UN Forum on Minority Issues (UN Forum), held in Geneva in December 2008. Additionally we wanted to identify and consider opportunities, good practices and policy tools relating to minorities and the right to education. The UN Forum was established to provide a platform for promoting dialogue and cooperation on issues pertaining to national or ethnic, religious and linguistic minorities, as well as thematic contributions and expertise to the work of the mandate of the Independent Expert on Minority Issues.

The UN Forum was a significant success. Over 370 individuals were accredited to participate, including government representatives from UN member states and from Ministries of Education, UN bodies and specialized agencies. Approximately 90 non-governmental organizations (NGOs) were represented. The views of education experts and participants from minority communities were given a particularly high priority within the proceedings. Valuable insights were provided by participants with professional experience working in the field of design and delivery of education solutions to address the needs of minorities.

The objective of the UN Forum was to use this unique opportunity to frame a series of practical recommendations intended for a wide readership of governments, international organizations and agencies, civil society, educators and those who learn from them. The recommendations, which are reproduced in this volume, are first and foremost built on the existing international legal framework of the right to education, minority rights and the rights to non-discrimination and to equality.

It is worth noting a few of the recommendations briefly here:

- Education is a fundamental human right of every man, woman and child. Failure to ensure equal opportunities and equal access to education robs people of their full human potential and their ability to contribute fully to their own communities and to the wider society. Equal access to education must be understood in the holistic sense of the rights to non-discrimination and equality. Minorities often face systematic discrimination which creates blockages to their full enjoyment of their rights, including their right to education. To fully protect the right to education for those who have been subjected to historical systematic discrimination, we must go beyond issues of physical or economic accessibility to focus on the ultimate goal of equal access to quality education and to equal achievement outcomes. Disproportionate educational outcomes along racial, ethnic or religious lines must be considered evidence of discrimination that implicates state responsibility for the promotion and protection of these rights.
- One way that minority children are robbed of equal access to quality education is through policies or practices which segregate them into inferior institutions. A striking example is the situation faced by Roma children in many European countries, where Roma children are at times segregated into inferior facilities and are regularly diverted to schools for the mentally disabled, simply because they are Roma. This situation continues despite European Court of Human Rights' judgments against some states (see Europe chapter). In other regions de facto segregation may be a consequence of residential patterns or class distinctions.
- The educational environment cannot be seen in isolation from the wider societal conditions experienced by minorities. Extreme poverty or the denial of citizenship rights are among many factors disproportionately affecting minorities that also have important implications for the enjoyment of their right to education.
- Education is a vital gateway to the enjoyment of a wide range of other rights and fundamental freedoms, without which individuals and societies remain economically, socially and culturally impoverished. Lack of

Right: An African-American student in Mississippi, United States of America. *Mia Brandt/UNICEF.*



- access to education perpetuates the cycle of poverty that is experienced most acutely by minority communities facing discrimination and exclusion. Conversely, education provides a vital key to sustainable poverty alleviation.
- The right to effective and meaningful participation in decision making by minorities is clearly established in the UN Declaration on Minorities (UNDM). It requires that decisions that affect minorities, including those regarding education policy and practice, should include consultation with minority communities, as parents and civic leaders. The expertise and knowledge of minorities themselves should be utilized in every facet of education policy making, including when designing the curriculum and addressing education delivery.
- As one participant noted, 'We know the least about the minority children who are suffering the most.' There is no effective way to address a problem without assessing its magnitude and particularities. There is a compelling need for data that permits an evaluation of the relative situation of minority children and their education needs. Quantitative data must be collected in a way that allows disaggregation by ethnicity, language, family income and sex. This data should be made public on a regular basis to raise public awareness and to enable educators and policy makers to generate effective remedies. Indicators and benchmarks must be set to measure improvement and to monitor progress towards targets.
- Affirmative action to address situations of long-standing and entrenched discrimination and exclusion is mandatory under the International Convention on the Elimination of Racial Discrimination (ICERD). The principle of equality does not require uniform treatment in the field of education regardless of circumstances, but rather that differential treatment of individuals and groups is justified when circumstances warrant it. Standardized education policies overlook the unique problems faced by specific groups of students. In order to create an even playing field, targeted, specialized programmes must be

employed that take into account the existence of structural factors that have impeded the full participation of minorities.

- Lack of resources cannot be used as an excuse for the denial of the rights of minorities to equality in education. The prohibition of discrimination is subject neither to the principle of progressive realization nor to the availability of resources in general. It applies fully and immediately to all aspects of education and encompasses all internationally recognized grounds of discrimination. Guaranteeing equality in educational outcomes to minorities will have budgetary implications that must be seen as an integral part of meeting the state's international legal responsibilities. States should not give inadequate consideration to social components in their educational services, which can leave minorities disadvantaged. Poor and marginalized minorities may require assistance including with free or subsidized textbooks, meals and transportation, essential to their access to education.
- 'Getting past the door is simply not enough', stated one expert participant. Examples were provided of gross disparities in the treatment and consequently the educational performance and relative success of minority students. In some countries, minority boys are facing disproportionately harsh disciplinary actions as compared to non-minority boys who commit

the same offences. In other countries minority children face unwelcoming environments, racist attacks and hate speech. Teachers are a key component in the learning experience. The actions of teachers can do much to overcome discrimination; equally their practices may have an adverse effect on the experiences of education by minorities. Teachers, administrators and the student body as a whole must be trained to actively work toward the elimination of prejudices and must be held accountable for conduct that conflicts with that overall objective.

- The state must be held responsible for the disproportionate drop-out rates or low school achievement by minority children. The obligation of the state is to guarantee equal educational outcomes. Proposals suggested the need to attract more teachers directly from minorities into the teaching profession, and to also attract teachers to work in areas where minorities are located and keep them there as they gain experience and skills.
- For many children from minorities, the language and culture of the classroom are unfamiliar. Curriculum materials may neglect the cultures, histories and contributions to society of minorities. Classroom interaction and instruction may be in a language they do not speak at home and teaching methods may be unrelated to cultural learning styles. Barriers to education caused by language remain among the greatest obstacles to the right to education for minorities. Mother tongue education and multilingual education programmes were presented to the UN Forum that seek to enable children to learn and operate successfully in their mother tongue as well as national languages. Such programmes, in conjunction with culturally inclusive curricula, seek to provide learners with the opportunity to contribute to and benefit from national society without forcing them to sacrifice their linguistic and cultural heritage.
- It was also emphasized that the principles under discussion should be applied to the educational needs of minorities throughout the life cycle. Pre-school education is important as a means of early promotion of the right to education. It equips minority children at the

earliest opportunity with the resources required to enter the formal school environment on equal terms. More emphasis should be placed on tertiary level education for minorities. Additionally, there is an alarming rate of adult illiteracy in minority communities. The vast majority of those who are unable to read or write are women. Yet adult education is consistently neglected.

It is the desire of all those who participated in the UN Forum, that the recommendations that emerged from it contribute concretely to the struggle to achieve equality and non-discrimination for all in the field of education. The UN Forum demonstrated that the problems faced by minorities are widespread and affect communities in all regions. But it must be remembered that discrimination and inequality in education are not abstract issues, they have a human impact and a human face. They affect individuals from the very beginning of their lives when the principle of equality of opportunity is perhaps at its most meaningful, shaping young people as they grow and realize their potential to contribute fully to their communities and to wider society. Denial of the right to education is thus a very human tragedy which sentences whole communities to new generations of poverty, hardship and further exclusion.

As aptly put in the slogan of a well-known American organization that helps minorities to get university degrees: 'A mind is a terrible thing to waste'.¹

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1. The United Negro College Fund, founded 65 years ago, is an NGO headquartered in the United States; see www.uncf.org

Education is recognized both as a human right in itself and as an indispensable means of realizing other human rights and fundamental freedoms. However, the full enjoyment of the right to education as recognized in international human rights law is far from reality for most indigenous peoples. Deprivation of access to quality education is a major factor contributing towards their social marginalization, poverty and dispossession. The content and objective of education in some instances contributes towards the unwanted assimilation of indigenous peoples into mainstream society

and to the eradication of their cultures, languages and ways of life.

Indigenous peoples, through their communications with various United Nations bodies and officials, have identified a number of serious concerns related to the right to education, including discrimination; lack of control over education initiatives directed at indigenous children; lack of consultation on the development and implementation of educational services; limited consideration given to autonomy and participation of indigenous peoples in the delivery of educational services; limited opportunities to access good-quality mother tongue-based bilingual education; inadequate development of culturally appropriate curricula; failure to develop educational opportunities for indigenous peoples that demonstrate respect for their history and cultures; lack of adequate supplies, funding and teachers; and poor-quality schools.

The UN Declaration on the Rights of Indigenous Peoples (UNDRIP), and International Labour Organization (ILO) Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, contain specific provisions on indigenous peoples' right to education. Moreover, several treaties between indigenous peoples and states acknowledge the right of indigenous peoples to education and educational services as a treaty right.

The UNDRIP, interpreted in conjunction with other international instruments, provides an authoritative normative framework for the full and effective protection and implementation of the rights of indigenous peoples. In the context of education, the UNDRIP reaffirms and applies the universal right to education to the specific historical, cultural, economic and social circumstances of indigenous peoples.

For instance, Article 14 of UNDRIP acknowledges that indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning. This reaffirms existing international human law, including Article 29 (2) of the Convention on the Rights of the Child (CRC) and Article 27 (3) of ILO Convention No. 169.

Indigenous peoples' education systems and institutions can be understood in two main categories: (1) traditional education or ways of learning and institutions, and (2) the integration of indigenous perspectives and language in mainstream education systems and institutions.

Traditional education can be described as a life-long pedagogical process and an intergenerational transfer of knowledge aimed at maintaining a flourishing and harmonious society or community. Children from a young age receive guidance on various aspects of indigenous development from older members of the community to prepare them for life and their responsibilities towards their community. Intergenerational transfer of knowledge, including traditional knowledge, ensures that community members enjoy adequate economic security in an environment of socio-cultural and political stability. The exercise of indigenous peoples' right to traditional education may be closely and in some instances inseparably associated with the use of their traditional lands, territories and natural resources.

Indigenous peoples have also invested tremendous efforts in integrating indigenous perspectives and languages into mainstream or formal education. Mainstream education systems usually involve a standard set of curricula provided by education ministries based on government policy. Inclusion of indigenous ways of learning, instructing, teaching and training are important in ensuring that students/learners and teachers/instructors in mainstream institutions are able to benefit from education in a culturally sensitive manner that draws upon, utilizes, promotes and enhances awareness of indigenous knowledge, perspectives, values, cultures and languages.

For indigenous learners, and instructors, the inclusion of these methods often enhances educational effectiveness, success and learning outcomes by providing education that adheres to indigenous peoples' own inherent perspectives, experiences and worldviews. For non-indigenous students and teachers, education using such methods has resulted in greater awareness, respect for and appreciation of other cultural realities.

In order to improve the educational situation of indigenous peoples, states should establish methods and systems for the collection of disaggregated data, and develop indicators conforming with international human rights standards in the field of education, for the purpose of identifying barriers preventing indigenous peoples from fully enjoying the right to education and reforming education laws and policies to be more inclusive and sensitive to indigenous values and perspectives.

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