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Special Rapporteur on the right to education¹

Mandate holder

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Mandate

The mandate was established in 1998² and is focused on transforming the understanding of education to a human right that the State has an obligation to promote and protect. The Special Rapporteur takes a holistic approach to examining, monitoring and promoting the right to education, which includes the financing, establishment and operation of free compulsory education, the fight against all forms of exclusion and discrimination, and efforts to boost the quality of rights-based education. The mandate also focuses on promoting assistance to Governments to secure the progressive implementation of the principle of compulsory primary education, free of charge for all, and developing dialogue and cooperation with relevant United Nations (UN) bodies and agencies, such as the UN Educational, Scientific and Cultural Organisation.

Activities

- Thematic report on girls' right to education;
- Mission to Botswana from 26 September to 4 October 2005.

Annual Report³

Scope

The report contains an account of the status of girls' enjoyment of their right to education, through a socio-cultural and economic analysis of social exclusion, gender discrimination and the effects of patriarchal practices. The report also analyses worldwide trends in girls' school attendance, on the basis of replies received to a questionnaire sent to different stakeholders.

Summary and key conclusions

- The entry into force of international human rights law compelled a redefinition of the nature of national education and revealed its **mechanisms of exclusion**.
- The movement of education towards human rights must still face stubborn forces that continue to think of it as an instrument subordinated to the market, and therefore as a kind of **service rather than a right**. Another prevalent misconception is that the main purpose of education is economic development, reducing girls' rights to vague components of macroeconomic factors such as increasing per capita growth.
- '**Patriarchalism**', as a social context that defines relations between individuals as relations of inequality based on notions of supremacy of men over women, inhibits the potential for development of the human personality in education.

¹ Summaries prepared by Cléa Thouin, Intern, ISHR, supervised and edited by Meghna Abraham, Information Program, ISHR.

² Commission Resolution 1998/33.

³ E/CN.4/2006/45, 8 February 2006.

- Indeed, many of the major problems in education are to be found not in the school system, but in a discriminatory socio-economic environment, which cannot be assessed through quantitative indicators.
- To break with this system requires not only for the enactment of laws, but also for an **overhaul of societies, cultures**, and customs, as well as discriminatory attitudes and stereotypes. The purpose of girls' education is to facilitate this process by building the capacity to respect and exercise human rights.
- The exclusion of girls reflects not only poverty and other structural factors, but also a **shortage of political will** on the part of many States that view education as a non-essential service.
- According to the most conservative estimates, 55 million girls still do not attend school and at least 23 countries may fail to achieve universal primary education by 2015. Sub-Saharan Africa and Southern and Western Asia are the regions where girls most lack educational opportunities.
- No country has succeeded in closing the gender gap in all aspects of social life, revealing that gender inequality does not flow automatically from poverty. 56 per cent of the world school-age population live in countries that have not achieved gender parity in primary education, and this increases to 87 per cent in the case of secondary education.
- The goal of gender equality has not been met in 94 of the 149 countries for which information is available, and even so, the quantitative concept of "parity" does not reflect the substantive idea of "gender equality".
- Access to schools alone is not enough, and promoting **high-quality education based on human rights** is the only effective way to resist all forms of exclusion and discrimination.
- High-quality education is particularly important for **combating AIDS/HIV**, changing patriarchal attitudes, and building sexuality founded on love and responsibility.
- Important **obstacles to girls' right to education** include domestic work, which is traditionally assigned to girls; patriarchal practices, such as early or unwanted marriages, pregnancies and motherhood; and originating from communities that experience discrimination, such as the Dalits in Asian countries and the Roma in Europe.
- **Problems and stereotypes** that keep girls in a position of subordination and hinder their full participation in the school environment include teachers' low expectations of intellectual skills from girls, the fact that teachers give girls less feedback, and that girls have fewer expectations of themselves.
- 20 Governments and six UN agencies replied to the Special Rapporteur's **questionnaire**. Replies showed that over the past decade, most countries, especially developing countries, increased primary-school enrolment. Many States guaranteed equal access to education and incorporated a universal right to education in their constitution or legislation.
- Some States reported that persistent gender stereotypes and cultural bias continue to impact on girls' access to school and the completion of their studies. Some countries reported action to remove discriminatory elements, including revision of curricula and textbooks.
- Early marriages and pregnancies, violence and sexual abuses, child labour, difficult access to school premises, and domestic-related tasks were mentioned among the main barriers to girls' education, with some States reporting on specific provisions to counter these obstacles.

Key recommendations

- States should increase **education budgets** to at least six per cent of gross national product; promote the recruitment of **female teachers**; and design and implement effective programs to guarantee successful **schooling of pregnant girls**.
- States should develop **qualitative** and **quantitative human rights indicators** that make it possible to identify the causes of exclusion, discrimination and segregation; ensure that **admission** and **enrolment criteria** for girls are applied in the same way as for boys; and combat **gender stereotypes in classroom activities** and teaching materials.
- States should provide **high-quality education** based on human rights; identify which aspects of **customs** and **traditions** impede egalitarian treatment of girls; and develop and execute **syllabuses on sexuality** that promote respect for girls' and women's rights.
- States should ensure that girls participate in identifying their educational, social and cultural needs.

Mission to Botswana⁴

Scope

The report covers a visit to Botswana from 26 September to 4 October 2005. During this time, the Special Rapporteur held consultations with a wide range of actors, including representatives of various ministries of the Government, such as the Minister of Education, representatives of the local authorities, international

⁴ E/CN.4/2006/45/Add.1, 17 March 2006.

organisations such as UNDP, UNICEF, WHO and UNAIDS, non-governmental organisations, education professionals and professional associations, and primary and secondary students. The Special Rapporteur also visited several schools, hostels and education centres.

Summary and key conclusions

- Botswana has virtually reached the objective of **universal primary education** and gender equality within education, with education being provided free of charge at primary and secondary levels.
- There is some shortage of primary and secondary schoolteachers, mainly because it appears that training has not been adequately geared to the needs of the education system.
- Botswana faces challenges in addressing the **multilingual** and **intercultural nature of its society**. The Special Rapporteur believes that the mitigated learning achievements in Botswana are due to the policy of promoting bilingualism, which forces many students from their mother tongue to another language in primary school, and the fact that the curriculum appears to reflect exclusively the Tswana culture.
- Another challenge is the **spread of HIV/AIDS**, with Botswana having one of the fastest growing HIV/AIDS infection rates and the highest prevalence rate of HIV in the world. This has resulted in many children being orphaned by HIV/AIDS, meaning that many of them have to work to support their families. HIV/AIDS prevalence is also high among adolescents.
- Botswana's scattered and relatively small population in a vast semi-arid territory leaves many parts of the country without school facilities. Education professionals are also dissatisfied with the walking distance policies of the Government, which allow 5 km for primary schools and 10 km for secondary school.
- While Botswana has made significant progress towards achieving **gender equality** and has eliminated gender disparity in most formal education, there are still some gender-specific vulnerabilities linked to schooling, such as the reasons for dropping-out of secondary, which tend to be pregnancy for girls. Furthermore, the education system still has to make progress towards more gender-neutral teaching.
- There are also significant disparities in access between **urban** and **rural populations**, with the majority of those never having attended school coming from rural areas. **Absenteeism** is also a growing concern, caused by part-time child labour, family responsibilities and the spread of HIV/AIDS.
- Another problem is the fact that **physical punishment** is a normal practice and considered a reasonable way to ensure discipline.
- Botswana has not ratified the *International Covenant on Economic, Social and Cultural Rights* and its **Constitution** does specifically provide for the right to education. Furthermore, the legal framework for the development of education does not provide for free and compulsory primary education.
- The lack of a rights-based approach to education means that education is seen as a service granted by the Government and not as a right. This leads to uneven education indicators within the country and has contributed to the Government's intention to reintroduce school fees at junior secondary level, which is particularly concerning since this is where enrolment rates decrease and increased drop-outs are registered.

Key recommendations

The Government should:

- Ratify the *International Covenant on Economic, Social and Cultural Rights* and adopt a rights-based approach to education by providing a **constitutional guarantee** to education.
- Review the mandate and scope of activities of the **Ombudsman** or establish a **national human rights institution** as a means of strengthening human rights capacity within the country.
- Withdraw the measure aiming at reintroducing **school fees** at junior secondary level.
- Establish and implement rationalised policies for the **training, recruitment and affectation of teachers**.
- Develop social projects for **orphaned adolescents** who are forced into work to support their families.
- Develop training programs to increase the **gender awareness** of teachers and review all curricular materials to eliminate any **discriminatory content**.
- Prepare a pilot program for **intercultural education** with experts from various ethnic backgrounds.
- Adopt legislation to abolish the use of **corporal punishments** in school.
- Request **support and technical advice from OHCHR** to develop a national strategy according to the World Programme for Human Rights Education.