

UNESCO Convention against Discrimination in Education

Name: Convention against Discrimination in Education.

Adoption: Adopted by the General Conference at its eleventh session, Paris, 14 December 1960.

Entry into force: 22 May 1962.

Number of signatories and ratifications: As at October 2017, there are 103 states parties to the Convention.

Canada's commitments: Canada has neither accepted nor ratified the Convention against Discrimination in Education, but respects the Recommendation against Discrimination in Education – which is similar to the Convention but without any binding force.

Summary information

The Convention against Discrimination in Education was adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO) in 1960. It entered into force in May 1962, “three months after the date of the deposit of the third instrument of ratification, acceptance or accession”, as specified in the Convention (art. 14). The General Conference of UNESCO adopted at the same time as the Convention a Recommendation against Discrimination in Education, which “meets the desire to take account of the difficulties that some Member States might have, for various reasons, in particular owing to their federal structure, in ratifying the Convention. Apart from the inherent differences in wording and legal scope of these two categories of instrument, the Recommendation is identical in content with the Convention.” (introduction of the Recommendation), but hasn't any binding force.

The Convention and Recommendation against Discrimination in Education are one of the pillars of UNESCO's activities for education, reflecting its mission of instituting collaboration among nations to “advance the ideal of equality of educational opportunities without regard to race, sex or any distinctions, economic or social.” (article 1 of the UNESCO Constitution). The Convention expresses the fundamental principles of non-discrimination and equality in the field of education, while it take into account in its Preamble “the diversity of the national educational systems”.

The Convention against Discrimination in Education is of particular interest because of the scope of the field concerned and the existence of a monitoring mechanism. Under Article VIII of the UNESCO Constitution, Member States are required to submit a report on the legislative and administrative provisions they have adopted and on other measures taken to implement the conventions and recommendations. As a consequence, the article 7 of the Convention enforces the States Parties to submit periodic reports to the General Conference of UNESCO in order to provide information about the application of this Convention.

There is an additional Protocol Instituting a Conciliation and Good offices Commission to be Responsible for Seeking the settlement of any Disputes which may arise between States Parties to the Convention against Discrimination in Education, which was adopted in 10 December 1962 and entered into force on 24 October 1968 in signatory States. As at November 2017, the Protocol has 36 members.

Canada has neither accepted or ratified the Convention against Discrimination in Education, so as to the additional Protocol, but respects the Recommendation against Discrimination in Education. The Recommendation is identical to the Convention in terms of wording and legal

scope, but has no binding force which would require to incorporate its provisions into the national Constitution or domestic law. Due to its federal structure, Canada chose not to ratify the Convention but only to follow the Recommendation, nonbinding in nature, which is intended to influence the development of national laws and practices.

History

The discussions about discrimination in education began after a report was published in 1957, written by Mr Charles Ammoun, the Special Rapporteur appointed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities at the Economic and Social Council of the United Nations. This report led to the conclusion that education was an essential focal point in the prevention of discrimination : “The prevention of discrimination (...) concerns the lives, futures and right to a better education of millions of children”. Some resolutions given by C. Ammoun were adopted by the Sub-Commission, in which it set out several options for the elaboration of an international instrument to prevent discrimination in education. The objective of implementing a legal instrument to regulate the question of discrimination in education at the international level came after the Commission on Human Rights decided to consult the States. Despite no consensus about the shape of the instrument, most of the States agreed that the mandate to decide so should be entrusted to UNESCO. At the 10th session of its General Conference, a resolution was adopted : “UNESCO shall take responsibility for drafting recommendations to Member States and an international convention on the various aspects of discrimination in education”. After drafts and recommendations given by the General Conference, as well as by the Commission on the Status of Women which proposed some amendments, and negotiations between states, the Convention against Discrimination in Education was adopted by the General Conference at its eleventh session in 1960.

Even if the Convention took time to be submitted and signed because of the necessity to deal with the “diversity of specific national situations”, the right to education had already been established in some previous declarations.

Thus, the Convention can be considered as an extension of major human rights treaties : the Universal Declaration on Human Rights which “asserts the principle of non-discrimination and proclaims that every person has the right to education”; and the Constitution of UNESCO which proclaims in its preamble “equal opportunities for all”.

Key Provisions

As an essential treaty in UNESCO’s standard-setting instruments, the Convention against Discrimination in Education provides a normative framework in the field of education. The 1st article defines a “discrimination” as “any distinction, exclusion, limitation or preference which, being based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education” ; and “education” as “all types and levels of education, including access to education, the standard and quality of education, and the conditions under which it is given”.

The treaty is structured in order to establish universal standards and principles applicable in all states, while adapting to states parties' specific cultural, social, economic and political realities. For this reason, the Working Party amended the paragraph by adding the following “while respecting the diversity of the national educational systems”. Then, in order to adapt the Convention to each state party's realities, the exceptions to the universal principles are

described in the 2nd article of the Recommendation. The situations that are not considered as discrimination include separate educational systems for pupils of the two sexes, separate educational systems for religious or linguistic reasons, and private educational institutions (with the condition of offering the same education standard level).

First of all, the Convention takes measures to eliminate and prevent discrimination in education (for instance between nationals and foreigners or based on a specific group appartenance basis)(article 3).

Then, the Convention enshrines a few main principles to formulate and apply a national policy which will promote equality in education (article 4) :

- 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;
- equivalent standards of education in all public educational institutions of the same level and conditions relation to quality;
- training opportunities for the teaching profession without discrimination.

The Convention also provides (article 5) :

- fundamental values of education, dedicated to strengthen the respect for human rights and fundamental freedom;
- the liberty of parents to choose for their children's education in conformity with their moral and religious convictions;
- the right of members of national minorities to carry on their own educational activities.

Canada's commitments and responsibilities

Because of its federal structure, Canada chose not to ratify the Convention against Discrimination in Education. In fact, each of the ten provinces and territories has developed its own educational structures and institutions, in accordance with the Constitution Act of 1867 which grants exclusive legislative responsibility for education to the provinces. This situation reflects the diversity of the country's historical and cultural heritage. For this reason, the Convention would be difficult to implement because it would require to incorporate its provisions into the domestic law relative to each province and territory.

However, Canada respects the Recommendation against Discrimination in Education, which hasn't any binding force but which is identical to the Convention in terms of wording and legal scope. Canada Report for the UNESCO Eighth Consultation of Member States on the Implementation of the Convention and Recommendation against Discrimination in Education states that "The educational systems in Canada work within this pluralistic society to eliminate discrimination and provide equitable and fair access to quality education for all". This commitment is important to Canada because of its diversity of population in terms of language (there are two official languages and more than 200 first languages reported), country of origin (foreign-born people represent almost 20 per cent of the population); diversity (16 per cent of the population belong to a visible minority); and Aboriginal people situation (in the 2006 census, more than 1 billion people identified themselves as an Aboriginal person).

Thus, the Recommendation aims to influence the development of national laws and practices, not only for the elimination of discrimination in education but also for the adoption of measures aimed at promoting equality of educational opportunity and treatment.

The Council of Ministers of Education, Canada, outlined the four pillars of lifelong learning in the document Learn Canada 2020, with commitments that reflect the components of the UNESCO recommendation: early childhood learning and development; elementary and high school

systems (with a priority on providing children with world-class skills in literacy, numeracy, and science); postsecondary education; and adult learning.

As requested in the Recommendation, Canada submits to the General Conference of UNESCO periodic reports about measures taken to implement the Recommendation (article 7). These periodic reports can be found [on the Council of Ministers of Education's website](#).

Canada Report for the UNESCO Eighth Consultation of Member States on the Implementation of the Convention and Recommendation against Discrimination in Education summarizes Canada's implementation of the Recommendation. It states that "With a strong legislative and policy framework that prohibits discrimination in education, the education systems have moved toward widely inclusive education in which all are able to participate and succeed to the best of their abilities."

However, the report also states that "some challenges remain; most important among these is the education, at all levels, of Aboriginal populations." Rates of access to college and university for aboriginal people shows this inequality : 75% of Non-Aboriginal people access to college or university while only 51% of Aboriginal do (Source: [Statistics Canada. Postsecondary Education Participation among Underrepresented and Minority Groups](#)). Thus, education for Aboriginal people became a priority for Canada, as it joined in November 2010 in supporting the United Nations Declaration on the Rights of Indigenous People as a reaffirmation of its commitment to promoting and protecting the rights of Indigenous peoples in Canada and around the world.

International monitoring and implementation

The Recommendation states that "Member States should in their periodic reports submitted to the General Conference of the United Nations Educational, Scientific and Cultural Organization, on dates and in a manner to be determined by it, give information on the legislative and administrative provisions which they have adopted and other action which they have taken for the application of this Recommendation".

References

[UNESCO Convention against Discrimination in Education](#)

[UNESCO Recommendation against Discrimination in Education](#)

[UNESCO Constitution](#)

[Commentary on the Convention against Discrimination in Education](#)

[Ten reasons why the Convention against Discrimination in Education is highly significant in today's world \(from UNESCO\)](#)

[Canada Report for the UNESCO Eighth Consultation of Member States on the Implementation of the Convention and Recommendation against Discrimination in Education \(2012\)](#)