



**WORKING GROUP OF EXPERTS ON PEOPLE OF AFRICAN  
DESCENT**

Recognition through Education and Cultural Rights

*12<sup>th</sup> Session, Geneva,*

*Palais des Nations*

22-26 April 2013

**Promotion of equality and opportunity in education for People of African Descent**

by

Kishore Singh

United Nations Special Rapporteur on the Right to Education

23 April 2013



Mrs V. Shepherd, Chairperson of the Working Group of Experts on People of African Descent,  
Members of the Working Group,  
Distinguished Participants,  
Ladies and Gentlemen,

First of all, I would like to thank the organizers for inviting me to participate in this 12<sup>th</sup> Session of the Working Group of Experts on People of African Descent, and to speak as a panellist on the subject of promotion of equality and opportunity in education for People of African Descent.

I would like to congratulate the Working Group of Experts for this commendable initiative, in devoting this session to the theme of “Recognition through education and cultural rights.” The people of African descent have been victims of historical injustice, and continue to suffer from exclusion, discrimination and poverty. The session of the Working Group is important for reflecting on their development and empowerment through education, and on innovative programmatic and institutional approaches to promoting the right to education of all the children of the African descendants while assuring that equality and quality go hand in hand.

It is also important to review progress made and challenging tasks ahead, more than a decade after the Durban Declaration and the Programme of Action was adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (2001). The Declaration and the Programme of Action assigns a key role to the right to education, especially to basic education: The World Conference urged States “to ensure equal access to education for all in law and in practice”, and “to adopt and implement laws that prohibit discrimination on the basis of race, colour, descent or national or ethnic origin at all levels of education, both formal and non-formal.”<sup>1</sup> Furthermore, the States are urged “to establish and implement standardized methods to measure and track the educational performance of disadvantaged children and young people.”<sup>2</sup>

All these provisions are highly relevant to the situation of African descendants, of which there are nearly 200 million in the Americas. Empowering them through education is of foremost importance in face of persistent disparities and marginalization. This is an especially challenging task in the face of the higher levels of poverty, exclusion and discrimination from which the African descendant communities and people continue to suffer. Bringing about equality of opportunity in education, both in law and in fact, is a continuing challenge almost all States face. Social and cultural barriers, and unequal opportunities prevalent accessing education, remain one of the most serious impediments to the realization of their right to education.

In face of these challenges, the fundamental principles of non-discrimination and equality of opportunity in education are of paramount importance for guiding State actions. Established

---

<sup>1</sup> Paras. 122 and 123 of the Programme of Action.

<sup>2</sup> The Durban Programme of Action amply demonstrates the need for revitalizing action for non-discrimination and equality of opportunity in the field of education. It urges States to ensure access to education for all without discrimination, to eliminate barriers to accessing education, to ensure education of good quality, to monitor the educational performance of children from disadvantaged groups and to devote resources to addressing inequalities in educational outcomes for children. Ibid. (para 121-123).

by the UNESCO's *Convention against Discrimination in Education* (1960)<sup>3</sup>, these principles are common to almost all United Nations human rights treaties. States have the obligation to ensure that these principles are incorporated into their national legal system, and that any education system - public or private – is fully respectful of them.

We must always remember that the right to education is universal and does not admit of any exclusion. It is an internationally recognized right. Its moral foundations are laid down in the *Universal Declaration on Human Rights* which states that everyone has a right to education. Article 13 of the *International Covenant on Economic, Social and Cultural Rights*, which provides for the right to education comprehensively, similarly recognizes everyone's right to education.

The universal right to education in its various dimensions is also established by other United Nations human rights treaties. The *Convention on the Rights of the Child*, the *Convention on the Elimination of All Forms of Discrimination against Women*, the *Convention on the Elimination of All forms of Racial Discrimination*, the *Convention on the Rights of Persons with Disabilities*, and the *International Convention on the Rights of Migrant Workers and Members of their Families* all provide special measures to protect the right to education of groups facing persistent discrimination.

Let me also mention that the UNESCO *Declaration on Race and Racial Prejudice* (1978)<sup>4</sup> imparts added strength to the principle of non-discrimination in general. It assigns an important role to education in struggle against discrimination. It provides that “States, in accordance with their constitutional principles and procedures, as well as all other competent authorities and the entire teaching profession, have a responsibility to see that the educational resources of all countries are used to combat racism, more especially by ensuring that curricula and textbooks include scientific and ethical considerations concerning human unity and diversity and that no invidious distinctions are made with regard to any people; by training teachers to achieve these ends; by making the resources of the educational system available to all groups of the population without racial restriction or discrimination; and by taking appropriate steps to remedy the handicaps from which certain racial or ethnic groups suffer with regard to their level of education and standard of living and in particular to prevent such handicaps from being passed on to children.”<sup>5</sup>

We must not forget that starting with the *Universal Declaration of Human Rights*<sup>6</sup>, race is placed first among the grounds of discrimination that are prohibited by human rights instruments.

Within the international framework of the right to education, people of African descent are entitled to full and equal educational opportunities, and any kind of discriminatory practices, or any form of exclusion undermines their fundamental right to education. Overcoming

---

<sup>3</sup> States Parties to UNESCO's *Convention against Discrimination in Education* have the obligation “to undertake 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 ...”

<sup>4</sup> In its Preamble, the Declaration expresses the conviction “that all peoples and all human groups, whatever their composition or ethnic origin, contribute according to their own genius to the progress of the civilizations and cultures which, in their plurality and as a result of their inter-penetration, constitute the common heritage of mankind”.

<sup>5</sup> Article 5 § 2.

<sup>6</sup> The Universal Declaration states in its Article 1 that “All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood”.

limitations and obstacles in the exercise of the right to education by all African descendants on an equal and non-discriminatory basis must be a priority concern.

Moreover, providing education of quality is crucial in face widespread concern with poor learning achievements. Many of those who have access to education do not receive education of minimum standards and quality. The right to basic education remains unfulfilled unless access to education also ensures a quality education.

While the international community is committed to achieving the right to basic education of good quality for all, the gap between commitments and reality remains huge and, if concrete and sustainable steps are not taken, this can easily widen. Understanding and removing obstacles that impede the enjoyment of the right to education are urgent challenges for the entire international community. This is especially important in the context of educational deprivation of African descendants. While responding to demands for wider access to education, quality should not be sacrificed. Experience shows that because of poor quality of education, despite progresses made in making education accessible, learning outcomes are frequently below acceptable levels. Education should meet minimal quality standards.

African descendants should become full beneficiaries of education, which has assumed a key importance in peoples' lives in today's rapidly changing world. Knowledge, skills and competences, imparted through education, are invaluable for an individual's development. Education also has a pivotal role in social development. It is invaluable for creating a better world for present and future generation. Unequivocal political commitment is needed so that the children of African descent, in particular those living in poverty, are not relegated to the most disadvantaged schools, deprived of quality education. What is at stake is not only to universalize access to basic education, but also to ensure success in education.

Recent global concerns and international initiatives underline the need for promoting good quality education with equitable approaches. At the 2010 Millennium Review Summit, the international community, therefore, made renewed commitment: "to provide equitable educational and learning opportunities for all children" and to "ensuring quality education and profession through the school system."<sup>7</sup>

Educational deprivations on account of poverty in the world across the regions are a stark reality – poverty of which more than one billion people are its victims in the world today - is biggest obstacle to realizing the right to education. Poverty emerges as a key factor in the limitation of opportunities and ultimate exclusion from education systems, given the multiple deprivations it entails. The central role education plays in the elimination of intergenerational transmission of poverty needs special emphasis. Empowerment through education is an indispensable prerequisite for the success of poverty reduction strategies, and the achievement of global development commitments. This is a huge challenge, and the need for equitable approaches to education with promotional measures must be recognized fully. In this context, the adoption of the Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels on 24 September 2012 is a landmark in empowering the poor to seek justice for claiming the rights, including the right to education, and getting it enforced.

Affirmative action and promotional measures are very important in addressing educational needs of those living in poverty. Such temporary special measures may be a suitable action in

---

<sup>7</sup> United Nations General Assembly Resolution 65/1.

cases of longstanding or historical and persisting forms of discrimination. They may be justifiable until full equality of treatment is reached. States should thus devise promotional measures aimed at ensuring equal access by the children of African descendants to education. These could include the grant of scholarships and subsidies for schoolbooks and for travel expenses to attend school and other support measures to increase their school attendance. Besides, the systemic exclusion of specific groups from higher levels of education can also be addressed through the adoption of temporary special measures. These might range from the establishment of enrolment quotas to the offer of financial incentives targeted to particularly vulnerable groups.

International conventions provide a normative framework for such positive measures which is valuable in guiding state action. Articles 3 and 4 of the UNESCO's *Convention against Discrimination in Education* contain provisions covering "matter of school fees and the grant of scholarships or other forms of assistance to pupils." Similarly, Article 13 of the *International Covenant on Economic, Social and Cultural Rights* includes "an adequate fellowship system" among its provisions on the right to education. Acceding to the United Nations Committee on Economic, Social and Cultural Rights, the requirement that 'an adequate fellowship system shall be established' should be read with the Covenant's non-discrimination and equality provisions; the fellowship system should enhance equality of educational access for individuals from disadvantaged groups.

In this respect, some examples are encouraging. For instance, the legal system in Brazil is being strengthened in order to expand educational opportunities by way of racial quota in universities for black, mixed race (Métis) and indigenous students. The recent decision by the Supreme Court of Brazil on 26 April 2012 ruled in favour of racial quota in universities for African descendant students is an example of how the right to education can be enforced in the spirit of expanding educational opportunities. This shows that judicial system plays an essential role in protecting and enforcing the right to education as an entitlement. Legal mechanisms guaranteeing equality of opportunity in education are crucial in safeguarding the right to education. In case of violation, and denial of the equality of opportunity, a citizen must be able to have legal recourse before the law courts or administrative tribunals on the basis of international legal obligations as well as existing constitutional provisions on the right to education. Decisions by courts across regions demonstrate how courts have upheld the right to education and equality of opportunities in education. Case law in several countries shows that individuals can claim their entitlement to equality of opportunity in education.

Education policy developments in Ecuador provide another example of how the right to education of African descendants can be promoted. In my mission to Ecuador (September 2012), I found that the Government of Ecuador has recognized the central role of education in the promotion of equality and social justice and initiated various efforts to assist marginalized groups. The emphasis of the new legal framework on the intercultural aspect of the overall education system has opened an important path for ensuring the inclusion of a more culturally sensitive approach to education policies. The Plurinational Plan for the elimination of racial discrimination and ethnic and cultural exclusion for 2009–2012 includes the promotion of the right to education as one of its central areas of concern. The State recognition of its duty to ensure access to good quality education at all its levels appears to have already resulted in notable achievements.

My report on quality education and normative action<sup>8</sup>, presented to the Human Rights Council in June 2012, highlights various types of barriers in access to education, including linguistic and cultural as well as financial barriers. Concerns relating to equality of opportunity in education must be understood as relating both to guaranteeing equal opportunities in access to different levels of education as established by human rights norm, as well as equal opportunities to evolve within education systems.

Governments should recognize the importance of developing and reinforcing the legal frameworks on equality of opportunity in education in line with the international standards for ensuring such equality. A strong regulatory framework for public and private education systems grounded in the principle of equality of opportunity provides the essential basis for the establishment of an entire range of programmes and policies aiming at universalizing education. Policy measures must respond to the need for making learning accessible for the most marginalized and vulnerable.

Education systems and enabling school environment play a crucial role in the fulfilment of the right to education and must be responsive to the needs and aspirations of the children of African descent. As such, education development strategies should respond to legitimate expectations of current and future generations.

Our deliberations should show the way forward with a collective vision and strategy for improving the conditions of people of African descent by empowering them through the right to education. This requires reinforced political engagement, with greater emphasis on the core responsibility of governments, in an endeavour to bring the right to education at the forefront in national and international development strategies.

While concluding, let me underline the importance of basic principles of "equity and social justice", as reflected in the United Nations Millennium Declaration<sup>9</sup> adopted by the UN General Assembly. These principles are invaluable in closing the 'development gap.' They also deserve to be kept in sight in a reinvigorated vision of the MDGs, going beyond 2015.

We must create a momentum to galvanize the endeavour of the international community for safeguarding and fostering the right to education of all children of African descent – both as entitlement in terms of access and as empowerment in terms of quality. Indeed, the right to education deserves to be accorded paramount importance since it is not only a human right in itself, but also essential for the exercise of all other human rights. The right to education must remain at the centre stage, devising equitable and innovative education-based development strategies for building a better world for present and future generations.

Thank you.

---

<sup>8</sup> A/HRC/20/21, 2 May 2012.

<sup>9</sup> A/RES/55/2.