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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Right to education**

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the right to education, Koumbou Boly Barry, in accordance with Human Rights Council resolutions 8/4 and [44/3](#).

* [A/77/150](#).

** The present report was submitted after the deadline in order to reflect the most recent information.



Report of the Special Rapporteur on the right to education, Koumbou Boly Barry

Summary

The present report is submitted to the General Assembly pursuant to Human Rights Council resolutions 8/4 and [44/3](#). In the report, the Special Rapporteur on the right to education, Koumbou Boly Barry, considers early childhood care and education (ECCE) from a human rights-based perspective, reflecting the multisectoral needs of children and their caregivers.

ECCE combines the education and care requirements of children from birth to 8 years of age. The concept demonstrates that the right to education is indivisible from the rights to health, housing, food, water and sanitation, as well as cultural rights, among others. While the importance of ECCE has been widely recognized in humanitarian and developmental fields, it has been insufficiently codified in human rights law. The Special Rapporteur considers the human rights-based aspects of ECCE and recommends the creation of a human rights instrument on ECCE.

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I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolutions 8/4 and 44/3. In the report The Special Rapporteur on the right to education, Koumbou Boly Barry, considers early childhood care and education (ECCE) from a human rights-based perspective, reflecting the multisectoral needs of children and their caregivers. At present, there is no internationally accepted definition of ECCE or of related terms, such as pre-primary education and care. The Special Rapporteur calls upon all States and stakeholders to describe, define and recognize a rights-based definition to address this shortcoming.

2. For the purposes of the present report, ECCE is defined as the education and care provided from birth to the beginning of primary education, which may be as late as 8 years of age. Pre-primary education is the education component, though the distinction from care is rather artificial. Both are to be considered as rights of the child under the Convention on the Rights of the Child and as expressed by the Committee on the Rights of the Child.

3. ECCE is important because it provides nurturing, care and support when children are developing the fastest and are most sensitive to their environment. By ensuring good health and nutrition, play-based education, behavioural learning and social interaction early in life, ECCE gives children the opportunity to realize their full potential. While it benefits all children, it is more crucial to children from vulnerable groups and to those who have additional needs or difficulties. This can include children with disabilities, children from linguistic, ethnic or cultural minorities, refugees and migrants, children escaping from emergency situations, the economically disadvantaged and children in rural areas.

4. The tremendous importance of ECCE to the life of every person demands that all children exercise their right to ECCE. While such right already exists as part of everyone's right to education, which is implicitly understood as the right of everyone to lifelong education, including pre-primary education, the Special Rapporteur believes that the time has come for a more specific instrument to ensure that local, national, regional and international authorities have the guidance to ensure that every child receives free, high-quality ECCE.

II. Benefits of early childhood care and education

5. There are substantial developmental, educational, social, cultural and economic benefits to participating in ECCE, which apply to children and the societies in which they live. Children will get greater educational achievements that will improve their future learning, improve social integration and ensure better health and higher lifetime earnings. Parents, especially mothers, are more likely to engage in work outside their homes and to benefit from improved health and literacy. States will often see reduced spending on welfare and lower crime rates, higher tax revenues and improved social cohesion.

6. When designed and developed on the basis of a human rights-based approach, ECCE enriches language skills and vocabulary, constructs identity and citizenship by facilitating interpersonal and social relationships and promotes values and attitudes related to love, solidarity and respect for life. Children learn about the value of the integrity and dignity of people, and respect for their own privacy and that of others. It promotes and includes knowledge and care of the body, of emotions and of health, as well as the equality of relationships among genders. It also promotes the development of self-protective behaviours through skills and knowledge that enable children to identify possible risk situations and request help from reliable adults.

7. Studies demonstrate that ECCE programmes improve learning, behaviour and health outcomes for children.¹ Students were shown to stay in school longer, have better attendance and have improved academic achievement and graduation rates.² Students have fewer placements in special education programmes in later life, maintain higher grades and graduate more often from high school.³ They are healthier, with lower levels of malnutrition and stunting, and engage in more pro-social behaviour.

8. ECCE may be one of the most effective means to reduce social inequalities, by assisting marginalized and vulnerable populations to receive the resources and support that will enable them to reach their full potential. In this sense, ECCE has been identified as a key strategy to ensure that Sustainable Development Goal 4 on inclusive and equitable quality education and lifelong learning opportunities is realized.⁴ This is particularly important as a significant proportion of underperforming learners come from disadvantaged backgrounds.

9. The demand for ECCE is growing. As women increasingly enter the workplace, there is increasing demand for childcare, particularly in developing countries. As working lives are extended and the workforce becomes more mobile, the role of grandparents in childcare is diminishing. The evolving career aspirations of mothers, declining fertility rates and the rising age of those giving birth all change how childcare is organized. When young children attend pre-primary education, their caregivers, who are predominantly women, can exercise their right to work, thus increasing the family income. For example, a World Bank study in Indonesia found that access to public preschool for two hours a day led to a 13.3 per cent increase in women's participation in the workforce.⁵ Families' needs must be fulfilled by public policies in balance with young children rights and needs, considering the principle of the best interests of the child.

10. Similarly, ECCE plays an important role in addressing child labour, child mortality and violence against children. In spite of the fact that 179 States have ratified the International Labour Organization Worst Forms of Child Labour Convention, 1999 (No. 182), which prohibits child labour, there are still an estimated 150 million children of 5 to 14 years of age engaged in child labour.⁶ Child mortality remains stubbornly high in conflict-affected poor countries, where children are twice as likely to die before their fifth birthday compared with those in peaceful, though still poor countries.⁷ In industrialized countries, 4 per cent of children are physically abused each year, and 10 per cent are neglected or psychologically abused.⁸

¹ W.S. Barnett, "Effectiveness of early educational intervention", *Science*, vol. 333, No. 6045 (August 2011).

² Kevin M. Gorey, "Early childhood education: a meta-analytic affirmation of the short- and long-term benefits of educational opportunity", *School Psychology Quarterly*, vol. 16, No. 1 (2001).

³ Dana Charles McCoy and others, "Global estimates of the implications of COVID-19-related preprimary school closures for children's instructional access, development, learning, and economic well-being", *Child Development*, vol. 92, No. 5 (September/October 2021).

⁴ Asma Zubairi and Pauline Rose, "Leaving the youngest behind: declining aid to early childhood education", *Their World*, 9 April 2019.

⁵ World Bank, *International Development Association Project Appraisal Document on a Global Partnership for Education Grant in the Amount of US\$16.8 Million to the Lao People's Democratic Republic for a Second Global Partnership for Education Project*, report No. PAD1055 (2015).

⁶ United Nations Children's Fund (UNICEF), *The State of the World's Children: Celebrating 20 years of the Convention on the Rights of the Child*, special ed. (New York, 2009).

⁷ *Ibid.*

⁸ *Ibid.*

A. Low global participation rates

11. In 2019, an estimated 73 per cent of children worldwide participated in some form of organized pre-primary learning, an increase of 8 per cent since 2010.⁹ Yet, this hopeful figure obscures serious global differences. The United Nations Educational, Scientific and Cultural Organization (UNESCO) has estimated that only 34 per cent of 184 surveyed countries offer one year of pre-primary care; such care is only compulsory in 28 per cent of countries, and free and compulsory in 25 per cent.¹⁰

12. Only 31 per cent of an estimated 82 million children of pre-primary age living in emergency-affected countries are receiving pre-primary education.¹¹ Afflicted by poverty, and often living in countries with limited resources, such children require not only an education, but also psychosocial support to address the traumas arising from their situation.

13. At the global level, 75 per cent of children were enrolled in pre-primary education one year before the official primary school entry age in the school year ending in 2019, but in sub-Saharan Africa, Northern Africa and Western Asia, the rate was about 50 per cent.

14. An estimated 90 per cent of children in low-income countries are in “learning poverty”, meaning that they have not even learned to read a basic text by 10 years of age. When combined with middle-income countries, the average rate stands at 57 per cent.¹²

15. In contrast, the European Union has set a goal of having at least 96 per cent of children between 3 years of age and the starting age for compulsory primary education participating in early childhood education and care by 2030, recognizing that every child in the European Union has the right to affordable and high-quality ECCE, as outlined in the European Pillar of Social Rights.¹³ Educational attainment should be decoupled from social, economic and cultural status. The extremely strong commitment of the European Union to ECCE demonstrates both the value inherent in having a right to ECCE and the urgent need to address the low levels in developing countries, to avoid increasing divergence in lifetime educational and economic outcomes.

B. Coronavirus disease (COVID-19) pandemic

16. An estimated 167 million children lost access to ECCE from March 2020 to at least February 2021,¹⁴ with only 55 per cent of countries providing pre-primary teachers with instructions on how to continue during the coronavirus disease (COVID-19) pandemic.¹⁵ Other estimates suggest that COVID-19-related ECCE disruptions resulted in 19.01 billion person-days of ECCE instruction lost and in 10.75 million additional children falling “off track” in their early development.¹⁶

⁹ See <https://sdgs.un.org/goals/goal4>.

¹⁰ United Nations Educational, Scientific and Cultural Organization (UNESCO), *Right to Pre-Primary Education: A Global Study* (Paris, 2021).

¹¹ UNESCO, “Inclusion in early childhood care and education: brief on inclusion and education”, 2021.

¹² World Bank and others, *The State of Global Learning Poverty: 2022 Update* (June 2022).

¹³ Council of the European Union, document 6289/1/21/Rev.1.

¹⁴ Barnett, “Effectiveness of early educational intervention”.

¹⁵ See www.unesco.org/en/education/early-childhood.

¹⁶ Barnett, “Effectiveness of early educational intervention”.

17. UNESCO estimates that 7.6 million girls from pre-primary to secondary school are at risk of not returning to school,¹⁷ with 63 per cent of children of 3 to 5 years of age unable to attend pre-primary school in 62 low- and middle-income countries.¹⁸ Two thirds of low- and middle-income countries have cut their education expenditure in response to the pandemic,¹⁹ while only 3.3 per cent of development assistance to crisis-affected countries and 2 per cent of humanitarian funding go towards providing high-quality early years' services.²⁰ By mid-2021, more than 60 countries had not fully reopened their pre-primary schools.²¹

18. Reopening schools alone is not enough, and additional support for out-of-school children is needed. Pre-primary aged children were less able to take advantage of remote learning programmes and tools. Accelerated, bridging and remedial programmes in the early years, often implemented by countries to transition to broader pre-primary education provision, can support school readiness. Such programmes can be designed rapidly and delivered over a few weeks and at low cost to produce positive outcomes, in particular for more disadvantaged children or those with the lowest abilities at the outset.²²

C. Economic impact of early childhood care and education

19. Estimates by the Inter-American Development Bank and the World Bank show that the lost pre-primary schooldays in 2020 could cost at least \$1.6 trillion globally in lost future wage-earnings, although others estimate that this loss may “only” amount to \$308 billion.²³ On average, the impact of pre-primary school closures in 2020 is equivalent to more than 2.5 per cent of gross domestic product (GDP) in middle-income countries, or close to two thirds of average government expenditure on education in that group. In comparison, the impact on high- and low-income countries is estimated to be around 1 per cent of GDP on average.²⁴

20. Pre-primary learning is the first step in the journey to becoming a lifelong learner. It improves completion rates at every subsequent level of education, making investment in it the most cost-effective form of education spending. It is estimated that every dollar spent on pre-primary education results in \$9 of benefits to society.²⁵

21. Recognizing those and other benefits, States must devote sufficient funding to ECCE. Without adequate funding, there is a risk that States may reassign primary schools and teachers to provide pre-primary education, which fails to recognize the specialized skills needed for pre-primary educators and caregivers. This may result in poor learning outcomes at both the pre-primary and primary levels. International

¹⁷ UNICEF, “Focus: education/early childhood development”, UNICEF Global COVID-19 Situation Report, No. 15 (November 2020).

¹⁸ UNESCO, *Global Education Monitoring Report 2021/2: Non-State Actors in Education – Who Chooses? Who Loses?* (Paris, 2021).

¹⁹ World Bank and UNESCO, “Education finance watch 2021”, 2021.

²⁰ Moving Minds Alliance, “Analysis of international aid levels for early childhood services in crisis contexts”, December 2020.

²¹ Dita Nugroho and others, “It’s not too late to act on early learning: understanding and recovering from the impact of pre-primary education closures during COVID-19”, UNICEF Innocenti Research Brief, March 2021.

²² Ibid.

²³ Barnett, “Effectiveness of early educational intervention”.

²⁴ Dita Nugroho, “Why we can’t afford to let early childhood education fall through the COVID-19 cracks”, UNICEF Connect Evidence for Action blog, 22 July 2021.

²⁵ Atsuko Muroga and others, “COVID-19: a reason to double down on investments in pre-primary education”, UNICEF Innocenti Working Paper, No. WP-2020-11 (Florence, 2020).

cooperation and development aid must prioritize supporting developing nations in implementing free, rights-based ECCE programmes.

22. The Special Rapporteur recommends implementing the Abidjan Principles on the human rights obligations of States to provide public education and to regulate private involvement in education when considering options for financing the development of ECCE. In developing countries in particular, the lack of a free, public option has led private providers to fill the gap (A/69/402). A private delivery system will advantage students from wealthier families, in particular those in urban settings, thus exacerbating educational differences rather than reducing them. At times, private providers are underperforming public options, yet insufficient public availability drives parents to pay for substandard care.²⁶

III. Early childhood care and education in international instruments

23. Recognizing the broad benefits of ECCE, a brief review of its history in international instruments demonstrates a gradual acceptance of it as an international right.

24. The Universal Declaration of Human Rights of 1948 proclaims that everyone has the right to education and focuses on the right to free and compulsory primary education, with a general right to technical and professional education and non-discriminatory access to higher levels of education.

25. Through efforts coordinated by UNESCO, the Education for All Movement reflected the efforts of States and other stakeholders to create progressive international declarations that moved forward the international consensus on the progressive implementation of the right to education. Signed in 1990, the World Declaration on Education for All provides in its article 5 that learning begins at birth and expressly calls for pre-primary education to be provided by families, communities or institutional programmes.²⁷ Ten years later, in 2000, the Dakar Framework of Action on Education For All identified six development goals to be achieved by 2015, calling upon States to expand and improve comprehensive ECCE, especially for the most vulnerable and disadvantaged children.²⁸ By 2010, the Moscow Framework for Action and Cooperation²⁹ defined ECCE as relating to children from birth to 8 years of age. The Framework adopted a broad and holistic concept of ECCE as the provision of care, education, health, nutrition and protection of children and recognized ECCE as leading to better health and nutrition, improved educational efficiency and gender equity, greater employability and earnings and better quality of life.

26. The Incheon Declaration³⁰ was the result of broad consultations and led to Sustainable Development Goal 4. In its paragraph 6, States are encouraged to provide at least one year of pre-primary education, representing the international consensus in 2015. Target 4.2 of the Goals requires that, by 2030, all girls and boys have access to quality early childhood development, care and pre-primary education so that they are ready for primary education. Two indicators are used to measure progress. Indicator 4.2.1 tracks the proportion of children of 24 to 59 months of age who are

²⁶ UNESCO, *Global Education Monitoring Report 2021/2*.

²⁷ UNESCO, "World Declaration on Education for All and Framework for Action Meet Basic Learning Needs", 1990.

²⁸ UNESCO, *The Dakar Framework for Action: Education for All – Meeting our Collective Commitments* (Paris, 2000).

²⁹ UNESCO, document WCECCE/4 REV., item 11 (i) (b).

³⁰ Education 2030 – Incheon Declaration: Towards inclusive and equitable quality education and lifelong learning for all.

developmentally on track in health, learning and psychosocial well-being, by sex, and indicator 4.2.2 tracks the participation rate in organized learning (one year before the official primary entry by age), by sex. The former indicator measures the capacity of children of 2 to 5 years of age to be ready for pre-primary education, while the latter measures the number receiving pre-primary education.

27. At present, legal obligations under international human rights law to provide ECCE are not explicit and are captured piecemeal in multiple instruments. The most concrete references, adopted before the Sustainable Development Goals, come from the Convention on the Elimination of All Forms of Discrimination against Women, which requires equality for girls in “preschool”,³¹ and from the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which prohibits discrimination against access to preschool educational institutions by reason of the parents’ or children’s “irregular” situation with respect to stay.

28. The International Covenant on Economic, Social and Cultural Rights of 1966, while strongly reasserting “the right of everyone to education”, details States’ obligations regarding the primary, secondary and higher levels of education only, together with fundamental education. The Covenant does not specifically address the issue of ECCE.³²

29. This approach was also adopted in the UNESCO Convention against Discrimination in Education of 1960 and in the Convention on the Rights of the Child of 1989.³³ The latter, however, provides a broader recognition of children’s rights and contains several other provisions particularly relevant to ECCE. It recognizes the need for prenatal care³⁴ and that education is crucial to the development of young children.³⁵

30. Despite ongoing efforts to mainstream ECCE as a right, one notable setback was the lack of explicit mention in articles 28 and 29 of the Convention on the Rights of the Child, despite almost all of the constituent elements of ECCE, including the right to development, play, cultural life, health and more being addressed in other articles. During the draft period, UNESCO delegates proposed the inclusion of a specific reference to ECCE, but it was rejected as the majority in the drafting group felt that States would resist any obligations placed upon them to intervene in the education of very young children, who were regarded as under the sole responsibility of parents.³⁶

31. As recently as 2015, with the Incheon Declaration and the Sustainable Development Goals, there remained a lack of consensus that pre-primary education should be compulsory beyond a single year, despite extensive scientific evidence that education and care for parents are needed as early as the prenatal period and that children have a right to care and lifelong learning from birth.

32. In paragraph 6 of its general comment No. 7 (2005) on implementing child rights in early childhood, however, the Committee on the Rights of the Child, provides a comprehensive overview of the needs and importance of early childhood.

33. The Committee on the Rights of the Child describes numerous rights that are particularly relevant to ECCE. Article 2 of the Convention on the Rights of the Child provides for a general prohibition against discrimination, ensuring that all children

³¹ Convention on the Elimination of All Forms of Discrimination against Women, art. 10 (a).

³² International Covenant on Economic, Social and Cultural Rights, art. 13.

³³ Convention on the Rights of the Child, art. 28.

³⁴ Ibid., art. 24, paras. 2 (e) and (f).

³⁵ Ibid., arts. 28 and 29.

³⁶ Mmantsetsa Marope and Yoshie Kaga, eds., *Investing against Evidence: The Global State of Early Childhood Care and Education* (Paris, UNESCO, 2015), p. 40.

are treated equally. Articles 5 and 18 establish parents as primarily responsible for the care, direction and guidance of children, though the State remains the final guarantor of the rights of the child. Article 31 refers to the right to participate in cultural life and the arts. Article 24 describes the diverse rights to health, for children and parents. Those rights, read collectively, emphasize that ECCE should be provided in a safe environment with access to water and hygiene care, as well as adequate nutrition and health care. The curriculum should be play-based, with adequate leisure and recreational activities. Lastly, the inclusion of cultural elements, including the arts, must be understood as a right, and not elective. The Committee thus calls forcefully for a multisectoral approach, to be applied as well in any other international instruments, taking into consideration the principles of interdependence and indivisibility of human rights.

34. The Committee on the Rights of the Child, which reaffirms children as rights holders, defines early childhood as the period from birth to 8 years of age and considers pre-primary education as an essential component of children's right to maximum development. It calls upon State parties to the Convention on the Rights of the Child to ensure that all young children receive education in the broadest sense, while acknowledging the role of families, communities, Governments and civil society actors in early childhood education programmes. The Committee also expresses appreciation that "some States Parties are planning to make one year of preschool education available and free of cost for all children".³⁷

35. Treaty bodies have requested States to report on their provision of pre-primary education, and while reviewing countries, the Committee on the Rights of the Child has called upon States to provide or progressively introduce free early childhood education. Since 1996, the Committee has been requesting States Parties to provide relevant updated information in respect of laws, policies, and their implementation, quality standards, financial and human resources, and any other measures to ensure the full enjoyment of the respective rights from early childhood to tertiary and vocational education and training (CRC/C/58/Rev.2 and CRC/C/58/Rev.2/Corr.1). A review of 264 concluding observations made by the Committee on Economic, Social and Cultural Rights, the Committee on the Rights of the Child and the Committee on the Rights of Persons with Disabilities for 152 countries between 2015 and 2020 found that all three had asked States to provide affordable, accessible, high-quality ECCE that was inclusive and non-discriminatory, with adequate financial, technical and human resources.³⁸

36. In paragraph 36 of its general recommendation No. 36 (2017) on the right of girls and women to education, the Committee on the Elimination of Discrimination against Women emphasizes that pre-primary education should be without discrimination, free and compulsory. The Committee also emphasizes that States must address additional or hidden fees or expenses that disproportionately affect girls from poorer families.

IV. Clarifying the right to early childhood care and education through a new instrument, ways forward

37. Evidence shows that States that have established a national legal right to ECCE are providing ECCE opportunities for children more quickly and are seeing quicker

³⁷ Committee on the Rights of the Child, general comment No. 7 (2005), paras. 3 and 28–30.

³⁸ Sandra Fredman and others, "Recognizing early childhood education as a human right in international law", 16 July 2021.

improvements in education outcomes, yet the promulgation of an explicit right to ECCE at the international level remains a work in progress.

38. It has been argued that the failure to fully acknowledge the right to early childhood education in the same way as other stages of education has led to the privatization of service provision.³⁹ Without a rights-based framework, the financing, organization and provision of ECCE have been predominantly taken up by the private sector. According to UNESCO, non-State actors dominate education for children under 3 years of age.⁴⁰ In 2018, as a proportion of total enrolment of children under 3 years of age, private institutions accounted for 57 per cent in high-income countries and 46 per cent in middle-income countries. For pre-primary education, private provision increased from 28.5 per cent in 2000 to 37 per cent in 2019, although, in some countries, such as Algeria and Colombia, non-State provision is decreasing.⁴¹

39. The Education For All-driven declarations, along with the Sustainable Development Goals, are important opportunities to push for greater education-based political commitments. The Special Rapporteur hopes that the forthcoming World Conference on Early Childhood Care and Education, organized by UNESCO and to be held in November 2022, will offer a forum to expand on the consensus, achieved in Goal 4, that all children should benefit from pre-primary education, to better reflect the right to lifelong learning and care from birth.

40. This should be grounded in human rights law, enabling States to align their legal obligations with their political commitments. Absent a clear basis in human rights law, discussions around the provision of ECCE are dominated by economic justifications for the necessary investment.⁴² Yet human rights are not realized because they are profitable, but because they are a right recognized by law.

41. The Special Rapporteur considers that there is a need for a wider recognition of the right of every child to ECCE and for more clarity regarding its contents and related rights and obligations. This is important, as it would better guarantee children and their families the ability to realize their rights neither according to the interests of local politics or private providers, nor according to the ability of the child's family to pay, but through State's legal commitments, laws, policies and programmes.

42. The Special Rapporteur also highlights that ECCE, with its strong "care" component, deserves serious attention from complementary human rights, including the rights to health, water and sanitation (see [A/75/178](#)), and to cultural rights (see [A/HRC/47/32](#)), among others. Consultations with stakeholders in these and other areas should involve relevant government ministries, as well as humanitarian and development actors, early in the development of relevant laws, policies and programmes.

43. Several ways forward are possible, including an entirely new treaty on the right to education, an optional protocol to an existing United Nations human rights treaty (in particular the Convention on the Rights of the Child or the International Covenant on Economic, Social and Cultural Rights) or a general comment or joint general comment by one or several of those treaty bodies.⁴³ All these options have their advantages and disadvantages and are not mutually exclusive. They should be thoroughly discussed with the participation of experts and civil society organizations

³⁹ Teresa Artega Böhr and Vernor Muñoz, "Rights from the start: early childhood care and education", 2012.

⁴⁰ UNESCO, *Global Education Monitoring Report 2021/2*.

⁴¹ Böhr and Muñoz, "Rights from the start".

⁴² Ibid.

⁴³ Bede Sheppard, "It's time to expand the right to education", *Nordic Journal of Human Rights* (forthcoming).

at the international, national and local levels, also taking into consideration other possible aspects of an evolving right to education.

A. Characteristics of human rights-based early childhood care and education

1. Applicable period

44. In paragraph 4 of its general comment No. 7 (2005), the Committee on the Rights of the Child noted that, when considering rights in early childhood, all young children, from birth and throughout infancy, during the preschool years, as well as during the transition to school, should be included. Recognizing that educational practices vary around the world and that primary school may begin as late as eight years of age, the Committee defined early childhood as applying from birth to below the age of 8 years.

45. This broad definition could be divided into subcategories. Recognizing that the needs of children evolve over time, UNESCO, among others, has separated programmes for children from birth to 3 years of age (early childhood educational development) from pre-primary programmes intended for children of 3 years of age to the start of primary education. National practices vary, with India recognizing ECCE as covering the prenatal period until 6 years of age,⁴⁴ and the European Union starting at birth until the start of primary school.⁴⁵

46. Those broad definitions notwithstanding, in a number of situations, ECCE has been reduced to a single year of pre-primary education. There is a need to recognize that ECCE is a right far broader than such a single year.

47. International declarations are increasingly agreeing upon a right to lifelong learning,⁴⁶ and ECCE begins at birth and includes prenatal education and care for parents. The Special Rapporteur recalls the crucial importance of families and communities for the education of children, which goes beyond schooling. The Committee on the Rights of the Child and others have identified the multisectoral requirements of early childcare,⁴⁷ noting that adequate nutrition, health care, water and sanitation, as well as access to the basics of life, are required to enable children to benefit from education.

2. Compulsory and free

48. The compulsory nature of education is required under international instruments only for primary education, to ensure that children receive an education, rather than being required to work or left at home.

49. It is suggested that, when pre-primary education is not compulsory, parents, teachers and communities are less likely to perceive its value,⁴⁸ learners lack the ability to petition Governments through national legal systems to provide access for all and States fail to allocate adequate resources to it.

⁴⁴ India, Ministry of Women and Child Development, “National Early Childhood Care and Education Policy”, September 2013.

⁴⁵ Michel Vandebroek, Karolien Lenaerts and Miroslav Beblavý, *Benefits of Early Childhood Education and Care and the Conditions for Obtaining Them* (Luxembourg, Publications Office of the European Union, 2018).

⁴⁶ See <https://uil.unesco.org/lifelong-learning>.

⁴⁷ Committee on the Rights of the Child, general comment No. 7 (2005).

⁴⁸ UNESCO, “Global partnership strategy for early childhood: 2021–2030”, 2022.

50. In the view of the Special Rapporteur, compulsory education must be understood to mean that there is an obligation upon the State to ensure access to free ECCE of the highest attainable quality for every child and that the right to education has to be exercised and fulfilled.⁴⁹ Rights holders cannot choose not to exercise their right. In accordance with article 13, paragraphs 3 and 4, of the International Covenant on Economic, Social and Cultural Rights recognizing educational freedoms, as well as many other provisions of international law protecting the rights of indigenous peoples and of minorities, children may however benefit from other forms of equivalent ECCE than those provided by the State, including through homeschooling, private or community-based institutions or in non-formal settings. In such alternative cases, it is incumbent upon the State to set equivalent standards and adequate procedures, in consultation with stakeholders and in accordance with the Abidjan Principles, to ensure that those children receive the same benefits that they would have in a public institution.

51. At present, only the right to primary education has been recognized as being free, with all other levels intended to be made progressively free. As with primary education, there is every reason to ensure that pre-primary education is made free and available to all, as failure to do so has a negative impact on precisely those who benefit most from it. When privately provided, States should also ensure full respect for the Abidjan Principles and the Guiding Principles on Business and Human Rights.

3. “4 As” framework: availability, accessibility, acceptability and adaptability

52. Inclusive education is a multidimensional and multisectoral concept. The widely accepted “4 As” framework (availability, accessibility, acceptability and adaptability) provides elements for considering whether the education provided respects the human rights of all learners and adequately incorporates their needs in the education system.

53. Availability requires that staff be fully trained in play-based pedagogical methodologies, with sufficient teaching materials, equipment, mentoring and ongoing support, and that the location be safe and functional, including with access to safe drinking water and gender-separated sanitation facilities. Available education also considers the requirements of learners, such as teaching in local or minority languages, or flexibly travelling with nomadic populations.

54. Accessibility means that ECCE schools and programmes are physically and economically accessible to everyone and inclusive without discrimination. This involves acknowledging such factors as languages, gender, geographical location, poverty or social status that may lead to discrimination and including appropriate support or accommodations that respect those differences and, to the extent possible and as appropriate, celebrate rather than stigmatize them. Accessible education avoids ancillary or hidden fees, such as for books, stationary, uniforms or lunches, and provides targeted financial support as required. It includes accessibility measures for children with physical disabilities, qualified caregivers for children with developmental needs, multilingual caregivers and instructors who support minority language learners, and psychosocial support providers for children facing stress or harm from their home or broader war or emergency-based situations. Support for children often requires support for families to ensure that they are aware of and able to gain access to other forms of support, including social welfare care, which may be underused by migrant or refugee families.

55. Acceptability refers to the form and substance of education, including its curricula and teaching methods, being relevant, culturally appropriate and of good quality. The State, in consultation with teachers and parents, has an obligation to set

⁴⁹ Convention on the Rights of the Child, art. 29 (2).

and enforce those standards, both in public and private educational settings. This includes due attention to the linguistic, cultural and religious needs of children, in particular for minorities, migrants or refugees.

56. Lastly, adaptability demands that education be flexible, adapting to the needs of changing societies and communities and responding to those of students within their diverse social and cultural settings. This may include providing local language instruction for minorities, migrants and refugees, as appropriate, and making the curriculum culturally appropriate and relevant, rather than relying on a single dominant narrative.

4. Non-discrimination

57. The principle that education must be offered to all without discrimination is found in all human rights-based educational instruments. It affirms the right of all children to have equal access to any educational institution. However, the principle of non-discrimination is incomplete if it fails to recognize that certain children may require additional accommodations and support in order to benefit in an equal manner from the education being provided, as described under the “4 As” framework mentioned above.

5. Education as a cultural right

58. Under article 31, paragraph 2, of the Convention on the Rights of the Child, States are required to respect and promote the right of the child to fully participate in cultural life. In her report to the Human Rights Council ([A/HRC/47/32](#)), the Special Rapporteur proposed to understand the right to education as a cultural right, meaning the right of each person to the cultural resources necessary to freely follow a process of identification, to experience mutually rewarding relations all his or her life long, to deal with the crucial challenges facing the world and to engage in the practices that make it possible to take ownership of and contribute to those resources. She highlighted the need for education systems to be culturally sensitive, both in teaching cultural values and in incorporating the cultural diversity of its population. Cultural diversity is reflected not only through the staff and the student body, but also in the curriculum and resources for learners. Such cultural sensitivity is particularly relevant for pre-primary learners, as they and their parents are engaging in mutual learning to understand the cultural values inherent in the family and society in which they are living and those from which they have come.

6. Role of the family

59. The primary function of parenting is the survival, development and flourishing of the child. The primacy of the family in providing direction and guidance for the upbringing of the child is recognized in articles 5 and 18, paragraph 1, of the Convention on the Rights of the Child. Those articles emphasize the importance of respecting the interests of parents in implementing ECCE and of ensuring their engagement in the process. ECCE is not intended to replace the family in child-rearing, but rather to complement and support it. It could be considered the “appropriate assistance” that States are obliged to render to families under article 18, paragraph 2. The form in which ECCE is provided must consider the cultural identities and particular needs of children and parents in each State and context.

60. Parental support programmes provide support directly to parents. This begins with meeting the basic survival needs of parents and children, including access to health, nutrition, housing, security and a clean and safe environment. In this sense, social support programmes, universal health care and social welfare help parents to realize the rights of their children. Adult learning and literacy programmes, along

with programmes that teach best practices in parenting, are also needed. Parenting also involves the transfer of cultural resources, values and traditions, which may only be limited to protect the rights of the child. In particular, parents who have been displaced owing to conflict, emergency situations or migration may require support to pass their language, religion and other cultural resources to their children.

7. Informal and home-based early childhood care and education

61. In remote or rural areas in particular, and where formal ECCE institutions may not be available, State-funded and State-supported informal ECCE programmes and institutions may be crucial to meet the needs of children and parents. Community-run institutions or home-based ECCE may be appropriate, provided that they are supported so as to be of good quality and regulated by authorities. Informal ECCE may also be used to meet the needs of minority culture or languages where formal services are not available. In such cases, States should provide tailored support based on local needs, including parental pedagogical and health-care support, in a culturally and linguistically appropriate fashion. In all such cases, meaningful consultations with local stakeholders, in particular parents, are required to ensure that the needs of the child right-holders are being met.

8. Monitoring and reporting

62. ECCE should continually evolve and improve, on the basis of the collection and publication of data. The multidimensional nature of ECCE raises additional challenges of tracking not only educational data but also data related to health, nutrition and social development, among others.

63. To measure the effectiveness of ECCE programmes, disaggregated data are vital to monitor whether children are developmentally on track, whether gaps in learning are growing or shrinking and whether additional support is needed by a subgroup of children. The lack of data disaggregation beyond sex in the Sustainable Development Goal target indicators is a serious hindrance to identifying children in need of additional support or accommodations. It limits the ability of policymakers to identify whether vulnerable populations exist in any given educational context.

9. Standards

64. States, in close collaboration with stakeholders, should continue to work towards establishing clear quality standards applicable to ECCE providers and institutions. Such standards should address the minimum qualifications, training and working conditions of staff, age-appropriate pedagogies with play-based methodologies, the inclusion of local or minority languages when appropriate, access to local cultural resources, and a monitoring and evaluation system that provides inputs into governance and financing decisions, ensuring an ongoing commitment to improvement, while still ensuring space for local differentiation.

65. The pedagogical framework should reflect current research and be continually updated to respect the interests of the child, helping them to flourish in their cultural context, and be adequately supported and accommodated to overcome the specific disadvantages of the child. Governance should be legislated, have national standards with room for flexible local implementation and be adequately supported financially. Public, disaggregated outcome reporting, including to international institutions, will assist in maintaining accountability while providing for the identification and sharing of best practices.

10. Human rights-based approach to “care”

66. In article 24 of the Convention on the Rights of the Child, States are called upon to recognize the right of the child to the enjoyment of the highest attainable standard of health and health-care services. The article contains a list of priority areas of concern to be addressed, including a reduction in child mortality; the provision of health care to all children and prenatal and postnatal health care for mothers; combating diseases through the provision of adequate nutrition and clean drinking water, taking into consideration the dangers and risks of environmental pollution; the education of parents and children on child health and nutrition, the advantages of breastfeeding, hygiene, environmental sanitation and accident prevention; and the development of preventive health care, guidance for parents and family planning education and services.

67. In its general comment No. 7 (2005), the Committee on the Rights of the Child expands further, noting that young children have particular requirements for physical nurturance, emotional care and sensitive guidance, as well as for time and space for social play, exploration and learning.

11. Importance of the period between 0 and 3 years of age

68. Discussions around ECCE often focus on the provision of a single year of education and care before the beginning of primary education. Yet that is far too little too late to address the harm that five or more years of malnutrition, neglect, pollution or violence might cause.

69. The first three years lay the foundation for health, well-being, learning and productivity throughout a person’s life and has an impact on the health and well-being of the next generation.⁵⁰ Because of early developmental processes, experiences during pregnancy and until 3 years of age significantly affect health, learning and productivity, as well as social and emotional well-being. Those effects last the rest of childhood, and on into adolescence and adulthood. For example, early interventions have been shown to improve adult cardiovascular health substantially.⁵¹ Interpersonal skills – fostered through secure affectionate relationships with caregivers – engender empathy and self-control that inhibit crime and violence.⁵² In addition, children from birth to 3 years of age are most susceptible to environmental influences and are in particular need of care and protection.⁵³

12. Indivisibility of education and care

70. The right to ECCE demonstrates that education and care cannot be separated. This is particularly striking when it comes to young children, but also all children in general and probably all persons.

71. The crucial importance of the principle of indivisibility of human rights therefore cannot be ignored or minimized. A rights-based approach to ECCE requires the integration of developments regarding, inter alia, the rights of children to health, including physical, mental and emotional health, and the rights to housing, food,

⁵⁰ World Health Organization (WHO) and others, *Nurturing Care for Early Childhood Development: A Framework for Helping Children Survive and Thrive to Transform Health and Human Potential* (Geneva, WHO, 2018).

⁵¹ Frances Campbell and others, “Early childhood investments substantially boost adult health”, *Science* vol. 343, No. 6178 (2014).

⁵² Stacey Nofziger and Nicole L. Rosen, “Building self-control to prevent crime”, in *Preventing Crime and Violence*, Brent Teasdale and Mindy S. Bradley, eds., (Basel, Switzerland, Springer International, 2017).

⁵³ Jack P. Shonkoff and others, “The lifelong effects of early childhood adversity and toxic stress”, *Paediatrics*, vol. 129, No. 1 (2012).

water and sanitation, as well as cultural rights and the rights to freedom of expression, religion and belief. A particular mention must be made of the specific right of children to leisure, play and recreational activities. The Special Rapporteur stresses the utmost importance of play-based curriculum, with adequate leisure and recreational activities.

72. The Special Rapporteur notes that humanitarian and development actors have taken the lead in the development of an international consensus on early childhood care requirements. In 2018, the World Health Organization launched the Nurturing Care Framework for Early Childhood Development, which provides instructive guidance on how many of the rights described in the Convention on the Rights of the Child could be realized.⁵⁴ It centres around five pillars. Ensuring good physical and emotional health requires monitoring and intervention as needed, including providing positive affection and meeting daily needs. Second, adequate nutrition is needed, for caregivers as well as children. Third, “safety and security” addresses the risks arising from extreme poverty, low income, air pollution, chemicals, unsafe play environments, harsh punishment and violence. Mitigating those risks is achieved, inter alia, by providing social and child protection services and financial support for vulnerable households. Fourth, “opportunities for early learning” recognizes that learning begins at conception and improves through play and reading and that socialization begins with nuanced human interactions. Lastly, responsive caregiving, by observing and responding to children’s movements, gestures, sounds and verbal requests, protects children against injury and adversity, enables caregivers to recognize and respond to their needs, enriches learning and builds trust and social relationships.

13. Role of play in early childhood care and education

73. The BRAC Play Labs were first trialled in Bangladesh and have since been expanded to Uganda and the United Republic of Tanzania and to Rohingya refugees in Cox’s Bazar. The Labs create a high-quality play-based learning environment for children of 3 to 5 years of age through a low-cost, culturally relevant, sustainable model in low-resource and humanitarian settings.⁵⁵ The Play Lab curriculum targets language development, fine and gross motor development, cognitive development, social and emotional development and self-regulation. In the Play Labs, children build their skills in those areas through playful activities that reflect local culture, such as learning rhymes, storytelling and dancing. While the Labs were beneficial for all learners, they were remarkable in that they closed the gap between low performers and high performers almost completely within two years, such that all graduates were able to enter primary school with highly equal physical, intellectual and social development scores. At the same time, it equipped parents with the knowledge and resources to support their children’s ongoing development.

74. The importance of pre-primary teacher training in play-based modalities has been recognized by the Government of Bangladesh, which, in 2021, enrolled 1.57 million children in pre-primary education in government schools.⁵⁶ In a survey of 200 pre-primary teachers, it was found that they had received a 15-day induction training only and that nearly all teachers sought additional training in behaviour management, knowledge of how young people learn, socioeconomic learning and mental health.⁵⁷ A report on the intervention showed that changing teaching from academic-centred to play-based was a major difficulty and that teachers and

⁵⁴ WHO and others, *Nurturing Care for Early Childhood Development*.

⁵⁵ BRAC, “Play Lab research brief: Bangladesh”, August 2021.

⁵⁶ Tashmina Rahman and Lucy Bassett, “Enhancing educators’ skills for quality pre-primary education in Bangladesh”, World Bank blogs, 30 June 2022.

⁵⁷ Ibid.

headmasters required additional training and support on implementing play-based pedagogy.⁵⁸

B. Financing early childhood care and education

75. Moving towards a human-rights-compliant ECCE system will require significant investments in teacher and staff recruitment and training, new facilities, the development of pedagogies and targeted measures to adapt the system to the diversity of children. There is an additional need to develop support systems for families and oversight mechanisms for non-public providers. This is particularly challenging in the post-COVID-19 world.

76. In its general comment No. 19 (2016) on public budgeting for the realization of children's rights, the Committee on the Rights of the Child acknowledged that investment in early childhood development had a positive impact on children's ability to exercise their rights, broke poverty cycles and brought high economic returns. Underinvestment in children in their early years can be detrimental to cognitive development and can reinforce existing deprivations, inequalities and intergenerational poverty. The Committee clarified that budgeting for different groups of children was key to ensuring "the right to life, survival and development".

77. The Special Rapporteur is concerned that global spending on ECCE is generally lower than that on other education levels, despite the evidence on its importance for future learning and growth and the finding that returns on investment are higher than those in other education levels. As a result, ECCE is predominantly privately provided, making it unaffordable for the poorest families who would most benefit from it. For example, private ECCE costs 17 per cent of annual consumption for the poorest in Ghana, and 21 per cent in Ethiopia.⁵⁹

78. A study of ECCE funding in Asia found three categories of funding challenges, which extrapolate well beyond the region.⁶⁰ The first challenge was a general insufficiency of public spending, particularly in poorer countries. The second was a lack of sustainable funding, particularly in countries where significant funding was received from external donors, which could not always be relied upon to maintain funding support over time. The final challenge was a lack of coordination among Governments, as ECCE requires inputs from the ministries responsible for education, nutrition, health, social protection and families.

79. Data from the United Nations Children's Fund (UNICEF) considered pre-primary education spending a subset of ECCE. Low-income countries, on average, spend 2 per cent of education spending on pre-primary education, while upper-income countries spend 9 per cent.⁶¹ Middle Eastern and North African countries average 1.6 per cent, while those in Europe and Central Asia average 11.3 per cent. Donor support for ECCE reached 0.7 per cent of international development assistance to education in 2016, rising from 0.4 per cent in 2006.⁶²

⁵⁸ Lucy Bassett and others, *Playful Pre-Primary Education in Bangladesh: Study on Professional Development Needs of Pre-Primary Teachers and Headteachers* (Washington, D.C., World Bank, 2022).

⁵⁹ UNESCO, *Global Education Monitoring Report 2021/2*.

⁶⁰ UNESCO Bangkok Office and Regional Bureau for Education in Asia and the Pacific, "Financing for early childhood care and education (ECCE): investing in the foundation for lifelong learning and sustainable development", 2016.

⁶¹ UNICEF, *A World Ready to Learn: Prioritizing Quality Early Childhood Education* (New York, 2019).

⁶² *Ibid.*

80. UNICEF has called upon States to spend 10 per cent of national education budgets on pre-primary education and upon donors to allocate 10 per cent of aid to it.⁶³ Noting that such funding is predominantly aimed at pre-primary education, additional funding will be needed to address the broader aspects of ECCE, in particular those related to health care and social protections.

81. ECCE educators and caretakers require specialized education and training. The International Labour Organization has described basic conditions of work and employment, which should be followed, and adequately funded, by all States.⁶⁴

V. Summary of the work of the mandate holder from 2016 to 2022

82. As the present report is the final report of the Special Rapporteur, it concludes with a brief overview of her achievements over the past six years.

A. Country visits

83. The Special Rapporteur visited Côte d'Ivoire, Tunisia and Qatar during her mandate. Other visits were unfortunately cancelled owing to the COVID-19 pandemic. In Côte d'Ivoire, the Special Rapporteur praised the achievement of allocating 20 per cent of the national budget to education. She recognized the legal and practical reforms that were implemented to address a challenging environment, with over 40 per cent of the population being illiterate. Through constructive engagement with the Government and other stakeholders, the Special Rapporteur was able to provide concrete suggestions to the Government to implement rights-based reforms in order to ensure that all learners, and in particular girls, are able to receive a high-quality, rights-based education, including in religious or private schools.

84. The Special Rapporteur's visit to Tunisia was conducted in a country still affected by a national revolution in 2011, dealing with regional disparities and lacking adequate funding for its education system. The Special Rapporteur expressed appreciation for the constitution of 2014, which provided for compulsory, free education until 16 years of age and the construction of educational institutions throughout the country. However, she raised concerns about limited access to basic education for many and issues related to adequate education financing, increasing school privatizations, the loss of educated Tunisians moving abroad, the weakness of the vocational training system and the obsolescence of some buildings and teaching materials. The visit concluded with recommendations to improve the system, including by establishing a more participatory education system, as well as suggestions for addressing challenges within a constrained financial situation.

85. The Special Rapporteur's final visit was to Qatar, which has made tremendous efforts in the area of education, ratified a number of human rights treaties in the past decade and improved its engagement with the United Nations human rights mechanisms. The Special Rapporteur recognized the rapid improvements in the Qatari education system, which is generally of high quality, while expressing concern that a parallel education system established for migrants living in the country was not equally recognized or supported by the State. The "private" system for migrants reflected the curriculum of the home country, and fees were often high in comparison with migrant labour wages, leaving some children without access to school. Some

⁶³ Ibid.

⁶⁴ International Labour Organization, *ILO Policy Guidelines on the Promotion of Decent Work for Early Childhood Education Personnel* (Geneva, 2013).

4,000 children with irregular migration status were unable to have access to any kind of education, an issue that was, however, seriously addressed by the State. Lastly, the Special Rapporteur called for a literacy programme for migrant workers.

B. Communications

86. During her tenure, the Special Rapporteur was able to lead or participate in more than 93 communications, covering a wide range of education-related rights violations. The largest number of communications related to the rights of children, ranging from individual harm or exploitation to systemic risks. The next most significant issue related to academic freedom and freedom of expression, within educational institutions and under the rise of restrictive legislation designed to limit the free speech of students and academics. A similar amount related to the rights of women and girls, who continue to face disproportionate levels of discrimination, particularly in relation to access to education, as well as gender-related crimes. Increasing attacks against comprehensive sexual education was also addressed. Learners with disabilities continue to face serious discrimination globally; and despite the promise of progressive implementation of the right to education under the International Covenant on Economic, Social and Cultural Rights, States continue to seek cuts to education budgets. The mandate holder saw a rise in lesbian, gay, bisexual and transgender-related concerns, as well as concerns for human rights defenders and defenders of religious freedoms in relation to education.

C. Annual reports

87. The Special Rapporteur addressed a broad range of issues in her thematic reports, including contemporary challenges, such as the risks arising from the COVID-19 pandemic (see [A/HRC/44/39](#)), which exposed a global lack of preparation and dramatically exacerbated inequalities in national education systems. Government responses to COVID-19 were shown to have a disproportionately negative effect on vulnerable groups and must be scrutinized through a rights-based lens.

88. The move towards digitalized and remote learning during the COVID-19 pandemic risks increasing inequalities, having a negative effect on teachers and in-person schooling, and the increase in private actors in that area was recognized as especially concerning. The Special Rapporteur called for a public debate on the role of digital technologies in education. She addressed that topic in her report on the digitalization of education ([A/HRC/50/32](#)), in which she recognized the opportunities afforded by technology in education but also highlighted the risks arising from profit-driven motives and the invasion of privacy of children, which often accompanies digital learning platforms.

89. The Special Rapporteur addressed the role of non-formal learning in realizing the right to education (see [A/HRC/35/24](#)), demonstrating potential ways to adopt a rights-based framework for education provided outside of schools. In that report, she showed how informal learning, when well regulated, could be used to meet the needs of out-of-school learners, with a particular benefit to girls and groups in vulnerable situations, including children with disabilities, minorities and rural and impoverished children, who are disproportionately represented among out-of-school populations.

90. She also issued reports on the right to education of migrants ([A/76/158](#)) and refugees ([A/73/262](#)). Migrants and refugees are often excluded from national education systems, in violation of the right to education, leading to negative lifelong consequences. They are also often from vulnerable groups themselves, suffering from multiple forms of discrimination, and may be fleeing war or other emergency

situations, creating additional needs for psychosocial support. By recognizing those populations as rights holders, State policy and planning around education can respect their needs, while receiving economic and social benefits from diverse and vibrant newcomers.

91. In her report on governance and the right to education ([A/HRC/38/32](#)), the Special Rapporteur identified ways in which the right to education could be mainstreamed into education laws, policies and other forms of governance. In the report, she illustrated the importance of a rights-based approach to meeting the needs of the hardest to reach, including vulnerable groups.

92. In her report on the implementation of the right to education and Sustainable Development Goal 4 in the context of the growth of private actors in education ([A/HRC/41/37](#)), the Special Rapporteur emphasized the right to free, public education and noted the need to carefully regulate private providers according to the Abidjan Principles.

93. Her report on inclusion, equity and the right to education focused on the need to take measures to ensure that no child is left behind ([A/72/496](#)). In the report, she emphasized that equitable, inclusive education potentially required additional accommodations for certain groups of learners in order for them to achieve their full potential. She considered the needs of 12 vulnerable groups and offered suggestions and recommendations from treaty bodies and others on how to address those needs to ensure inclusion.

94. In her report on the cultural dimensions of the right to education, or the right to education as a cultural right ([A/HRC/47/32](#)), the Special Rapporteur called for the right to education to be viewed as a cultural right, giving each person the cultural resources necessary to freely follow a process of identification, to experience mutually rewarding relations in his or her life, to deal with the crucial challenges facing the world and to engage in the practices that make it possible to take ownership of and contribute to those resources.

95. In her report on the interrelations between the right to education and the rights to water and sanitation ([A/75/178](#)), the Special Rapporteur explored the role that a lack of water, sanitation, hygiene and menstrual hygiene had on the ability of children to attend school. More than 520 million children lack access to clean drinking water in school, and over 900 million lack access to hand-washing facilities. Though data at the global level are not available, it is estimated that millions of girls may be unable to attend school because of a lack of gender-specific washrooms or access to menstrual hygiene care. In her report, the Special Rapporteur provided guidelines and recommendations on simple, scalable and sustainable child-centred measures to implement the rights of children to water and sanitation, which also include hygiene and menstrual health and hygiene.

96. Lastly, the Special Rapporteur considered the ways in which the right to education could contribute to reducing atrocity crimes and grave human rights violations ([A/74/243](#)). The Universal Declaration of Human Rights recognizes that education can promote understanding, tolerance and friendship among all nations, racial or religious groups.⁶⁵ Recognizing the widespread acceptance of the role of education in promoting peace, she recommended that education promote acceptance of oneself and of others, a sense of belonging to society, critical thinking, diversity and the capacity of learners to feel empathy for others.

⁶⁵ Universal Declaration of Human Rights, art. 26 (2).

VI. Issues of future concern for the mandate holder

97. In this section, the Special Rapporteur highlights a few issues of concern that she was not able to fully address during her mandate, but which she believes are matters of pressing, ongoing concern.

A. Education in emergencies

98. The ever-present role of war, epidemics and catastrophes in the world calls for guidance on respecting, protecting and fulfilling the right to education in such environments. Those situations bring a number of added complications in realizing the right to education. They often raise issues related to the right to health, including addressing trauma and mental health challenges, as well as illnesses or injuries, for students, teachers and parents engulfed in conflict or disasters. Dislocation, temporary accommodations and a lack of infrastructure or teachers will often be a concern. Issues arising from armed conflict are addressed in the Safe Schools Declaration, an intergovernmental political commitment to protecting students, teachers, schools and universities from the worst effects of armed conflict.⁶⁶ The Special Rapporteur calls upon all States to endorse and implement the Declaration.

B. Academic freedom

99. Academic freedom is the liberty of members of the academic community, individually or collectively, to pursue, develop and transmit knowledge and ideas, through research, teaching, study, discussion, documentation, production, creation and writing. In its general comment No. 13 (1999) on the right to education, the Committee on Economic, Social and Cultural Rights opined that the “right to education can only be enjoyed if accompanied by the academic freedom of staff and students”.

100. Based on complaints received by the mandate holder, there appears to be an increasing trend of Governments interfering in the academic freedom of professors, and even controlling what is taught on campuses. Direct and indirect censorship, including by manipulating university budgets, is an ongoing concern for the mandate holder. A complementary issue relates to the right to share scientific advancements and their benefits, whereby academics and students are free to engage in scientific inquiries and everyone has a right to benefit from scientific progress. This is particularly relevant in the current context of the COVID-19 pandemic and of manipulations of historical narratives in various contexts.

C. Lifelong learning

101. There is an emerging consensus that the future of the right to education must be the creation of a global culture of lifelong learning. This will be key to addressing the challenges faced by humanity, from the climate crisis to technological and demographic changes, not to mention those posed by the COVID-19 pandemic and the inequalities that it has exacerbated.⁶⁷ Lifelong learning would transform the field of education by focusing the educational needs of people from birth to old age, recognizing that needs change throughout the life cycle, but that ongoing education

⁶⁶ See <https://ssd.protectingeducation.org/>.

⁶⁷ UNESCO Institute of Lifelong Learning, *Embracing a Culture of Lifelong Learning: Contribution to the Futures of Education Initiative* (Hamburg, Germany, 2020).

is necessary to address the complex challenges facing humanity. Societies, cultures and employment opportunities are evolving at a rapid pace, and it is no longer reasonable in any part of the world to believe that primary education, or even secondary, is sufficient to participate as a citizen in any society. The mandate holder may wish to consider in depth what educational demands are arising in a globalized world, with transnational challenges, such as climate change, the mass extinction of industrial jobs through automation or the need to live and work in a digitized, online environment.

VII. Conclusions and recommendations

102. There are substantial developmental, educational, social, cultural and economic benefits to ECCE, for children, their families and communities and the societies in which they live.

103. A rights-based approach to ECCE emphasizes the rights and best interests of children and parents. It focuses not only on the economic potential of children, but also on their beginning of a lifelong process of forging identities, having access to cultural resources and developing themselves. It allows children to engage in age-appropriate learning and improves their health and that of caregivers. Rights-based ECCE can integrate families and communities, in particular by promoting equality among genders and among vulnerable groups, incorporating diverse perspectives and respecting and promoting cultural diversity. Rights-based ECCE focuses on every child's opportunity to achieve his or her potential, in full equality, rather than benefiting only those who can afford it.

104. Privately-funded ECCE, which predominates in most countries at the global level, limits the realization of many human rights to those who can afford them, furthering the divisions within society rather than healing them. It has a place, however, when delivered in full compliance with human rights obligations. A rights-based approach, enshrined in local legislation, ensures that all children are beneficiaries and, ultimately, all of society.

105. Elements of the right to ECCE are protected under international human rights law provisions, in particular provisions relating to the right to education and other rights enunciated in the Convention on the Rights of the Child and the International Covenant on Economic, Social and Cultural Rights, notably the rights to health, housing and development, as well as the rights to play and participate freely in cultural life and the arts.

106. However, the Special Rapporteur stresses the need to clarify and express more forcefully those obligations, through all possible ways forward. Time has come for States to clearly align their international legal human rights obligations with their political commitments announced through Sustainable Development Goal 4 in matters concerning ECCE.

107. Recognizing the imperative for a rights-based approach to ECCE, the Special Rapporteur recommends that:

(a) All States and stakeholders work to define and enshrine a right to ECCE, from birth until primary school, in a legally-binding human rights instrument. Without derogating from already established rights, and recognizing the multisectoral nature of that right and the changing nature of the needs of the child from birth to primary school, the contents of the right should be determined in a wide-ranging consultative process, including States, communities and families, civil society, international organizations and

academia, and should include perspectives from actors working in human rights, development and humanitarian affairs, among others;

(b) States ensure that ECCE is implemented in accordance with the rights of the child and with existing human rights instruments and declarations, and in particular in alignment with the “4 As” framework of availability, accessibility, acceptability and adaptability, whether through public, private or informal providers;

(c) States seek to reverse the high levels of private ECCE provision by progressively implementing free, public human rights-based ECCE and ensure full respect for the Abidjan Principles and the Guiding Principles on Business and Human Rights;

(d) When establishing ECCE programmes and institutions, States ensure that teachers and staff are qualified in child rights-based and child-friendly treatment of young children in accordance with the latest research, reflecting their multisectoral needs, with due care not to divert existing primary school buildings or teachers, and that facilities are safe and hygienic;

(e) States, in recognizing that families are primarily responsible for providing direction and guidance to their children, ensure that all forms of ECCE are responsive to the interests of parents. Where relevant, States should provide parental, family and community support programmes to ensure that all rights of the child are realized, including for the first three years of a child’s life;

(f) States ensure a whole-of-government approach to implementing ECCE, ensuring coordination among all ministries involved in providing the full range of care and education;

(g) In recognition of the exceptional value of investing in ECCE, States provide sufficient funding (estimated at 10 per cent of the education budget) to ensure that every child is able to attend without cost rights-based pre-primary education, and donors and funding agencies also allocate 10 per cent of education aid to it. Significant additional funding should be secured to ensure ECCE programmes from birth until pre-primary school.
