

## Free Education

### **”Every human being has the right to free education throughout life”**

In his interview with CLADE, Rodolfo Meoño stresses that States have to eliminate all costs of education, direct and indirect, and shows that this obligation is present in the international legislation concerning the protection of human rights.

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Rodolfo Meoño is Director of the Institute of Latin American Studies of the National University of Costa Rica. He participated as speaker in the Workshop Justiciability of the Right to Education (October 2 and 3), and in the Workshop Free Education in Guatemala (October 4), both promoted by CLADE. Following he shares his reflections on the right to free education.

**International legislation regarding human rights states that education should be universal, compulsory and free. In addition the ESCR Committee affirms that the right to education is realized when education is available, accessible, acceptable and adaptable, underlining economic accessibility. In this case, what does free education and economic accessibility mean?**

Free education should be understood as the fundamental right of every human being to education throughout life, with no costs for the right holder. By signing international tools on human rights, States Parties have acquired the obligation to assume the financing of public education. This obligation encompasses the elimination of direct costs such as enrollment fees (voluntary or not), monthly fees and graduation fees, among others. Equally, the State must protect the right to education by removing indirect costs, for example, uniforms and fundraising activities. Economic accessibility also binds States to provide student transportation services, school dining services, school supplies packages, clothing and school bonuses.

**What is the status of free public education in Latin America? What challenges we still have to meet in order to fully attain it?**

In few Latin American countries the idea of maintaining compulsory enrolment fees still persists. In most of them the system of “voluntary” fees has been applied, at least in name. In many of them there are still sponsorship fees, dining fees or school supplies fees. At the same time, public education centers constantly resort to fundraising activities. The problem is that States are not assuming the full operating costs of education services, the upkeep of its infrastructure and the provision of didactic materials. As a result, poor families have to devote a large part of their budget to the payment of direct and indirect costs, acting against the access, permanence and educational success of millions of Latin American boys, girls and youths living in poverty. At the same time, educators are forced to channel their energy in extra-curricular matters.

Eliminating enrolment and monthly fees constitutes the first challenge. In this sense, it is worth mentioning the recent achievement in Guatemala. Moreover, we have to fight for increasing the fiscal budget allocated to education. It is about obligating States to fulfill a fundamental human right since education enables people to recognize and access other human rights. Such increase in the public education budget, to a minimum initial 6 percent, should allow for the elimination of direct and indirect costs imposed on family budgets, as well as guarantee economic accessibility through programs covering transportation, dining services, materials, uniforms and economic aid.

**Within the United Nations and the Inter-American System framework, what tools does society have to demand free education from States and how can it be done?**

Within the United Nations framework, we count on the International Covenant on Economic, Social and Cultural Rights (ESCR) and its respective Protocol. Additionally, ILO Convention N° 169 Concerning Indigenous and Tribal Peoples and the Universal Declaration on the Rights of Indigenous Peoples protect the right to an education adapted and acceptable for people of indigenous origin; the Convention on the Rights of the Child establishes the principle that the best interests of boys and girls shall be the paramount consideration; and finally, the international conventions on the elimination of all forms of discrimination: in education, on the basis of race or ethnicity, disability or gender.

Furthermore, we count on the “Education for All” program, approved in the World Conference on Education in Dakar 2000 which also establishes the right to continuing education. In the Inter-American system for the protection of human rights, we count on the Pact of San José and the Protocol of San Salvador. Besides establishing the right to education, Article 1 of the Pact of San José establishes the obligation to respect the rights without any kind of discrimination. It enables exigibility and justiciability of the right to education on account of economic, social, ethnic, geographical, age or gender discrimination. On its part, the Protocol of San Salvador recognizes the justiciability of the violations of two rights established in the Pact of San José: freedom of association (including trade unions) and the right to education.

**Within this framework, which would be the importance of General Comments 11 and 13 of ESCR Committee?**

The importance of General Comments 11 and 13 of the Committee on Economic, Social and Cultural Rights resides in the conceptualization of the right to education as a fundamental right because it is an indispensable means of realizing and accessing other human rights. Therefore, no person shall be discriminated on the basis of the conditions of availability or access (justiciability due to discrimination). Moreover, it departs from recognizing the integrality of human rights: these are indivisible, interrelated and interdependent. As a consequence, justiciability as a complement envisages demanding the right to education in terms of civil rights (for example, to life) or political rights (for example, to be able to elect and be elected). Furthermore, universal and free education is extended to secondary and higher education.

**Article 9 of General Comment 11 of ESCR Committee expresses that when a State lacks the financial resources and the necessary knowledge to devise and adopt a detailed plan, international community shall have the clear obligation to provide aid. Do you think the international community, governmental and non governmental, has a clear understanding that cooperation is an obligation, therefore also exigible?**

For a long time, Latin American states considered education as a cost to be covered by their impoverished Treasuries. Recently, it has been seen mainly as a social investment. The problem is that an instrumentalist view of education still persists. We must foster the view of education as stated in General Comments 11 and 13 of the ESCR Committee: it is a fundamental right and as such it can be neither negotiated nor postponed. The Signatory States of human rights international instruments, as well as international agencies, shall have a clear shared responsibility in the realization of this fundamental right for all human beings throughout their lives.

**While international legislation leaves no doubt about free primary education for all, that same legislation proposes the progressive implementation of free secondary and higher education. What does progressive implementation mean in this case?**

”Progressive implementation” shall never be understood as a postponement or exemption of the responsibility of the State concerning free secondary and higher education. In the case a State is not able to fulfill such commitment immediately, it has the obligation to program and implement the required actions in order to fulfill the right to free education within a reasonable time period. The financial impossibility at a certain time never exempts the State from implementing a plan of action within a peremptory time framework. In such a task, the State is obligated to involve civil society in the devising and follow up of the plan.

See here a brief speech of Rodolfo Meoño in the Workshop Justiciability of the Right to Education, promoted by CLADE on October 2 and 3 in Guatemala, where he comments on the progressive nature of the right to education and the obligations of the international community.