

How civil society organisations have used human rights law and mechanisms to advance the right to education



5 CASE STUDIES

About the Right to Education Initiative

The Right to Education Initiative (RTE) is an international human rights organisation focusing on the right to education. We promote education as a human right, striving for a world where everyone, without discrimination of any kind, can fully enjoy the right to education in all its dimensions. We link global, national and local research and evidence-based policy dialogue to campaigning and advocacy intending to accelerate progress towards the realisation of the right to education for all through positive and concrete changes on the ground.

This publication was written by Juliana Lima and Delphine Dorsi.

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INTRODUCTION

■ 1. Background and context

While education is widely recognised as a [fundamental human right](#), civil society organisations (CSOs) often face challenges in translating this recognition into effective advocacy strategies that can hold duty-bearers accountable.

This publication aims to address this gap by documenting practical examples from CSO experience using human rights law and mechanisms to advance the realisation of the right to education. Through a set of case studies, the publication illustrates how advocacy can be anchored in human rights law and how different accountability pathways, including legal and quasi-legal ones, can be strategically mobilised by civil society organisations working in the education sector. By doing so, we aim to demystify human rights law and mechanisms and inspire CSOs to use them as part of their advocacy strategies.

This introductory note provides the conceptual and practical foundations for the case studies that follow. It clarifies what constitutes a human rights-based approach to education advocacy, explains the notion of human rights accountability, and presents an overview of key accountability mechanisms available to CSOs.

This publication aims to demonstrate how civil society organisations can operationalise a human rights approach by:

- Grounding advocacy in the human rights framework
- Using existing institutional mechanisms to report on and/or claim rights (e.g., international and regional treaty bodies; international, regional and national courts; national human rights commissions; ombuds-person)
- Strengthening accountability of duty-bearers using multiple advocacy and accountability strategies at national, regional and international levels.

■ 2. Education as a human right

The right to education is firmly grounded in [international human rights treaties](#), which establish the legal basis of States' obligations to protect, respect and fulfil it. General instruments - such as the [International Covenant on Economic, Social and Cultural Rights](#) (ICESCR) and the [Convention on the Rights of the Child](#) (CRC) - define its aims and content, including key elements such as free and compulsory primary education and the progressive realisation of free secondary and higher education. Other specific treaties guarantee the right to education of specific groups, such as [women and girls](#), [persons with disabilities](#) or [migrants, refugees and internally displaced people](#). Once ratified, these treaties create binding legal obligations for States under international law. They are then translated into [domestic legal frameworks](#) - including constitutions, legislations and policies - through which the right to education is implemented at national level.

Education as human right means that:

- Education is an entitlement, not a privilege.
- The right to education is legally guaranteed in human rights law.
- Duty-bearers, mainly States, have the obligation to protect, respect, and fulfil the right to education.
- Rights-holders can claim their rights.
- There are ways to hold states accountable for violations or deprivations of the right to education.

The international human rights framework refers to both binding and non-binding human rights instruments. Binding instruments - such as international human rights treaties - create legal obligations for States that have ratified them, making them accountable under international law. By contrast, non-binding international human rights instruments include a wide range of declarations, guidelines and principles, such as the 2030 Agenda for Sustainable Development, which only create political commitments. While non-binding instruments do not have legal force, they play an important role in setting political and moral standards, shaping expectations, and encouraging States to advance the right to education.

At national level, the human rights framework includes the constitution and the laws (e.g., education acts, children rights' acts), as well as education sector plans and public policies such as affirmative action policies to enhance access and retention of a specific group of learners (for e.g., marginalised groups, girls, indigenous people, migrants). Constitutions provide the highest protection of the right to education at national level. Laws offer stronger guarantees than policies. The latest must conform with the laws and the constitution.

■ 3. Human rights-based approach to education advocacy

A [human rights-based approach \(HRBA\)](#) requires that human rights principles guide all phases of the advocacy process. The [PANEL Principles](#) provide a framework to operationalise it by identifying five core principles: Participation, Accountability, Non-discrimination and equality, Empowerment, and Legality. While all those principles are important, legality is the heart and the foundation of all other principles. Legality emphasises that **a human rights-based approach must always begin with – and remain grounded in – the applicable legal framework.**

▶ Click [here](#) to watch a video about the PANEL principles

Therefore, a human rights-based approach to education advocacy is characterized by:

- **Legal grounding:** Advocacy is anchored in human rights provisions, particularly (but not exclusively) those contained in binding international and regional treaties ratified by the States and national constitutions and laws.

Ask yourself:

- Which human rights treaties that guarantee the right to education has the State ratified?
- Does the constitution or national laws guarantee the right to education? To what extent?
- Has the State adopted policies to implement the right to education? Do these policies comply with national laws?

If laws and policies comply with human rights standards then violations are likely to occur due to failure to uphold these laws and policies. If there are human rights gaps in these laws and policies, then violations are likely to re-occur unless those laws and policies are changed.

■ **Focus on obligations:** States are recognised as duty-bearers with legal obligations to respect, protect and fulfil the right to education. Human rights-based advocacy therefore focuses on what States are required to do under the law, rather than solely on development priorities, people's needs and/or service provisions.

Ask yourself:

- What is the problem I am trying to address?
- What evidence do I have (disaggregated data) and how does it demonstrate this problem?
- Who is responsible for the problem? Map all levels of responsibility at national and subnational level.

■ **Accountability:** Human rights-based advocacy seeks to ensure that duty-bearers are held accountable for their obligations, including through human rights mechanisms such as judicial and quasi-judicial institutional mechanisms. This type of advocacy will refer to compliance with obligations, rather than only analyse if service provisions are effective and if people's needs are met.

Ask yourself:

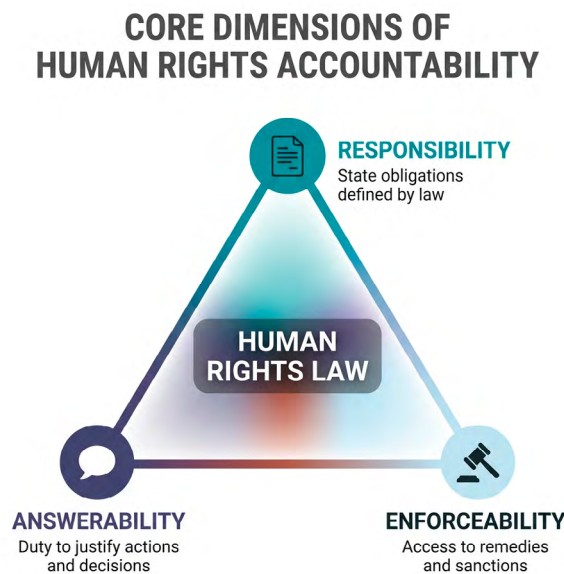
- What are the best advocacy strategies to address the situation?
- Which monitoring or accountability mechanisms can I engage with?

Once you have identified the applicable legal framework that guarantees the right to education and the corresponding State's obligations, as well as any gaps in this legal framework or in its implementation, you can plan your advocacy strategies and decide what are the most appropriate avenues to seek accountability.

4. Accountability from a human rights perspective

Human rights accountability refers to the processes through which duty-bearers are held responsible for complying with their human rights obligations¹.

Human rights accountability entails that States have defined obligations, are answerable for their actions, and are subject to enforceable sanctions or remedial action in cases of non-compliance. This understanding highlights the [three core dimensions of human rights accountability](#): responsibility, answerability, and enforceability.



Human rights accountability encompasses a variety of actions aimed at

- demanding States to justify any deprivations in right-holders' enjoyment of the right to education.
- demanding States to answer to any violations of their legal obligations.

There are many ways to hold duty-bearers accountable for their human rights obligations.

Human rights accountability, *stricto sensu*, refer to the enforceability dimension of human rights (cf. figure above). It is mostly legal and vertical - enforced through courts, treaty bodies, and formal mechanisms. Social accountability and political accountability, on the other hand, are enforced through public pressure, transparency, political dialogue and civic mobilisation. These different types of accountability converge and reinforce one another: social accountability mechanisms, such as community monitoring, citizen scorecards and town hall meetings,

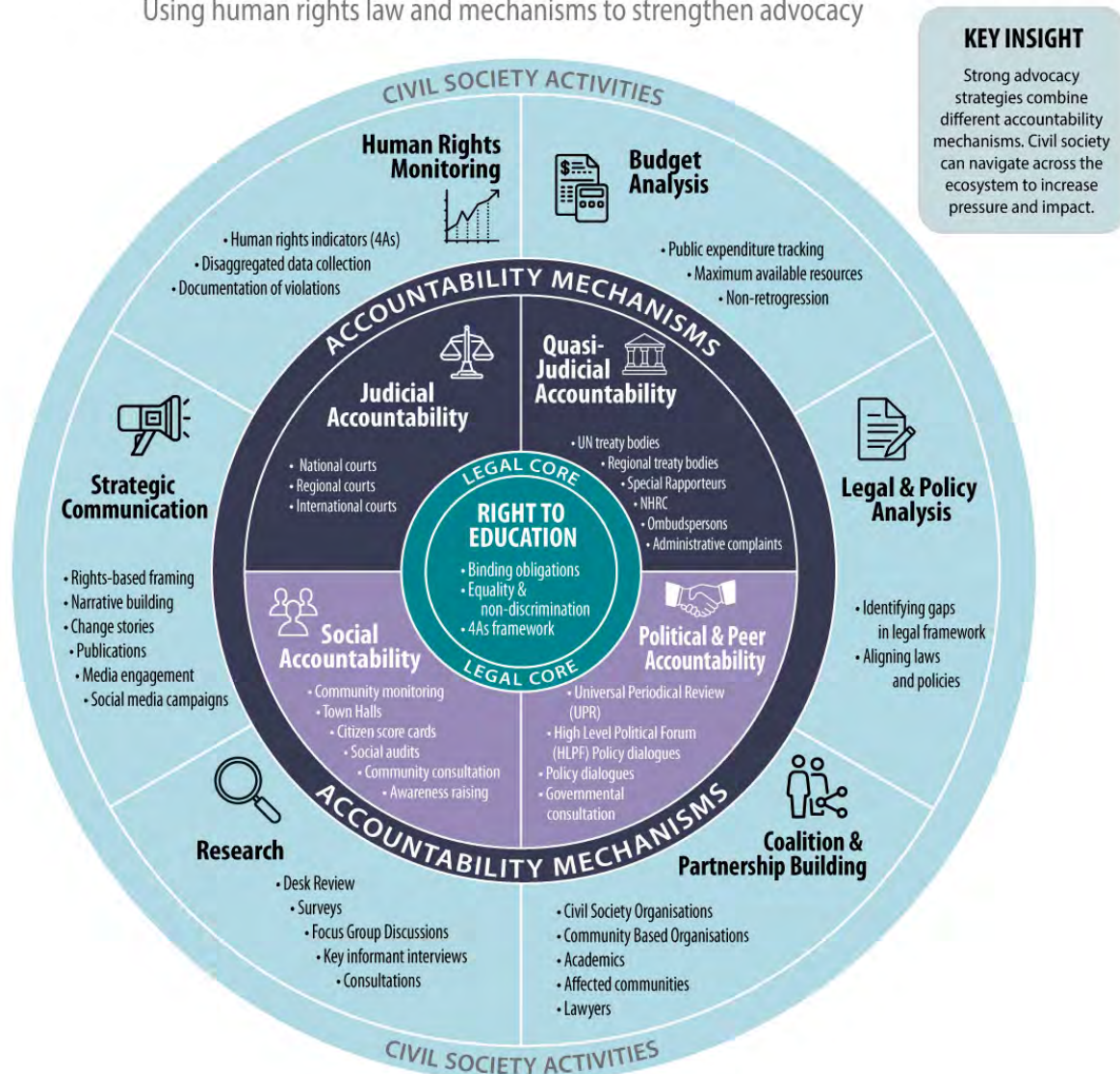
¹ Right to Education Initiative (2023). [Accountability from a human rights perspective: The incorporation and enforcement of the right to education in the domestic legal order](#)

can be used to empower rights-holders and raise awareness, while at the same time gathering disaggregated data that can be used to support political, legal or quasi-legal accountability.

This visual hereafter presents the right to education ‘accountability ecosystem’, illustrating how civil society can engage with a human rights-based approach to seek accountability. It refers to human rights accountability mechanisms *stricto sensu* (judicial and quasi-judicial accountability) as well as to social accountability mechanisms and political and peer accountability mechanisms.

ACCOUNTABILITY ECOSYSTEM FOR THE RIGHT TO EDUCATION

Using human rights law and mechanisms to strengthen advocacy



At the centre of the diagram lies the legal core: the right to education as a fundamental human right. It highlights that advocacy must be anchored in legal obligations, including principles of equality and non-discrimination and the [4As Framework](#) (availability, accessibility, acceptability,

lity, adaptability). It emphasises that the foundation of any human rights approach is the legal framework that defines States' obligations and responsibilities towards rights-holders.

Surrounding this legal core there is a synthetic presentation of accountability mechanisms, divided into four complementary accountability pathways through which States can be held accountable:

- Judicial accountability mechanisms, through national and regional courts, including through collective litigation;
- Quasi-judicial accountability mechanisms, at international level (e.g., UN and regional treaty bodies, [UN Special Rapporteur](#)) and at national level (e.g., ombudsperson, national human rights institutions);
- Political and peer accountability mechanisms, such as the Human Rights Council Universal Periodic Review and engagement with international political processes (e.g., the High Level Political Forum for Sustainable Development Goals) and national policy dialogues (e.g., engagement with Parliament, Education Ministers, etc.);
- Social accountability mechanisms, such as citizen scorecards, community monitoring, participatory budgeting, or town hall meetings.

These different accountability mechanisms vary in their level of accessibility, political leverage, and enforcement; but together they form a diversified accountability architecture.



Understanding binding and non-binding human rights instruments regarding accountability

A human rights approach to education advocacy and accountability takes into account both binding and non-binding international instruments. However, only international binding instruments and national legal instruments can trigger administrative, legal and quasi-legal accountability mechanisms. Within the normative framework, legal enforceability constitutes a defining feature of accountability, as it provides formal avenues through which rights-holders may seek redress for violations, including through courts and quasi-judicial bodies. In contrast, non-binding international instruments and national plans and strategies do not create enforceable obligations and therefore rely primarily on political accountability and peer pressure. While non-binding frameworks are widely used in education advocacy, grounding advocacy in binding legal instruments strengthens legitimacy, expands accountability options, and enables engagement with legal and quasi-legal mechanisms.

The outer ring represents civil society activities, in other words, the concrete strategies and actions through which CSOs monitor the implementation of the right to education, identify

barriers that hinder the full realisation of the right to education, collect data, generate evidence, build pressure, and engage with affected communities and other partners such as researchers, unions, other civil society organisations, coalitions. These include:

- Monitoring from a human rights perspective, including documenting violations of the right to education;
- Budget analysis, assessing resource allocation and compliance with States' obligations such as non-retrogression;
- Legal and policy analysis, identifying gaps and aligning national legal frameworks with international human rights law;
- Coalition building, and partnering with other civil society organisations, students and/or teachers unions, academics and affected communities;
- Research, through literature review and desk research, as well as qualitative and quantitative methods, including participatory research;
- Strategic communication, using rights-based framing and public engagement such as press releases, radio interviews, social media campaigns, etc.

The diagram conveys a key insight: civil society can move across this ecosystem, combine different advocacy strategies and engage with different mechanisms to increase pressure, strengthen legal arguments, and enhance impact. Meaningful advocacy requires not only recognising education as a right, but strategically using legal frameworks, evidence, and accountability mechanisms in an integrated way.

This publication will focus on human rights accountability mechanisms *stricto sensu*. As explained before, this refers to legal and quasi-legal accountability mechanisms. However, as the different case studies in this publication illustrate, CSOs use a variety of advocacy strategies at the same time: they raise awareness at community level, engage with the press to increase visibility to the issue, partner with other organisations, work with lawyers or human rights experts, engage with international human rights mechanisms and, at national level, with parliament and human rights institutions.

■ 5. Case studies overview

This publication demonstrates how civil society organisations can draw on human rights law and mechanisms to reinforce their advocacy strategies and pursue accountability. It focuses on human rights mechanisms *stricto sensu* (judicial and quasi-judicial mechanisms).

Advocacy strategies, as understood in this publication, include monitoring, reporting, campaigning, media engagement, coalition building, policy dialogue, and engaging with existing human rights accountability mechanisms, such as ombudsperson, national human rights commissions, UN Treaty Bodies, Universal Periodic Review, litigation, etc.

Through five case studies, the publication explores the context and underlying issue related to the right to education, the legal framework relevant to each case, the advocacy strategies employed by civil society organisations, the outcomes and impacts of their efforts, and the lessons drawn from each experience. Each case study highlights one legal or quasi-legal accountability mechanism, at national or international level, illustrating how civil society organisations have applied it to drive change. In addition, each case study provides a list of key resources to help CSOs navigate the human rights system and select the advocacy strategy best suited to securing accountability.

Case studies are illustrated by the following

-  Human rights mechanisms decisions
-  Legal references
-  In-depth analysis
-  Tips
-  Videos
-  Quotes

The case studies are organised according to the type of human rights mechanism used (national/international; judicial/quasi-judicial), and the right to education issue addressed by civil society organisations when engaging with those mechanisms.

Case studies 1 and 2 present *national human rights mechanisms*. The first case study explores how the [European Roma Rights Centre](#) (ERRC), the [Polgár Foundation for Opportunities](#), and the [Rosa Parks Foundation](#) have addressed discrimination and segregation of Roma children in Hungary through the National Ombudsperson, the Hungarian Deputy Commissioner for Fundamental Rights. The second case study explores how [ACIJ](#), the Civil Association for Equality and Justice, used litigation to address the refusal to enrol children with disabilities in privately-run mainstream schools in Buenos Aires (Argentina).

Case studies 3, 4 and 5 focus on *international human rights mechanisms*. Case studies 3 and 4 are dedicated to reporting to UN Treaty Bodies. Both focus on the review of States' compliance with the International Covenant on Economic, Social and Cultural Rights (ICESCR) by the

independent expert Committee on Economic Social and Cultural Rights (CESCR). Case study 3 explains how the civil society organisation *École ensemble* addressed segregation in the Québec's (Canada) education system. And case study 4 explains how three organisations (the *Right to Education Initiative*, the *Fédération des Associations Générales Étudiantes* (FAGE), and the *Global Student Forum* (GSF)), collectively addressed inequalities in France's higher education system through reporting to the CESCR. The last case study 5 focuses on communication procedures to UN Treaty Bodies, also called complaint mechanisms. The case explores the complaints filed to the Committee on the Rights of the Child by three Moroccan students living in Melilla (Spain) to address refusal of enrolment due to their administrative migratory status.

While these examples do not focus on social nor on political accountability, it is important to highlight that there is no single 'best' pathway to ensuring the full realisation of the right to education. The advocacy strategies and accountability mechanisms presented in the accountability ecosystem are often most effective when used together, as the cases will show:

- Monitoring feeds into treaty body reporting, policy dialogue, and results can be used in campaigning.
- Treaty body recommendations support litigation and policy dialogue with parliaments and education ministries.
- Court decisions strengthen policy advocacy, can lead to change in law, and address individual cases.

Understanding this complementarity is essential for designing strategies that are suitable to the education issue you are trying to address and that are possible under your jurisdiction and social and political context.

■ Resources

- Right to Education Initiative, UNESCO (2019). [Right to Education Handbook](#)
- ActionAid, Global Campaign for Education (2007). [Education Rights: A guide for practitioners and activists](#)
- Amnesty International, Right to Education Project (2012). [Haki Zetu – ESCR rights in practice: The right to education](#)

CASE STUDY 1



STRATEGY | Engaging with the Ombudsperson

ISSUE | Discrimination and segregation
of Roma children in Hungary

1. CONTEXT AND ISSUE

The Roma population constitutes Europe's largest ethnic minority group. Living mainly in Central and Eastern Europe, the Roma community faces deep-rooted bias and racial discrimination across many areas of daily life - including access to housing, social welfare, healthcare, employment, and education. For years, **Roma children in Kalocsa, a city of Hungary, were educated separately from non-Roma children in municipal preschools, while following a Roma minority education program.** In 2022, when Roma parents attempted to transfer their children to other preschools in the city, neither the preschool administration nor the municipality responded to their written applications. Roma children continued to be educated in separate schools or, when 'integrated' into the mainstream school system, were placed in separate classrooms attended exclusively by Roma children. Parents were unaware that their children were receiving education under a minority education program, with a specific curriculum that differed from those of non-roman ethnicity, and they also ignored the content of this curriculum.

The issue in a snapshot

Structural school segregation and ethnic-racial discrimination of Roma students in Hungary

- Despite legal guarantees of equality and non-discrimination in education, Roma students in the municipality of Kalocsa were educated in segregated pre-schools or classrooms.
- When parents asked the city to consider their children's applications to other pre-schools, their request was ignored or denied.
- Roma children followed a 'special Roma minority program', with a dedicated curriculum that reproduced stereotypes, parents were unaware of it.

According to a report from the Rosa Parks Foundation, the [segregation of Roma children in schools](#) is one of the most profound and serious problems in the Hungarian education system. Despite being formally prohibited by law, in practice, ethnic-based selection and the reproduction of social differences perpetuates patterns of exclusion of Roma children. As a consequence, they are disproportionately concentrated in low-prestige, under-resourced schools and classes, which limits learning outcomes and significantly reduces opportunities for social mobility².

▶ See this Rosa Parks Foundation animated [short video](#) to understand more about the systemic racism against the Roma in Hungary (In Hungarian, with English subtitles)

² Rosa Parks Foundation (2025). [The prospects of school desegregation in Hungary. Public policy report](#). Accessed 15 June 2026.

2. APPLICABLE HUMAN RIGHTS FRAMEWORK

International law

The [International Covenant on Economic, Social and Cultural Rights](#) (ICESCR) and the [Convention on the Rights of the Child](#) (CRC), ratified by Hungary respectively in 1974 and 1991, establish that everyone has a right to education without discrimination of any kind (art. 13 and art. 2.2 of the ICESCR; art 28 and art. 2 of the CRC). The [UNESCO Convention against Discrimination in Education](#) (CADE), ratified by Hungary in 1964, expresses the fundamental principle of non-discrimination and equality in education.

National law

The Hungarian Constitution ([Fundamental Law of Hungary of 2011](#)) enshrines the right to education to citizens in Article XI, which provides that: ‘(1) Every Hungarian citizen shall have the right to education’. Article XV states the principle of non-discrimination establishing that ‘every person shall be equal before the law’ and that ‘Hungary shall ensure fundamental rights to every person without any discrimination on the grounds of race, colour, sex, disability, language, religion, political or other views, national or social origin, financial, birth or other circumstances whatsoever’.

Moreover, [Act CXXV of 2003 on equal treatment and the promotion of equal opportunities](#) bans discrimination and unlawful segregation based on nationality, ethnicity and social origin (art. 7, art. 8, art.9). Pursuant to Section 10(2) of the Act, any provision that separates individuals or groups on the basis of a protected characteristic from persons in a comparable situation shall be considered unlawful segregation, unless expressly permitted by law.



Act CXXV of 2003 on equal treatment and the promotion of equal opportunities

Section 10 (2)

A provision that separates certain persons or groups of persons from persons or groups of persons in a comparable situation on the basis of the characteristics specified in Section 8, without this being expressly permitted by law, shall be considered unlawful discrimination.

The requirement of equal treatment applies to all forms of public education that operate in accordance with state-prescribed or approved requirements or that receive direct or indirect state support³.

³ Rosa Parks Foundation (2025). [The prospects of school desegregation in Hungary. Public policy report](#). Accessed 15 June 2026.

The 4 As Framework

CESCR, General Comment 13, para. 6

Education in all its forms and at all levels shall exhibit the following interrelated and essential features:

AVAILABILITY

There is sufficient school with adequate infrastructure, materials and trained teachers with competitive salaries

ACCESSIBILITY

Educational institutions and programmes are accessible (economically and physically) to all without discrimination and positive steps are taken to include the most marginalised

ACCEPTABILITY

The form and substance of education are relevant, culturally appropriate and of good quality; they conform to the aims of education and to minimum educational standards approved by the State.

ADAPTABILITY

Education is flexible to adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings.

Analysis of the case through the 4As Framework

Multiple dimensions of the 4As framework were violated in this case. Accessibility means that all children should be able to access quality education without discrimination. Segregated schools and classrooms and denial of considering parents' application for transfer to non-segregated pre-schools affected the accessibility of Roma children in early childhood care and education in Kalosca. Acceptability requires that all students, regardless of background and ethnicity, receive education of comparable quality, content, and standard. Adaptability requires that education systems actively respond to and counteract existing social inequalities, rather than reproduce them. The special program curriculum to which Roma children were exposed turned minority education provisions - that were originally designed to support Roma cultural and linguistic rights - into segregation justification. The education that Roma children received was not equivalent in quality to that received by their non-Roma peers, including other national minorities enrolled in special programs, which in turn limited learning outcomes and constrained their future opportunities and integration in society. The minority program thus violated both the criteria of acceptability and adaptability.

Learn more about the 4As:

- Committee on Economic, Social and Cultural Rights (1999). [General Comment 13](#), paragraph. 6.
- Katharina Tomasevski (2001). [Human rights obligations: making education available, accessible, acceptable and adaptable](#)
- Right to Education Initiative, UNESCO (2019). [The Right to Education Handbook](#), p. 76.

3. ADVOCACY STRATEGIES

The segregation of Roma children in Hungary has been challenged through different mechanisms, including national and regional courts (judicial mechanisms) and national human rights institutions (quasi-judicial mechanisms).



National Human Rights Institutions: Ombudsperson

Violations on the right to education can be challenged domestically through judicial (courts) or quasi-judicial mechanisms (national human rights institutions).

National human rights institutions (NHRIs), such as ombudsperson or human rights commissions, are independent state bodies established to promote and protect human rights at the national level. Their implementation at national level is guided by the [Paris Principles](#), adopted by the UN General Assembly in 1993, setting minimum standards regarding NHRIs' independence, mandate, composition (pluralism) and resources.

'Quasi-judicial mechanisms, such as ombudspersons, and national human rights institutions play an important role in protecting the right to education by monitoring its implementation at the national level. Such mechanisms exist in many countries. Even though their findings are not legally binding, decisions and recommendations by such quasi-judicial bodies at national level are important as they wield political and legal pressure upon the authorities and institutions'⁴.

Each national human rights institution has its own mandate. In regard to the right to education, national human rights institutions usually have the mandate to:

- Receive and analyse complaints from individuals or group of individuals that consider that their right to education has been violated (often without the requirement of a legal counsel)
- Undertake, on their own initiative, investigations to promote and protect the right to education, and initiate inquiries into alleged violations, for example, through public hearings
- Monitor and report on the implementation of the right to education as well as on violations of this right
- Advise governments and parliaments on legislation and policy to ensure compliance with international human rights standards
- Engage with international and regional human rights mechanisms such as UN Treaty Bodies and the Universal Periodic Review.

Many NHRIs are accredited by the [Global Alliance of National Human Rights Institutions \(GANHRI\)](#), which assesses compliance with the Paris Principles and assigns status categories (A, B, or C) based on the degree of independence and effectiveness.

This case study focuses on measures taken by the *Hungarian Deputy Commissioner for Fundamental Rights - Ombudsperson for the Rights of National Minorities*.

⁴ Special Rapporteur on the Right to Education. (2013). [Justiciability of the right to education](#).



The Hungarian Office of the Commissioner for Fundamental Rights

The Hungarian Office of the Commissioner for Fundamental Rights comprises three ombudsperson:

- The Commissioner for Fundamental Rights
- The Deputy-Commissioner responsible for the protection of the interests of future generations
- The Deputy-Commissioner responsible for the protection of the interests of nationalities living in Hungary

The work and mandate of the Commissioner for Fundamental Rights and the Deputy-Commissioners are determined by Article 30 of the Fundamental Law of Hungary adopted in 2011 and are based on Act CXI of 2011 on the Commissioner for Fundamental Rights.

Any individual can file a complaint with the [Hungarian Commissioner for Fundamental Rights](#) if they believe an act or failure to act by a public-duty-performing body has violated, or poses an imminent threat to, one of their fundamental rights. Access to this mechanism is conditional to the complainant having first exhausted other available administrative remedies, except in cases where there is no remedy available. Complaints can only be addressed against : public administration authorities, local governments, nationality self-governments, mandatory-membership public bodies, the Hungarian Defence Forces, law enforcement agencies, investigative authorities (including those within the Prosecution Service), notaries public, court bailiffs (both county-level and independent), and any other organ carrying out public administration functions or public services.

Source: [Office of the Commissioner for Fundamental Rights](#), retrieved on 12 June 2026

Roma activists in the city of Kalosca⁵, with the support of the [European Roma Rights Centre](#) (ERRC), the [Polgár Foundation for Opportunities](#), and the [Rosa Parks Foundation](#), held several meetings with the mayor of Kalocsa, offering professional assistance to end segregation between preschools. While these meetings were unfruitful, the city eventually decided (October 2022) to temporarily close the segregated preschool, alleging the elevated heating costs of the facility. Roma children that were enrolled in this segregated school were then transferred to another institution. But they were kept in separate classrooms.

The [European Roma Rights Centre](#) (ERRC) is a Roma-led international public interest law organisation working to combat anti-Romani racism and human rights abuse of Roma through strategic litigation, research and policy development, advocacy and human rights education.

Following this, the organisations turned to the Deputy Commissioner of fundamental rights, who decided that the preschool director had facilitated segregation by allowing non-Roma families to transfer their children to other schools, while preventing Roma families from doing so. According to the Deputy Commissioner, the handling of transfer requests may have been linked to the applicants' Roma ethnicity. The Ombudsperson thus argued that the municipi-

⁵ Rosa Parks Foundation. [Győzelem Kalocsán: megszűnt az óvodai szegregáció](#). Accessed 15 June 2026. Unofficial translation from Hungarian, produced using AI-assisted translation tools.

pality contributed to the discriminatory situation through its inaction. The ombudsperson also reviewed the preschool’s Roma minority education programme, raising strong concerns about the programme inappropriately associating Roma minority education with poverty, social disadvantage, and behavioural issues, thereby reinforcing harmful stereotypes. Moreover, ‘after comparing the Roma programme with the German minority education programme implemented in Kalocsa, the ombudsperson found a stark contrast: whereas the German programme aimed to strengthen identity and preserve cultural values, the Roma programme relied on prejudicial assumptions that fundamentally undermined its credibility and stated objectives. This was particularly concerning given that the affected parents were largely unaware that their children were enrolled in a minority education programme’⁶.

Following the ombudsperson’s investigation, and even before the end of the case, the municipality decided to [permanently close the segregated preschool](#)⁷. In his decision, the ombudsperson [requested](#) that the state Secretariat for Public Education within the Ministry of the Interior review its guidance on the content of minority preschool and school education programmes and, where necessary, establish enforceable standards through legislation⁸.

ADVOCACY STRATEGIES



4. OUTCOMES AND IMPACTS

As a [consequence](#) of the complaint filed with the ombudsperson, segregated kindergartens in Kalocsa have been permanently shut down and measures were put in place to ensure inte-

6 Rosa Parks Foundation. [Győzelem Kalocsán: megszűnt az óvodai szegregáció](#). Accessed 15 June 2026. Unofficial translation from Hungarian, produced using AI-assisted translation tools.

7 European Roma Rights Centre (2025). [End of segregation of Roma in Kindergartens in Kalocsa, Hungary, After community legal action](#). Accessed 15 June 2026.

8 Rosa Parks Foundation. [Győzelem Kalocsán: megszűnt az óvodai szegregáció](#). Accessed 15 June 2026. Unofficial translation from Hungarian, produced using AI-assisted translation tools.

grated education for Romani children in the city, with district boundaries revised to consider both proximity and socio-cultural diversity, ensuring a more balanced composition of students in pre-school classrooms⁹.

The European Roma Rights Centre (ERRC) reports that ‘according to local parents, the situation has significantly improved, with a new head of kindergarten appointed, and segregation - at least at the kindergarten level - effectively eliminated’. ERRC former Legal Director, Vivien Brassói, [praised](#) the local activists and Roma parents for standing up for their rights, affirming that ‘this case stands as a testament to the power of community legal action in fighting discrimination and advancing the rights of Romani children¹⁰.

5. TIPS AND LESSONS LEARNED

The case of Kalocsa is one of many cases where ERRC and the Rosa Parks Foundation have collaborated with each other and with other organisations to fight school segregation in Hungary¹¹. It is also one of the multiple cases where discrimination of Roma children has been challenged through the Ombudsperson¹². It represents a significant example of successful advocacy, demonstrating that national human rights institutions - such as Ombudsperson - have an important role to play in enforcing the right to equality and non-discrimination in education. According to Michal Zalesak from the European Roma Rights Centre, it is still useful to engage with the ombudsperson even if the intervention does not result in actual change, because this can be used in litigation if the matter is brought to court¹³.

Enabling factors	Challenges
• ERRC expertise on the situation of Roma children • Partnering with other civil society organisations • Engaging rights holders and activists	• Non-cooperation of national or sub-national authorities during the process. • The ombudsperson decision is not binding. Sometimes it may require engaging with governmental authorities or resorting to litigation to enforce the decision.

9 European Roma Rights Centre (2025). [End of segregation of Roma in Kindergartens in Kalocsa, Hungary, After community legal action](#). Accessed June 2026.

10 European Roma Rights Centre (2025). [End of segregation of Roma in Kindergartens in Kalocsa, Hungary, After community legal action](#). Accessed June 2026.

11 Rosa Parks Foundation (2025). [The prospects of school desegregation in Hungary. Public policy report](#). Accessed 15 June 2026; European Roma Rights Centre (2015). [Hungary: a short history of segregation](#). Accessed 15 June 2026.

12 European Roma Rights Centre (2026). [ERRC takes legal action for Romani refugee children who are denied education](#). Accessed 15 June 2026.

13 Online interview, 18 June 2026.



Practical tip: ‘You do not need to be a lawyer to engage with an ombudsperson. What civil society organisations bring is the reality on the ground - evidence, community perspectives, and lived experiences that can help human rights institutions identify and address systemic violations. By engaging directly with ombudspersons and other human rights institutions, civil society organisations can help ensure that the experiences of affected communities are heard and acted upon. So, I definitely would encourage CSO to engage with national human rights mechanisms’. (Michal Zalesak, from the European Roma Rights Centre)

RESOURCES

■ National Human Rights Institutions

- Special Rapporteur on the Right to Education (2013). [Justiciability of the right to education](#).
- United Nations General Assembly (1993). [Principles relating to the Status of National Institutions](#) (The Paris Principles).
- Office of the UN High Commissioner for Human Rights (2010). [National Human Rights Institutions: History, Principles, Roles and Responsibilities](#).
- Centre for Economic and Social Rights (n.d.) [National Human Rights Institutions as Monitors of Economic, Social and Cultural Rights](#).
- Danish Institute for Human Rights & Center for Economic and Social Rights (2016). [Realising rights through the sustainable development goals: The role of national human rights institutions](#)
- Global Alliance of National Human Rights Institutions (GANHRI): <https://ganhri.org/>
- Hungary Ombudsperson: [Office of the Commissioner for Fundamental Rights](#).

■ School Segregation in Hungary

- European Roma Rights Centre (2025). [End of segregation of Roma in Kindergartens in Kalocsa, Hungary, After community legal action](#).
- European Roma Rights Centre (2025). [End of segregation of Roma in Kindergartens in Kalocsa, Hungary, After community legal action](#).
- European Roma Rights Centre (2026). [ERRC takes legal action for Romani refugee children who are denied education](#).
- Rosa Parks Foundation. [Győzelem Kalocsán: megszűnt az óvodai szegregáció](#).

CASE STUDY 2



STRATEGY

Litigation
Petition for human rights protection

ISSUE

Refusal to enrol children with disabilities
in privately-run mainstream schools
in Buenos Aires, Argentina

1. CONTEXT AND ISSUE

In Argentina¹⁴, in the Autonomous City of Buenos Aires (CABA from its Spanish acronym), privately-run mainstream schools systematically refused to enrol or renew the enrolment of children and young people on the grounds of disability using various arguments. In response to enquiries from families or during admission interviews, they claimed, for example, that they had no further places available, that they had already filled their ‘quota’ of people with disabilities, that they were not prepared for inclusion, that the presence of support staff would have affected the school’s ‘standard’, that the child would not be able to meet the institution’s requirements, that it was not a suitable school for them, that the educational programme did not meet their needs, that they reserved the right of admission, or, quite simply, that the school ‘does not practise inclusion’. The families’ testimonies reflect endless and frustrating searches for available places in schools. In fact, some visited more than 30 schools before finding one that would accept their children.

This often led to pupils dropping out of school, or to them being enrolled in special schools or – in some specific cases – in mainstream schools located a long way from their homes. On the other hand, pupils who managed to enrol at a private mainstream school in the City of Buenos Aires (CABA) were not guaranteed to remain there, as they faced further rejection when applying to move up to the next year group or level.

These practices subjected pupils and their families to a degrading and stigmatising process and – by forcing them to change schools repeatedly – hindered the development of strong and lasting bonds with the school and the rest of the pupil body.

Refusals to enrol pupils on the grounds of disability were tolerated and endorsed by the City Government, in particular by the Directorate-General for Private Education (DGEGP from its Spanish acronym), which failed to monitor and sanction such conduct, which was prohibited under local, national and international regulations. Although complaints had been lodged with the aforementioned body, it did not intervene to remedy these instances of discrimination. Some families suspected that the Directorate was complicit in schools’ decisions not to enrol their children, and even certain testimonies suggested that it encouraged families to enrol them in special schools. In addition, there were no effective and independent complaints mechanisms enabling people with disabilities and their families to defend their rights when they faced refusal of enrolment on the grounds of disability, nor was there a public register of sanctions as required by local legislation. Nor was any adequate information being released on the right of people with disabilities to be admitted to mainstream schools through the channels laid down by the law. There was no public policy guaranteeing an inclusive education system, demonstrating the government’s lack of interest in the issue.

¹⁴ This case story was developed with info provided by [ACIJ](#), including their own summaries of the case.

Faced with an authority that neither monitored nor imposed sanctions, private schools enjoyed a wide margin of discretion, and systematically discriminating against students with disabilities came at no cost to them.

The issue in a snapshot

Systemic practice of refusing to children and young people with disabilities their enrolment into privately-run mainstream schools

- In the Autonomous City of Buenos Aires, children and young people with disabilities faced significant barriers to accessing mainstream private schools, which generally led to their enrolment in a special school as the only way to prevent them from dropping out.
- There were no effective and independent complaints mechanisms enabling people with disabilities and their families to defend their rights when they faced refusal of enrolment on the grounds of disability.
- The City Government of Buenos Aires neither provided nor disseminated adequate information on the rights of people with disabilities to be admitted to mainstream schools.
- There were no adequate public policies to guarantee an inclusive education system.

2. APPLICABLE HUMAN RIGHTS FRAMEWORK

International law

The [Convention on the Rights of Persons with Disabilities](#) (CRPD), ratified by Argentina in 2008 and having constitutional status since 2014¹⁵, recognises the right to inclusive education in Article 24. This provision sets out the obligation of States Parties to guarantee inclusive education systems at all levels, to provide the support that each individual requires to learn and participate on an equal footing, and to ensure that persons with disabilities are not excluded from mainstream schools, also known as ‘ordinary’ schools. In line with this, the Committee on the Rights of Persons with Disabilities, the body responsible for interpreting the content of the Convention and monitoring compliance with it, has made it clear, in its [General Comment No.4](#), that Article 24 is not compatible with the maintenance of two separate education systems: one mainstream and one segregated or ‘special’; therefore, States have a duty to transfer resources from one to the other.

¹⁵ In 2008, Argentina ratified the CRPD, thereby incorporating it into domestic law with *supra-legal* status (it takes precedence over ordinary laws, but remains subordinate to the Constitution). In 2014, the Congress voted expressly to elevate it to the same level as the Constitution.



Article 24 of the Convention on the Rights of Persons with Disabilities

1. States Parties recognise the right of persons with disabilities to education. With a view to realising this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning (...)

2. In realizing this right, States Parties shall ensure that:

(a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;

(b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;

(c) Reasonable accommodation of the individual's requirements is provided;

(d) Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;

(e) Effective individualised support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.

(...)

Committee on the Rights of Persons with Disabilities (2016). [General Comment No. 4 on the right to inclusive education](#)

Paragraph 40. (...) Progressive realisation means that States Parties have a specific and continuing obligation to move as expeditiously and effectively as possible towards the full realisation of article 24. This is not compatible with sustaining two systems of education: a mainstream education system and a special/segregated education system. (...) States parties are encouraged to redefine budgetary allocations for education, including by transferring part of their budgets to the development of inclusive education. (...)

National and local law

At national level, the right to education is enshrined in the [Argentine Constitution](#). Article 14 states that 'all inhabitants of the Nation enjoy the [right] of teaching and learning.' In addition, Article 16 states that they are all 'equal before the law'. Moreover, according to Article 75 paragraph 23, the Congress is empowered 'to legislate and promote positive measures guaranteeing true equal opportunities and treatment, the full benefit and exercise of the rights recognised by this Constitution and by the international treaties on human rights in force, particularly referring to (...) disabled persons.'

[Resolution 311/16](#) of the Federal Council of Education (mandatory throughout the country), adopted in 2016, recognises the right of children and young people with disabilities to attend mainstream schools at all levels and on an equal footing with the rest of the school population. The legislation expressly states that the refusal to enrol or re-enrol on the grounds of disability, whether directly or indirectly, must be regarded as an act of discrimination.

At local level, Article 23 of the [Constitution of the Autonomous City of Buenos Aires](#), concerning the right to education, stipulates that the City must ensure equal opportunities and prospects for access to, retention within, reintegration into and completion of the education system, and must respect the right of parents or guardians to choose the educational pathway in accordance with their circumstances and preferences. With regard to people with disabilities, Article 24 states that the City must guarantee the right of people with ‘special needs’ to receive an education and to undertake teaching roles, promoting their integration at all levels and in all forms of the system.

In 2008, [Law 2.681](#) was enacted, stipulating that privately-run educational institutions that are part of the state education system may not, at any level, refuse to enrol or re-enrol a pupil without just cause or on discriminatory grounds, such as exclusion on the basis of disability.

• The 4 As Framework •

CESCR, General Comment 13, para. 6

Education in all its forms and at all levels shall exhibit the following interrelated and essential features:



Analysis of the case through the 4As Framework

The UN Committee on the Rights of Persons with Disabilities, in its General Comment No. 4 on the right to inclusive education stresses that ‘persons with disabilities must have access to inclusive, quality and free primary and secondary education’, specifying that ‘to fulfil that obligation, the education system must comprise four interrelated features: availability, accessibility, acceptability and adaptability’ (para. 20):

- **Availability:** States parties must guarantee a broad availability of educational places for learners with disabilities at all levels throughout the community, both in public and private schools. (para. 21)

- **Accessibility:** educational institutions and programmes must be accessible to everyone, without discrimination. The entire education system, including private schools, must be accessible for persons with disabilities, including buildings, information and communications tools, the curriculum, educational materials, teaching methods, assessments and language and support services. (paras. 22-24)
- **Acceptability:** all education-related facilities, goods and services must be designed and implemented taking fully into account and respecting the requirements, cultures, views and languages of persons with disabilities. (para. 25)
- **Adaptability:** teachers and other staff must have a structure for creating adaptable learning environments and developing instruction to meet the diverse needs of all learners. States parties must provide reasonable accommodation to enable individual students to have access to education on an equal basis with others, including specific learning materials and the provision of sufficiently trained and supported teaching staff, school counsellors, psychologists and other relevant health and social service professionals. (paras. 26-38)

None of these obligations was met in this case.

Learn more about the 4As:

- Committee on Economic, Social and Cultural Rights (1999). [General Comment 13](#), paragraph. 6.
- Katharina Tomasevski (2001). [Human rights obligations: making education available, accessible, acceptable and adaptable](#)
- Right to Education Initiative, UNESCO (2019). [The Right to Education Handbook](#), p. 76.

3. ADVOCACY STRATEGIES

ACIJ, the Civil Association for Equality and Justice, has used various strategies to address this issue. They mobilised the media and the situation has been highlighted by various media outlets¹⁶. ACIJ contributed to the content of some articles¹⁷. They also submitted alternative reports to UN Committees, leading to specific recommendations in the concluding observations. The Committees have highlighted the barriers to exercising the right to inclusive education and urged Argentina to implement urgent measures to remove them and guarantee children with disabilities equal access to high-quality inclusive education in mainstream schools¹⁸. And they also contributed to the drafting of a report on the issue published by the Commission for the Full Participation and Inclusion of People with Disabilities (COPIDIS from its Spanish acronym)¹⁹, a state body. In addition to their mobilisation, the issue had also been subject of court

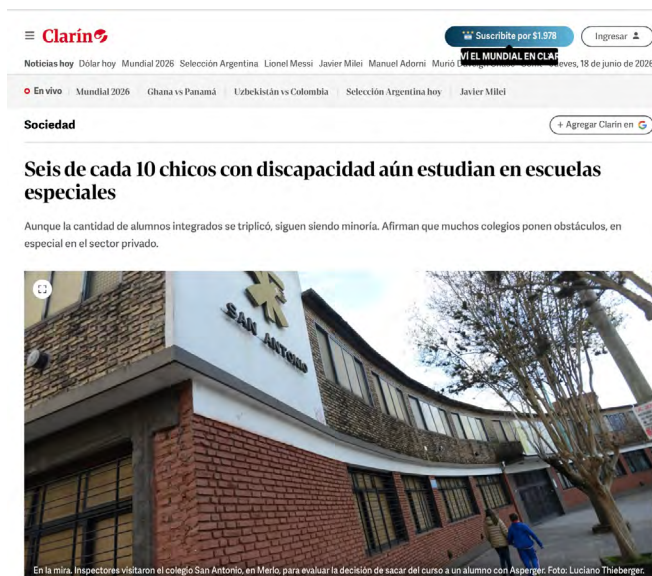
16 See for instance: Página 12, [Una madre denunció que 43 colegios se negaron a recibir a su hijo con autismo](#), 12 September 2019.

17 See for instance: Clarín, [Seis de cada 10 chicos con discapacidad aún estudian en escuelas especiales](#), 5 September 2017, updated 31 July 2018.

18 UN Committee on the Rights of Persons with Disabilities (2017). Concluding observations on the combined second and third periodic reports of Argentina, [CRPD/C/ARG/CO/2-3](#), paras. 45-46; UN Committee on the Rights of the Child (2018). Concluding observations on the combined fifth and sixth periodic reports of Argentina, [CRC/C/ARG/CO/5-6](#), para. 29(c)(d)(e)(f)(g) and UN Committee on Economic, Social and Cultural Rights (2018). Concluding observations on the fourth periodic report of Argentina, [E/C.12/ARG/CO/4](#), paras. 61 and 62(b).

19 See for instance the document '[Educación Inclusiva y de calidad: un derecho de todos](#)', produced by COPIDIS and *el Grupo Artículo 24 por la Educación Inclusiva* (page 24 et seq.) (in Spanish).

rulings²⁰ and had been addressed by academic research²¹ as well as by another state body: the National Institute against Discrimination, Xenophobia and Racism (INADI from its Spanish acronym)²².



Despite all these strategies, the situation remained an issue and in 2019, [ACIJ](#), with the advice of the Legal Clinic of the Human Rights Centre at the University of Buenos Aires (UBA), filled a petition for human rights protection (*Recurso de amparo*) against the Ministry of Education of the Autonomous City of Buenos Aires, requesting that it take the necessary measures to prevent enrolment refusals on the grounds of disability at mainstream private schools located within that jurisdiction.

[ACIJ](#) is a non-partisan, non-profit organisation dedicated to defending the rights of society's most disadvantaged groups and strengthening democracy in Argentina. Founded in 2002, ACIJ aims to uphold the effective application of the National Constitution and the principles of the rule of law, to promote compliance with laws protecting vulnerable groups and the eradication of all discriminatory practices, as well as to contribute to the development of participatory and deliberative democratic practices.

20 See for instance: the judgement of Civil Court No. 99 in the case 'Office of the Ombudsman for Minors and Persons Lacking Legal Capacity No.6 and others v. Mallinckrodt School, Sisters of Christian Charity, Daughters of the Blessed Virgin Mary, regarding an application for interim relief' (Case No. 35476/2016) dated 6 April 2017.

21 See Moschetti, Mauro C., *Unfair competition: exploring state-funded low-fee private schools' logics of action in Buenos Aires*, in Steiner-Khamsi, Gita & Draxler, Alexandra (eds.), *The State, Business and Education: Public-Private Partnerships Revisited*, Edward Elgar Publishing Limited, United Kingdom, 2018.

22 For instance, in a 2018 report, INADI stated that, of the total number of complaints received between 1 January and 19 June of that year, the largest proportion related to discrimination on the grounds of disability (24.14 per cent) and, of that total, the largest number of complaints concerned discrimination in the field of education (17.2 per cent).



***Recurso de amparo*: Petition for human rights protection**

'*Recurso de amparo*' is an expedited legal remedy that anyone can use to ask a judge to immediately halt an action that infringes their fundamental rights, such as the right to education, when ordinary legal remedies are unavailable or insufficient to provide timely protection.

In Argentina, the *Recurso de amparo* is enshrined in Article 43 of the Argentine Constitution, and is also governed by Law 16.986.



Article 43 of the Argentine Constitution

Any person shall file a prompt and summary proceeding regarding constitutional guarantees, provided there is no other legal remedy, against any act or omission of the public authorities or individuals which currently or imminently may damage, limit, modify or threaten rights and guarantees recognized by this Constitution, treaties or laws, with open arbitrariness or illegality. In such cases, the judge may declare that the act or omission is based on an unconstitutional rule.

This summary proceeding against any form of discrimination and about rights protecting the environment, competition, users and consumers, as well as about rights of general public interest, shall be filed by the damaged party, the ombudsman and the associations which foster such ends registered according to a law determining their requirements and organization forms.

How does it work?

1. **The case is brought before a judge** — the person (or their solicitor) explains which right has been infringed and by whom, and asks the judge to take action.
2. **The judge makes a swift assessment** — the judge may request further information or issue an immediate interim order to prevent harm whilst the case is being resolved.
3. **The other party responds** — the defendant has a short period of time to explain their position.
4. **The judge makes a decision** — within days or weeks, the judge either grants or rejects the requested protection. If granted, the other party must comply.

What did ACIJ ask for?

They requested that:

- The practice of denying school enrolment to children and adolescents on the grounds of their disability, as carried out by privately-run mainstream schools, be declared illegal and unconstitutional, and that these schools be required to accept all children who wish to enrol, regardless of their disability;
- It be declared that the City Government's failure to monitor and sanction the aforementioned practice is unlawful and unconstitutional, as it violates the right to education and to equality of children with disabilities;

- The City Government be ordered to adopt, design and implement a public policy to ensure the cessation of the discriminatory practice in question. Such a policy must include, as a minimum, the following measures: i) the establishment of a formalised protocol or system for enrolment in private schools that prevents discrimination on the grounds of disability; ii) the adoption of awareness-raising and outreach measures to inform families about the right of children with disabilities to attend mainstream schools of their choice, about the obligation of private schools not to discriminate on the grounds of disability, and about the complaint mechanisms available; iii) the determination and identification of the bodies responsible for receiving and resolving complaints, ensuring that there are decentralised offices in the municipalities; iv) the creation of an accessible complaint procedure with the Ministry of Education for cases of discriminatory refusal of enrolment, with time limits, sanctions and mechanisms for enforcing such sanctions; v) the establishment of mechanisms to enable people with disabilities and their families to submit written accounts of their experiences at the schools where they face refusals of enrolment; vi) the provision of regular information on the number of students with disabilities attending each of the privately-run mainstream schools in the City of Buenos Aires (CABA) and on the number of complaints received regarding instances of discrimination in schools; and vii) any other measures necessary to fulfil the purpose of the claim.

Furthermore, as part of the petition for constitutional protection, a request was made for an urgent interim order to be issued, directing the City Government to:

- Establish and publicise accessible channels for reporting complaints, including an online complaints procedure – available from the start of the 2020 enrolment period – which triggers the opening of an administrative file with the General Directorate of Private Education;
- To implement awareness-raising measures on its website and in private schools regarding the right of students with disabilities to attend mainstream schools and the discriminatory nature of refusing enrolment on the grounds of disability.

The interim injunction was sought to prevent children with disabilities from being excluded from school or being segregated into special schools whilst the courts consider the case.

■ What were ACIJ's arguments?

- The violation of the right to inclusive education
- The violation of the right to equality and non-discrimination
- The need to take into account the best interests of children
- The failure by the State to monitor and sanction private providers of educational services
- The violation of a range of human rights linked to the right to education (such as the right

to an adequate standard of living, the right to independent living and inclusion in the community, the right to the progressive development of autonomy and the right to work)

ADVOCACY STRATEGIES



4. OUTCOMES AND IMPACTS

In 2020, as a result of the petition for constitutional protection, the Court ruled in favour of the requested interim measure, ordering the City Government to implement an accessible, transparent and effective complaint mechanism that expressly takes into account the economic, educational and technological barriers faced by citizens, as well as measures for the widespread and specific dissemination of the right to inclusive education and the prohibition on refusing to enrol pupils on the grounds of disability, including the publication of this information in a prominent section of the websites and noticeboards of the Ministry of Education, in the Directorate-General for Private Education, and in privately-run schools.

In 2022, the Court handed down the judgement, granted the application and ordered the government to implement a public policy to remedy this situation (the judgement is available in Spanish [here](#)).

As part of this process, and following various rounds of negotiation, an agreement was reached between the claimants and the Ministry of Education of the Autonomous City of Buenos Aires, which was approved by the court and is therefore binding. In it, the Government undertook to:

- Support people with disabilities and their families during the enrolment process in private educational institutions.
- Guide schools to ensure that the enrolment process is carried out in a manner that respects the right to inclusive education.
- Provide specific, accessible and effective channels for reporting refusals of enrolment and re-enrolment.

- Implement a protocol to manage such complaints and impose sanctions for discriminatory practices.
- To raise awareness of the right to inclusive education and the mechanisms for ensuring compliance.
- To produce and publish information enabling the monitoring of the effectiveness of the measures implemented to guarantee the admission and continued attendance of people with disabilities in schools.

Several of these measures have been formalised through [Provision No. 45-GCBA-DGEGP/24](#), approved by the General Directorate of Private Education in 2024.

This policy represents a crucial step towards ensuring that children and young people with disabilities can attend the same schools as everyone else – a right that had not previously been guaranteed to them.

It also sets a highly useful precedent for public authorities and schools across the country, which can use it as a model for transforming their own education systems and school cultures.

 *‘The impact is also in the details of the agreement. We had already signed one [agreement] in 2011 about access to ECCE for children with disabilities and this one was one page, leaving to the government an important room for interpretation. The agreement signed in 2024 is 50 pages, detailing all the obligations of the Government and providing enrolment templates’* Francisco Rodríguez, ACIJ, Coordinator of the Children’s Social Rights Programme and lawyer (UBA)

 *‘Because the agreement was developed on the basis of a court decision, even if there is a political change, the agreement will remain’* Agostina Quiroz, lawyer (UBA)

The challenge now is the application of the agreement. It is partially met.

5. TIPS AND LESSONS LEARNED

■ Collaboration

In this case, initially there was already a community of families which mobilised to find solutions to the many issues their children were facing due to their disabilities. In parallel, the Legal Clinic of the Human Rights Centre at the University of Buenos Aires, led by students, observed there was a huge gap between the legal framework protecting the right to education of children with disabilities, and their reality. Both collaborated to address the issue. Their story shows how joint efforts, as well as crossed information and competencies can facilitate the litigation process and lead to successful impact.

Focus

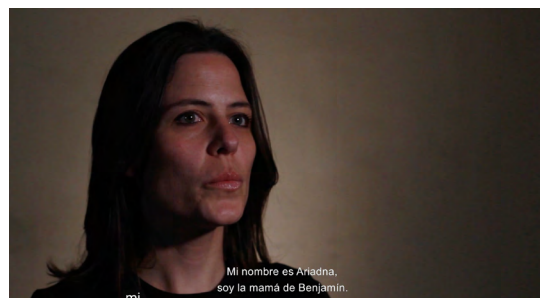
They identified that there were many issues regarding the right to education of children with disabilities, including refusal to enrol, lack of specific support and trained teachers, and lack of adequate materials and infrastructures. They decided to focus on the enrolment issue based on the answers they received from a consultation across the whole country (see below). The case addressed only one dimension of the issue, so there are still pending issues to be solved.

Collection of testimonies

The community of families, in collaboration with ACIJ, organised a national consultation about the education of children with disabilities. People shared their stories about the daily suffering of their children due to the many barriers they faced to access education. Their testimonies were used in the *‘recurso de amparo’* to show that the right to education of these children was not realised in practice through concrete examples.



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▶ Listen to mothers' testimonies (in Spanish) [here](#) and [here](#).

💬 *‘To move forward, we should return to the community and get testimonies on other issues. They add a lot of weight to our arguments.’* Francisco Rodríguez, ACIJ, Coordinator of the Children's Social Rights Programme and lawyer (UBA)

The use of international law

The reference to the Convention on the Rights of Persons with Disabilities and its interpretation was fundamental to build their arguments. They also refer to the report of the UN Special Rapporteur on the right to education and to the [Abidjan Principles on States' human rights obligations to provide public education and regulate private involvement in education](#)²³.

Negotiation with the government

The judge of the case instigated the parties to negotiate an agreement. After one year of negotiation, they reached an agreement that is very well detailed (see above). ACIJ put pressure

²³ They referred to the Guiding Principles 13, 14, 17.d, 21.e, 25, 48, 51, 55.d, 73.a, 80, 81, 82, 84, 88, 89 and 91.

on the Government to get the agreement approved and since then has been pushing for its implementation.

 *‘In our case, the litigation process and the court decision were a way to be heard by the Government’* Agostina Quiroz, lawyer (UBA)

■ Remaining challenges

Implementing the agreement is the main challenge. On the one hand, private schools are reluctant to implement it – particularly for-profit schools – due to the challenges posed by the inclusion of pupils with disabilities, which they do not seem willing to address, thereby operating on a logic of exclusion and segregation. Furthermore, the Ministry of Education lacks the will to enforce the agreement. On the other hand, as the situation has improved and the problem is more or less resolved, families are focusing their campaigning on other issues that remain unresolved. For its part, although the Ministry of Education has made progress, full compliance with the agreement has yet to be achieved; in some cases, this amounts to complete inaction, such as in the provision of information on the educational pathways of students with disabilities.

Enabling factors	Challenges
• The use of various strategies before going to court • The collaboration between families and CSO, and lawyers • The constitutional status of international human rights law	• Time. This case took 8 years: 3 of preparation and 5 of litigation leading to the agreement

RESOURCES

■ About the case

- ACIJ (2024). [A partir de una causa judicial iniciada por ACIJ, el Gobierno porteño se comprometió a evitar y sancionar la exclusión escolar de las personas con discapacidad](#) (in Spanish)
- ACIJ (2024). [Ir a la escuela es un derecho](#) (in Spanish)
- ACIJ (2019). [Exigí educación inclusiva #1](#) (video in Spanish)
- ACIJ (2019). [Exigí educación inclusiva #2](#) (video in Spanish)

■ About the right to education of persons with disabilities

- Right to Education Initiative. [Issue page on the right to education of persons with disabilities](#)
- Right to Education Initiative, UNESCO (2019). [Right to Education Handbook](#), p. 90
- Committee on the Rights of Persons with Disabilities (2016). [General Comment No. 4 on the right to inclusive education](#)

■ About judicial accountability at national level

- Right to Education Initiative (2017). [Accountability from a human rights perspective: The incorporation and enforcement of the right to education in the domestic legal order](#)
- Right to Education Initiative, UNESCO (2019). [Right to Education Handbook](#), p. 240
- Right to Education Initiative. [Issue page on justiciability](#)

CASE STUDY 3



STRATEGY

Reporting to the UN Committee on Economic, Social and Cultural Rights (CESCR)

ISSUE

School segregation in Québec, Canada

1. CONTEXT AND ISSUE

The issue in a snapshot

A *de facto* segregated education system

- Stratification of the system: coexistence of three streams of education institutions: ‘regular public’, ‘selective public,’ ‘subsidised private’
- Equity concerns: concentration of students from socio-economic disadvantaged backgrounds and lower academic performance in ‘regular public’ schools with lower learning standards

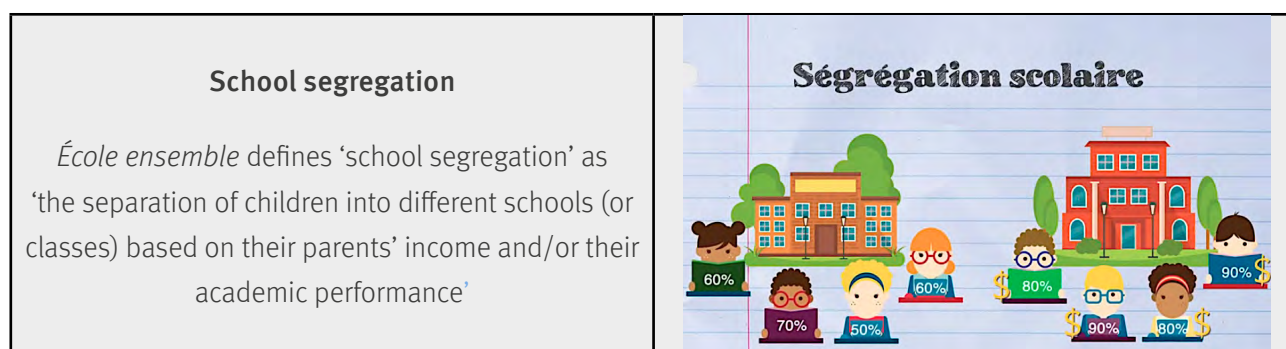
In Canada, provincial jurisdictions are responsible for regulations and provision of education. **This case study focuses on the province of Québec, where the education system is characterized by three competing streams of education institutions** - ‘regular’ public schools, ‘selective’ public schools, and private schools receiving public funding (‘subsidised private’) - resulting in a hierarchical system structured along lines of academic performance and socio-economic status. **This stratification of the education system creates a *de facto* segregation of students**, in line with the hierarchised learning environment, deepening existing inequalities and disproportionately affecting learners with underlying intersectional characteristics such as children with disabilities and migrants. Children from lower income families and those with learning difficulties are overrepresented in the regular public education system, while those coming from more advantaged socio-economic backgrounds and obtaining higher grades are concentrated in selective public institutions and subsidised private schools, considered of higher standards.

The origins of Québec’s *de facto* school segregation can be traced back to 1968, when the National Assembly adopted the Private Education Act enabling the government to provide public funding to private schools. Private Education institutions receiving public funding started offering a selective and exclusive learning environment, progressively attracting higher-performing and socio-economic advantaged students away from the public education system. Over time, the enrolment rates in private subsidised education secondary institutions grew from 5% in 1970 to over 21% in 2020, attaining 20% in 2026²⁴. In order to stay ‘competitive’, the public system developed specific selective programs (international track, sports-study track, etc.) where students admission is conditioned by entrance exams, application fees, tuition or additional costs, interviews with parents and/or students, prior academic performance, and expectations of parental involvement. Students who are not admitted to neither subsidised private schools nor selective public programs are concentrated in ‘regular’ public schools, where learners from disadvantaged socio-economic backgrounds and those facing

²⁴ The lower enrolment rates in private subsidised in 2026 reflects the growing immigrant population that attend mostly ‘regular public’ education institutions.

learning difficulties are overrepresented. This composition of the ‘regular’ public institutions’ student body, increasingly skimmed of its more advantaged students, reinforces the appeal of private schools and selective programs. The result is a self-perpetuating cycle that deepens stratification and increases inequalities.

The impact of this de facto segregated education system was [documented](#) by the Conseil Supérieur de l’Éducation in 2016²⁵. It was later documented by the civil society organisation *École ensemble* in a report published in September 2019 entitled ‘*L’injuste système d’éducation québécois*’ (The unjust Quebec education system). This report provides a comparative analysis of PISA equity indicators across Canadian provinces demonstrating that Québec ranks last on all four OECD equity measures. The report’s findings identify a particularly strong correlation between students’ socio-economic background and their academic performance. These results suggest that the Québec education system plays a significant role in perpetuating and reproducing social inequalities. Moreover, *École ensemble* demonstrated that public funding plays a substantial role in this dynamic: a student enrolled in a subsidised private school receives approximately 75% of the funding allocated to a comparable student in the public system (including both direct subsidies and indirect support through tax incentives).



2. APPLICABLE HUMAN RIGHTS FRAMEWORK

International law

Canada has ratified several international treaties guaranteeing the right to education. The one used for reference in this case is the [International Covenant on Economic, Social and Cultural Rights](#) (ICESCR), ratified by Canada in 1976. Article 13 of the ICESCR is the most comprehensive provision on the right to education. It recognises the universal right to education without discrimination of any kind and sets forward a framework to achieve the full realisation of this right, determining: free compulsory primary education, generally available and accessible secondary education by the progressive introduction of free education, equal access to higher

²⁵ The *Conseil Supérieur de l’Éducation* was created in 1964 to provide analysis and recommendations on the state and needs of education in Quebec through research, expert consultation, engagement with education stakeholders, and democratic deliberation among its members. The *Conseil Supérieur de l’Éducation* worked on all matters related to all levels of education. In April 2026, it became the *Conseil de l’Enseignement Supérieur* focusing exclusively on higher education.

education on the basis of capacity. This article also establishes the liberty of parents to choose the kind of education they want to give to their children and the liberty of private actors to establish and direct educational institutions, in conformity with minimum standards laid down by the State's law.



The Abidjan Principles

In this case, references are also made to the [Abidjan Principles on the human rights obligations of States to provide public education and to regulate private involvement in education](#). These guidelines were adopted in 2019 by eminent experts in education, international law and human rights. They are non-binding, but they compile and unpack existing legal obligations of States regarding the delivery of education, and in particular the role and limitations of private actors in the provision of education. They provide more details about what international human rights law means by drawing from other sources of law and existing authoritative interpretations. They are a reference point for governments, educators and education providers when debating the respective roles and duties of States and private actors in education.

▶ For more information, see GI-ESCR video: [The Abidjan Principles: Protecting the right to education together](#)

💬 *'The Abidjan Principles are very easy to read and understand. They 'translate' complex legal jargon from international conventions into very accessible language. I really encourage other civil society organisations to use it in their advocacy strategies, including in reporting to the UN'. Stéphane Vigneault, Coordinator, École ensemble.*

National law

Québec is the only Canadian province to have enshrined economic and social rights in a fundamental law, the [Charter of Human Rights and Freedoms](#), which takes precedence over all other laws.²⁶ Article 40 of the Charter ensures free public instruction, according to the law, while article 10 ensures the right to equality and non-discrimination. Articles 41 and 42 ensure parents' freedom of choice regarding their children's education, including freedom to enroll in private institutions as long as those comply with the provincial regulations and requirements.

²⁶ Alternative report submitted by the 'École ensemble' Movement to the 66th session of the Committee on Economic, Social and Cultural Rights. Pre-session working group, March 2020. Violation of the right to education in Quebec in the context of school segregation. List of issues to be addressed before the submission of Canada's report.



Québec Charter of Human Rights and Freedoms

Article 40. ‘Every person is entitled, to the extent and according to the standards provided by law, to free public instruction’.

Article 10. ‘Everyone has the right to full and equal recognition and exercise of his human rights freedoms, without distinction, exclusion or preference based on race, colour, sex, gender identity or expression, pregnancy, sexual orientation, marital status, age except as provided by law, religion, political convictions, language, ethnic or national origin, social condition, disability or the use of any means to palliate such disability. Discrimination occurs when such a distinction, exclusion or preference has the effect of nullifying or impairing that right’.

The [Québec Education Act](#) (*Loi sur instruction publique*, RLRQ, c. I-13.3) provides that every Québec resident aged 5 to 18 (or 21 in the case of a person with a disability as defined by law) has a right to free educational services from preschool to secondary (Article 1 & 3, Section 1). **A law approved in 2019 modified article 3 of the Education Act creating exceptions to gratuity of education.** New article 3 provides that the right to free education does not extend to services delivered within the framework of special pedagogical programs or to school activities determined by regulation. The adopted regulation ‘*Règlement sur la contribution financière exigée*’ allows public education institutions to charge financial contributions, particularly in the context of enriched or special programs (*projets pédagogiques particuliers*) such as International Education or Sports-Study and Arts-Study programs.

The 4 As Framework

CESCR, General Comment 13, para. 6

Education in all its forms and at all levels shall exhibit the following interrelated and essential features:

AVAILABILITY

There is sufficient school with adequate infrastructure, materials and trained teachers with competitive salaries

ACCESSIBILITY

Educational institutions and programmes are accessible (economically and physically) to all without discrimination and positive steps are taken to include the most marginalised

ACCEPTABILITY

The form and substance of education are relevant, culturally appropriate and of good quality; they conform to the aims of education and to minimum educational standards approved by the State.

ADAPTABILITY

Education is flexible to adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings.

Analysis of the case through the 4As Framework

The Québec education system formally satisfies the requirement of availability, as schooling is widely provided and publicly funded. However, significant concerns arise in relation to accessibility, acceptability, and adaptability. Economic barriers and selective admission processes undermine equal access, particularly for students from disadvantaged backgrounds or with learning difficulties. At the same time, the stratification of the system contributes to disparities in educational quality, affecting acceptability, while the concentration of students with greater needs in regular public schools reflects a failure to adequately adapt the system to diverse learners.

Learn more about the 4As:

- Committee on Economic, Social and Cultural Rights (1999). [General Comment 13](#), paragraph. 6.
- Katharina Tomasevski (2001). [Human rights obligations: making education available, accessible, acceptable and adaptable](#)
- Right to Education Initiative, UNESCO (2019). [The Right to Education Handbook](#), p. 76.

3. ADVOCACY STRATEGIES

[École ensemble](#) was founded in 2017 by a network of parents in Québec, Canada. The organisation aims to foster reflection and collective mobilization around inequalities in the education system. Its mission is for Québec to have an equitable education system by eliminating the school segregation caused by subsidized private and selective public-school networks.

École ensemble adopted several strategies to raise awareness about school segregation in Québec and hold the State accountable. They published a report about the issue, conducted regular surveys, engaged with the media, liaised with teachers' unions and academics, engaged in policy dialogue with elected officials and political parties across the political spectrum and connected different people and organisations that support the end of the segregated system in the province of Québec to amplify their message.

In addition, as Canada was going to be reviewed by the UN Committee on Economic, Social and Cultural Rights in 2020, they decided to **submit an alternative report (also called shadow report) to the Committee to highlight** the school segregation caused by the three-tier education system in the Québec province. The organisation had never engaged with the UN system until they heard about the possibility of submitting an alternative report to the CESCR through the [Public Education and Human Rights Coalition](#) (PEHRC), to which they are an active member. Their report analysed the inequalities in light of States' obligations based on the ICESCR and on the Guiding Principles on the human rights obligations of States to provide public education and to regulate private involvement in education (the Abidjan Principles).

They build their arguments from the States' obligations (referring mainly to the Abidjan Principles), confronting them with reality. See hereafter extracts from their [alternative report](#) to the CESCR, illustrating how they proceeded.

Extracts from *École ensemble* alternative report to the CESCR

Reference to the State' obligations:

'Articles of the Abidjan Principles and their application to the reality in Québec:

States obligation: Abidjan Principles, Guiding Principle 29: 'States must respect, protect, and fulfil the right to free, quality, public education.'

Description of the issue on the ground related to the State's obligations:

13. 'Quebec created a second, so-called selective, unofficial public system in the 1990s. This system imposes fees of all kinds on parents, making access almost as expensive as in the subsidised private network. Annual costs vary widely and frequently reach \$4,000 (€2,750) per year.'

14. The Quebec government passed Bill 12 in 2019, which retroactively legalises tuition fees in selective public schools, despite the formal warning of the Commission on peoples' and youth rights (Commission des droits de la personne et des droits de la jeunesse) saying that legalising tuition fees violates two sections of the Quebec Charter of Human Rights and Freedoms (sections 40 [right to free public education] and 10 [prohibition of discrimination based on social condition]).'

They did the same for several other specific obligations, referring to the Abidjan Principles 48(c), 65(a)(b)(c) (e)(f), 66(c) and 73(c).

At the end of the report, they suggested to the CESCR questions to be asked to the State in the list of issues of the Committee:

Extracts from *École ensemble* alternative report to the CESCR

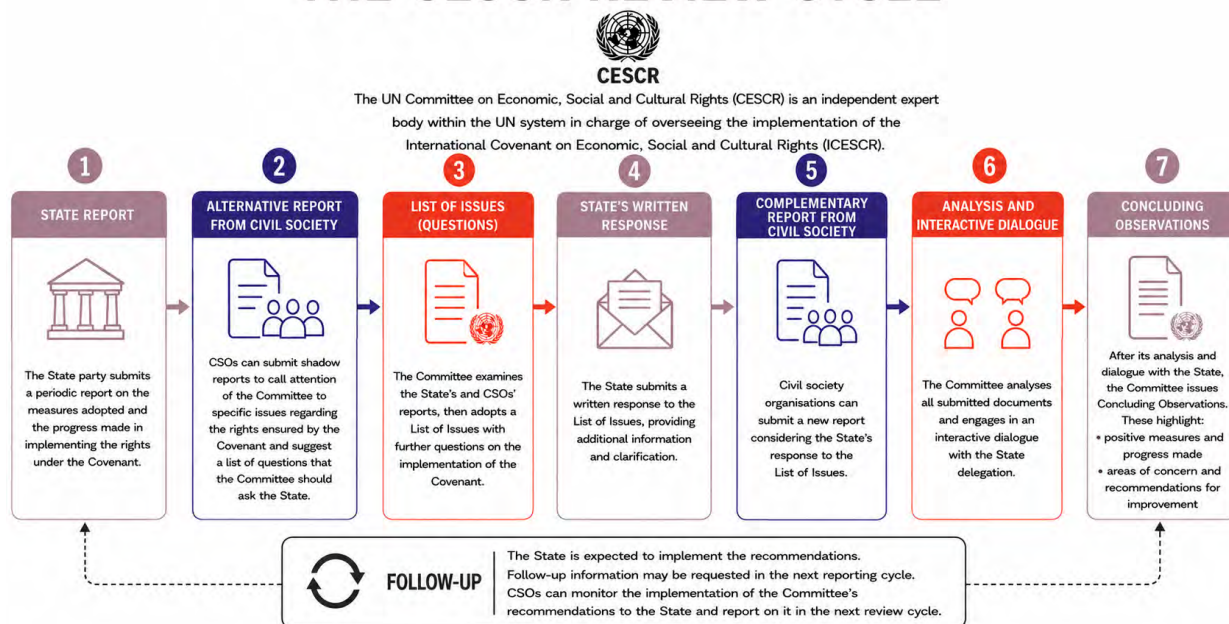
'4.2-Suggestions for questions to the Quebec government

- What does the government intend to do to ensure that Quebec brings its education funding into line with its obligations in terms of the right to education, in particular by ensuring that any potential funding to non-state actors meets the substantive, procedural and operational requirements set out in the Abidjan Principles?
- What measures does the Government of Quebec intend to take to address the challenge of school segregation in Quebec and to ensure the enjoyment of equality and non-discrimination rights, in particular with regard to students, and to review section 1 of Bill 12, which allows public schools to charge fees for enrolment?
- What does the government intend to do to ensure that Quebec adopts a policy of transparency in the area of school data, particularly with regard to the funding of public schools, the socio-economic characteristics of private school pupils, and the real extent of the selective public education system?

The ‘[List of Issues](#)’²⁷ published by the Committee in April 2020, partly included the suggestions made by *École ensemble*. The Committee asked Canada to provide information on:

‘Measures taken to ensure that students have equal access to education under the three-tier school system in Québec, regardless of the economic status of their parents, and measures taken to improve the quality of education in ordinary public schools’.

THE CESCR REVIEW CYCLE



Reporting to the UN Committee on Economic, Social and Cultural Rights (CESCR)

The UN Committee on Economic, Social and Cultural Rights is an independent expert body within the UN system in charge of overseeing the implementation of the International Covenant on Economic, Social and Cultural Rights. It periodically reviews States' compliance with the Covenant based on an interactive dialogue with the States and on information received by other UN agencies as well as by NGOs.

The review process starts with the submission of a report by the State being reviewed, after which civil society organisations can submit alternative/shadow reports to call attention of the Committee to specific issues regarding the rights ensured by the Convention and suggest a list of questions that the Committee should ask the State. Based on the State and CSOs alternative reports, the Committee submits to the State a list of issues with further questions on the implementation of the Convention. After analysing the State's written response to the list of issues, as well complementary alternative reports submitted by CSOs, the Committee

²⁷ See explanations in the box below on 'reporting to the UN Committee on Economic, Social and Cultural Rights (CESCR)'. The implementation of the PIDESC by Canada is reviewed under a simplified procedure.

holds an interactive dialogue with the State and issues concluding observations based on a thorough analysis of all the documents submitted to its concern. These concluding observations highlight both the positive ways in which the State has implemented the treaty and the areas of concern – with some recommendations. Note that the CESCR has also established, on a pilot basis, a simplified reporting procedure for a number of States parties selected on the basis of a set of criteria. Under the [simplified procedure](#), the State Party's reply to the list of issues prior to reporting (LOIPR) constitutes its report to the Committee.

▶ Click to learn more about the [UN Treaty Bodies and the CESCR](#)

In the CESCR review process the State has a designated time to report back to the Committee on the questions highlighted on the 'List of Issues'. In its report submitted in December 2024 Canada did not respond to the question that was addressed by the Committee (on the list of issues) regarding the three-tier school system in Québec. *École ensemble* will submit another alternative report prior to the interactive session between Canada and the Committee, flagging that Canada did not respond, and sharing additional information regarding this issue. It is likely that the Committee will ask this question again during the interactive session with Canada's representatives.

The review is still ongoing by the time of this publication, but the impact of *École ensemble* report can already be felt at national level²⁸.

ADVOCACY STRATEGIES



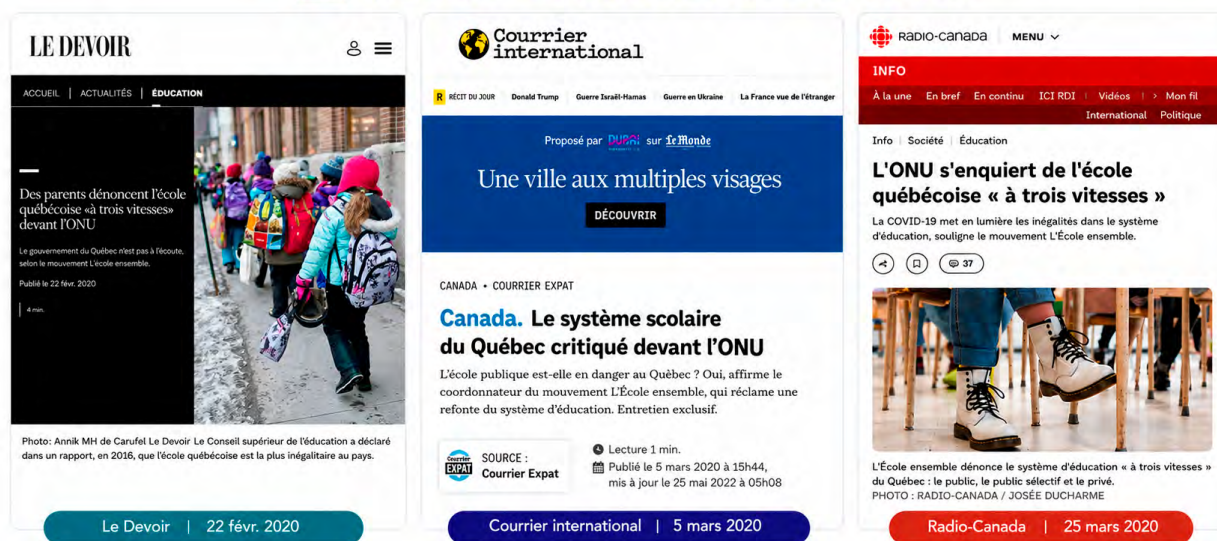
4. OUTCOMES AND IMPACTS

²⁸ Next steps in the review process are the 'Interactive dialogue' with the State - when the committee still has the possibility to ask questions regarding the school segregation in Québec; and the 'adoption and publication of the committee's concluding observations and recommendations'. Once recommendations by the Committee have been made, *École ensemble* will be able to monitor their implementation at national level.

‘It was our first time using the treaty bodies mechanisms and we do not have any particular human rights expertise. But we worked with the [Public Education and Human Rights Coalition \(PEHRC\)](#) to build our case on the Abidjan Principles and we managed to get the Committee to ask Canada questions about Québec’s school segregation policy. We are still waiting for the answer, but getting this question from an international human rights body was a huge win for our organisation’. Stéphane Vigneault, Coordinator, *École ensemble*

École ensemble’s engagement with the CESCR got extensive **media coverage**, first at the moment of the submission of the report and then following the publication of the List of Issues. The [Journal of the Canadian Centre for Alternative Policies](#) published an article titled ‘[The UN to hold Québec accountable for its segregated school system](#)’, authored by *École ensemble*’s Coordinator, Stéphane Vigneault. Moreover, following the submission of the report to the UN CESCR, the case was highlighted in the [UNESCO GEM Report](#) focusing on the issue of non-state actors in education (2021/2022). The organisation was also invited to present the case in different events, including engaging in peer learning workshops to share their experience with other organisations.

MEDIA COVERAGE OF THE ISSUE



These media articles highlight the national attention generated by the submission to the UN Committee on Economic, Social and Cultural Rights (CESCR).

In 2022, *École ensemble* drafted a policy proposal intitled ‘[Plan for a common school system](#)’ (*Plan pour un réseau scolaire commun*). It promotes a single, unified school system for Québec and the dismantling of its three-tier education system. This initiative was widely shared with education stakeholders (unions, academics, etc.) as well as state representatives and political parties. It was later translated into a draft bill ([Bill No. 895, ‘An Act to establish a common school system to ensure equal opportunities’](#)) and introduced to the National Assembly by the

leader of the opposition political party. While the bill is unlikely to be taken up by the current government and proceed to parliamentary review right away, its introduction represents a significant milestone and highlights the impact of CSO initiatives in setting the political agenda. Political figures from different political parties have called for cross-party debate, contributing to growing momentum around the reform. Public support has also increased, with a [2025 poll](#) indicating that 85% of Quebecers back the proposal. *École ensemble* continues to [advocate](#) for a fair and just education system where no one is left behind. The organisation has stepped up pressure ahead of the upcoming elections. The project ‘*École ensemble sur la route*’ (*École ensemble* on the road’) tour of Québec brings the discussion to different communities: it gathers experts and citizens in a discussion about the education system in Québec and raises awareness of the school segregation ahead of the next electoral process in 2026. Moreover, an [open letter](#) signed by 60 artists and cultural professionals in Québec, is calling for a change in the segregated system.

 *‘Using the Abidjan Principles, we managed to get the Committee to ask Québec questions about its school segregation policy. We are still waiting for the answer, but getting this question from an international body was a huge win. We have used it in our meetings with the government about the three-tier system and it added weight to our arguments.’* Stéphane Vigneault, Coordinator, *École ensemble*

5. TIPS AND LESSONS LEARNED

This case demonstrates that grounding advocacy strategies in human rights law and mechanisms can significantly enhance their impact. By providing a clear legal framework, rights-based advocacy strengthens the legitimacy of claims and contributes to raising public awareness. At the same time the case study shows that engagement with international human rights mechanisms can generate additional political pressure at the national level, encouraging political figures to engage in meaningful education reforms. Most importantly, this case study shows that combining different advocacy strategies (research, media and political engagement, reporting to human rights mechanisms) is essential to increase visibility and pressure at both national and international levels.

Enabling factors	Challenges
• Gathering relevant data on the issue of concern and issuing a report • Being part of PEHRC Coalition (it's a member of the coalition that flagged to <i>École ensemble</i> the possibility to report to the CESCR) • Using the Abidjan Principles to link research findings and the State's obligation to respect, protect and fulfill the right to education (the APs are very easy to understand, even for non-legal experts) • Deploying multiple advocacy strategies in parallel of the submission of an alternative report to the CESCR • Keeping the momentum on the media and rallying different stakeholders to the cause	• It's not easy to understand and navigate the UN reporting system, including looking for information on their website • Lack of Québec government official disaggregated data allowing to compare the three types of schools in the system according to different socio-economical and human rights indicators



Practical tip: ‘Don’t be afraid by the legal dimension. It is still useful to submit a report raising your concerns about a situation even if you have not been able to make a comprehensive legal analysis.’ (Stéphane Vigneault, Coordinator of *École ensemble*)

RESOURCES

■ Reporting to UN human rights mechanisms

- Right to Education Initiative, UNESCO (2019). [Right to Education Handbook](#), p. 213
- How to Child Right Series (2021). [How to Advance Children’s Rights using recommendations from United Nations and Regional Human Rights Monitoring and Review Processes](#)
- COMRADES (2024). [Soumettre un rapport au Comité des Droits Économiques, Sociaux et culturels: Une stratégie à investir](#) (in French)

■ Canada Review Process

- Mouvement L’école ensemble (2020). [Submission by the Mouvement L’école ensemble to the 66th session of the Committee on Economic, Social and Cultural Rights](#) (alternative report) (in French)
- UN Committee on Economic, Social and Cultural Rights (2020). [List of Issues prior to submission of the seventh periodic report of Canada](#), Doc. UN E/C.12/CAN/QPR/7

- Canada (2024). [Seventh periodic report submitted by Canada under articles 16 and 17 of the Covenant, due in 2021](#), Doc. UN E/C.12/CAN/7

■ Media Coverage (in French):

- Le Devoir (2020). [Des parents dénoncent l'école québécoise «à trois vitesses» devant l'ONU](#), 22 February 2020 (in French)
- Courrier International (2020). [Canada. Le système scolaire du Québec critiqué devant l'ONU](#), 5 March 2020 (in French)
- Radio Canada (2020). [L'ONU s'enquiert de l'école québécoise «à trois vitesses»](#), 25 March 2020 (in French)
- Stéphane Vigneault (2020). Canadian Centre for Alternative Policies, [The UN to hold Québec accountable for its segregated school system](#), 6 July 2020

ADDITIONAL INFORMATION

■ Privatisation

- UNESCO, Global Education Monitoring Report Team (2022). [2021/2 Global Education Monitoring Report Summary, Non-state actors in education: Who chooses? Who loses?](#)
- Right to Education Initiative. [Privatisation of Education](#)
- Public Education and Human Rights Coalition (PEHRC)
- Abidjan Principles on the Right to Education

■ Segregation

- Ramos Lobato (2021). [School segregation in urban contexts: Socio-spatial dynamics and educational inequalities](#), Urbaria summaries series 2020/4, pp. 1-10.
- Centrale des syndicats du Québec (2025). [La CSQ lance ses orientations pour une nouvelle plateforme en éducation](#) (in French)
- FAE, [Réparons l'école publique](#) (in French)

CASE STUDY 4



STRATEGY

Reporting to the UN Committee on Economic, Social and Cultural Rights (CESCR)

ISSUE

Inequalities in higher education in France

1. CONTEXT AND ISSUE

Despite major advances in higher education enrolment rates - [which globally have almost doubled over 20 years](#) - and strong legal protection ensuring the right to higher education, inequalities still persist, with many students excluded from reaching this level of education.

Following this global trend, student enrolment in the French higher education system has increased significantly over the past ten years, but social and territorial inequalities persist and intersect, hindering the right to equal access to quality higher education for all. Furthermore, the vertical stratification of the system, combined with increasing privatisation of higher education, deepens inequalities and creates barriers in access for the most marginalised. The State's budget allocation strengthens those inequalities, since it has not followed the increase in students' enrolment, affecting the quality of the public education system and reinforcing the vertical stratification and the privatisation of the sector.

While higher education institutions are generally available across France, some regions offer a variety of paths, programmes, fields of study and institutions, whilst others have a limited offer. For example, there is a significant concentration of public institutions in Paris, and high quality and specialised institutions are mostly located around large city hubs (e.g. Paris, Lyon, Lille). This disparity in higher education offerings across regions makes it more difficult for students who live far away from main urban centres to access higher education institutions, due to the long distances from their original place of residence. This further generates mobility and housing and transportation costs, increasing the indirect costs of higher education that becomes unaffordable, especially for students from low- and middle-income families.

This [geographical polarisation](#) of the higher education system intersects with its **vertical stratification**. The system is based on two differentiated types of institutions: Universities and '*Grand Écoles*'. The latter are prestigious, highly specialised public or private institutions, with very selective admission procedures and high tuition fees. While public universities usually have affordable tuition, studying in public or private '*Grand Écoles*' implies bearing tuition costs that are much too high for students from low- or middle-income households. The system thus reflects and reproduces differential social positioning, with disadvantaged students enrolling in institutions of lower quality and/or prestige.

Those dynamics are exacerbated by the **financial disengagement of the State**. The increase in enrolment rates (+10.2% between 2013 and 2019) [has not been compensated](#) by an increase in total expenditure (+1.2% for the same period). As a result, public expenditure per student has declined, representing a threat to quality education for all. Moreover, the higher education budget is [disproportionately distributed](#) among certain fields of studies and types of higher education institutions: prestigious higher education institutions or those leading to socially recognised diplomas - which most often welcome students from privileged socio-economic backgrounds - tend to receive more State funding, creating a pervasive system that

reinforces inequalities. [This unequal distribution of budget allocation](#) affects quality of education and student's achievement: disparities in budget allocation are correlated to hours invested in teaching, research and student's supervision as well as on student/professor ratios. [The privatisation and commodification](#) of higher education exacerbate those trends.

The issue in a snapshot

A higher education system that perpetuates and deepens existing inequalities

System-induced inequalities

- Geographical polarisation: Unequal distribution of public/private universities throughout the country with a concentration of quality and specialised institutions in urban areas
- Vertical stratification: different social value attributed to diplomas from selective and prestigious higher education institution with high tuition fees (*Grandes Écoles*)

Socio-economic and territorial inequalities

- Overrepresentation of high-income family students in enrolment rates, especially in the most prestigious and selective higher education institutions and in the private sector
- Student mobility is correlated with higher education offering across the country and induces indirect costs (e.g. housing and transportation) increasing the overall budget of higher education for students – especially because the cost of living in city hubs where higher education institutions are concentrated is much higher than in other parts of France's territory
- The place of origin/residence of students has an impact on the conditions leading to access to higher education

Unequal public financing

- In 2010 the share of state investment in higher education was 71.4%, but it has declined progressively to 66.3% in 2019
- Prestigious higher education institutions or those leading to socially recognised diplomas, and which most often welcome students from privileged socio-economic backgrounds, tend to receive more State funding
- Public investment has benefited those who are enrolled in the longest and most expensive programmes, who are often the most socio-economically and culturally advantaged students

Privatization and commodification of education

- The share of private companies and family participation in higher education has risen
- The commodification of higher education and increased competition between establishments also affect state funding

2. APPLICABLE HUMAN RIGHTS FRAMEWORK

International law

The [International Covenant on Economic, Social and Cultural Rights](#) (ICESCR), ratified by France in 1980, provides that higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education (art. 13.2.c). According to the interpretation made by the Committee on Economic, Social and Cultural Rights (CESCR) in its [General comment 13](#), this means that states have an immediate obligation to ensure that higher education institutions are available and accessible to all students who are capable of pursuing higher education, without any discrimination. States are required to provide students with adequate facilities and a sufficient number of trained teachers in order to support the delivery of higher education, which must be affordable as well as physically accessible.

Physical accessibility means that higher education must be within physical reach for all students, either by attending classes in a reasonably close area or using new technologies²⁹. Affordability means that education must be financially accessible to all³⁰, and that States are required to use the maximum of their available resources to ‘advance as quickly and efficiently as possible’ towards the full implementation of free higher education³¹. This implies that any ‘deliberately regressive measures’ in higher education, such as budget cuts, would require the most careful consideration: the States must demonstrate that such regressive measures are fully justified, by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources³².

Non-discrimination is also guaranteed in article 2.2 of the ICESCR, which ensures that the right to education (including higher education) must be exercised ‘without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status’, including place of residence and socio-economic conditions.

National law

[France’s constitution](#) goes beyond international law, establishing that ‘the provision of free, public and secular education at all levels is a duty of the state,’ and that ‘the Nation guarantees equal access for children and adults to instruction,[and] vocational training’ ([para. 13 of the](#)

²⁹ CESCR, General Comment 13, para. 6 (b) (ii).

³⁰ CESCR, General Comment 13, para. 6 (b) (iii).

³¹ CESCR, General Comment 13, para. 44.

³² CESCR, General Comment 13, para. 45.

[Preamble of the Constitution of 1946](#)³³). A decision of the Constitutional Council from 2019³⁴ stated that the tuition fees set by public higher education institutions must take into account the financial resources of students. In addition, the [Education Code](#) establishes that higher education should contribute to the fight against discrimination, to the reduction of social and economic inequalities, and to a more inclusive society³⁵. To this end, it determines that higher education seeks to promote the inclusion of all individuals without distinction of origin, social background, and health condition³⁶. Higher education is also legislated in a myriad of French laws that regulate all post-secondary education and establish France's public policies with regards to higher education.

The 4 As Framework

CESCR, General Comment 13, para. 6

Education in all its forms and at all levels shall exhibit the following interrelated and essential features:

AVAILABILITY

There is sufficient school with adequate infrastructure, materials and trained teachers with competitive salaries

ACCESSIBILITY

Educational institutions and programmes are accessible (economically and physically) to all without discrimination and positive steps are taken to include the most marginalised

ACCEPTABILITY

The form and substance of education are relevant, culturally appropriate and of good quality; they conform to the aims of education and to minimum educational standards approved by the State.

ADAPTABILITY

Education is flexible to adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings.



33 As part of the French constitutional block, the Preamble to the Constitution of 1946 has the same normative status as the (current) Constitution of 1958, which refers to it in paragraph 1 of its own Preamble. See French Constitutional Council, 16 July 1971, Décision n° 71-44 DC.

34 See Right to Education Initiative (2021), [Decision on higher education tuition fees in public universities \(Constitutional Court, France, 2019\)](#).

35 French Education Code, Article L-123-2, para 3.

36 French Education Code, Article L-123-2, para 3 bis.

Analysis of the case through the 4As Framework

Geographical polarisation of higher education institutions within France affects the availability and accessibility of higher education within the French territory. The social value attributed to certain programs and higher education institutions, as well as the direct and indirect costs of higher education, including mobility induced costs - such as housing and transportation - intersect with existing socio-economic and territorial inequalities affecting economic accessibility. The State financial disengagement and the unequal distribution of public financing across different higher education programs and institutions, including private ones, also hinder economic accessibility. Furthermore, the effects of budget allocation have an impact on the quality of higher education across institutions, affecting the acceptability criteria.

Learn more about the 4As:

- Committee on Economic, Social and Cultural Rights (1999). [General Comment 13](#), paragraph. 6.
- Katharina Tomasevski (2001). [Human rights obligations: making education available, accessible, acceptable and adaptable](#)
- Right to Education Initiative, UNESCO (2019). [The Right to Education Handbook](#), p. 76.

3. ADVOCACY STRATEGIES

Right To Education Initiative (RTE) developed a wide range of actions to raise awareness about inequalities in higher education in France and seek state accountability: research and legal analysis, networking and collaborating with different stakeholders, and engaging in policy dialogue at national and international level - including reporting to the UN Committee on Economic, Social and Cultural Rights (CESCR).

■ Collaborative research and legal analysis

The collection of data, marshalling of arguments and presentation of findings is the bedrock on which meaningful human rights advocacy sits. In recognition of this, RTE collaborated with a number of partners to strengthen its research and advocacy around the right to higher education in France.

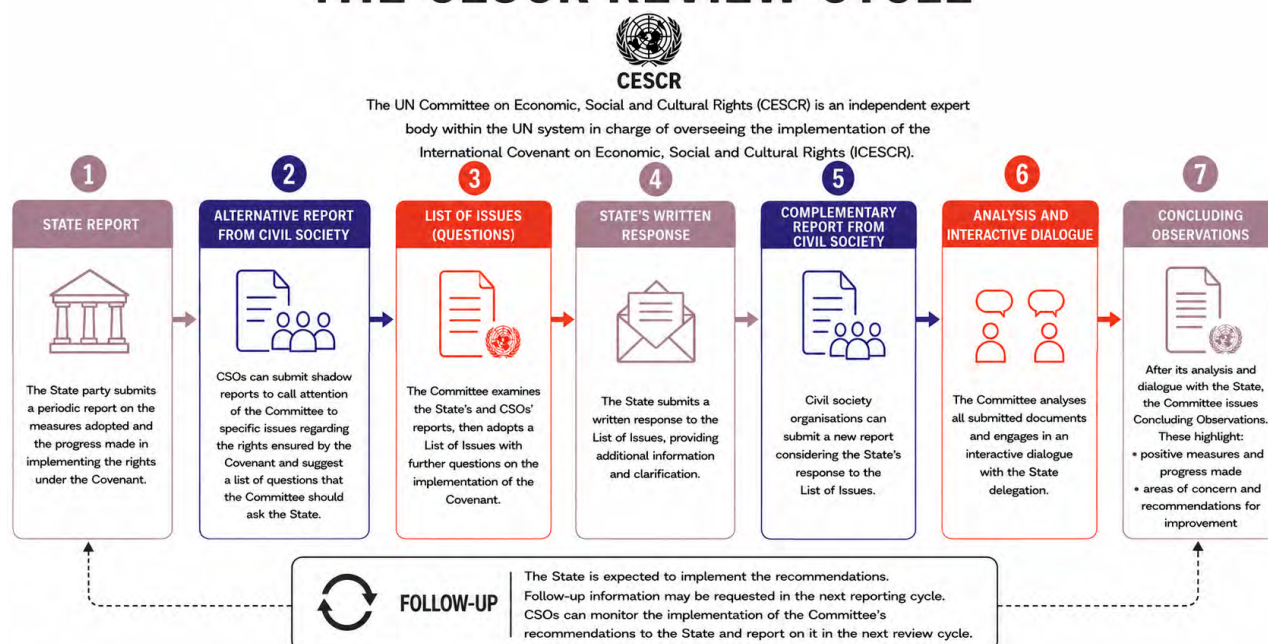
RTE supported students from [Sciences Po Law School Clinic](#) in Paris to conduct research focusing on [territorial inequalities](#) and access to French higher education (2018-2022). This initial research was refined and deepened by subsequent student cohorts, resulting in the publication of a [policy brief](#). Subsequently, RTE collaborated with education and economic researchers, who helped advance the [financial](#) and [privatisation](#) dimensions of the analysis of the French higher education system, enriching the initial research findings with their perspectives and areas of academic expertise. This breadth of the project was reinforced by a deep analysis

of the international framework, exploring states' obligations, international legal and policy frameworks and gaps in implementation.

Reporting to the UN Committee on Economic, Social and Cultural Rights (CESCR)

The above-mentioned research has formed the basis for the joint submission of an [alternative report](#) to the CESCR during the Committee's 5th review cycle of France's compliance with the International Covenant on Economic, Social and Cultural Rights (see hereafter for information on the review process).

THE CESCR REVIEW CYCLE



Reporting to the UN Committee on Economic, Social and Cultural Rights (CESCR)

The UN Committee on Economic, Social and Cultural Rights is an independent expert body within the UN system in charge of overseeing the implementation of the International Covenant on Economic, Social and Cultural Rights. It periodically reviews States' compliance with the Covenant based on an interactive dialogue with the States and on information received by other UN agencies as well as by NGOs.

The review process starts with the submission of a report by the State being reviewed, after which civil society organisations can submit alternative/shadow reports to call attention of the Committee to specific issues regarding the rights ensured by the Convention and suggest a list of questions that the Committee should ask the State. Based on the State and CSOs alternative reports, the Committee submits to the State a list of issues with further questions on the implementation of the Convention. After analysing the State's written

response to the list of issues, as well complementary alternative reports submitted by CSOs, the Committee holds an interactive dialogue with the State and issues concluding observations based on a thorough analysis of all the documents submitted to its concern. These concluding observations highlight both the positive ways in which the State has implemented the treaty and the areas of concern – with some recommendations. Note that the CESCR has also established, on a pilot basis, a simplified reporting procedure for a number of States parties selected on the basis of a set of criteria. Under the [simplified procedure](#), the State Party's reply to the list of issues prior to reporting (LOIPR) constitutes its report to the Committee.

▶ Click to learn more about the [UN Treaty Bodies and the CESCR](#)

In 2023, RTE submitted a [report](#) to the CESCR together with students' unions: the *Fédération des Associations Générales Étudiantes* (FAGE), a French one, and the [Global Student Forum](#) (GSF), a global one. The report **drew from the previous review cycle and from the research** developed by RTE, Sciences Po students, and academic researchers. **It called the Committee's attention to its previous [concluding observations](#) (2016) that urged France to take steps to rectify the impact of social and economic inequalities on education.** In the [list of issues prior to the 2021 reporting](#), the CESCR asked France to 'describe the impact of the measures taken to reduce the influence of a person's social origins on his or her educational achievement' and 'describe the difficulties encountered in combating discrimination in access to education (...)' (question 26). In response to those questions, France presented its [report](#) describing the public policies put in place to address inequalities in higher education (para. 184-186). In light of this information, **RTE's alternative report highlighted that those policies were insufficient to tackle growing inequalities, and needed to be reinforced and expanded, demonstrating that structural, territorial, and socio-economic inequalities as well as the state's higher education financing policy were affecting equality and non-discrimination in access to higher education while at the same time increasing the trend in privatisation.**

The alternative report submitted by the civil society organizations was evidence and rights based: it included data collected through the above mentioned collaborative research and **linked it to the provisions of the ICESCR and General comment 13 as well as the national legislation protecting the right to higher education**, demonstrating that France was not fully complying with its legal obligations.

Summary of the arguments advanced in the CSOs' alternative report to the CESCR

- Geographic concentration of higher education institutions in city hubs and the stratification of the higher education system intersect, reproducing inequalities. Inequalities in access to higher education according to socio-economic background and according to the place of origin/residence of students constitute discrimination as defined by the ICESCR.

- The privatisation and commodification of the French higher education system have pervasive consequences in access to and quality of education, leading to increased inequalities, which is contrary to article 13 of the ICESCR (para. 30 of General Comment 13 of the CESCR, [Abidjan Principles](#), Guiding Principle 48).
- The rise in higher education tuition fees as well as indirect costs (housing, transportation, books, etc.) weigh heavily on students' budgets and represent an additional barrier in access to higher education, especially for the most socio-economically disadvantaged students.
- Global state funding to higher education has increased over the years but it has not followed the rise in enrolment rates: the share of public funding of higher education per student has been in constant decline for six consecutive years, which constitutes a regressive measure contrary to the ICESCR because it is unjustified.
- The unequal distribution of state funding across establishments, tracks and fields of study increases socioeconomic and territorial inequalities. Public investment has benefited those who are enrolled in the longest and most expensive programmes, who are often the most socio-economically and culturally advantaged students.
- Financial aid does not compensate for socio-economic disparities amongst aspiring and enrolled higher education students, thus contributing to the reproduction of social inequalities.

The [Fédération des Associations Générales Étudiantes](#) (FAGE) is a French association whose aim is to improve the living and studying conditions of young people. With a network of more than 60 federations in different regions and fields, it is the leading organisation representing students in France. FAGE's aim is to guarantee equal opportunities for success in the education system. It carries out activities in the field of representing and defending rights and is also involved in social innovation.

The [Global Student Forum](#) (GSF) is the global umbrella organisation of the world's major representative, independent and democratic student unions of school and university students. They represent and advocate for the educational, cultural, economic, and social interests of over 300 million learners worldwide in the decision making spaces of the international community. With a democratic governance structure and the many member organisations, they seek to balance the enormous diversity of perspectives and advocate faithfully for the collective global student voice.

The submission was given significant attention by the CESCR, which **drew on its arguments to make recommendations to France regarding territorial and socio-economic inequalities as well as financing higher education**. In its [concluding observations](#) the Committee highlighted how the stratified French higher education system and the budgetary decline are affecting students: the recommendations made in paragraphs 56 and 57 of the concluding observations (copied hereafter) reflect RTE's language and positions, specifically those put forward in the alternative report jointly submitted by RTE and other CSOs.

Extrait of the CESCR Concluding observations

Higher education

56. The Committee is concerned about the difficulties in gaining access to higher education that are faced by students from disadvantaged socioeconomic backgrounds and those from regions where higher education opportunities are limited. It is concerned about the steady decline in the per-pupil budget allocated by the State, which runs contrary to the obligation to progressively achieve the full realization of the rights recognised in the Covenant (arts. 13 and 14).

57. The Committee recommends that the State party deploy the necessary means to make higher education equally accessible to all, taking into account the needs of students from disadvantaged socioeconomic backgrounds and regions where higher education opportunities are limited. It also recommends that the budget allocation for higher education be reviewed, with a view to the progressive introduction of free higher education.

Delphine Dorsi, RTE's director, has spoken about the significance of the CESCR Concluding observations:

 *'This is a major step forward for the realisation of the right to higher education in France, and a huge success for RTE and other organisations who have campaigned for the realisation of the right to higher education. We are delighted to see CESCR's recommendations, which are relevant not just within the territory of France, but in other contexts in which inequalities stratify and limit access to and participation in higher education.'*

Maëlle Nizan, former Chair of civil society organisation La FAGE, mentioned that:

 *'These recommendations represent real hope for access to French higher education. We congratulate this success, which is the result of a strong commitment on the part of the authors and signatory organisations who submitted the report to the CESCR. For several years now, the FAGE has been denouncing the underfunding of our public higher education system, which seriously affects study conditions and undermines students' success. The government's failure to take ambitious action to eradicate inequalities in access to education is extremely worrying and the CESCR has recognised this.'*

The cohort of higher education students with whom RTE was working with at the time of the review had the chance to [participate in the CESCR's in person session in Geneva](#). **Engaging right-holders in the research and review process is a powerful way of ensuring that their voices are heard and taken into account in the review process.**

ADVOCACY STRATEGIES



Monitoring the implementation of the UN Treaty Body's recommendations

States are periodically reviewed by UN Treaty Bodies. Each review cycle addresses States' compliance with the human rights treaties that they have ratified. At the end of each review cycle, the Treaty Bodies issue concluding observations and make recommendations to the State being reviewed. Between two review cycles, civil society organisations have the opportunity to monitor the implementation of those recommendations.

The research on inequalities in higher education started as a monitoring initiative to follow-up on the recommendations that the CESCR addressed to France in 2016, at the end of the 4th review cycle of France's compliance with the International Convention on Economic, Social and Cultural Rights. It demonstrated that France did not fully comply with the CESCR's recommendations. The submission of an alternative report by RTE, la FAGE and the GSF in 2023, during France's 5th review cycle, was a unique occasion to remind the Committee of its previous recommendations and take stock of its implementation.

Mobilisation of a wide range of stakeholders and advocacy on multiple fronts

Besides collaborating with students and academics for research and advocacy and mobilising French and global civil society organisations for the joint submission of the alternative report, RTE engaged in discussions with a wide range of stakeholders, both at national and international arena.

In March 2020, students engaged in the research disseminated their findings in an international [conference](#) in France, [presenting](#) the main takeaways from the study to a global academic audience. Subsequently, RTE co-organised several **round table sessions to raise awareness to the issue** of inequalities in the French higher education system. The [first roundtable](#) (2021) focused on the issue of territorial inequalities and gathered students, researchers, union representatives and civil society organisations. The [second roundtable](#) (2022) brought together French MPs, students and researchers to discuss inequalities in access to higher education.

In 2023, a [third round](#) gathered student activists from around the world to discuss the importance of sharing knowledge, best practices and advocacy strategies for action on higher education.

Furthermore, RTE participated in the [2022 UNESCO World Higher Education Conference \(WHEC\)](#), leading a [multilingual side session](#) with academics from Swiss, Senegalese and Brazilian universities to share their perspectives on private actors in education; [authoring a paper](#) about inequalities in higher education, and participating in a [UNESCO roundtable](#) on new approaches to higher education. RTE also supported the development of a [student-led video](#) for the 2022 UNESCO WHEC³⁷.

4. OUTCOMES AND IMPACTS

The above-mentioned activities led to concrete outcomes, from empowering right-holders and raising visibility to the issue at national and international levels, to ensuring parliamentary discussions in France take into account inequalities in higher education when analysing the state budget.

One important impact of the CESCER reporting was to get the Committee to draw specific concluding remarks on higher education and to make concrete recommendations to France asking the State to take into account the needs of disadvantaged socio-economic background and the geographical stratification of the higher education system to ensure equality in access to higher education, as well as to review the ‘budget allocation for higher education, with a view to the progressive introduction of free higher education’. This is relevant not only to France, but also to other countries, because **it provides an authoritative interpretation of the Covenant that can be used in other contexts facing the same inequality issues. The issue was indeed highlighted by specialised media outlet Times Higher Education**, underscoring the importance of UN Treaty Bodies review beyond national borders.

The submission of an alternative report to the CESCER and the concluding observations issued by the Committee also had a **significant impact on the political and normative arena in France**. RTE’s director Delphine Dorsi was officially auditioned by the French National Assembly’s Committee on Cultural Affairs and Education, for the preparation of a report to the French National Assembly for a budgetary opinion on THE ‘[Higher Education and Student Life](#)’ section of the draft Finance Bill for 2024. **The final report issued by the National Assembly’s Com-**

³⁷ The initiative was led by Thibaut Lauwerier, PhD in Educational Science. Lauwerier has collaborated with RTE on multiple fronts. He co-mentored Sciences Po students alongside RTE, co-authored the knowledge paper for the UNESCO World Conference on Higher Education and then participated in the drafting of the alternative report submitted by RTE to the CESCER. He is a former researcher at the University of Geneva, current professor at ESEDE Lausanne, and co-founder of the Francophone Research Network on the Privatisation of Education (ReFPE).

mittee referenced the concluding observations of the United Nations (section III A) and included a thematic section on the growth of private higher education (section III B and III C), reflecting several elements of the RTE’s collaborative research.

In 2024, building on the alternative report and on the CESCR’s recommendations, a group of 85 PMs from different political parties proposed a **legislative bill related to access to higher education, including provisions related to free access**. Article 9 of the [Proposed Bill n° 2488](#) specified that ‘Access to any programme delivered by a public higher education institution and leading to a higher education degree shall be free of charge and may not be subject to tuition or registration fees’³⁸. Article 11 stated that the State must distribute the total amount of its funding among institutions in a way that ensures that expenditure per student is broadly comparable across higher education institutions³⁹. The bill has not been tabled for parliamentary vote due to the dissolution of the French National Assembly in 2024, but **the debate around inequalities in access in higher education in France is gaining momentum**, with an [important mobilisation](#) in 2026 against a government decision to impose the implementation of tiered fees for foreigner students.

 *‘For five years, we have drawn attention to this overlooked issue, conducting research and analysis, monitoring, and mobilising a broad spectrum of actors to engage in order to advance the realisation of the right to education. Our work on higher education is a powerful example of how research and advocacy conducted at national and international level can lead to tangible changes at multiple levels: Our mobilisation has contributed to drawing international attention to the right to higher education, including how inequalities affect the most marginalised, with recognition from CESCR and its subsequent recommendations to France. Our work also drew attention nationally, resulting in a proposed law in addressing the issue of higher education financing in France’.* Delphine Dorsi, Right to Education Initiative Executive Director

5. TIPS AND LESSONS LEARNED

This case demonstrates that by anchoring advocacy in a clear legal framework, using strong evidence gathered through rigorous research in collaboration with academics, and engaging right-holders in the research and reporting process strengthens the legitimacy of accountability claims. The case also illustrates the importance of following up on UN treaty bodies

38 NB: Authors translation: Original text in French: ‘Après l’article L. 611-12 du code de l’éducation, il est inséré un article L. 611-13 ainsi rédigé: ‘Art. L. 611-13. – L’accès à toute formation délivrée par un établissement public d’enseignement supérieur et sanctionnée par un diplôme d’études supérieures est gratuit et ne peut faire l’objet de droits d’inscription’.’

39 NB: Authors translation: Original text in French: ‘Après le premier alinéa de l’article L. 762-5, il est inséré un alinéa ainsi rédigé: ‘L’État répartit le montant global de ses dotations entre les établissements de telle sorte que les dépenses par étudiant tendent à être similaires d’un établissement à l’autre’.’

recommendations between two review cycles. Finally, it highlights that combining multiple advocacy strategies with engagement with international human rights mechanisms can create additional political pressure at the national level, encouraging decision-makers to take action.

Enabling factors	Engaging in powerful collaborations to strengthen evidence based reporting
• RTE's human rights expertise • Monitoring previous recommendations of the CESCR to France, and demonstrating in the alternative report that the measures taken to address the issue were not sufficient to eradicate inequalities • Anchoring CESCR alternative report submission on solid evidence gathered through rigorous research, and linking it with State's obligations under the ICESCR • Collaborating with researchers on the economics and education fields • Engaging right-holders in the research and reporting process (higher education students and student unions) • Liaising with other civil society organisations for a joint submission to the CESCR • Engaging in multiple advocacy strategies both at national and international level	Engaging-right holders in the research process is a powerful way to ensure participation and awareness raising, while at the same time building students' skills in data collection, human rights analysis and reporting. Higher education students from Sciences Po Paris were at the heart of the reporting process: they were the ones conducting initial research under the supervision of RTE's staff and Sciences Po's researchers and they attended the CESCR session where the Committee issued its concluding observations. RTE's collaboration with national and international civil society organisations (Fédération des Associations Générales Étudiantes, La Fage; Global Student Forum) for a joint submission to the CESCR as well as collaborations with economists from the University of Orleans and the University of Paris Saclay also ensured that the report submitted to CESCR included detailed, high-level budget analysis. Those collaborations resulted in a strong, rights- and evidence-based report, ensuring that the Committee had solid up-to-date information to ground its review of the state's compliance with the International Covenant on Economic, Social and Cultural Rights.

RESOURCES

Reporting to UN human rights mechanisms

- Right to Education Initiative, UNESCO (2019). [Right to Education Handbook](#), p. 213
- How to Child Right Series, [How to Advance Children's Rights using UN and Regional Human Rights Monitoring and Review Processes](#)

France review process

- UN Committee on Economic, Social and Cultural Rights (CESCR) (2020). [List of issues prior to submission of the fifth periodic report of France](#), Doc. UN E/C.12/FRA/QPR/5

- France (2021). [Fifth periodic report submitted by France under articles 16 and 17 of the Covenant, due in 2021](#) (State's report), Doc. UN E/C.12/FRA/5
- Right to Education Initiative (RTE), Global Students Forum (GSF) and La FAGE (2023). [Submission to the UN Committee on Economic, Social and Cultural Rights 5th Review of France at the 74th session - The right to higher education in France](#) (Alternative report)
- CESCR (2023). [Concluding observations on the fifth periodic report of France](#), Doc. UN E/C.12/FRA/CO/5

■ Inequalities in French higher education system

- Right to Education Initiative (2020). [“Limited Potential” The Right to Higher Education in France Impact of Place of Origin and of Cost on Inequality](#). This report shows how a student's place of origin within France, that is, the region in which they live prior to the beginning of their higher education studies, coupled with their socio-economic background can mean that the cost of education, which is heavily influenced by the structure of the French higher education system, poses a significant barrier to their enjoyment of the right to higher education.
- Right to Education Initiative (2020). [The impact of place of origin on inequalities in higher education in France](#). This policy brief shows that the unequal distribution of higher education institutions across the country results in students having to move across regions to access higher education, thus incurring costs (mainly housing and transportation), which are harder to meet for those who do decide to move, due to regional differences in standards of living. Coupled with the stagnation of budget allocation to higher education and the general rise in tuition fees, these indirect costs of education constitute a significant barrier to the enjoyment of the right to free higher education on a non-discriminatory basis.
- Right to Education Initiative (2021). [Right to Higher Education - the impact of place of origin and cost of studies in the realisation of the right to higher education in France](#). Online roundtable bringing together students, CSOs, researchers and human rights professionals.
- Right to Education Initiative (2022). [Threatened by inequalities: the right to higher education in France](#). Online roundtable gathering MPs, state representatives, union representatives, CSOs, students and human rights professionals.
- Right to Education Initiative (2022). [Higher Education in France: A right threatened by increasing inequalities?](#). Focusing on the impacts of inequalities based on place of residence, indirect study costs and privatisation in the implementation of the right to Higher Education in France, this paper, a collaboration between RTE, Sciences Po students and University of Geneva academic Thibaut Lauwerer, illustrates the challenges related to the

realisation of the right to higher education.

- Right to Education Initiative (2023). [International students exchange and discuss strategies for action on equality in higher education](#) Online roundtable in partnership with Sciences Po and Global Student Forum
- Right to Education Initiative (2023). [Le Financement de l'Enseignement Supérieur en France: Une synthèse bibliographique des effets des politiques de financement de l'Enseignement Supérieur depuis le début des années 2000](#) (only in French). This document was commissioned by RTE and developed by academics Claire Calvel et Victor Chareyron.

■ The right to higher education

- RTE's Higher education thematic page in [English](#), [French](#), [Spanish](#) and [Arabic](#), detailing information about legal contexts, including higher education [international instruments](#)
- Right to Education Initiative (2023). [Monitoring Access and Participation in Higher Education From a Human Rights Perspective](#): This RTE guide proposes a human rights based approach to monitoring inequalities regarding students' access to and participation in higher education. It is part of a series of thematic guidance notes providing practical advice on monitoring various aspects of the right to education from a human rights perspective.
- Right to Education Initiative (2022). [Rethinking merit: briefing note for UNESCO global thematic expert consultation](#). This short briefing note addresses the concepts of 'merit' and 'capacity' in relation to higher education from a human rights perspective.
- Right to Education Initiative, UNESCO (2022). [Right to Higher Education: Unpacking the international normative framework in light of current trends and challenges](#)
- Right to Education Initiative (2022). [UNESCO World Higher Education Conference Panel on New Approaches to the Right to Higher Education](#)

CASE STUDY 5



STRATEGY

Filing a complaint to the UN Committee on the Rights of the Child

ISSUE

Discrimination against non-nationals in access to education, Spain

1. CONTEXT AND ISSUE

Louiza, L.B., a Moroccan national, was born by chance in Nador, a Moroccan province bordering Melilla – a Spanish semi-enclave situated on the Mediterranean coast of Morocco – whilst her mother was visiting her family; however, they were already living in Melilla and her five siblings were born there. She and her three siblings, who were of school age, applied to enrol in primary school at a state school in Melilla for the 2019/20 academic year. Although the whole family lived in Melilla, they could not be registered on the local council's register as they did not have legal residence in Spain, a requirement imposed by Spanish regulations on cities in North Africa. **Their enrolment was refused on the grounds that their actual residence in Melilla was not considered to be proven. The same happened for the following academic year, 2020/21, even whilst the border was closed due to the COVID pandemic.**

N.S. is also a Moroccan national who lives in Melilla. Although she was born in Melilla and has resided there since birth, she is considered an 'irregular resident'. When N.S. reached the age of compulsory schooling in Spain (6 years-old), **she tried to enrol in primary education but was denied the right to go to school because of her administrative and migration status.**

A.E.A. was also born in the Spanish city of Melilla, from a Moroccan mother. When he was six, his mother also tried to send him to school, but **the authorities did not recognize their residency and regular administrative status and therefore denied his access to schooling** on the grounds that he was a Moroccan national without residence permit, having made no proof that he lives in Melilla.

Both N.S. and A.E.A. were prevented from enrolling and attending primary education on the justification of irregular status due to lack of residence permit.

The issue in a snapshot

Violation of the right to education based on the administrative or residence status

Moroccan children born in Spain (Melilla), or who have lived there during their childhood, were denied the right to education on the allegation that they were not regular residents.

2. APPLICABLE HUMAN RIGHTS FRAMEWORK

Both international and national laws ensure the right to education to all children regardless of their nationality and administrative status.

International law

The [Convention on the Rights of the Child](#) (CRC), ratified by Spain in 1990, ensures that every child has a right to education without discrimination of any kind (art. 2, art. 28). It also states that every administrative or judicial decision must be taken in the best interest of the child (art. 3, Committee on the Rights of the Child, [General Comment 5](#)). Authoritative interpretation of the Convention on the Rights of the Child confirms that the principle of non-discrimination in education extends to all persons of school age residing in the territory of a State Party, including non-nationals, irrespective of their legal status: [General Comment No. 23](#)⁴⁰ of the CRC Committee urges states to ‘expeditiously reform regulations and practices that prevent migrant children, in particular undocumented children, from registering at schools and educational institutions’ (para. 60).



Article 2 of the Convention on the Rights of the Child

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child’s parents, legal guardians, or family members.

National law

The [Constitution of Spain](#) (1978) establishes that ‘everyone has the right to education’ (art. 27). National legislation ensures the right to free and compulsory education for a duration of 10 years, from age six to sixteen (art. 1 of [Organic Law 8/1985 \(LODE\)](#)⁴¹; art. 3 and 4 of the [Organic Law 2/2006](#)⁴²). Spanish law also recognises the right of foreign children living on its soil to access education under the same conditions as Spanish citizens, regardless of their - or their parents’ - administrative status: provisions of the LODE guarantee that ‘foreign nationals residing in Spain shall be entitled to receive the education’ (Article 1. para 3) and [Organic Law No. 4/2000](#)⁴³, which regulates the rights and freedoms of foreign nationals living in Spanish, also ensures the right of migrants to education.

⁴⁰ [Joint General Comment No. 4](#) (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and [No. 23](#) (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration.

⁴¹ Ley Orgánica 8/1985, de 3 de julio, reguladora del Derecho a la Educación.

⁴² Ley Orgánica 2/2006, de 3 de mayo, de Educación (last amended on 29 December 2024).

⁴³ Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social. Unofficial translation from Spanish, produced using AI-assisted translation tools.



Organic Law No. 4/2000

Article 9.1 Right to Education.

Foreign nationals under the age of sixteen have the right and the duty to education, which includes access to basic, free and compulsory schooling. Foreign nationals under the age of eighteen also have the right to post-compulsory education⁴⁴

This right includes the award of the relevant academic qualification and access to the public system of scholarships and grants on the same terms as Spanish nationals. If they reach the age of eighteen during the academic year, they shall retain that right until the end of the academic year.

• The 4 As Framework •

CESCR, General Comment 13, para. 6

Education in all its forms and at all levels shall exhibit the following interrelated and essential features:



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⁴⁴ Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social. Unofficial translation from Spanish, produced using AI-assisted translation tools.

Analysis of the case through the 4As Framework

Education should be non-discriminatory and equally accessible to all. Denying access to education to a foreign national on the grounds of his or her nationality or administrative status constitutes discrimination. It affects the accessibility criteria under the 4As framework, and violates the rights guaranteed by the Convention on the Rights of the Child, which has been ratified by Spain.

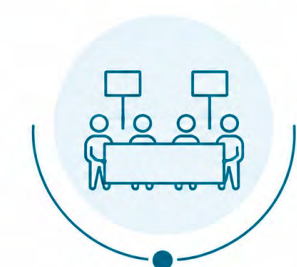
Learn more about the 4As:

- Committee on Economic, Social and Cultural Rights (1999). [General Comment 13](#), paragraph. 6.
- Katharina Tomasevski (2001). [Human rights obligations: making education available, accessible, acceptable and adaptable](#)
- Right to Education Initiative, UNESCO (2019). [The Right to Education Handbook](#), p. 76.

3. ADVOCACY STRATEGIES

The [asociación Pro Derecho de la Infancia](#) (Prodein - Association for Children's Rights) mobilised students and their parents to [campaign](#) in front of the Ministry of Education in Melilla to call attention to their situation and demand their right to education be taken seriously. L.B. and her brothers, N.S. and A.E.A. also filed, amongst others, - separately - administrative and judicial procedures before the Spanish courts. None of them obtained a favourable court decision allowing her to enrol in school. Multiple administrative and judicial procedures extended over two years and were not over by the time they decided to take the matter to international level.

ADVOCACY STRATEGIES



CAMPAIGNING WITH
PEACEFUL DEMONSTRATIONS



LITIGATION BEFORE
NATIONAL COURTS



SUBMISSION OF A COMPLAINT
TO THE CRC



Submitting a complaint to the UN Committee on the Rights of the Child

When a country ratifies an international human rights treaty, it makes a legally binding commitment to respect and protect the rights set out in that treaty. Some human rights treaties offer individuals a way to bring their concerns directly to an international committee of independent experts - this is called a complaint mechanism, or communications procedure.

In the case of the Convention on the Rights of the Child, this possibility was introduced through its [Third Optional Protocol on a Communications Procedure](#), which countries must separately sign and ratify. The Optional Protocol allows a child - or a group of children - who has suffered a violation of their rights under the Convention to submit a complaint directly to the [Committee on the Rights of the Child](#). The complaint must be submitted by the child victim and/or his or her representatives. Civil society organisations can also submit complaints on behalf of individuals, provided they have obtained their written consent.

Before examining the substance of a complaint, the Committee checks whether it meets a set of admissibility criteria:

- The complaint must be filed against a State that has ratified the Optional Protocol, thereby recognising the Committee's competence to receive communications (e.g. in the cases analysed in this publication, Spain has ratified the optional protocol)
- All available avenues for redress at the national level must have been exhausted, or there must be proof that domestic redress options are unreasonably prolonged (e.g. in the cases analysed in this publication, L.B., y N.S. have exhausted all available domestic remedies and A.E.A proved that those were prolonged for over two years without decision)
- The matter cannot have already been examined by the Committee, nor should it be pending before another international body (e.g. in the cases analysed in this publication, the plaintiffs could have opted to file a complaint before the Committee on the Rights of the Child or before the Committee on Economic Social and Cultural Rights, but they could not file complaints to both Committees nor could they file two complaints for the same reason and with the same allegations before the Committee on the Rights of the Child)

If these conditions are met, the Committee proceeds to examine the case. It may first attempt to facilitate a friendly settlement between the parties. It can also request that the State take interim measures to protect the child while the procedure is ongoing. The Committee then considers the arguments submitted by both the complainant and the State before issuing its decision, known as its Views, in which it determines whether a violation has occurred and recommends the measures the state should take to remedy it.

While the Committee's Views are not enforceable in the same way as a court judgment, they carry significant moral and legal weight as an authoritative interpretation of the Convention. States are expected to act on the Committee's recommendations and must report back on the measures taken to comply within 180 days of the decision.

Click to learn more about the [UN Treaty Bodies](#) and the [CRC Complaint Mechanism](#) (also called Individual Communications Procedures)

When all were denied access to school, they started [campaigning](#) for their right to education. Once a week they held **peaceful demonstrations in front of the Ministry of Education in the city of Melilla**⁴⁵, supported by their parents and other citizens, and collected signatures to gather wide public support for their claims⁴⁶.

In November 2019, N.S. and her mother filed **a complaint before the judicial administrative court** in Melilla to demand she be allowed to attend school. But the administrative judge did not grant an interim order in favour of the plaintiffs, arguing that N.S. should be educated in Morocco. They appealed this decision before the High Court of Justice of Andalusia, Melilla and Ceuta, based in Málaga, and **took their complaint to the UN Committee on the Rights of the Child (CRC Committee) through the individual communications procedure**. The other minors followed the same procedure. Throughout this legal process, the [association Prodein](#) received pro bono support from the lawyers' organisation [Extranjeristas en Red](#).

- [The Association Prodein](#) has set itself the fundamental aim of improving the situation of children living in the city of Melilla who were lacking any form of institutional support.
- [Extranjeristas en Red](#) is an association of professionals dedicated to defending the rights of foreign nationals in Spain.

This was possible because by the time of the complaints (2020), Spain had already ratified the Optional Protocol on Communications procedure (2013), and because children had exhausted all possible effective domestic remedies before Spanish courts. In their communication, they asked the CRC Committee to enact [interim measures](#) in accordance with article 6.1 of the Optional Protocol (see box hereafter), so they could start going to school immediately, pending the final decision of the Committee. **The Committee requested the State party to enrol in school 'immediately, while the communication was under consideration'**⁴⁷ **N.S., as well as L.B. and her brothers**. Acceptance of those provisional measures took some time in the case of the other minors.

A few weeks later, the local administration in Melilla notified N.S. that she had been admitted to a public school. The CRC Committee then adopted discontinuance decisions⁴⁸ because the individual situation of N.S., as well as L.B. and her brothers, had been resolved.

⁴⁵ UN Human Rights (2020). [UN Welcomes Spanish Government decision to grant child right to education](#).

⁴⁶ UN Human Rights (2020). [UN Welcomes Spanish Government decision to grant child right to education](#).

⁴⁷ CRC, Decision adopted by the Committee under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure ([CRC/C/85/D/111/2020](#)); CRC, Decision adopted by the Committee under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, concerning communication No. 113/2020 ([CRC/C/86/D/113/2020](#))

⁴⁸ Ibid.



Interim measures are urgent requests made by the CRC Committee to prevent irreparable harm to a child while a complaint is being examined. They are intended to preserve the child's rights and ensure that the Committee's eventual decision remains meaningful. The granting of interim measures does not imply any finding on the merits of the case. Interim measures are established in Article 6.1. of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

Check this [Guidelines for Interim measures under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure](#) for more information on the procedure.



Article 6.1 of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure:

'At any time after the receipt of a communication and before a determination on the merits has been reached, the Committee may transmit to the State party concerned for its urgent consideration a request that the State party take such interim measures as may be necessary in exceptional circumstances to avoid possible irreparable damage to the victim or victims of the alleged violations.'



Click [here](#) to watch a UN short video about the case.



Decision adopted by the CRC under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure in respect of communication No. 111/2020 ([CRC/C/85/D/111/2020](#))



Decision adopted by the CRC under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, concerning communication No. 113/2020 ([CRC/C/86/D/113/2020](#))

A.E.A. was in a similar situation. On 8 May 2019, his mother applied for his enrolment in a school in Melilla, using the regular procedure established under the Spanish laws. She did not receive a response until the beginning of the school year, so she **filed an administrative court case** requesting the court to order her son's enrolment. In January 2020, with no response to her request, A.E.A.'s mother 'petitioned the administrative courts for an emergency provisional remedy or, alternatively, a regular provisional remedy ordering her son's enrolment in order to prevent the irreparable harm of the loss of a school year'⁴⁹. The court denied this, on the allegation that he was not a Melilla resident and did not have a regular residence permit. A.E.A.'s subsequent **judicial requests** were taking too long, and he had already missed almost an entire school year.

⁴⁹ CRC, Views adopted by the Committee under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, concerning communication No. 115/2020 ([CRC/C/87/D/115/2020](#))

His mother then decided to **file a complaint with the Committee on the Rights of the Child** arguing that since A.E.A. ‘was born in Melilla and ample proof of his residence in the city [had] been provided’, the State’s refusal to enrol him in school amounted to ‘discrimination on the grounds of his Moroccan origin and his lack of a residence permit, violating article 2 of the Convention on the rights of a Child⁵⁰. Additionally, A.E.A.’s mother argued that the decision was contrary to the child’s best interest and prevented him from enjoying his right to education, in violation of articles 3, 28 and 29 of the Convention⁵¹. A.E.A.’s mother pledged he be immediately enrolled in school⁵². Upon reception of the complaint, the Committee requested that Spain proceed to enrol A.E.A in school, as an interim measure, pending the analysis of the complaint procedure. Spain did not comply with this request, which was renovated three times during the procedure, nevertheless, always without compliance.

In December 2020, Spain presented its arguments regarding the complaint filed by A.E.A.⁵³. It argued that the complaint did not comply with the admissibility criteria and should be dismissed. It contested the merits of A.E.A.’s allegations stating that foreign nationals must have the appropriate documentation and proof of regular residence in Melilla in order to be enrolled in school. Spain alleged that since A.E.A. did not have proof of residence, there was no violation of the Convention on the Rights of the Child. After the State report, A.E.A was given the opportunity to ‘speak’ again in the procedure, and refuted Spain’s allegations⁵⁴. Before the CRC met to issue a decision (view), the Spanish Education Ministry ordered the local authorities to allow A.E.A’s admission to school. Both parties informed the Committee of the Education Ministry’s decision⁵⁵. Almost two years had passed since A.E.A first tried to enrol in school. **When the Committee issued its [views](#), it recognised that Spain violated A.E.A’s rights to non-discrimination and his best interest, as well as his right to education**, ‘by not taking swift action to verify his residency in Melilla, and by not admitting him to the public education system immediately after it was confirmed that he indeed lived in Melilla’⁵⁶. Moreover, **the Committee’s decision urged Spain to implement compensatory measures to address the two years of schooling the boy had missed.**

 ‘The State party should therefore provide A.E.A. with effective reparation for the violations suffered, which includes adequate compensation as well as taking proactive steps to help him

⁵⁰ CRC, Ibid, para. 2.2.

⁵¹ CRC, Ibid, paras. 3.2 and 3.3.

⁵² CRC, Ibid, paras. 3.2 and 3.4.

⁵³ CRC, Views adopted by the Committee under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, concerning communication No. 115/2020 ([CRC/C/87/D/115/2020](#)), para. 7.1-7.16.

⁵⁴ CRC, Ibid, paras. 8.1-8.15.

⁵⁵ CRC, Ibid, paras. 9-10.

⁵⁶ UN Human Rights (2021). [Spain violated the education right of a child living in Melilla](#), UN committee finds, retrieved on June 2, 2026.

to catch up at school and reach the same level as his peers as soon as possible.’⁵⁷

 CRC, Views adopted by the Committee under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, concerning communication No. 115/2020 ([CRC/C/87/D/115/2020](#)), para. 13



Practical tip: Before filing a complaint with the Committee on the rights of the child, you need to verify if your complaint respects all the admissibility conditions according to the provision of Article 7 of the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure. If those conditions are not observed, the Committee will decide on the inadmissibility of the complaint and will not state the merit of the alleged violation. Despite not being an admissibility requirement, you may want to approach lawyers or human rights organisations that could help you draft the complaint.

4. OUTCOMES AND IMPACTS

The most direct outcome of the three communications to the CRC Committee was **the recognition of N.S., L.B. and her brother, and A.E.A’s right to education and their enrolment in school**. Moreover, in the A.E.A case, **the Committee also determined that Spain should implement compensatory measures** to address the two years of schooling that the boy had missed. .

But the impact of their complaints before the CRC Committee goes beyond the above-mentioned individuals. Indeed, N.S. case holds [landmark significance](#) as the **first matter concerning the right to education ever resolved by the Committee on the Rights of the Child through its individual complaints mechanism**⁵⁸. Its [decision](#) sent a strong message to all States parties to the Third Optional Protocol on Communications Procedures, as well as to all victims of violations of the rights of the child: it demonstrated that international human rights mechanisms have the power to hold states accountable for violations of the right to education. Ann Skelton⁵⁹, former member of the Child Rights Committee delivered a [compelling message](#) about this case:



‘I think that what is interesting about this case and positive about it is that it only took a few months from when the case was filed with the committee to the child being notified that she would be given access to school. So, this really shows how it can make rights real’⁶⁰.

⁵⁷ CRC, [CRC/C/87/D/115/2020](#), para. 13

⁵⁸ RTE (2020). [Following a complaint before the Committee on the Rights of the Child, Spain allows a Moroccan child to attend public school](#), retrieved on June 2, 2026.

⁵⁹ Ann Skelton was a member of the UN Committee on the Rights of the Child, from 2017 to 2025. She chaired the working group on communications from 2021-2023, and was Chair of the Committee from 2023-2025.

⁶⁰ UN Human Rights (2020). [UN welcomes Spanish Government decision to grant child right to education](#), retrieved on June 2,

Indeed, [other children](#) in similar situations in Melilla, who have filed complaints with the Committee, have by now been admitted to school. However, in 2021 the UN estimated that over 150 children without legal residency in enclave remained excluded from the public education system’⁶¹.

Significantly, in [A.E.A.’s case](#), after recognising that Spain violated his rights ‘by not taking swift action to verify his residency in Melilla, and by not admitting him to the public education system immediately after it was confirmed that he indeed lived in Melilla’, the CRC Committee reminded Spain of its **obligation to prevent** similar violations in the future and made clear **recommendations** to the state:

 ‘The State party is also under an obligation to prevent similar violations in the future. In this regard, the Committee recommends that the State party:

- a) Ensure that, when local administrative and judicial authorities receive documentation indicating that a child requesting to be enrolled in school in Melilla actually resides in the city, they take effective and expeditious steps to confirm the child’s residence;
- b) Ensure that, if the actual residence of a child requesting to be enrolled is confirmed, the local administrative and judicial authorities enrol him or her immediately.
- c) Ensure that, when there is a dispute over a child’s right to education, there is an effective and accessible remedy that may be provided promptly and expeditiously, and that both the children and their parents or guardians have full knowledge of this remedy and the related procedures;
- d) Provide specialized training for judges and administrative staff on the implementation of the Convention, and, in particular, on the best interests of the child.’⁶²

The appeals lodged with the High Court were finally resolved, and in every case the children’s right to schooling was recognised, regardless of their administrative status. This led to the schooling regulations being amended from the 2022/23 academic year onwards, allowing proof of actual residence in Melilla to be provided not only through the municipal register but also by any other means of evidence recognised by law. That academic year, all children were able to enrol in school, including at secondary and sixth-form level, though not without some reluctance on the part of the local education authorities.

2026.

⁶¹ UN Human Rights (2021). [Spain violated the education right of a child living in Melilla](#), UN committee finds, retrieved on June 2, 2026.

⁶² CRC, Views adopted by the Committee under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, concerning communication No. 115/2020 ([CRC/C/87/D/115/2020](#)), para. 13

5. TIPS AND LESSONS LEARNED

Sometimes, national justice systems do not provide human rights victims with the redress they need and deserve⁶³. These three case studies demonstrate **that UN Treaty Bodies complaint mechanisms can enforce the realisation of the right to education and hold States accountable when human rights violations occur**. They also highlight the subsidiary nature of the complaint mechanism, which can only be triggered once national administrative and judicial measures have failed.

Enabling factors	Challenges
• All conditions to file a complaint with the CRC Committee were met: Spain has recognised the competence of the CRC Committee for individual communications (complaint mechanism) by ratifying the respective Optional Protocol; the complaints were submitted by the victims of right violations and/or their representatives; the complaints were submitted after all domestic remedies had failed (in N.S case) or were unreasonably delayed (in A.E.A case) • When States respond to interim requests by the committee, such as in N.S. case, the procedure can bring a quick solution to rights violations.	• Before filing a complaint, all domestic remedies must be exhausted. This implies administrative and judicial proceedings before domestic courts should precede the submission of a complaint. This usually requires legal assistance from lawyers/solicitors and can represent additional costs to the plaintiffs. • Interim measures can only be requested to prevent irreparable harm and, even when requested, states may not comply, as in A.E.A's case. In those cases, the complaint procedure may be long and timely. • States are bound to inform of the measures taken to address the situation within 180 days of the adopted Views of the Committee, but the Committee has no means to enforce the decision.

RESOURCES

■ Complaint mechanisms

- Right to Education Initiative, UNESCO (2019). [Right to Education Handbook](#), p.257, 258.
- CRIN (Child Rights International Network). [CRC Complaint Mechanism Toolkit](#).
- Child rights connect. [CRC Communication procedures](#).

■ About the cases

- CRC, Decision adopted by the Committee on the Rights of the Child under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure in respect of communication No. 111/2020 ([CRC/C/85/D/111/2020](#))

⁶³ CRIN (Child Rights International Network). [CRC Complaint Mechanism Toolkit](#).

- Decision adopted by the Committee on the Rights of the Child under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, concerning communication No. 113/2020 ([CRC/C/86/D/113/2020](#))
- CRC, Views adopted by the Committee on the Rights of the Child under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, concerning communication No. 115/2020 ([CRC/C/87/D/115/2020](#))
- RTE (2020). [Following a complaint before the Committee on the Rights of the Child, Spain allows a Moroccan child to attend public school](#), retrieved on June 2, 2026.
- UN Human Rights (2020). [UN Committee welcomes Spain's decision to allow Moroccan child to attend public school](#), retrieved on June 3, 2026.
- UN Human Rights (2020). [UN Welcomes Spanish Government decision to grant child right to education](#), retrieved on June 3, 2026
- UN Human Rights (2021). [Spain violated the education right of a child living in Melilla, UN committee finds](#), retrieved on June 3, 2026.
- UN Human Rights (2023). [Winning the right to go to school](#), retrieved on June 3, 2026.



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