NACIONES
UNIDAS

E

Consejo Económico
y Social

Distr.
GENERAL

E/CN.4/2006/G/8
9 de marzo de 2006

ESPAÑOL
Original: Inglés

COMISIÓN DE DERECHOS HUMANOS
62º período de sesiones
Tema 10 del programa

LOS DERECHOS ECONÓMICOS, SOCIALES Y CULTURALES

Nota verbal de fecha 17 de febrero de 2005 dirigida a la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos por la Misión Permanente de Indonesia ante la Oficina de las Naciones Unidas en Ginebra

La Misión Permanente de la República de Indonesia ante la Oficina de las Naciones Unidas y demás organizaciones internacionales en Ginebra saluda atentamente a la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos y a la Secretaría de la Comisión de Derechos Humanos y tiene el honor de informarles de que el Gobierno de Indonesia (es decir, el Ministerio de Educación Nacional, en cooperación con la UNESCO) organizó una Conferencia Internacional sobre el Derecho a la Educación Básica como Derecho Humano Fundamental y el Marco Jurídico de su Financiación, celebrada en Yakarta (Indonesia) del 2 al 4 de diciembre de 2005. A este respecto, la Misión Permanente tiene también el honor de transmitir por la presente las versiones en francés y en inglés de la Declaración de Yakarta*, que fue aprobada en esa Conferencia.

A la Conferencia asistieron representantes de los gobiernos, de las Naciones Unidas y de otras organizaciones internacionales y regionales pertinentes, así como expertos y profesionales de la educación y los derechos humanos, y miembros de la sociedad civil y del mundo universitario.

Dada la importancia y pertinencia del tema específico de la Conferencia en relación con la labor que realiza la Comisión de Derechos Humanos en la esfera del derecho a la educación, la Misión Permanente de Indonesia agradecerá que la Oficina del Alto Comisionado tenga la amabilidad de distribuir el documento como documento oficial del 62º período de sesiones de la Comisión en relación con el tema 10 del programa.

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* Se reproducen en el anexo como se recibieron, en francés y en inglés únicamente.

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Annex

JAKARTA DECLARATION

adopted at

the International Conference on

the Right to Basic Education as a Fundamental Human Right and the Legal Framework for Its Financing

2-4 December 2005
Jakarta, Indonesia

Organized by the Ministry of National Education, Government of Indonesia, in Cooperation with UNESCO on the Occasion of the 60th Anniversary of UNESCO

We, the participants in the ***International Conference on the Right to Basic Education as a Fundamental Human Right and the Legal Framework for Its Financing,*** comprising

of Ministers of Education, Members of Parliaments, Government Officials, diplomatic corps, high level experts, educationists, lawyers, international and non-governmental organizations, private sector, and stakeholders in the field of education coming from 14 countries;

Expressing our deepest gratitude to the Government of Indonesia for their generosity and hospitality extended to us in this land of unity in diversity – *Bhinneka Tunggal Ika*;

Greatly honored in having a Special Session with His Exc. Soesilo Bambang Yudhoyono, President of the Republic of Indonesia, who expressed the determination of the Government of Indonesia to achieve fundamental right of every child to education and allocate resources as provided in the Constitution and Law and to promote a culture of excellence for education;

Inspired by the opening address by His Exc. Mr. Koïchiro Matsuura, Director General of UNESCO, in which he stated that the universal right to education is at the heart of Education For All (EFA) and that achieving this right is also central to the development challenge of our times;

Guided by the perspective provided by His Exc. Muhammad Jusuf Kalla, Vice President of the Republic of Indonesia, in his inaugural address, in which he emphasized that the right to basic education carries with it the responsibilities as well;

Finding it commendable that the Act on National Education System of Indonesia (2003) guarantees the right to basic education as a fundamental human right as well as provides the legal framework for its financing;

Bearing in mind increasing evidence that the right to education is a prerequisite for the defense and enjoyment of all other human rights, and degree to which education is instrumental for enhancing democracy and social and cultural development, and recognizing education, especially basic education, as a public good;

Appreciating that the Conference provided an occasion to share experiences on the mechanism of formulating legal framework for education and advancing EFA in a spirit of friendship and cooperation to promote right to basic education as a fundamental right for all;

Bearing in mind that UNESCO has a key role to promote the right to education as an integral part of its constitutional mandate and that the Organization has principal role and responsibility in the UN System in the field of right to education, and appreciating UNESCO's work in this field;

Adopt solemnly *the Declaration on the Right to Basic Education as a Fundamental Human Right and the Legal Framework for Its Financing*:

I. We emphasize that the right to education is an internationally recognized right in its interrelationship with the right to development; and that the legal and constitutional protection of this right is indispensable to its full realization.

We are of the view that the shift from the Commission on Human Rights to the proposed council on human rights should not result in down-grading the economic, social and cultural rights, of which right to education forms the core element. The right to education is a measurable right, whose normative content and interrelated essential features are clearly defined by the General Comment 13 on the article 13 - right to education - of the International Covenant on Economic, Social and Cultural Rights, elaborated by the UN Committee on Economic, Social and Cultural Rights (CESCR) in cooperation with UNESCO.

II. We recommend to UNESCO, to the Office of the High Commissioner for Human Rights, and to the intellectual community (i) undertake in a comparative perspective the analysis of provisions on the right to basic education in constitution and laws, (ii) to highlight the 'best practices' for promoting basic education in the countries whose Constitutions or laws contain provisions and implement the right to basic education, (iii) to conduct reflection for providing operational definition of basic education universally accepted, on the basis of which this right can be monitored.

We urge States (i) to provide for the right to basic education in the constitutions and in laws, with a focus on EFA, and (ii) to take measures for its effective implementation, taking into account the legal culture and government priorities. We recommend that in order to inform world community about good practices, UNESCO in cooperation with the European Association for Education Law and Policy (ELA) should be encouraged to create a data bank on the right to education, including the constitutions, legislation and policy plans. It is also important to prepare a glossary of educational legislation.

III. The fundamental principles of non-discrimination and equality of educational opportunities are of key importance to govern the implementation of the right to education. We consider that it is important (i) to promote quality education with emphasis on quality learning outcome, rights-based schools which are child-friendly and respectful of human rights and moral values, are inclusive and welcome diversity (ii) to improve working conditions of teachers, both in public and private educational establishments and to make teaching profession more attractive for which legislation should set standards, and (iii) to ensure full respect of minority and language rights. Governments, community, parents and teachers all have a role and responsibility in this respect.

IV. On the basis of the four pioneering national experiences on financing education through a legal framework, namely Indonesia, Nigeria, India and Brazil, which we examined in detail, we recommend that (i) Governments elaborate legal framework for financing education, (ii) the CESCR considers means of generalizing this approach through discussions within country reports; and (iii) designing legal framework be based upon public financing principles. Furthermore, we (i) encourage private sector to enter into partnerships with governments for equitably sharing responsibilities and dedicate more investment to educational activities which have been proved to be economically

rewarding and have direct impact on employment, productivity and poverty eradication, (ii) suggest to international financial institutions to give priority to financing educational projects specially as incentives to countries to promote EFA. Resource mobilization for financing education at national and international level deserves new international thinking, both in terms of fund-raising and international partnerships for the right to education.

V. The Conference was a landmark in examining the follow up to the resolution 2005/21 on the right to education adopted by the Commission on Human Rights. We suggest that: (i) the Chairperson of the Commission on Human Rights should present this Declaration to the forthcoming session of the Commission, and that (ii) the representative from Indonesia to UNESCO's Executive Board should present this Declaration to the UNESCO's Executive Board at its forthcoming session, with the expectation that this Declaration is followed up.

VI. We are encouraged by the fact that the Conference provided a forum for the specialists and experts for exchange of experience and professional accomplishments and planning action for establishment of networks/partnership to promote the right to education as a fundamental human right.

VII. We express our appreciation that on the occasion of the Conference, a Special Session on the role of Parliamentarians for promoting right to basic education for all was organized and we recommend to UNESCO that, drawing upon the experience of Forum of African Parliamentarians For Education (FAPED), it is important to create a Forum of South and East Asian Parliamentarians for this purpose, which could be broadened subsequently.

VIII. We commit ourselves, individually and collectively, to give follow up to this Declaration.