



Right to Education

Monitoring Access and Participation in Higher Education

From a Human Rights Perspective



This guide 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. These guides are based on, and supplement, the Right to Education Initiative's (RTE) right to education monitoring guide, which provides a human rights framework for monitoring education and education-related issues, as well as our experiences across various monitoring initiatives that we have undertaken with partners from all over the world.

This report was written by Juliana Lima, with the direction of Delphine Dorsi. Special thanks to Sonia Languille, Tristan McCowan, Susie Talbot, Roman Zinigrad, Thibaut Lauwerier and Hugo Harari-Kermadec for their generosity of time, guidance, and comments on previous versions of this guide. Many thanks to Eleanor Rosenbach for her comments and copyediting the final version.

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 with the aim of accelerating progress towards the realisation of the right to education for all through positive and concrete changes on the ground.

Cover image: © 2015 Mark Kerrison.

The image is taken from a National Demonstration for a Free Education on 4th November 2015 in London, United Kingdom. The demonstration was organised by the National Campaign Against Fees and Cuts (NCAFC) in protest against tuition fees and the Government's plans to axe maintenance grants with effect from 2016.

Design by Aurélia Mazoyer

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PREFACE

Monitoring the right to education is at the heart of the work of the Right to Education Initiative. Since 2008 we have been developing tools, including human rights indicators, to guide civil society organisations, researchers and any persons interested in monitoring the realisation of the right to education from a human rights perspective in order to strengthen advocacy and accountability. In 2016, we launched an [online monitoring guide](#) with an indicators selection tool, and realised that more needed to be done to enable the exercise of monitoring. Since then, we have been developing thematic monitoring guides providing specific guidance and indicators on particular issues. We published the [first guides on monitoring education under attack from a human rights perspective in 2021](#). The present guide reflects our second in-depth thematic tool for effective monitoring. Others, on early childhood care and education and on pregnant girls' and young mothers' education, are in preparation.

When conducting monitoring, we move from theory to practice and reality on the ground. We look at the enjoyment of the right to education by individuals or groups, touching human realities, beyond the efforts made by states to implement this right. Our monitoring work also includes monitoring projects on the ground developed in partnership with national organisations or institutions. As regards higher education, since 2018 we have been collaborating with the Paris Sciences Po Law Clinic on monitoring inequalities in access and participation in the French higher education system,

from a human rights perspective. For four years, students across four promotions conducted research and analysis in view of monitoring the impact of inequalities based on place of residence, indirect study costs and privatisation on the implementation of the right to higher education in France. This guide builds on this work which included desk research and interviews collecting both quantitative and qualitative data, and involving RTE's team, 15 students and their supervisors, researchers in law, education and economics. Working collaboratively and across disciplines with students directly concerned was very fruitful. We learnt a lot through this process and are sharing the lessons learned in the guide.

Monitoring the realisation of the right to education is a powerful exercise to assess gaps and possible violations, looking both at the enjoyment of the right to education and at the efforts made by states to implement it, in order to address them specifically and efficiently. Inequalities in access and participation in higher education remains an issue worldwide that must be addressed to ensure a more inclusive and fair society. Monitoring inequalities will help to address them adequately. We do hope this guide will enable you to reach this goal.

Delphine Dorsi,

Director of the Right to Education Initiative

INTRODUCTION

Higher education is part of the right to education,

protected under international human rights law. This means that states have the obligation to protect, respect, and fulfil the right to higher education and that there are ways to hold them accountable for violations or deprivations of the right to higher education.

International human rights law provides that higher education shall be made equally accessible to all without discrimination, on the basis of capacity. This should be accomplished by every appropriate means, and in particular by the progressive introduction of free education¹.

Definition of higher education

UNESCO defines higher education as encompassing ‘all types of education (academic, professional, technical, artistic, pedagogical, long distance learning, etc.) provided by universities, technological institutes, teacher training colleges, etc., which are normally intended for students having completed a secondary education, and whose educational objective is the acquisition of a title, a grade, certificate, or diploma of higher education’. Higher education is sometimes also referred to as tertiary education.

Source: UNESCO/RTE, *The Right to Education Handbook*, p. 108.

Acknowledging that **higher education is a means to promote peace, social justice, and sustainable development**, the international community has pledged to ‘ensure inclusive and equitable quality education and promote lifelong learning opportunities for all’, promising to ‘leave no one behind’ and to specifically address those in most vulnerable situations (Sustainable Development Goal 4, [2030 Agenda for Sustainable Development](#)).

Sustainable Development Goal 4

Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all.

Target 4.3 - By 2030, ensure equal access for all women and men to affordable and quality technical, vocational and tertiary education, including university.

Target 4.5 - By 2030, eliminate gender disparities in education and ensure equal access to all levels of education and vocational training for the vulnerable, including persons with disabilities, indigenous peoples and children in vulnerable situations

However, despite a comprehensive international legal framework ensuring the right to higher education without any discrimination and a wide political commitment to promote inclusion in higher education, important inequalities persist, both in terms of access to higher education and of access to the most socially rewarding degrees and programmes. Issues such as privatisation of higher education and rising tuition fees represent a threat to equal access and participation in higher education, especially in contexts where structural social inequalities – such as class, gender, or territorial inequalities – persevere. Moreover, certain groups – such as ethnic, racial, and religious minorities as well as migrants, refugees, or asylum seekers – are still widely underrepresented in higher education if compared to their proportion in the population as a whole.

These, and many other challenges regarding access and participation in higher education, can be brought to light when we carefully monitor the right to higher education. It is only by monitoring the right to higher education that adapted laws and policies which can address persistent inequalities and discriminations can be designed.

This guide proposes a human rights based approach to inequalities regarding students’ access to and participation in higher education. Reframing education analysis through a human rights lens provides a sharp

¹ Article 13.2.c of the International Covenant on Economic, Social and Cultural Rights; Article 4 (a) of the Convention against discrimination in education.

contrast to the narrow view of education as a human capital generator².

Human rights monitoring is helpful to address inequalities and discriminations in access and participation in higher education because it provides an assessment of the realisation of the right to education in a particular context, as well as of gaps in law and policies protecting this right. Monitoring will help you identify and investigate the extent to which the right to higher education is realised, particularly regarding states' obligation to provide equal access, on the basis of capacity, without discrimination. Ultimately, monitoring the right to higher education will provide you with the legal and factual analysis, on the grounds of which you can hold states accountable in case of deprivations and violations of the right to higher education.

Five reasons why monitoring access and participation in higher education from a human rights perspective can be useful:

- To report and raise awareness of inequalities and discrimination in access and participation in higher education and take this information to concerned authorities (i.e. the university or institute, relevant government departments) so they can make changes in response
- To collect evidence of discrimination and inequalities in access to and participation in higher education for legal accountability, allowing parties of interest to take their case to national or international courts
- To verify compliance with international, regional, and national laws
- To enable the development and implementation of policy strategies to prevent, minimise and reduce inequalities in access and participation in higher education
- To evaluate the short- and long-term impacts of implemented policy aiming to prevent, minimise and reduce inequalities in access and participation in higher education.

This monitoring guide is designed to help civil society organisations, human rights advocates, education specialists and researchers, student and teachers' unions as well as higher education institutions monitor access to and participation in higher education from a human rights perspective³.

Focus of this monitoring guide

This guide proposes a human rights based approach to inequalities regarding students' access to and participation in higher education.

While the right to higher education encompasses much more than students' access and participation – the right to quality education (curricula, teaching methods, etc.), the rights of teachers, researchers and other higher education staff and academics (training, compensation, non-discrimination, etc.), the right to academic freedom and freedom of speech, amongst others – and while all those issues are interconnected and may affect students' access and participation – for example, having an inclusive staff recruitment policy regarding indigenous or disabled students which has a positive impact on their access, participation and completion – This guide does not directly address those issues. It focuses on monitoring equality and non-discrimination in students' access to higher education.

It will help you identify the variables that influence access and participation in higher education and then provide guidelines on how to analyse their impact based on human rights indicators. Then it will guide you through your monitoring project, from its conceptualisation to the presentation of your findings.

Step-by-step

1. Understanding states' obligations under international human rights law as regards to the right to higher education
2. Identifying variables that influence access and participation
3. Monitoring: assessing the level of enjoyment of the right to higher education and states' efforts to ensure its full realisation using human rights indicators

² Adamson, Frank; Aubry, Sylvain; Dorsi, Delphine; Galloway, Meredith. 2021. [Human rights to evaluate evidence on non-state involvement in education](#). GEM Report.

³ Inequalities can be analysed according to a sociological, economical or legal perspective. This guide develops a human rights based approach to inequalities in higher education with particular focus on inequalities in access and participation of students. Therefore, it does not consider inequalities in access and participation regarding teachers, researchers and other staff.

UNDERSTANDING STATES' OBLIGATIONS RELATED TO THE RIGHT TO HIGHER EDUCATION REGARDING ACCESS AND PARTICIPATION



The right to higher education is guaranteed by several international treaties, which create legal obligations for the States that have ratified them.

This chapter provides an overview of the international legal framework pertaining to the right to higher education, including the related state obligations, particularly as regards to access to higher education. Understanding the content of international laws⁴ that guarantee equal and non-discriminatory access to higher education will help you assess the level of enjoyment of the right to higher education, and states' efforts to ensure its full realisation.

The [Universal Declaration of Human Rights](#) states that 'higher education shall be equally accessible to all on the basis of merit' (Article 26⁵). The [UNESCO Convention against Discrimination in Education](#) establishes that 'the States parties (...) undertake (...) to formulate, develop and apply a national policy which, by methods appropriate to the circumstances and to national usage, will tend to promote equality of opportunity and of treatment in the matter of education and in particular (...) to make higher education accessible to all on the basis of individual capacity' (Article 4). The [International Covenant on Economic, Social and Cultural Rights](#)

determines that States must ensure that higher education is equally accessible to all, on the basis of 'capacity', by every appropriate means, and in particular by the progressive introduction of free education (Article 13.2.c). It also states that the right to higher education 'will be exercised without discrimination of any kind' (Article 2.2).

Other international and regional human rights treaties complete and reinforce those provisions, from which three major obligations to states regarding access and participation in higher education result: ensure accessibility on the basis of capacity; provide progressively free higher education; guarantee equality and non-discrimination.



States' obligations regarding the right to higher education that are particularly relevant to access and participation

- Ensure accessibility on the basis of capacity
- Progressively provide free higher education
- Guarantee equality and non-discrimination

Accessibility on basis of capacity

States have an immediate obligation to ensure that higher education institutions are available and accessible to all bearing capacity. In practice, this means that there should be adequate infrastructure and trained teachers in sufficient quantity to support the delivery of quality higher education to all those having

the capacity to follow higher education programs⁶. How 'capacity' is assessed depends highly on national legislation, but the Committee on Economic, Social and Cultural Rights (CESCR) states that 'capacity' of individuals 'should be assessed by reference to all their relevant expertise and experience'⁷.

⁴ International laws have to be incorporated into national legislation and implemented by the states at a national level. Thus, when monitoring the right to higher education it is also important to verify the content of national laws guaranteeing the right to higher education to ensure it is aligned with international human rights law. We provide guidance to this regard on Chapter 3: 'Monitoring: assessing the level of enjoyment of the right to higher education and states' efforts to ensure its full realisation using human rights indicators'.

⁵ The Universal Declaration of Human Rights was adopted by the United Nations General Assembly on 10 December 1948. It sets as a common standard of achievements for all peoples and all nations, but unlike human rights treaties, it does not need to be ratified by States.

⁶ It is insufficient, for example, to have equitable procedures for selecting students when there are study places for only 1% of the age cohort. McCowan, T., *Three dimensions of equity of access to higher education*, Compare, 46 (4), p.645-665, 2016.

⁷ CESCR, [General Comment No. 13](#), paragraph 19.

Accessing capacity

The Universal Declaration of Human Rights states that higher education should be 'equally accessible to all on the basis of 'merit'. It is argued that the notion of merit was introduced to avoid the use of unjustified criteria that would lead to discrimination⁸. The human rights conventions subsequently adopted replaced the word 'merit' with 'capacity'⁹. But both terms deserve to be further questioned in light of persistent structural inequalities as well as underrepresentation of underprivileged, disadvantaged, marginalised and vulnerable groups in higher education¹⁰.

'Merit' and 'capacity' become an issue when they are used to justify the reproduction of social privileges on the basis of selective admissions procedures that do not take into account substantive equality. Indeed, several authors have questioned these concepts because of their potential to generate a 'winners and losers' situation that could end up leaving many people behind¹¹. As national governments experiment a wide range of admission procedures, going from standardised tests

to the implementation of affirmative action policies aiming to redress *de facto* structural and systemic inequalities, some argue that moving away from a traditional and instrumental understanding of 'merit' and 'capacity' could foster a more equitable approach and strengthen social justice¹². In this sense, the SDG-Education 2030 Steering Committee advanced that 'merit' should be understood as 'potential to succeed'. This suggests taking into consideration the individual trajectory of students and the unequal distribution of educational opportunities throughout one's educational life, and recognising that everyone has 'potential to succeed' in higher education. Some authors refer to this as 'merit in context'¹³, arguing that because it takes into account equality of opportunity, it addresses the systemic disadvantages faced by underprivileged, marginalised and vulnerable groups, while embracing diversity and recognising that differential treatment of individuals may be necessary to ensure greater distributive fairness among groups.

Progressive introduction of free higher education

States have an obligation to progressively introduce free higher education. The progressive realisation of free higher education means that states are required to adopt and implement, at a minimum, a national educational strategy which includes the provision of higher education¹⁴ and to commit the maximum of their available resources 'to move as expeditiously and effectively as possible' towards the full realisation of free higher education¹⁵. One way of achieving this could be by gradually reducing the financial barriers to access and participation in higher education: starting by taking into account the most deprived students through the provision of accommodation, free transportation, etc. Then progressively move forward extending those as well as tuition-free higher education to all.

Three aspects of higher education financing need particular attention¹⁶:

- a. resource generation: how governments raise money

- b. resource allocation: what governments earmark money for in their budgets
- c. resource expenditure: how allocated money is actually spent and who is benefiting

Importantly, unjustified cuts on the higher education budget may be considered as a retrogressive measure. Retrogressive measures are measures that downgrade or limit existing levels of enjoyment of the right to education. There is a 'presumption of impermissibility of any retrogressive measures taken in relation to the right to education' and 'if any deliberately retrogressive measures are taken, the State Party has the burden of proving that they have been introduced after the most careful consideration of all alternatives and that they 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 State Party's maximum available resources'¹⁷.

8 UNESCO, Making Higher Education more inclusive, SDG-Education 2030 Steering Committee.

9 UNESCO/RTE, Right to Higher Education. Unpacking the international normative framework in light of current trends and challenges, to be published.

10 UNESCO/RTE, Right to Higher Education. Unpacking the international normative framework in light of current trends and challenges, to be published.

11 UNESCO, Making Higher Education more inclusive, SDG-Education 2030 Steering Committee.

12 UNESCO/IESALC, The right to higher education approached through a social justice lens, 2022, p. 19-22.

13 UNESCO, Making Higher Education more inclusive, SDG-Education 2030 Steering Committee.

14 CESCR, General comment 13, paragraphs 52 and 57.

15 CESCR, General Comment 13, Article 44.

16 Those three aspects will be developed further in Chapter 2, 'Identifying variables that influence access and participation in higher education'. See also: Center For Economic and Social Rights, Governments' Obligation to Invest "Maximum Available Resources" in Human Rights, October 2020.

17 CESCR, General Comment 13, paragraph 45.

Financing the implementation of the right to education: States' core obligations

- To take appropriate steps towards the full realisation of the right to education to the maximum of its available resources. A lack of resources cannot justify inaction or indefinite postponement of measures to implement the right to education. States must demonstrate they are making every effort to improve the enjoyment of the right to education, even when resources are scarce.
- To not adopt retrogressive measures. This means that a state should not take backwards steps or adopt measures that will repeal existing guarantees of the right to education. For instance, introducing school fees in secondary education when it had formerly been free of charge would constitute a retrogressive measure.



Take a look at our page dedicated to [financing education](#). See also: UNESCO/RTE, [Right to Higher Education. Unpacking the international normative framework in light of current trends and challenges, 2022](#).

Equality and non-discrimination

Higher education must be available to all and circumstances such as gender, socio-economic or migrant status should not be obstacles to achieving educational potential. This means that formal and substantive equality should be ensured and enforced by states.

Formal equality means that 'individuals in the same situations should be treated alike'. Because all human beings are born free and equal in dignity and rights¹⁸, laws or practices with the purpose of granting different treatment to individuals in similar situations may result in direct discrimination. For example, men and women with the capacity to access higher education should be treated in the same way during admissions procedures. Thus, laws that would ban women with the capacity to attend higher education instruction from accessing higher education institutions would constitute both a breach of the equality principle, and discrimination on the basis of gender.

But equal treatment is not always enough to ensure equality. Sometimes, structural factors lead certain groups to fall behind the rest of society regardless of any equal treatment or prohibition of direct discrimination¹⁹. There is evidence, for example, that only [three percent of refugees were enrolled in higher education in 2021](#), despite a Gross Enrolment Ratio in higher education of 38% worldwide in 2018²⁰. Therefore, if differences are not considered as much as

similarities, the principle of equality is not respected to its fullest. This means that individuals and/or groups in different situations should be treated differently. The equitable solution is thus to allocate the exact resources and make the appropriate accommodations that each person needs to fulfil their right, leading to positive outcomes for all individuals.

Group based approach to discrimination

We talk about *individual discrimination* when referring to one or more prohibited grounds of discrimination that affect single individuals.

We talk about *group discrimination* when referring to individuals sharing common characteristics on the basis of which they have been discriminated against.

A *group based approach* is particularly relevant when considering structural and systemic discrimination, such as gender, socio-economic or racial discrimination, for example.

Taking this into account and considering that higher education is a means to fight against structural inequalities, to ensure social justice and to guarantee both personal and societal sustainable development, the '[World Declaration on Higher Education for the Twenty-first Century](#)' has put forward the principle of affirmative action. The declaration states that 'access to higher education for members of some special target groups, such as indigenous peoples, cultural and linguistic minorities, disadvantaged groups,

¹⁸ [Universal Declaration of Human Rights](#), article 1.

¹⁹ Interights. [Non-Discrimination in International Law. A Handbook for practitioners](#), 2005, p. 19.

²⁰ Michaela Martin and Manal Stulgaitis, [Refugees' Access to Higher Education in their Host Countries: Overcoming the 'super-disadvantage'](#), UNHCR/Unesco, 2022, p. 9.

peoples living under occupation and those who suffer from disabilities, must be actively facilitated...'²¹. The [Committee on Economic, Social and Cultural Rights](#) (CESCR) also states that 'the adoption of temporary measures intended to bring about the de facto equality for men and women and for disadvantaged groups is not a violation of the right to non-discrimination with regards to education, so long as such measures do not lead to the maintenance of unequal or separate standards for different groups, and provided they are not continued after the objectives for which they were taken have been achieved'²². The provision is reinforced by [General Recommendation 32](#) of the Committee on the Elimination of Racial Discrimination.

Affirmative action

The principle of affirmative action, also known as positive discrimination, was first recognised by the [World Declaration on Higher Education for the Twenty-first Century](#) (UNESCO, 1998).

Affirmative actions with regards to higher education should be understood as targeted actions aiming to facilitate access, participation, and completion of underrepresented groups. They should be discontinued once the intended equality outcomes are achieved.

Examples of affirmative actions are tuition grants and scholarships targeting students from low income families or racialised quota policies targeting students that have been subject to systemic racial discrimination.

Equality and non-discrimination are cross-cutting issues. 'Those who are discriminated against in education also tend to be discriminated against when it comes to the enjoyment of other human rights'²³.

The right to non-discrimination is not subject to progressive realisation nor availability of resources²⁴. It therefore 'applies fully and immediately to all aspects of education and encompasses all internationally prohibited grounds of discrimination', whatever form they may take.



For additional resources on the right to equality and non-discrimination see 'Chapter 3' of the [UNESCO/RTE Right to Education Handbook](#).

Discrimination may occur in different forms:

- **Direct discrimination** is when a person, on account of one or more of the prohibited grounds, is treated less favourably than someone else in comparable circumstances.
- **Indirect discrimination** is when a practice, rule, policy, or requirement is outwardly neutral but has a disproportionate impact upon a particular group.
- **Formal (de jure) discrimination** is discrimination that exists in states' legal and policy frameworks.
- **De facto (substantive) discrimination** is discrimination experienced in practice, usually by groups who have suffered from historical or persistent prejudice²⁵.

The [International Covenant on Economic, Social and Cultural Rights](#) specifically refers to discrimination related to 'race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status' (Article 2.2). On the interpretation of Article 2.2, the Committee on Economic, Social and Cultural Rights explicitly declares that 'other status' may include age, nationality, marital and family status, sexual orientation and gender identity, health status, place of residence, and economic and social situation²⁶. It also notes that 'sharp disparities in spending policies that result in differing qualities of education for persons residing in different geographic locations may constitute discrimination'²⁷. Moreover, it recognises that because 'the nature of discrimination varies according to context and evolves over time', Article 2.2 of the ICESCR and its interpretation do not exclude any other present or future grounds of discrimination²⁸.

The right to non-discrimination is reinforced by the [Convention on the elimination of all forms of discriminations against women](#) (CEDAW) and the [Convention on the right of persons with disabilities](#). The first establishes that all 'State parties shall take all appropriate measures to eliminate discrimination against women in order to ensure them equal rights with men in the field of education and, in particular, to ensure, that men and women have the same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training'²⁹. The [Convention on the right to persons with](#)

21 [World Declaration on Higher Education for the Twenty-first Century](#), Article 3, d.

22 CESR, [General Comment 13](#), paragraph 32.

23 UNESCO/RTE, [The Right to Education Handbook](#), p. 81.

24 CESR, [General Comment No. 13](#), paragraph 31.

25 The achievement of substantive equality is understood as having four dimensions: redressing disadvantage; countering stigma, prejudice, humiliation, and violence; transforming social and institutional structures; and facilitating political participation and social inclusion. Sandra Fredman and Beth Goldblatt, [Discussion Paper: Gender Equality and Human Rights](#), UN Women, 2015. See mainly chapter 1.

26 CESR, [General Comment 20](#).

27 CESR, [General Comment 13](#), paragraph 35.

28 CESR, [General Comment 20](#), paragraphs 15-35.

29 [Convention on the Elimination of All Forms of Discrimination Against Women](#), Article 10, a.

disabilities, on the other hand, establishes that the state must ‘ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others’³⁰.



‘The introduction or failure to repeal legislation which discriminates against individuals or groups, on any of the prohibited grounds, in the field of education’ or ‘the failure to take measures which address de facto educational discrimination’ is a violation of the right to education (CESCR, General Comment 13, para 59).

Understanding the international law that protects the right to higher education and creates obligations to states is important, but it is only the first step in a comprehensive assessment of the right to higher education. Once you know what international treaties protect the right to higher education you need to verify if your State has ratified those treaties and incorporated them into national law. We will walk you through those steps in Chapter 3, ‘Assessing the realisation of the right to education: planning, designing, and executing a monitoring project using human rights indicators’.

But before that, let’s take a look at the major challenges on the implementation and realisation of the right to higher education.

³⁰ Convention on the right to persons with disabilities, Article 24.5.

A person is sitting on a stationary bike, wearing blue jeans and white sneakers. They are holding an open book with orange covers and reading it. The background is slightly blurred, showing the bike's frame and a wooden chair.

IDENTIFYING VARIABLES THAT INFLUENCE ACCESS AND PARTICIPATION IN HIGHER EDUCATION

By monitoring the right to higher education from a human rights perspective you identify barriers that hinder access and participation and relate them to the state's legal obligations to provide equal access to higher education on the basis of capacity, without discrimination, including by the progressive realisation of free higher education. Linking the issues that influence the realisation of the right to higher education to the legal obligations of the state will improve your advocacy strategy and ensure state accountability.

This chapter will help you identify what to look at when monitoring access and participation in higher education from a human rights perspective, by walking you through some of the factors (variables) that may hinder equal access and participation in higher education without discrimination³¹.

For each variable presented in this section we will present some examples that illustrate how the discussed variable influences the realisation of the right to higher education, particularly regarding students' access and participation. Then we will recall the legal framework, focusing on the instruments that are specific to each of the related issues. We will also refer to those variables in the next chapter when we go over the human rights indicators that help you monitor their influence in the right to higher education from a human rights perspective.

However, because discrimination and inequalities are context-based, this section is not exhaustive and cannot cover all possible grounds of discrimination and factors leading to inequalities. It does refer to major trends that are observable in various countries. But other context-related variables may apply, especially regarding structural and/or systemic discriminations that are very much grounded in each country's social, cultural and economic characteristics.

There are two main categories of variables influencing equal access and participation without discrimination:

- variables relating to one's individual personal characteristics (e.g.: nationality; gender; race, ethnic and/or religious identity; socio-economic status; prior attainment; etc.)
- variables relating to higher education institutional design (financing, governance and privatisation)

³¹ As we explained in the introduction of this guide, the right to higher education is not limited to access and participation. It entails other rights, such as, for example, the right to quality higher education and academic freedom. This guide is focused on students' access and participation in higher education. Also, other variables not included in this guide may influence inclusion in higher education, such as curricula, language of studies, etc.



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Variables relating to personal characteristics of students

This section will walk you through some of the variables that influence equality in access and participation regarding students' personal characteristics and/or statuses (race, gender, age, nationality, place of residence, socio-economic status, etc.).

As has been highlighted previously, discrimination is highly contextual. We have identified some universal, similar trends, but you may want to consider other variables that might be particularly important to your society. Also, because marginalised, vulnerable and disadvantaged individuals and groups are likely to be subject to intersectional discrimination, you might also want to consider intersectionality.

Intersectional discrimination

Individuals have multiple identities and belong to different groups, and thus may face different types of discrimination - for example, black women may face racial and gender discrimination at the same time. Intersectional

discrimination refers to a situation where several grounds of discrimination operate and interact with each other at the same time in such a way that they are inseparable, reinforcing each other³².

Throughout this section we point out the interplay of some of those variables, but you might want to consider other factors depending on the reality on the ground in the context under review.

SEX, GENDER IDENTITY AND SEXUAL ORIENTATION

Rationale

Equal opportunities for both men and women to enter and succeed in higher education is at the core of the

32 UNESCO/RTE, [The right to education handbook](#), p.86; UN General Assembly, 2001.

rights to equality and non-discrimination. It has also been embraced by [Sustainable Development Goals 4.4 and 4.5](#).

While overall numbers indicate that gender equality in higher education has improved in the last two decades – female enrolment in higher education has tripled globally between 1995 and 2018 – gender disparities persist, especially regarding fields of study. Evidence shows that women are still underrepresented in Science, Technology, Engineering and Mathematics (STEM) careers worldwide³³ and men still dominate the fields of Information and Communication Technology (ICT) and engineering, construction and manufacturing in every OECD country³⁴.

Gender stereotyping of jobs and occupations along with gendered roles in personal and professional life strongly impact career expectations for girls and boys, perpetuating gender-related differences in the choice of studies and careers³⁵. Other factors such as early and compulsory marriage, violence against women and girls, unpaid household work and responsibilities, and pregnancy, to cite but a few, also influence how women are perceived and perceive themselves, affecting their lifelong prospects, including higher education.

Marginalised groups such as LGBTQI+ also face great challenges in accessing and completing higher education. In 2018, a Stonewall Report conducted with 522 LGBTQI+ university students in UK revealed that two in five LGBTQI+ students (42 per cent) have hidden their identity at university for fear of discrimination and seven per cent of trans students had been physically attacked by another student or member of university staff just in the year before the report came out³⁶. Those and other challenges place a particular burden on LGBTQI+ students, particularly regarding their mental health and well-being, leading to a higher dropout rate³⁷.

Specific legal framework

The [International Covenant on Economic, Social and Cultural Rights](#) does not allow for discrimination based on sex³⁸, sexual orientation or gender identity³⁹. The Committee on the Elimination of Discrimination against Women (CEDAW), stating on the rights of girls and women to education, establishes that 'education must

be affordable for all, without discrimination based on sex or any other prohibited ground, and should be free and compulsory from preschool through secondary school and progressively made free through the tertiary level'⁴⁰.

Therefore, any discrimination (*de jure* or *de facto*) based on one's sex, gender identity or sexual orientation constitutes a violation of the rights to equality and non-discrimination in access to higher education.

RACIAL, ETHNIC, CASTE, RELIGIOUS AND INDIGENOUS IDENTITY

Rationale

Racial, ethnic, caste and religious groups may be subject to discrimination, especially when constituting a minority within a given society. Even when overrepresented as a part of the overall population in a given society, racial, ethnic and religious groups may be subject to discrimination, particularly when intersectionality is at play. Black, mixed-race and indigenous students were underrepresented in the Brazilian higher education system even though constituting 56.3% of the overall population⁴¹. The Brazilian government has implemented affirmative action aiming to widen the representation and participation of this community in public higher education institutions by introducing a quota policy that takes into consideration previous academic background, household income and race. Law n. 12,711/2012 established a system of overlapping quotas based on three criteria: At least half of the vacancies in all federal higher education programs are reserved for students who attended public schools (statistically less competitive than private ones⁴²), and half of these vacancies (25% of the total) are allocated to students who have a lower family per capita income⁴³. Racial quotas then apply to vacancies for people from public schools in proportion to the black, mixed-race and indigenous population in the state in which the educational institution is located⁴⁴. Studies have shown that four years after the quota policy came into force, the enrolment rate of students that had graduated from public high schools in public

33 UNESCO/IESALC, *Women in higher education: has the female advantage put an end to gender inequalities?*, 2021.

34 OECD, *Education at a glance: OECD Indicators*, 2021.

35 OECD, *Education at a glance: OECD Indicators*, 2021.

36 *LGBT in Britain - Universities Report*, accessed in February 2022.

37 *The Conversation. Why LGBTQ inclusivity still matters in higher education*, accessed in February 2022.

38 *International Covenant on Economic, Social and Cultural Rights*, Article 2.2.

39 CESCR, General Comment 20.

40 CEDAW, *General Comment 36*, paragraph 36.

41 According to a 2019 National Household Sample Survey of the Brazilian Institute of Statistics (IBGE), 42.7% of Brazilians declared themselves as white, 46.8% as mixed-race, 9.4% as black and 1.1% as yellow or indigenous.

42 According to Law n. 12,711/2012, eligibility is conditioned to a full time public education background.

43 Per capita family income should be lower than the equivalent of 1,5 Brazilian minimum wage. Law n. 12,711/2012.

44 Marcia Lima, Luiz Campos. *Apresentação: Inclusão racial no ensino superior: impactos, consequências e desafios*. Novos Estudos, CEBRAP, 2020, Vol. 39, p. 245-254.

federal higher education institutions increased from 55% to 64%⁴⁵. Furthermore, the research demonstrates that black, mixed-race and indigenous individuals constituted the group that most benefited from the policy, with enrolment rates rising from 28% to 38% of new entrants⁴⁶.

Caste discrimination in India is another example of how descent can influence access to higher education. Scheduled castes/scheduled Tribes and Backward classes - who are in the lowest strata of the caste system - have long been discriminated against and are underrepresented in higher education⁴⁷. A reservation policy was included in the Constitution, as a special provision for the educational advancement of scheduled castes/scheduled Tribes and Backward classes.

Indigenous groups are also usually underrepresented in higher education student and staff populations⁴⁸. A study conducted by The Postsecondary National Policy Institute revealed that enrolment and completion rates among Native American students are lower than those of the overall U.S. population: only 24% of 18-24-year-old Native American students are enrolled in college (compared to 41% of the overall U.S. population). Moreover, only 41% of first-time, full-time Native American students attending four-year institutions beginning in 2013 graduated within six years (compared to 63% for all students). Completion rates among indigenous groups are also lower in Australia: a 2020 [governmental report](#) demonstrates that the gap between the proportion of Aboriginal or Torres Strait Islander adults with a Bachelor degree (or above) and the overall adult population was of 27 percentage points in 2017–19⁴⁹.

Intersectionality: This variable intersects with socio-economic and cultural background, prior attainment, parental level of education, disabilities, etc., so you might want to cross analyse those data.

Specific Legal Framework

Race, ethnicity and religion are prohibited grounds of discrimination⁵⁰. Therefore, 'any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin' is considered a

violation of international human rights law⁵¹. General recommendations of the Committee for the Elimination of Racial Discrimination include specific provisions regarding affirmative actions (special measures)⁵², discrimination against descent⁵³, discrimination against people of African descent⁵⁴, discrimination against Roma⁵⁵ and indigenous people⁵⁶. Special legislation reinforces the right to higher education of indigenous people: the United Nations [Declaration on the Rights of Indigenous Peoples](#) guarantees the right of indigenous peoples to all levels and forms of education without discrimination as well as the right to establish their own educational institutions and systems providing education in their own languages⁵⁷.



Check out our [Minorities and Indigenous peoples webpage](#) to find out more about their right to education.

NATIONALITY / MIGRATION STATUS

Rationale

According to the fundamental human rights principles of non-discrimination and equality, non-nationals are entitled equal rights to access and participate in higher education, regardless of their migratory status. Nevertheless, migrants, refugees and asylum seekers are largely underrepresented in most higher education systems, facing particular challenges to access higher education institutions. The UN Refugee Agency (UNHCR) estimates that [only 5% of university-age refugees have access to higher education](#).

One of the barriers faced by migrants when trying to assert their right to higher education relates to the cost of higher education, especially where differentiated fees are applied to non-nationals. It is the case in France, for example, where the [Constitutional Court has validated the implementation of higher fees for non-European migrants](#). Migrants may also face challenges in complying with national policies regarding recognition of

45 Adriano Souza Senkevics, Ursula Mattioli Mello. [As universidades federais depois das cotas](#). Nexus, 2022.

46 Adriano Souza Senkevics, Ursula Mattioli Mello. [As universidades federais depois das cotas](#). Nexus, 2022.

47 Indian constitution includes a reservation policy, as a special provision for the educational advancement of scheduled castes /scheduled Tribes and Backward classes.

48 Bunda, Tracey & Zipin, Lew & Brennan, Marie, [Negotiating university 'equity' from Indigenous standpoints: a shaky bridge](#), International Journal of Inclusive Education, 16:9, 2012, p.941-957.

49 Australian Government Productivity Commission, [Overcoming Indigenous Disadvantage: Key Indicators 2020](#), particularly Chapter 7.

50 [International Covenant on Economic, Social and Cultural Rights](#), Article 2.2; CESCR, [General comment 13](#) and [General comment 20](#).

51 [International Convention on the Elimination of All Forms of Discrimination](#), Articles 1, 5e, 7.

52 Committee on the Elimination of Racial Discrimination, [General Recommendation 32](#)

53 Committee on the Elimination of Racial Discrimination, [General Recommendation 29](#)

54 Committee on the Elimination of Racial Discrimination, [General Recommendation 34](#)

55 Committee on the Elimination of Racial Discrimination, [General Recommendation 27](#)

56 Committee on the Elimination of Racial Discrimination, [General Recommendation 23](#)

57 [Declaration on the Rights of Indigenous Peoples](#), Article 14

diplomas⁵⁸, especially if the language of the host country is not fully understood. The procedures may be very complex and lengthy, and in addition they are often very expensive and may include the need for complementary studies or training. Regional conventions and bilateral agreements may facilitate the procedures and the 2019 [UNESCO Global Convention on the Recognition of Qualifications concerning Higher Education](#) is an important step in this direction.

Protracted displacement situations have had lasting effects on a particular type of migrants' right to higher education: refugees and asylum seekers also have to cope with psycho-social trauma linked to forced displacement and exposure to violence, informational gaps, and host country restrictive policies regarding freedom of movement (camp confinement) and access to the labour market.



Check also our webpage on [Migrants, refugees and internally displaced persons](#) to find out more about their right to education.

Migrant status

According to the [International Organisation for Migration](#), a migrant is 'a person who moves away from their place of usual residence, whether within a country or across an international border, temporarily or permanently, and for a variety of reasons'.

Refugees have a specific legal status protected under international or national law. The [Convention relating to the status of refugees](#) defines a refugee as 'someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion'. An asylum seeker is a person who is seeking protection as a refugee and is still waiting to have their claim assessed.

The [UNHCR Guiding Principles on internal displacement](#) and African regional [Kampala Convention](#) refer to internally displaced persons (IDPs) as 'persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an international recognized State border.'

To access more detailed information about the different categories of migrants and their right to education check our paper: [The status of the right to education of migrants: International legal framework, remaining barriers at national level and good examples of states' implementation](#)

Intersectionality: Discrimination based on nationality intersects with other prohibited grounds of discrimination, as, for example, with parental level of education (first generation migrants usually encounter more difficulties in accessing higher education than their children). Nationality also intersects with previous attainment: if migrants' access to primary and secondary education is not ensured, regardless of their status, they may not acquire the capacity to continue their studies to higher education level. Language can also be an issue hindering migrants' access and completion in all levels of education. Intersectionality plays a key role in the configuration of what the United Nations Agency for Refugees has called '[the super disadvantage](#)' of displaced students⁵⁹.

Specific legal framework

Human rights law bans discrimination on the basis of nationality⁶⁰. The Committee on Economic, Social and Cultural Rights confirms that the principle of non-discrimination extends to all persons 'residing in the territory of a State party, including non-nationals, and irrespective of their legal status'⁶¹. Moreover, the right to education of migrants is specifically protected by the [Convention on the Protection of the Rights of All Migrant Workers and Members of their Families](#) which guarantees their access to education on the basis of equality of treatment with nationals. The 1951 [Convention Relating to the Status of Refugees](#) ensures legal protection to the right to education of all refugees, stating that refugees should have the same treatment as nationals with respect to elementary education and treatment as favourable as possible with respect to other education levels⁶². The Convention also protects the rights of asylum seekers, from the moment they have completed an international protection application and until a decision on their status has been made by the competent authorities.

DISABILITIES

Rationale

People with impairments are recognised under international law as rights-holders, with a right to education without discrimination and on the basis

⁵⁸ The recognition of a foreign diploma refers to the formal acknowledgement by a competent authority of the value of the certificate. This recognition enables the holder of the diploma to enjoy the same rights as nationals who possess a comparable degree.

⁵⁹ Michaela Martin and Manal Stulgaitis (eds), [Refugees' Access to Higher Education in their Host Countries: Overcoming the 'super-disadvantage'](#), UNHCR/UNESCO, 2022.

⁶⁰ [International Covenant on Economic, Social and Cultural Rights](#), Article 2.2; [Convention on the Rights of the Child](#), Article 2; [Unesco Convention Against Discrimination in Education](#), Article 3, e; [General Comment 20](#) of the Committee on economic, social and cultural rights (CESCR) and [General Comment 30](#) of the Committee on the Elimination of Racial Discrimination (CERD).

⁶¹ CESCR, [General Comment 13](#), paragraph 34.

⁶² [Convention Relating to the Status of Refugees](#), Articles 22 and 29.

of equal opportunities. Despite the legal provision protecting their right to higher education, students with disabilities are largely underrepresented in higher education, being among the most marginalised, vulnerable and excluded groups on campus. Although all types of disabilities may lead to discrimination, 'some groups are more at risk of exclusion from education than others, such as: persons with intellectual disabilities or multiple disabilities, persons who are deafblind, persons with autism or persons with disabilities in humanitarian emergencies'⁶³.



The term 'disability' summarises 'a great number of different functional limitations', encompassing 'physical, intellectual or sensory impairment, medical conditions or mental illness', be those conditions or illnesses permanent or transitory in nature⁶⁴. But the term disability should be seen as the result of the interaction between a person and their environment, not something that is inherent within the individual as the result of an impairment. A person may be perceived to have disabilities in one society or setting but not in another, which can depend on the assistance available as well as cultural considerations. Thus, here again, this variable must take into account the specific context of the state under review.

Data from the United States National Centre for Education Statistics demonstrates that students that do not experience a sense of belonging and that do not meet a favourable learning environment are at high risk of dropping out: 25% of first-time students with disabilities drop out by the end of year one, 35% drop out by the end of year two.



Check out our webpage on persons with disabilities to learn more about their right to education.

Intersectionality: Disabilities can intersect with other variables, contributing to the vulnerability and marginalisation of persons with impairments. Students with disabilities coming from low income families, for example, usually have less access to information and guidance regarding their right to education, especially regarding higher education. Students living in distant rural areas may face greater challenges accessing higher education, especially if inclusive means of

transportation are not available. Those belonging to racial, ethnic or religious minorities as well as indigenous people with disabilities are also more marginalised and may face enhanced discrimination because of these overlapping factors.

Specific legal framework

Article 24 of the Convention on the Rights of Persons with Disabilities (CRPD) recognises the right of people with disabilities to all levels of education, without discrimination, and on the basis of equal opportunity. It also establishes that states must ensure the realisation of the right of persons with disabilities to education through an inclusive education system that focuses on 'full and effective participation, accessibility, attendance and achievement of all students with disabilities'⁶⁵. Inclusive education with regards to people with disabilities means ensuring their effective access to education and the fulfilment of their individual potential on equal terms with other students within a participatory learning environment⁶⁶. It involves addressing the specific barriers people with disabilities face in the enjoyment of their right to education through support and accommodations⁶⁷ (for example, buildings, teaching material, course format) as well as by building a culture of non-discrimination and inclusion: 'The right to inclusive education encompasses a transformation in culture, policy and practice in all formal and informal educational environments to accommodate the differing requirements and identities of individual students, together with a commitment to remove the barriers that impede that possibility'⁶⁸.

It is thus within the obligations of states to provide 'reasonable accommodation' to students with disabilities⁶⁹. 'Accommodations' refers to material (providing handouts in alternative formats or use of assistive technology) and non-material accommodations (allowing a student more time to take exams). The 'reasonableness' of accommodation is context-specific: it involves an analysis of the relevance and effectiveness of the specific accommodation, including whether it counters discrimination. Discussions must take place between educational authorities, the academic institution and the student with disability (and if appropriate their parents/caregivers), to ensure that the accommodation meets the needs and choices of the student and can be implemented by the institution provider. Nevertheless, the CRPD Committee explicitly

⁶³ Committee on the Rights of Persons with Disabilities, General Comment 4, para 6.

⁶⁴ CESCR, General Comment 5

⁶⁵ Convention on the Rights of Persons with Disabilities, Article 24; Committee on the Rights of Persons with Disabilities, General Comment 4.

⁶⁶ UNESCO/Right to Education Initiative, The Right to Education Handbook, p. 91

⁶⁷ Convention on the Rights of Persons with Disabilities, Article 24, 2, c.

⁶⁸ Committee on the Rights of Persons with Disabilities, General Comment 4, paragraph 9.

⁶⁹ Reasonable accommodation is defined in Article 2 of the CRPD as 'appropriate modification and adjustments which are necessary, in a particular case, to ensure persons with disabilities can enjoy, on an equal basis with others, all human rights and fundamental freedoms'.

affirms that using lack of resources and financial crises to justify a failure to progress towards inclusive education is considered a violation of Article 24 of the CRPD.



Check our [list of international instruments protecting the right to education of persons with disabilities](#)

SOCIO-ECONOMIC STATUS

Rationale

Socio-economic status is one of the key barriers in access and completion in higher education, especially in light of the global privatisation trend (see subsequent section on [privatisation](#)). Students from low income families usually have more difficulties accessing and completing higher education. A range of reasons could explain it: family size, early entrance in the job market, tuition costs, urban/rural divide, poor quality of prior education, parental level of education and their ability to provide learning support to their children, cultural and social capital, self censorship, lack of access to information about programme options and admissions procedures, etc⁷⁰.

Studies have shown, for instance, that students whose parents have a higher education degree or hold typically white collar occupations are more likely to access and complete a higher education program. [Research](#) published by the World Inequality Database shows how students' parental income impacts access in higher education in France: 'at the bottom of the income distribution, 35% of individuals have access to higher education, compared to 90% at the top of the income distribution'. The study further documents how inequalities based on parental income combine with inequalities related to parental occupation or degree⁷¹. This was also demonstrated in the RTE/ Sciences Po report "[Limited Potential](#)". The [Right to Higher Education in France: Impact of Place of Origin and of Cost on Inequality](#). Socio-economic status also influences higher education programme orientation: Students from middle/working class families tend to enrol in fields or universities with lower reputation. Cultural capital and the perception of legitimacy regarding higher education - or regarding the type of

programme and diploma that can be aspired to - also play an important role.

The SDG-Education 2030 Steering Committee has recognised the need for a special follow-up system for students from disadvantaged backgrounds, along with one for all students in need of extra follow up⁷².



When looking at disaggregated data for socio-economic background, note that countries use different variables to identify socio-economic status/income. The most common category is 'household income'. Some countries use 'parental profession' or 'parental level of education' as a proxy for social-economic status. International organisations usually disaggregate data by 'bottom/top wealth quintile'.

Intersectionality: Ensuring equal access and participation for students from disadvantaged socio-economic backgrounds implies not only removing economic barriers that affect access to education (regulating tuitions, financing scholarships and grants - see also the sections on [financing higher education](#) and on [privatisation of higher education](#)) but also taking into consideration the fact that socio-economic status usually interplays with other variables such as place of residence, prior education, migrant status and parental level of education. For example, rural areas usually have a lower GDP per capita and less higher education institutions. Students having completed secondary education in rural areas may have to move to the city in order to enrol in higher education and may face not only direct costs of higher education but also indirect costs of moving (housing, transportation, etc). The cost of living also may vary a lot among cities and may represent a particular burden when considering student mobility.

Specific legal framework

The Committee on Economic, Social and Cultural Rights asserts explicitly that 'individuals and groups of individuals must not be arbitrarily treated on account of belonging to a certain economic or social group or strata within society'⁷³. Inequalities in access and participation in higher education based on socio-economic status thus constitute a violation of the right to equality and non discrimination⁷⁴. The [Abidjan Principles](#) also stress states' obligations regarding non-discrimination, including discrimination based on socio-economic status.

70 UNESCO IESALC, [The right to higher education approached through a social justice lens](#), 2022, p.20.

71 Cécile Bonneau, Sébastien Grobon, [World Inequality Lab Working Paper 2022/01: Unequal Access to Higher Education Based On Parental Income: Evidence from France](#)

72 SDG-Education 2030 Steering Committee, [Making higher education more inclusive](#), July 2020..

73 CESCR, [General Comment 20](#), paragraph 35.

74 [International Covenant on Economic, Social and Cultural Rights](#), Article 2.2.

Abidjan Principles - Guiding principle 25

States must ensure that their laws, policies, or practices do not directly or indirectly discriminate in education. They must also address any situation breaching the rights to equality and non-discrimination with regards to the right to education, whether or not such situation results from their acts, including:

- a. systemic disparities of educational opportunity or outcomes for some groups in society, including people living in poverty or in rural settings; or
- b. segregation in the education system that is discriminatory on any prohibited ground, in particular socio-economic disadvantage.

PRIOR EDUCATION

Rationale

Because higher education builds on previous academic paths, prior education may be determinant to one's possibility of accessing higher education. Poor academic preparation or low-quality primary and secondary education still limit students' opportunities to equal access to higher education. One's primary and secondary education may be of particular concern in countries where private basic education is considered of better quality, like in Latin America and the Caribbean. Academic performance and educational attainment are influenced by the socioeconomic backgrounds of the students and their families: students from wealthier backgrounds have parental learning support and can access mentoring (check the section on socio-economic status)⁷⁵. Furthermore, students belonging to minorities and/or marginalised groups may have more difficulties in succeeding in primary and secondary education or achieving the necessary level of capacity, as defined by the state's education law. For instance, the rates of Australian Indigenous participation in higher education are significantly lower than those of non-Indigenous students, 'with Indigenous students less likely than their non-Indigenous peers to complete Year 12 - and, as a result, less likely to obtain an Australian Tertiary Admission Rank (ATAR) needed for university admission'⁷⁶.

To unveil inequalities stemming from previous education we need to have a multidimensional and lifelong approach. We also need to understand how 'capacity' is assessed. Consequently you might want

to look at disaggregated data on secondary schooling and cross analyse it with higher education enrolment (mainly first year students) and completion rates. You want to know if students went to public or private secondary schools⁷⁷ and/or if they followed a specific programme to prepare them for higher education entrance exams, where applicable. You may also cross reference data regarding their place of residence prior to higher education (rural/urban, sub-national region) and analyse the if primary and secondary education of disadvantaged, vulnerable or marginalised groups affect their 'capacity' to access higher education.

Intersectionality: What happens in the first years of education and how students evolve throughout primary and secondary education impacts their pathways towards higher education. Prior education intersects with socio-economic background. It also intersects with one's place of residence (rural/urban or subnational region) and with parental level of education: students whose parents hold typically white collar occupations are more likely to be able to accompany them in their education (or provide for private tutors, for example). Prior education also intersects with personal characteristics: students belonging to marginalised groups may have more difficulties in succeeding in primary and secondary education or achieving the necessary level of capacity - according to the state's definition and assessment of capacity.

PLACE OF RESIDENCE

Rationale

Place of residence means the location where a student resided prior to the beginning of their higher education studies and/or where they completed secondary education. It is often neglected as a potential ground for discrimination and driver of inequality, but it is an important variable affecting accessibility in higher education⁷⁸.

The place of residence of a student may restrict them from accessing higher education because of the lack of geographic proximity to higher education institutions. It is usually - but not exclusively - the case for students living in rural areas, because of the availability of higher education in those regions. The quality of secondary

⁷⁵ UNESCO IESALC, The right to higher education approached through a social justice lens, 2022, p.19.

⁷⁶ Frawley, Jack et al., Indigenous VET to Higher Education pathways and transitions: A literature review. International Studies in Widening Participation (4), 2017, p. 34-54.

⁷⁷ In many countries, the public and private education sectors are equally stratified in an elite sub-sector and a poorly-resourced sub-sector. So the public-private distinction may not be sufficient in itself. In this case, you might want to look at the specific characteristics of the stratification of secondary education in your country.

⁷⁸ Ballas, Dimitris & Kavrouidakis, Dimitris & Henning, Benjamin & Yiagopoulou, Vicky & Dorling, Danny. (2010). Mind the Gap: Education Inequality across EU regions.

education in rural areas may also be compromised, affecting students' ability to pursue higher education.

Furthermore, it should be noted that although place of residence and socio-economic background are conceptually distinct, they overlap significantly. This is shown, for instance, in this [report](#) about France, where the average household income tends to be higher in the geographical areas in which higher education institutions are established. Conversely, socio-economically disadvantaged students tend to live far away from these zones, creating a barrier in the form of physical distance that may be exacerbated by additional costs (such as housing and transportation) due to the necessity to move closer to areas where higher education is available. Because the cost of living may be very different across regions within a country, this may represent a particular burden for students.

Intersectionality: Place of residence intersects with language accessibility/fluency, especially in regions where learning language at primary and secondary school is different from official language of higher education (for example, if higher education institutions use English as the official language of their higher education programs, students from rural areas that were educated in their mother tongue may face additional barriers to access higher education). Place of residence also intersects with socio-economic status and parental level of education as well as with prior education and attainment (see the previous section). Checking the correlations between place of residence, accessibility and attainment in higher education is a way of demonstrating how a person's geographical background impacts his/her chances of entering a higher education programme and obtaining a diploma. RTE's report "[Limited Potential". The Right to Higher Education in France: Impact of Place of Origin and of Cost on Inequality](#)" shows that students coming from certain regions of France in which higher education institutions (or certain fields of studies) are not available have to cope with additional costs of moving and getting settled in other regions where the cost of living is more expensive. This can hinder possibilities of accessing higher education institutions.



Check our [report](#) and [policy brief](#) on the impacts of place of residence on inequalities in higher education in France for a comprehensive analysis of how place of residence intersects with many other variables. See also our blog articles '[Higher education in France: Why territorial inequalities matter](#)' and '[Threatened by Inequalities: the right to higher education in France](#)' to learn more about this topic.

Specific legal framework

The Committee on economic, social and cultural rights has stated that the right to education 'should not be conditional on, or determined by, a person's current or former place of residence'. It also stresses that 'disparities between localities and regions should be eliminated⁷⁹'. Accordingly, place of residence constitutes a prohibited ground for discrimination.

⁷⁹ CESCR, [General Comment 20](#), paragraph 34.



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Variables related to higher education institutional design

The way the higher education system is structured is important. Issues such as education financing, governance, stratification of higher education, the privatisation and commodification of higher education have many implications on equal access and participation. As we will demonstrate, those variables may both create and/or mitigate inequalities.

FINANCING HIGHER EDUCATION: ASSESSING RESOURCE ALLOCATION AND EXECUTION

Rationale

Financing higher education is a means to promote equality and inclusion. Therefore, looking at how higher

education is financed can help you understand the impacts of resource allocation on the accessibility and availability of higher education.

The higher education budget finances institutions' infra-structure, academic staff salaries, research and innovation, student grants, etc. A lack of resources has grave effects on the enjoyment of the right to education; indeed, a lack of investment hinders the proper implementation as well as the formulation of education policies.

It is important to assess the national budget raised (resource generation), allocated (resource allocation) and spent (resource expenditure) when monitoring the implementation of the right to education at the national level in order to determine if the government is doing the best it can to realise the right to education.

Resource generation and higher education budget:
Governments usually generate resources for higher

education in two ways⁸⁰: they raise money — through taxation, but also through fees and fines, profits from state-owned enterprises, foreign aid, and various other sources; and they borrow money — from public and private lenders, both domestic and foreign.

Human rights law indicates that governments must raise money in a way that generates adequate or sufficient revenue and that resources should be allocated in an equitable and effective way⁸¹. For higher education, it means, for example, delivering high-quality education and training that meets the needs of learners, employers and communities and supporting equitable access to learning.

The higher education funding design varies across countries. It can be centralised (i.e. at a national/federal level) or decentralised (i.e. when administrative regions contribute to the budget allocated to higher education, or when the system is based on university autonomy). Even at the central level, the higher education budget may be scattered between various ministries and agencies (i.e. Ministry of Education, Ministry of Higher Education, Ministry of Research and Innovation). It is thus important to clearly identify who is funding what and how the budget flows within the system in order to address issues of accountability, including at different levels if the financing system is scattered between various ministries and agencies.

When looking at the higher education budget, it is important to consider a comparative longitudinal approach that will allow for a comprehension of how the budget allocated to higher education has evolved throughout the years. This may help you identify important trends: an increase in the higher education budget does not necessarily mean that the state is making steps to introduce free higher education. For example, if the overall budget is increasing but the budget per student is decreasing you might spot an issue that affects participation and quality in higher education.

Resource allocation: The distribution of public funding among higher education institutions and across fields of studies is another factor that affects access, availability and quality of education. It is thus important to ask how and where resources are invested, and, ultimately, who is benefiting from them. For example, you might want to consider how much public funding is financing private education. If the share of state funds going to private institutions is increasing, it might be interesting to verify what type of private institutions are getting the biggest share of the budget (private for-profit, non-profit, public) and whether private institutions that are publicly

subsidised are subject to specific obligations in terms of fulfilling the right to education (i.e. enrolling all students in the same grounds - see also the privatisation section hereafter). You also may want to consider looking at the type of programs that are receiving public funding: your findings may reveal changes in the job market, but also, the commodification of education at local, regional or global level. Moreover, alongside direct investment in higher education institutions and academic professions, the higher education budget may also be used to provide for students' financial aid (grants). Therefore, identifying what part of the budget is being directed to students' financial aid and understanding the grounds and criteria under which it is allocated directly or indirectly to students is an important part of monitoring access and inclusion.

Resource expenditure: Once the higher education budget is allocated, it is important to verify if states fully spend funds allocated to higher education while also checking if funds allocated to higher education are not being diverted to other areas. You might also want to compare expenditure and allocation ratio with benchmarks, make cross-country comparisons, or comparisons within the same country over a period of time.



Resource allocation and execution are very specific issues and require a significant economic understanding. RTE had the opportunity to collaborate with researchers when working on a [case study on France's higher education system](#) and the results were very fruitful. We thus strongly recommend you to work with academics, particularly economists, when monitoring education financing.

University autonomy: University autonomy reflects a university's ability to decide on various academic issues, such as student admissions, academic content, quality assurance, the introduction of degree programmes, the language of instruction, etc. Financial university autonomy refers to the ability of universities to decide freely on how to manage their funds: it refers to how funds are spent, to how tuition fees are set (unilateral, by the State or jointly), to the ability to earn buildings and find non-state extrabudgetary sources (borrow money, set up financial partnerships with the private sector, etc.). The degree of financial autonomy of higher education institutions varies across countries - see, for example, the European University Association's autonomy scoreboard, comparing university autonomy (including financial autonomy) across the region - has important implications to the implementation of the

80 Center For Economic and Social Rights, [Governments' Obligation to Invest "Maximum Available Resources" in Human Rights](#), October 2020.

81 Center For Economic and Social Rights, [Governments' Obligation to Invest "Maximum Available Resources" in Human Rights](#), October 2020.

right to education. You might want to bear in mind that state funding to higher education can vary according to countries but there are mainly two types of budget attribution: line item budget (budget is pre allocated to specific costs or activities), and block grants (budget allocated covers several categories of expenditure and can be distributed in budgetary lines by universities). Within the last type of budget attribution, the degree of university autonomy regarding budget allocation might vary according to national laws, e.g. block grants with no restriction on the allocation of funding, block grants split within broad categories with limited or no possibilities to move funds between categories, block grants with internal allocations limited by the law, etc. You want to verify if there is a mechanism that oversees the implementation of the budget in autonomous universities and verify if they are being allocated according to national laws.



Transparent, participatory and accountable policy making decisions

An important dimension of the financial obligation of states regarding higher education relates to the policymaking processes through which resourcing decisions are made.

These processes must be transparent (relevant information is shared); participatory (people can play a meaningful role in shaping policy); and accountable (policymakers justify their decisions, and there is redress when they don't meet obligations)⁸².

Specific legal framework

States are required to take appropriate financial measures to ensure the realisation of the right to education. As for the right to higher education, states have an immediate obligation to take steps to progressively introduce free higher education⁸³. Moreover, according to human rights law, budget cuts that have the effect of reducing enjoyment of the right to education, particularly of already marginalised groups, would not be permissible under the International Covenant on Economic, Social and Cultural Rights, unless such measures have been 'introduced after the most careful consideration of all alternatives and that they are fully justified by reference to the totality of the rights provided for in the and in the context of the full use of the State Party's maximum available resources'⁸⁴.

The burden of the proof regarding justification falls to states.

The Committee on Economic, Social and Cultural Rights (CESCR) also makes it clear that resource constraints, even in times of economic recession, do not eliminate the obligations to monitor enjoyment levels of the right to education, and to devise strategies and programmes to realise the right to education⁸⁵. The CESCR also specifies that there is a special duty to protect the most vulnerable members of society through the adoption of relatively low-cost targeted programmes⁸⁶.

The Abidjan Principles: Guiding Principle 36

'While progressively realising their obligations to provide free, public education of the highest attainable quality at all levels as effectively and expeditiously as possible, States must immediately take steps to ensure that no individual is excluded from any public educational institution on the basis of the inability to pay, and must take all effective measures to prevent the risk of over-indebtedness for learners and their families'.



Check out our page on [analysing the use of resources for education](#)

PRIVATISATION OF HIGHER EDUCATION

Rationale

Privatisation of education is a process that can be defined as the 'transfer of assets, management, functions or responsibilities [relating to education] previously owned or carried out by the State to private actors'. Privatisation can be shaped in many forms and can sometimes be disguised within national education reforms, leading to a lot of misunderstanding - especially regarding the nature of higher education institutions. When monitoring the right to higher education it is important to have a well established definition of what are considered public and private higher education institutions. The Abidjan Principles provide guidance in this regard: three cumulative criteria should be applied to determine if an education institution is to be considered 'public'⁸⁷. If the three criteria are not present, the institution is not of public

⁸² Center For Economic and Social Rights, Governments' Obligation to Invest "Maximum Available Resources" in Human Rights, October 2020.

⁸³ International Covenant on Economic, Social and Cultural Rights, Article 13, 2, c; CESCR, General comment 13, paragraphs 44, 45, 52 and 57.

⁸⁴ CESCR, General comment 13, paragraph 45.

⁸⁵ CESCR, General comment 13, paragraph 11.

⁸⁶ CESCR, General comment 13, paragraph 12.

⁸⁷ The Abidjan Principles, Guiding Principle 2.

nature and therefore it should be considered a private higher education institution⁸⁸.

Definition of Public Education

The Abidjan Principles: Guiding Principle 2

Public education systems will differ from one context to another. For the purpose of this text, public educational institutions refer to institutions which are:

- a. recognised by the State as public educational institutions;
- b. effectively controlled and managed by the State or genuine representatives of the population they serve; and
- c. not at the service of any commercial or other exploitative interests that undermines learners' right to education.

There is a world-wide tendency in regards to the privatisation of higher education. But private actors shape the various higher education systems throughout the globe differently: in the United Kingdom, for instance, tertiary education is provided only by private institutions. Although many of them have a charity status, they rely largely on government funding. In Belgium, Chile, Israel and Korea, at least 50% of students at bachelor's, master's and doctoral level graduated from a private institution in 2019. But in other countries (e.g., Brazil, Finland and Japan), although most bachelor graduates come from private institutions, public institutions play a stronger role in the provision of master's or doctoral degrees⁸⁹.

One aspect that cuts across all countries and regions is the repercussions of the privatisation of higher education on equality in access and participation, especially regarding the most marginalised socio-economic groups that cannot afford the cost of education in a private institution. Considering that higher education enrolment rates have been exponentially growing and that states' funds are not necessarily covering this expansion, the gap between private/public institutions is also growing because private institutions are supplementing the lack of public higher education. In India, for example, the number of private higher education institutions went from seven in 2005 to 900 in 2018⁹⁰. This increase in the private offer, combined with a decrease in public expenditure allocated to public higher education, has had a disturbing impact in access for the poorest and

most marginalised Indian students. If the growth of the offer has reflected on an increase of the overall enrolment rate in higher education, inequalities between groups (castes, sexes, religions) continue to increase⁹¹. The commercialisation trend has also affected the diversity of the offer in India: in 2006, 78% of Indian higher education institutions specialising in engineering were private⁹². Private institutions also concentrated the majority of management (64%) and medical and paramedical (76%) programs⁹³. Those numbers highlight the 'disturbing effects of the combination of the privatisation and commercialisation trends on career options and employment opportunities, especially for those that cannot afford private higher education, ultimately leading to widening the gaps in education and the labour market⁹⁴'.

Specific legal framework

Depending on their nature and aims, private actors may contribute to the realisation of the right to higher education and offer educational alternatives. But as the UN Special Rapporteur on the Right to Education has put it, 'the persistent underfunding of public education and the rapid and unregulated growth in the involvement of private, in particular commercial actors in education, threaten the implementation of the right to education for all and Sustainable Development Goal 4'⁹⁵. Indeed, private higher education should be an alternative to public higher education programs, never the only option that a person has if they wish to engage in a specific field of study.

It is therefore important to recall state obligations regarding the involvement of private actors in higher education: if states have an obligation to respect 'the liberty of bodies to establish and direct private educational institutions', this obligation is always subject 'to the requirement that such private educational institutions conform to standards established by the state in accordance with its obligations under international human rights law'⁹⁶. That means that although international law recognises to a certain extent private actors' involvement in education, states are ultimately responsible for ensuring that the right to education is fully upheld, regardless of the provider of education. It is within the obligation of states to⁹⁷:

⁸⁸ [The Abidjan Principles](#), Guiding Principle 3.

⁸⁹ OECD, [Education at a glance: OECD Indicators](#), 2021.

⁹⁰ AFD, [Enseignement supérieur et inégalités sociales en Inde](#), Papiers de recherche n° 194, Novembre 2020.

⁹¹ AFD, [Enseignement supérieur et inégalités sociales en Inde](#), Papiers de recherche n° 194, Novembre 2020.

⁹² AFD, [Enseignement supérieur et inégalités sociales en Inde](#), Papiers de recherche n° 194, Novembre 2020.

⁹³ IAFD, [Enseignement supérieur et inégalités sociales en Inde](#), Papiers de recherche n° 194, Novembre 2020.

⁹⁴ OECD, [Education at a Glance: OECD Indicators](#), 2018.

⁹⁵ UN, Human Rights Council, [Report of the UN Special Rapporteur on the right to education: the implementation of the right to education and Sustainable Development Goal 4 in the context of the growth of private actors in education](#), 2019.

⁹⁶ [The Abidjan Principles](#), Overarching Principle 3.

⁹⁷ [International Covenant on Economic, Social and Cultural Rights](#), Article 13; CESCR, [General Comment 13](#), paragraph 30.

- ▶ regulate public investment on private higher education institutions
- ▶ ensure that private providers meet minimum standards as laid down by the state
- ▶ ensure that educational freedoms do not lead to extreme disparities of educational opportunity for some groups in society.

Moreover, states must ensure that the involvement of private actors in education does not create any adverse systemic impact on the right to education, including by⁹⁸:

- i. 'leading to or maintaining disparities of educational opportunity or outcomes for some groups in society which nullify or impair the enjoyment of the rights to equality and non-discrimination, such as a segregated education system;
- ii. adversely affecting or creating a foreseeable risk of adversely affecting the capacity of the State to realise the right to free, quality, public education;
- iii. undermining any of the aims of education guaranteed under international human rights law, such as through the commercialisation of education;
- iv. adversely affecting transparency, the rule of law, public accountability, or full and effective participation in education; or
- v. nullifying or impairing the enjoyment of any other human rights, in particular the rights of the staff working in educational institutions.'

Special attention should be dedicated to the regulation of private actors and of the privatisation process, as it has proven to be of major concern. Lack of regulation leads to lack of transparency, blurring the lines between public and private and making it more difficult to verify if states are complying with their international human rights obligations. When monitoring the right to higher education it is therefore relevant to assess whether the state has adopted and is enforcing effective regulatory measures.

Guiding Principle 51 of The Abidjan Principles

'States must take all effective measures, including particularly the adoption and enforcement of effective regulatory measures, to ensure the realisation of the right to education where private actors are involved in the provision of education. This includes situations in which private actors conduct their activities without any State involvement or control, or when they operate informally or illegally'.


It is particularly important to look at the regulation and enforcement of minimum standards, as indicated in Guiding Principle 55 of the [The Abidjan Principles](#).

Another important aspect to look into is the correlation between privatisation and budget allocation. Indeed, the privatisation of higher education has led many governments to shift funds from public to private higher education institutions. By doing so, they contribute to the rapid development of private higher education, serving those that can afford it. Not only should states' priorities remain focused on making steps to implement their progressive obligation to ensure free higher education for all⁹⁹, but also, any public funding of private higher education should be transparent and regulated. The Abidjan Principles establish a series of requirements that must guide states' national law and public policies should they invest public funding in private higher education institutions, whether directly or indirectly, including through tax deductions, land concessions, international assistance and cooperation, or any other forms of indirect support¹⁰⁰. All types of public investment in private higher education should be clearly stated in budgetary lines (direct investment, indirect investment, public/private partnerships).

Privatisation and inequalities

Guiding Principle 26 of [The Abidjan Principles](#): 'States must take positive action to eliminate and prevent all forms of discrimination and ensure equality in the enjoyment of the right to education, including to correct historic discrimination and inequalities, and systemic and persistent disadvantage through the way in which resources are allocated. Such action must be reasonable, objective, and proportionate, and must include measures to [...]

d. organise their education system, including public *and private institutions*, so as to prevent discrimination and ensure equality.'

 RTE has worked on the impacts of privatisation in inequalities in a [case study](#) regarding France's higher education system. You might want to review it if you want an example of how to share your findings. Consider also looking at this [roundtable discussion](#) and this [video](#).

⁹⁸ [The Abidjan Principles](#), Guiding Principle 48, c.

⁹⁹ [International Covenant on Economic, Social and Cultural Rights](#), Article 13.2.c.

¹⁰⁰ [The Abidjan Principles](#), Overarching Principle 5.

ACCOUNTABILITY: GOVERNANCE AND IMPLEMENTATION

Rationale

This section focuses on assessing the nature of higher education governance, the role and functions of the coordinating ministries and the systems that are in place to ensure accountability. Governance refers to the process of allocating responsibility for the protection, fulfilment and implementation of the right to education. Governance institutional design establishes power lines across the higher education system, determines decision making processes and implementation procedures defining who is responsible for what. By doing so, it sets the framework for accountability (which refers to the process of enforcing responsibility within and across levels of the higher education system) and ultimately, ensures the justiciability of the right to higher education. If a student is being discriminated against, for example, they must have the means to enforce legislation by administrative or judicial means.

Specific legal framework

Good governance is central to operationalising legislation and implementing policies. Different actors participate in governance: parliament (or any other state body with the function of making policy decisions and overseeing their implementation), academic staff and their unions, students and their unions, civil society organisations (i.e. human rights organisations), communities, etc.

Governance refers, for example, to integrating the participation of relevant actors in policy making (i.e. student and academic staff participation). It also refers to states' obligation to monitor education - including all relevant policies, institutions, programmes, spending patterns and other practices - so as to identify and take measures to redress any de facto discrimination¹⁰¹. Moreover, it relates to ensuring mechanisms of complaint so that right-holders can denounce (administratively and judicially) violations to their rights, enforcing the normative framework and holding states to account whenever their rights are not upheld.

One important aspect of accountability is taking into account community led data when monitoring.

Note that because accountability is a cross cutting variable, the indicators included in Chapter 3 mention

accountability indicators in the tables referring to all other variables.

Now that you have understood states' obligations regarding the right to higher education and that you have an overview of the factors that might hinder access and participation in higher education, you are ready to design and plan your monitoring project.

¹⁰¹ CESCR, [General Comment 13](#), paragraph 37.

ASSESSING THE REALISATION OF THE RIGHT TO EDUCATION: PLAN, DESIGN AND EXECUTE A MONITORING PROJECT USING HUMAN RIGHTS INDICATORS



Monitoring the right to higher education from a human rights perspective comprises measuring ‘both the enjoyment of the right to education by rights-holders at individual and collective level (groups) and the efforts made by the state (duty-bearers) to implement this right, including the development of law and policies as well as financial effort’¹⁰². It thus provides the grounds to identify how states can address challenges of rights enjoyment – and whether they made adequate efforts to address it¹⁰³.



Monitoring the right to higher education from a human rights perspective means that you will assess three types of data:

- Structures: the state’s commitments regarding the right to higher education
- Processes: the state’s efforts to meet those commitments
- Outcomes: the level of realisation of the right to education, particularly its enjoyment by rights-holders.

102 Adamson, Frank; Aubry, Sylvain; Dorsi, Delphine; Galloway, Meredith. 2021. [Human rights to evaluate evidence on non-state involvement in education](#). GEM Report, p. 19.

103 Adamson, Frank; Aubry, Sylvain; Dorsi, Delphine; Galloway, Meredith. 2021. [Human rights to evaluate evidence on non-state involvement in education](#). GEM Report, p.19.

Defining your goals and focus

The **general purpose** of monitoring access and participation in higher education from a human rights perspective is to gather information about the realisation of the rights to equality and non-discrimination as they apply to higher education in a country or region, and engage in [advocacy](#) to push states to comply with their international obligations and national legal commitments.

You may narrow down the purpose of your monitoring by defining **specific goals**. For example:

- ▶ advocate for duty bearers to ensure the regulation of private higher education
- ▶ support a [particular community](#) (migrants, disabled, afro-descendants, LGBTQI+, etc.) to get equal access to higher education
- ▶ write a [shadow report](#) to a UN [treaty body](#) on the respect and implementation of higher education international norms.

In any case, the purpose of the monitoring should be clearly articulated based on:

- ▶ the type of inequalities found in your country or region
- ▶ the issues that are relevant to your organisation and your advocacy plans
- ▶ the human and financial capacity of your organisation



For more details on the criteria for deciding your goals, refer to our [Right to Education Monitoring Guide](#).

Once you have set your goals, you can determine the **scope** of your project. You may choose a broad focus or a more specific one, depending on what you want to achieve and the capacity of your organisation.

The following aspects should be considered when determining the scope of your project.



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- Comprehensive monitoring: monitoring can be highly comprehensive, covering all issues related to inequalities in access to, and participation in, higher education.
- Thematic focus: monitoring can focus exclusively on one or more topics or on the rights of a specific group
 - Focus on an issue: governance, financing, privatisation, territorial inequalities, or any other issue that is relevant to your community and your organisation.
 - Focus on the rights of a specific group: women; ethnic, religious, or linguistic groups; indigenous peoples; refugees, asylum-seekers, migrants, or internally displaced persons; persons with disabilities (including physical, mental, intellectual, and sensory impairments); people from disadvantaged socio-economic backgrounds; persons with a particular birth status (caste, descent, nationality); lesbian, gay, bisexual, transgender, or intersex persons (LGBTI); other marginalised or vulnerable groups (depending on your local context).
- Geographical boundaries: Monitoring projects can be conducted nationally or regionally, considering

the country as a whole or focusing on one or more specific regions. You may also choose an international comparative approach.

The scope of the monitoring can be further narrowed down by concentrating on a category within a category. For example: 'access to higher education for second generation migrants' targets a particular category (second generation migrants) within a specific community (migrants). Or: 'access to higher education for first generation higher education students from rural areas' targets a particular community (students whose parents do not have a higher education diploma) in a specific context (students living in rural areas).



Because inequalities are highly context-based, you should consider issues that are relevant both to rights holders and to your organisation.



'Using a human rights monitoring framework means that you will take into consideration and use international human rights law in the framing of research, data collection, and analysis'¹⁰⁴.

104 Adamson, Frank; Aubry, Sylvain; Dorsi, Delphine; Galloway, Meredith. 2021. *Human rights to evaluate evidence on non-state involvement in education*. GEM Report, p.22.

Accessing states' commitments and relevant data

Once you have established your objectives and the scope of your monitoring project, you need to assess relevant data. The first thing you need to do is verify what the legally binding treaties are regarding the right to education that the state under review has endorsed, and how it has been translated into national law and implemented by national policies. Then you need to look at existing statistics: disaggregated data will provide you with information on the level of enjoyment of the right to higher education in your country. At a third stage, you may want to collect new qualitative and/or quantitative data, either to enrich your advocacy efforts or to respond to existing data gaps. This section will guide you through those three steps.

ASSESSING THE LEGAL FRAMEWORK

Monitoring from a human rights perspective means, above all, verifying if the normative framework that sets human rights obligations and standards is being upheld by duty bearers. Thus, the first thing you need to do is to assess the international legal framework safeguarding the right to higher education and identify what the states obligations in regards to the right to higher education are (see Chapter 1 for general information on states' obligations and Chapter 2 for specific international norms related to each of the variables that influence equality in access and participation in higher education).



The next box presents the main instruments which are binding for the states that have ratified them (identified with an *). It also includes non-binding instruments which are significant for various reasons - for example, a non-binding instrument may constitute an authoritative interpretation which provides guidance to states regarding implementation of a binding instrument; indicate evolving practices or emerging consensus on particular issues; and/or they be subject to structured follow up and review processes which provide space for dialogue about rights in practice.



See also [International instruments - the right to higher education](#).

International human rights frameworks

- [Universal Declaration of Human Rights, 1948](#) (Article 26)
- [International Covenant on Economic, Social and Cultural Rights, 1966*](#) (Articles 2.2 and 13, CESCR General Comment Nos. 13 and 20)
- [Convention on the Rights of the Child, 1989*](#) (Article 28)
- [Convention on the Elimination of All Forms of Discrimination against Women, 1979*](#) (Article 28, CEDAW, General Recommendation No. 36)
- [Convention on the Rights of Persons with Disabilities, 2006*](#) (Article 24, General comment No. 4)
- [Convention against Discrimination in Education, 1960*](#) (Article 4)
- [International Convention on the Elimination of All Forms of Racial Discrimination, 1965*](#) (Articles 5 and 7, General Recommendation Nos. 23, 27, 29, 30 and 34)
- [Declaration on the Rights of Indigenous Peoples, 2007](#) (Article 14)
- [Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*](#)
- [Convention Relating to the Status of Refugees*](#)
- [1967 Protocol \(PCSR\), the Convention relating to the Status of Stateless persons*](#)
- [Global Convention on the Recognition of Qualifications concerning Higher Education, 2019*](#) (Preamble, Section I, II, III, IV, V)
- [UNESCO General Recommendation on the Recognition of Studies \(1993\) and Qualifications in Higher Education and on the status of Higher-Education Teaching Personnel, 1997](#)

Regional human rights frameworks

- [Charter of the Organisation of American States, 1948*](#) (Article 49)
- [Additional Protocol to the American Convention on Human Rights, Protocol of San Salvador, 1988*](#) (Articles 13 and 16)
- [African Charter on the Rights and Welfare of the Child, 1990*](#) (Article 11)
- [African Youth Charter, 2006*](#), (Article 13)
- [European Charter for Regional or Minority Languages, 1992*](#) (Article 8)

- [European Convention on the Legal Status of Migrant Workers, 1977*](#): (Article 14)
- [Revised European Social Charter, 1996*](#) (Article 10)
- [Convention on the Recognition of qualifications concerning higher education in the European Region, 1997*](#) (Preamble, Section I, II, IV, V, VI, VII, VIII, IX, X, XI)
- [Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in the Arab States 1978](#)
- [Asia-Pacific Regional Convention on the Recognition of Qualifications in Higher Education](#)
- [Latin America and the Caribbean – Revised Regional Recognition Convention \(2019\)](#)
- [Mediterranean Region - Inter-Regional Recognition Convention \(1976\)](#)
- [ASEAN Human Rights Declaration, 2012*](#) (Article 31)
- [Council of Europe Recommendation on the public responsibility for higher education and research, 2007](#)

When states have ratified or acceded to international treaties that recognise the right to education, they must guarantee and implement this right at the national level. Therefore, once you have assessed the international human rights law protecting the right to higher education, you need to check how it has been incorporated into national laws and what the legal provisions are that ensure its [national implementation](#). Understanding what is and what isn't within the bounds of domestic law and identifying relevant national policies that you can consider looking at when collecting data helps shape your focus and prepare your fieldwork.

Start by assessing constitutional protection, and then take a look at any other existing education laws and policies. You might also want to check if there are any national laws or policies protecting specific groups (such as indigenous, migrants, persons with disabilities, etc) and verify if they have any provisions regarding the right to higher education. When doing so, take the time to familiarise yourself with the institutional design of the higher education system: is it centralised/ decentralised? Are there any laws regulating private higher education institutions? Which ministries are responsible for the implementation of special policies designed to widen access and participation? Then you may also check if there are any court decisions that are relevant to the scope of your monitoring project.



Check out our notices for more information on [what to look at and where to find information regarding the legal protection of the right to education](#).

Assessing the legal framework will help you identify key legal challenges concerning access and participation in higher education, particularly if there is a discrepancy between a state's obligations under international human rights standards and the provisions ensured in national laws and policies. Nevertheless, this initial

analysis only assesses formal (*de jure*) discriminations and, as has been mentioned, inequalities may exist in practice (*de facto*), despite formal constitutional equality.

To access *de facto* inequalities you will want to check existing information on the realisation of the right to education in your country. This information may be available through national and/or international databases, as presented in the next section.

GATHERING AVAILABLE DATA

Data is essential for the realisation of human rights. It is necessary to assess the prevailing situation of the right to higher education, to inform policy decisions and to verify the effectiveness of those decisions.

Principles of a human rights based approach to data on economic, social and cultural rights¹⁰⁵

1. Equality and non-discrimination: Data must be produced and used to eliminate discrimination and bring about substantive equality.
2. High quality data: Data needs to be relevant, timely, accurate, complete, and consistent as well as addressing all aspects of economic, social and cultural rights, including qualitative data on people's experience in enjoying these rights.
3. Participation: Data should meaningfully enable the participation of everyone, particularly marginalised groups, in shaping decisions that affect their rights.
4. Transparency and accessibility of information: Data must be publicly available and accessible. Those seeking to access public information must be able to do so safely and without facing threats or harm.
5. Privacy: Human rights data must be produced and used in such ways as to protect the rights to privacy and security of a person

For more on those principles and on how to gather, analyse and use data in ways that advance economic, social and cultural rights and reduce inequalities, check the [International Network for Economic, Social and Cultural Rights \(ESCR-Net\)](#) collective position: [Data for economic, social and cultural rights](#).

Since continuous monitoring of the right to education is the primary duty of states, the first step is to consult with the national ministry in charge of higher education or the National Statistics Office to see if they have published any raw data or any report that might be relevant to your monitoring. You can also refer to the Ministry of Finance and any parliamentary committees that oversee education policies and/or the State budget.

You may also consider alternative sources of data, such as academic data sets or monitoring projects conducted by researchers and/or local civil society organisations.

Once you have exhausted the sources at a national level, it might be helpful to look at international databases: international organisations regularly publish quantitative data on education (country profiles, comparative statistics, analytical thematic reports¹⁰⁶).

Useful international databases

- [UNESCO Institute for Statistics \(UIS\) – Education Data](#)
- [UNESCO World Inequality Database on Education – WIDE](#)
- [Inter-Agency Group on Education Inequalities Indicators – IAG-EII](#)
- [World Bank Education Statistics – Edstats](#)
- [UNESCO/OECD/EUROSTAT \(UOE\) – Education Database](#)
- [OECD 'Education at a glance' reports](#)
- [European Union – Eurydice Database and Reports](#)
- [Eurostat Data on Education and Training](#)

Qualitative information can be obtained in state reports submitted to international human rights treaty monitoring bodies. These reports provide information on education laws and policies and other measures taken by states for the implementation of the right to education. You might want to specifically refer to the concluding observations of UN treaty bodies (primarily the [Committee on Economic, Social and Cultural Rights](#) and the [Committee on the rights of the Child](#)), and reports from country visits of the [UN Special Rapporteur on the right to education](#). It might be also interesting to look at reports from other UN Special Rapporteurs working on the relevant cross-cutting themes ([persons with disabilities](#), [indigenous people](#), [racism](#), [migration](#), [development](#), etc.).



For further resources on the importance of data and guidelines on how to access them, read our [right to education monitoring guide – in particular, Section 2.2 \(Identifying deprivations and inequalities in education\)](#).

The way to track most of the variables influencing the right to higher education, as presented in section II, is by looking at disaggregated data. Disaggregated data is data that has been broken down by subcategories, such as: characteristic (gender, type of disability, age), identity (racial, ethnic, or linguistic minorities) or location (region, rurality) or other important status (income, wealth). Disaggregated data is essential to

¹⁰⁵ These principles result from a two year long discussion process within the International Network for Economic, Social and Cultural Rights (ESCR-Net), culminating with the draft and publication of a collective position to advocate for data that centres rights-holders and affected communities, and enables more inclusive, democratic and effective decision-making.

¹⁰⁶ It is important to note that most international data sets are based on data by UNESCO UIS, which is informed by administrative data produced and submitted by national authorities. Financial data provided by UIS are rarely sufficient to support a sophisticated finance analysis in many countries. We suggest you partner with economists and academics when monitoring financing the right to education.

identify inequalities and patterns of discrimination¹⁰⁷. The level of disaggregation that will interest you will depend on the scope of your monitoring and the variables that are important to the particular issue of your concern. You can review the tables presented with the indicators in the next section where we indicate the levels of disaggregation for each indicator according to the variable of influence in question.

Disaggregated data

The disaggregation of information is critical to monitoring discrimination and inequality, whether in the realisation of economic, social and cultural rights, or of civil and political rights. Quantitative data, such as socio-economic statistics, that are not disaggregated offer an overview of the situation but may also at times mask inequality between different sectors of the population or between different regions or locations within a country.

Human rights monitoring to identify discrimination also requires an analysis of the gaps between the obligations of the State and the actual situation of specific individuals or groups of individuals, depending on several criteria: age, sex, ethnic or religious background, disability, socio-economic, marital status, sexual orientation etc. Identifying these gaps sheds light on the actual limitations of an existing policy or law or helps identify what particular actions – including temporary special measures – are needed to address specific marginalised groups and subgroups and the obligations of the duty bearer.

Lack of access to disaggregated information and statistics may render marginalised communities and sectors of the population even more vulnerable as their actual situation would not appear in reports and aggregated charts, and hence cannot inform policy making processes. Disaggregated information can also reveal the de facto discriminatory nature of some policies and laws that would otherwise appear neutral.

Source: OHCHR, *Manual on Human Rights Monitoring*, Chapter 20: *Monitoring Economic, Social and Cultural Rights*, p. 6).

Accessing disaggregated data can be particularly challenging. On one hand, because inequalities are context-based and require disaggregated data, one of the major challenges you might face when accessing inequalities in higher education from a human rights perspective will be finding the information you need. Systemic and disaggregated data is rarely available in most contexts. On the other hand, because national higher education systems are unique, comparison throughout countries can also be particularly challenging. Finally, some national legislations do not allow for certain types of disaggregated data, such as ethno-racial statistics, for example¹⁰⁸.

Note that the Committee on Economic, Social and Cultural Rights asserts that States Parties must closely monitor education – and collect disaggregated data according to prohibited grounds of discrimination¹⁰⁹. Nevertheless, marginalised groups often remain invisible in statistics both at national and at global levels. We thus encourage you to remind them of their obligations to collect and publish data that is disaggregated by age, sex, ethnic or religious background, disability, socio-economic, marital status, sexual orientation, nationality, region, etc. Other categories of disaggregated data are also relevant when monitoring inequalities in education are those related to the factors and variables that influence access and participation, as stated in [Section III](#) of this guide. They may refer to the institutional design – level of diploma, field of study, type of programme (part-time/full-time, online/hybrid/in person) – to the way higher education institutions are financed – public, private-for-profit, non-profit – or to individual criteria that are usually context specific – parents' nationalities, profession, socio-economic background, and level of studies; national and international mobility; status of migrants (refugees, asylum seekers, student visa holders), etc.

COLLECTING NEW DATA: PREPARING YOUR FIELD WORK

By now you should have a clear idea of the purpose and scope of monitoring, you should have identified a relevant legal framework and relevant existing data. You are then ready to engage in collecting new data. The methodology of your research will depend on the scope of your monitoring. You may want to consider using both quantitative and qualitative methods that include analysis of existing data, conducting interviews, on-site inspections, surveys, focus group discussions, media monitoring, process observation, audio-visual documentation, etc.

Quantitative data is extremely important because it measures the enjoyment (or lack thereof) of the right to education. Statistics usually provide us with the 'big picture', allowing for comparison across time and/or places. But statistics alone cannot illuminate the underlying causes of inequalities. Indeed, a participatory approach to monitoring, engaging the community in

¹⁰⁷ International Network for Economic, Social and Cultural Rights (ESCR-Net) collective position: [Data for economic, social and cultural rights](#), p. 3.

¹⁰⁸ Some individual characteristics – such as race or ethnic identity, sexual orientation, political opinions, physical and mental health, disability, criminal convictions or offenses, and biometric and genetic data – may fall under the category of 'sensitive personal data'. The collection and disclosure of sensitive personal data may generate particular security risks. However, because this data concerns groups that are at risk of facing discrimination or that are already facing discrimination, data collection is necessary. To mitigate risks of collection, disclosure, and misuse of 'sensitive personal data', states should implement data protection laws and systems of self-identification. For more on those topics, see particularly the International Network for Economic, Social and Cultural Rights (ESCR-Net) collective position: [Data for economic, social and cultural rights](#), p. 27-28 and p. 71-77.

¹⁰⁹ CESCR, [General Comment 13](#), paragraph 37.

the process and giving voice to testimonies, narratives, pictures, and videos can:

- ▶ Provide a better understanding of the underlying issues sustaining violations of the right to education, and ensure that the voices and life experiences of those affected by it are heard
- ▶ Ensure that the perspectives, knowledge, and priorities of affected communities are taken into account, therefore leading to informed policy design
- ▶ Constitute evidence for legal accountability.



Qualitative data gathered through interviews, focus groups, surveys or observation may improve your comprehension of the context and help you interpret quantitative data.

Human rights based approach to monitoring

- Ensuring transparency: Prior to conducting your research, make sure all your informants are aware of the purpose of your monitoring and the way you will use the information they provide you with.
- Respecting privacy and autonomy: Respect your informants right to privacy and autonomy. Get prior, informed, and free consent, if possible in written form - including for the use of visual data. Consider ensuring anonymity if revealing names and/or locations might put your informants, their families, or their community at a difficult position or at risk.
- Doing no harm: Avoid exposing people to unnecessary burdens and keep their best interest at the heart of your project.
- Treating people with dignity: Adopt a human rights-sensitive and gender-transformative approach to your project. Respect cultural norms and customs. When using visual data (videos or photos), make sure you have written consent of those depicted.

➔ For more information, review our [guidelines on gathering informed consent](#).

Human rights indicators

Monitoring the right to higher education will help you unveil inequalities in access and participation. When designing your monitoring project, you need to choose the human rights indicators that are relevant to the focus of your monitoring project.

WHAT ARE HUMAN RIGHTS INDICATORS?

Unlike other social or demographic indicators, human rights indicators are grounded in provisions of international human rights standards¹¹⁰ - this means that human right indicators link the normative level of international legal obligation with the practical level of empirical data¹¹¹.

We previously mentioned that monitoring the right to higher education from a human rights perspective involves assessing three types of data: structures, processes and outcomes. Three types of human rights indicators guide you through this process:



Human Rights Indicators

A human rights indicator is specific information on the state or condition of an object, event, activity or outcome that can be related to human rights norms and standards; that addresses and reflects human rights principles and concerns; and that can be used to assess and monitor the promotion and implementation of human rights. Indicators can be quantitative or qualitative. The former are narrowly viewed as equivalent to “statistics”, while the latter cover any information articulated as a narrative or in a “categorical” form.

Source: OHCHR (2012), Human Rights Indicators: A Guide to Measurement and Implementation.

¹¹⁰ OHCHR, Manual on Monitoring Human Rights.

¹¹¹ Siobhán McInerney-Lankford & Hans-Otto Sano (2010), [Human Rights Indicators in Development: An Introduction](#), World Bank (accessed 09 February 2022).



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Types of human rights indicators¹¹²

- **Structural indicators:** refer to the legal commitments of states. *What laws exist that guarantee the right to higher education?*
- **Process indicators:** refer to the efforts states make to ensure the realisation of the right to higher education. *Does the state ensure the implementation of the laws protecting the right to higher education? What is the state doing to meet its legal commitments regarding the right to higher education and to address eventual challenges in its realisation?*
- **Outcome indicators:** refer to the enjoyment of the right to education, by individuals (students) or groups. *What level of enjoyment do right holders have? Are there any gaps in the implementation of the law and what is the consequence for the enjoyment of the right to education?*

It is important to remember that it is only by looking at disaggregated data that you can unveil the impact of the variables identified in [Section II](#) on the realisation of the right to higher education. Education indicators should aim to capture not just national averages but also the variation across different population subgroups as defined by group and/or individual characteristics, such as sex, wealth, location, ethnicity, language, disability, etc., (and combinations of these characteristics)¹¹³. They should also refer to specific traits of the higher education system (private/public higher education institutions, rural/urban areas, etc.).

CHOOSING HUMAN RIGHTS INDICATORS

You will define the indicators that you are going to use according to the purpose and scope of your monitoring project. A set of indicators is provided hereafter in accordance with each of the variables of influence presented in Chapter 2¹¹⁴: Sex, gender identity and sexual orientation; racial, ethnic, caste, religious and indigenous identity; nationality and migration statuses; disabilities; socio-economic status; prior attainment; place of residence, financing; privatisation. Note that accountability is a cross cutting variable and all the tables presented hereafter include accountability indicators.

Each indicator is presented with a research question and the type of indicator. By clicking on the indicator, you will be provided with definition and comments, as well as the general international human rights legal framework that applies to it and the level of disaggregation of data.

Remember that those indicators can be further developed or contextualised depending on the needs of your project, and the reality on the ground. You might want to add qualitative indicators that provide for a better understanding of the context in which discrimination may occur (see section on collecting new data). Consider surveys, interviews, focus groups, and module your questions according to the needs of your project.



For general information on the selection of indicators, refer to [RTE's monitoring guide](#) (Steps 2 to 5). You may also refer to our [Indicator Selection tool](#).

¹¹² Adamson, Frank; Aubry, Sylvain; Dorsi, Delphine; Galloway, Meredith. 2021. [Human rights to evaluate evidence on non-state involvement in education](#). GEM Report, p. 19-23.

¹¹³ Technical Advisory Group-Proposal: Thematic Indicators to Monitor the Post 2015 Education Agenda

¹¹⁴ Those indicators can be further developed or contextualised depending on the needs of your project.

Table I: Sex, gender identity and sexual orientation

Check our page on [The Right to Education of Women and Girls](#)

State obligations	Ask yourself	Indicators	Type of indicator
Providing equal access without discrimination, on the basis of capacity, to the best of their available resources and specially by the progressive introduction of free higher education	Do any international treaties regarding the right to higher education apply to the State?	International human rights treaties guaranteeing the right to higher education ratified by the State ⇒ Check the legal framework box, specifically: Convention on the Elimination of All Forms of Discrimination against Women, CEDAW General Recommendation No. 36	Structural indicator
Ensuring national implementation of ratified treaties	What does the constitution say about the right to higher education? What constitutional protections are there around discrimination? Does it guarantee non-discrimination based on gender?	Coverage of the right to higher education in the constitution or other forms of superior law	Structural indicator
Ensuring national implementation of ratified treaties	Are there any national laws or policies which protect the right to higher education? What protections are there around discrimination?	Coverage of the right to higher education in domestic law	Structural indicator
Non-discrimination and equality		Do domestic laws forbid discrimination in access to education, specifically regarding sex, gender identity and sexual orientation?	Structural indicator
Non-discrimination and equality	How are marginalised or vulnerable groups supported? Are there any incentives, support or affirmative action policies to reduce inequality?	Is there a special funding system to ensure access to education for students from marginalised groups, specifically girls, women and LGBTQI+?	Structural indicator Process Indicator
		Are there any affirmative action or other policies aiming to reduce inequalities based on sex, gender identity or sexual orientation? (such as tuition subsidies, grants, quotas, etc.)?	Structural indicator Process Indicator
		Has the State allocated budget to implement laws and policies targeting special groups, specifically women or LGBTQI+? ⇒ Check also the sections on financing higher education and privatisation of higher education.	Process Indicator Structural indicator
Ensuring transparency and accountability. Data collected by the State under its obligation to monitor the right to higher education must be available to all rights holders	Does any government data on higher education exist? Is it in the public domain?	Does the State regularly collect data on higher education disaggregated by sex, gender identity and sexual orientation?	Process Indicator Structural indicator
Monitoring education - including all relevant policies, institutions, programmes, spending patterns and other practices - so as to identify and take measures to redress any de facto discrimination		Is the higher education data gathered by the State publicly available?	Process Indicator
		Do civil society organisations face obstacles set by the State when monitoring the right to higher education?	Structural indicator Outcome indicator









 State obligations	 Ask yourself	 Indicators	 Type of indicator
Non-discrimination and equality	What is the situation for LGBTQI+ people on campus? Do they face discrimination (including violence, stereotyping, stigma, participation barriers, etc.) and what data and policies exist?	<u>Do LGBTQI+ face discrimination on campus?</u>	Process Indicator Outcome indicator
		<u>Are there any on campus policies to ensure inclusion of LGBTQI+?</u> ➔ Check for any qualitative data available concerning the impact of on campus discrimination due to sexual orientation and gender identity. <ul style="list-style-type: none"> • Look at state, civil society and student union surveys and reports. • Look for best practices examples of on campus inclusion policies, such as campaigns, dedicated student orientation departments, etc. 	Process Indicator
Non-discrimination and equality	Are there any issues regarding girls and women's safety on campus?	<u>Are there any on campus policies to raise awareness of gender-based violence?</u>	Process Indicator
		<u>Number of reported incidents of sexual harassment</u>	Outcome indicator
Non-discrimination and equality	What is the gender balance across levels of higher education (bachelor, master, PhD)?	<u>Gross enrolment ratio in higher education (GER) (%) and Tertiary completion rate (first degree) (%) disaggregated by gender and level of education</u>	Outcome indicator
Non-discrimination and equality	What is the gender balance across subject areas (programme orientation)?	<u>Gross enrolment ratio in higher education (GER) (%) and Tertiary completion rate (first degree) (%) disaggregated by gender and programme orientation</u>	Outcome indicator
Ensuring accountability	What can a student do if they have been discriminated against? Is there an established procedure for complaints?	<u>Does the State have effective administrative complaint mechanism(s) to file complaints on violations of the right to education?</u>	Process Indicator Structural indicator
		<u>Are there any on campus mechanisms to support victims of gender-based discrimination (including harassment, violence, stereotyping, stigma)?</u>	Process Indicator
		<u>Are there any on campus policies to raise awareness of gender-based discrimination?</u>	Process Indicator
		<u>Do universities have effective administrative complaint mechanism(s) to file complaints of gender-based discrimination?</u>	Process Indicator
		<u>Number of reported incidents of sexual harassment</u>	Outcome indicator

Table II: Racial, ethnic, caste, religious and indigenous identity

➔ To identify inequalities based on racial, ethnic, caste and religious identity you must look at data disaggregated according to the racial, ethnic and religious identities that are relevant to your country.

👁️ Check our page on [The Right to Education of Minorities and Indigenous People](#)

 State obligations	 Ask yourself	 Indicators	 Type of indicator
Providing equal access without discrimination, on the basis of capacity, to the best of their available resources and especially by the progressive introduction of free higher education	Do any international treaties regarding the right to higher education apply to the State?	International human rights treaties relevant to the right to higher education ratified by the State ➔ Check the legal framework box and specially International Convention on the Elimination of All Forms of Racial Discrimination, General Recommendation Nos. 23, 27, 29, 32 and 34, Declaration on the Rights of Indigenous People	Structural indicator
Ensuring national implementation of ratified treaties Non-discrimination and equality	What does the constitution say about the right to higher education? What constitutional protections are there around discrimination? Does it guarantee non-discrimination based on racial, ethnic, caste, religious and indigenous identity?	Coverage of the right to higher education in the constitution or other forms of superior law	Structural indicator
Ensuring national implementation of ratified treaties Non-discrimination and equality	Are there any national laws or policies which protect the right to higher education? What protections are there around discrimination?	Coverage of the right to higher education in domestic law Do domestic laws forbid discrimination in access to education specially regarding race, ethnic, caste or religious identity and indigenous or autochthon status?	Structural indicator Structural indicator
Non-discrimination and equality	How are marginalised or vulnerable groups supported? Are there any incentives, support or affirmative actions policies to reduce inequality?	Is there a special funding system to ensure access to education for students from marginalised groups, especially regarding marginalised or vulnerable racial, ethnic, caste, religious, indigenous or autochthon groups? Are there any affirmative action or other policies aiming to reduce inequalities based on racial, ethnic, caste, religious identity and indigenous or autochthon status? (such as tuition subsidies, grants, quotas, etc.)? Has the State allocated budget to implement laws and policies targeting special groups, specifically marginalised racial, ethnic, caste, religious, indigenous or autochthon groups? ➔ Check also the sections on financing higher education and privatisation of higher education.	Structural indicator Process Indicator Structural indicator Process Indicator Process Indicator Structural indicator
Ensuring transparency and accountability. Data collected by the State under its obligation to monitor the right to higher education must be available to all rights holders. Monitoring education - including all relevant policies, institutions, programmes, spending patterns and other practices - so as to identify and take measures to redress any de facto discrimination.	Does any government data on higher education exist? Is it in the public domain?	Does the State regularly collect data on higher education disaggregated by race, ethnicity, caste, religion, indigenous or autochthon status? Is the higher education data gathered by the State publicly available? Do civil society organisations face obstacles set by the State when monitoring the right to higher education?	Process Indicator Structural indicator Process Indicator Structural indicator Outcome indicator





 State obligations	 Ask yourself	 Indicators	 Type of indicator
Ensuring the right to non-discrimination and equality	What is the situation for racial, ethnic, caste, religious, indigenous and/or autochthon marginalised or vulnerable groups on campus? Do they face discrimination, and what data and policies exist?	<p><u>Do marginalised racial, ethnic, caste, religious, indigenous and/or autochthon groups face discrimination on campus?</u></p> <hr/> <p><u>Are there any on campus policies to ensure inclusion of marginalised racial, ethnic, caste, religious, indigenous and/or autochthon groups?</u></p> <p>→ Check for any qualitative data available concerning the impact of on campus discrimination due to racial, ethnic, caste and religious identity and indigenous and/or autochthon status.</p> <ul style="list-style-type: none"> • Look at state, civil society and student union surveys and reports. • Look for best practices examples of on campus inclusion policies, such as campaigns, dedicated student orientation departments, etc. 	<p><u>Process Indicator</u></p> <p><u>Outcome indicator</u></p> <hr/> <p><u>Process Indicator</u></p>
Non discrimination and equality	What is the share of racial, ethnic, caste and religious identities across levels of education (bachelor, master, PhD)?	<u>Gross enrolment ratio in higher education (GER) (%)</u> and <u>Tertiary completion rate (first degree) (%)</u> disaggregated by race, ethnicity, caste, religion and level of education	<u>Outcome indicator</u>
Non discrimination and equality	What is the share of indigenous and autochthon students across levels of education of (bachelor, master, PhD)?	<u>Gross enrolment ratio in higher education (GER) (%)</u> and <u>Tertiary completion rate (first degree) (%)</u> disaggregated by indigenous and autochthon population and level of education	<u>Outcome indicator</u>
Non discrimination and equality	What is the racial, ethnic, caste and religious identity balance across subject areas (programme orientation)?	<u>Gross enrolment ratio in higher education (GER) (%)</u> and <u>Tertiary completion rate (first degree) (%)</u> disaggregated by race, ethnicity, caste, religion and programme orientation	<u>Outcome indicator</u>
Non discrimination and equality	What is the indigenous and autochthon students balance across subject areas (programme orientation)?	<u>Gross enrolment ratio in higher education (GER) (%)</u> and <u>Tertiary completion rate (first degree) (%)</u> disaggregated by indigenous and autochthon population and programme orientation	<u>Outcome indicator</u>
Non discrimination and equality.	What is the racial, ethnic, caste and religious identity balance across private/public institutions?	<u>Gross enrolment ratio in higher education (GER) (%)</u> and <u>Tertiary completion rate (first degree) (%)</u> disaggregated by race, ethnicity, caste, religion and type of institution (public/private)	<u>Outcome indicator</u>
Non discrimination and equality	What is the indigenous and autochthon students balance across private/public institutions?	<u>Gross enrolment ratio in higher education (GER) (%)</u> and <u>Tertiary completion rate (first degree) (%)</u> disaggregated by indigenous and autochthon population and type of institutions (public/private)	<u>Outcome indicator</u>
Ensuring accountability	What can a student do if they have been discriminated against? Is there an established procedure for complaints?	<p><u>Does the State have effective administrative complaint mechanism(s) to file complaints on violations of the right to education?</u></p> <p>Are there any on campus policies to raise awareness of discrimination based on racial, ethnic, caste and religious identity?</p> <p>Do universities have effective administrative complaint mechanism(s) to file complaints of discrimination based on racial, ethnic, caste and religious identity?</p>	<p><u>Process Indicator</u></p> <p><u>Structural indicator</u></p>

Table III: Nationality / Migration status

 Check specifically our page on [The Right to Education of Migrants, Refugees and Internally Displaced Persons](#)

 State obligations	 Ask yourself	 Indicators	 Type of indicator
<p>Providing equal access without discrimination, on the basis of capacity, to the best of their available resources and especially by the progressive introduction of free higher education.</p>	<p>Do any international treaties regarding the right to higher education apply to the State?</p>	<p>International human rights treaties relevant to the right to higher education ratified by the State</p> <p>Check the legal framework box, and specially the Convention relating to the Status of Refugees, 1951 as revised by its 1967 Protocol (PCSR), the Convention relating to the Status of Stateless persons, the Convention on the protection of the Rights of All Migrant Workers and Members of their families, the UNESCO Global Convention on the Recognition of Qualifications concerning Higher Education, General Recommendation 30 of the Committee on the Elimination of Racial Discrimination.</p>	<p>Structural indicator</p>
<p>Ensuring national implementation of ratified treaties</p> <p>Non-discrimination and equality.</p>	<p>What does the constitution say about the right to higher education? What constitutional protections are there around discrimination? Does it guarantee non-discrimination based on nationality and migration status?</p>	<p>Coverage of the right to higher education in domestic law</p>	<p>Structural indicator</p>
		<p>Do domestic laws forbid discrimination in access to education, specially regarding nationality and/or migration status?</p>	<p>Structural indicator</p>
<p>Ensuring national implementation of ratified treaties</p> <p>Non-discrimination and equality</p>	<p>Are there any national laws or policies which protect the right to higher education? What protections are there around discrimination?</p> <p>⇒ You might want to verify if there are laws and policies regulating the recognition of diplomas obtained in another country</p>	<p>Coverage of the right to higher education in domestic law</p>	<p>Structural indicator</p>
		<p>Do domestic laws forbid discrimination in access to education, specially regarding nationality and/or migration status?</p>	<p>Structural indicator</p>
<p>Non-discrimination and equality</p>	<p>How are marginalised or vulnerable groups supported? Are there any incentives, support or affirmative actions policies to reduce inequality?</p>	<p>Is there a special funding system to ensure access to education for students from marginalised groups, specifically non-nationals and migrants?</p>	<p>Process Indicator</p> <p>Structural indicator</p>
		<p>Are there any affirmative action or other policies aiming to reduce inequalities based on nationality and/or migration status (such as tuition subsidies, grants, quotas, easy mechanisms of prior education recognition, etc.)?</p>	<p>Structural indicator</p> <p>Process Indicator</p>
		<p>Has the State allocated budget to implement laws and policies targeting special groups, specifically migrants, refugees and/or asylum seekers?</p> <p>⇒ Check also the sections on financing higher education and privatisation of higher education.</p>	<p>Process Indicator</p>
		<p>Does the State regularly gather data on higher education disaggregated by nationality and migration status?</p>	<p>Process Indicator</p>
<p>Ensuring transparency and accountability. Data collected by the State under its obligation to monitor the right to higher education must be available to all right holders.</p> <p>Monitoring education - including all relevant policies, institutions, programmes, spending patterns and other practices - so as to identify and take measures to redress any de facto discrimination.</p>		<p>Is the higher education data gathered by the State publicly available?</p>	<p>Structural indicator</p>
		<p>Do civil society organisations face obstacles set by the State when monitoring the right to higher education?</p>	<p>Process Indicator</p> <p>Structural indicator</p> <p>Outcome indicator</p>






 State obligations	 Ask yourself	 Indicators	 Type of indicator
Non discrimination and equality	What is the situation for migrant people on campus? Do they face discrimination, and what data and policies exist?	<p><u>Do migrants, refugees and/or asylum seekers face discrimination on campus?</u></p> <p><u>Are there any on campus policies to ensure inclusion of migrants, refugees and asylum seekers?</u></p> <p>⇒ Check for any qualitative data available concerning the impact of on campus discrimination due to nationality and migration status.</p> <ul style="list-style-type: none"> • Look at state, civil society and student union surveys and reports. • Look for best practices examples of on campus inclusion policies, such as campaigns, dedicated student orientation departments, language courses, etc. 	<p><u>Process Indicator</u></p> <p><u>Process Indicator</u></p>
Non discrimination and equality	Do nationals and migrants pay the same tuition fees?	<p><u>Are there differentiated tuition fees based on students' nationalities?</u></p>	<p><u>Structural indicator</u></p> <p><u>Process Indicator</u></p>
Non discrimination and equality	What is the share of migrants across levels of education (bachelor, master, PhD)?	<p><u>Gross enrolment ratio in higher education (GER) (%) and Tertiary completion rate (first degree) (%) disaggregated by nationality, migration statuses and level of education</u></p> <p>⇒ Depending on the purposes, it might be interesting if data is disaggregated by migration status (international mobility programs, refugees, asylum seekers, first generation migrants, second generation migrants)</p>	<p><u>Outcome indicator</u></p>
Non discrimination and equality	What is the share of migrants across subject areas (programme orientation)?	<p><u>Gross enrolment ratio in higher education (GER) (%) and Tertiary completion rate (first degree) (%) disaggregated by nationality, migrant statuses and programme orientation</u></p> <p>⇒ Depending on the purposes, it might be interesting if data is disaggregated by migration status (international mobility programs, refugees, asylum seekers, first generation migrants, second generation migrants)</p>	<p><u>Outcome indicator</u></p>
Non discrimination and equality	What is the share of migrants across private/public institutions?	<p><u>Gross enrolment ratio in higher education (GER) (%) and Tertiary completion rate (first degree) (%) disaggregated by migrant statuses and type of institution (public/private)</u></p> <p>⇒ Depending on the purposes, it might be interesting if data is disaggregated by migration status (international mobility programs, refugees, asylum seekers, first generation migrants, second generation migrants)</p>	<p><u>Outcome indicator</u></p>
Ensuring accountability	What can a student do if they have been discriminated against? Is there an established procedure for complaints?	<p><u>Does the State have effective administrative complaint mechanism(s) to file complaints on violations of the right to education?</u></p> <p>Are there any on campus policies to raise awareness of discrimination based on nationality / migration status?</p> <p>Do universities have effective administrative complaint mechanism(s) to file complaints of discrimination based on nationality / migration status?</p>	<p><u>Process Indicator</u></p> <p><u>Structural Indicator</u></p>

Table IV: Disabilities

 Check specifically our page on [The Right to Education of Persons with Disabilities](#)

 State obligations	 Ask yourself	 Indicators	 Type of indicator
Providing equal access without discrimination, on the basis of capacity, to the best of their available resources and especially by the progressive introduction to free higher education	Do any international treaties regarding the right to higher education apply to the State?	International human rights treaties relevant to the right to higher education ratified by the State Check the legal framework box , and specially the Convention on the Rights of Persons with Disabilities , and General Comment 4	Structural indicator
Ensuring national implementation of ratified treaties. Non-discrimination and equality	What does the constitution say about the right to higher education? What constitutional protections are there around discrimination? Does it guarantee non-discrimination of persons with disabilities?	Coverage of the right to higher education in the constitution or other forms of superior law	Structural indicator
Ensuring national implementation of ratified treaties. Non-discrimination and equality	Are there any national laws or policies which protect the right to higher education? What protections are there around discrimination?	Coverage of the right to higher education in domestic law Do domestic laws forbid discrimination in access to education, specifically regarding persons with disabilities?	Structural indicator Structural indicator
Non-discrimination and equality	How are marginalised or vulnerable groups supported? Are there any incentives, support or affirmative actions policies to reduce inequality?	Is there a special funding system to ensure access to education for students from marginalised groups, specifically persons with disabilities? Are there any affirmative action or other policies aiming to reduce inequalities for persons with disabilities? (such as tuition subsidies, grants, quotas, etc.)? Has the State allocated budget to implement laws and policies targeting special groups, specifically persons with disabilities? ➔ Check also the sections on financing higher education and privatisation of higher education.	Structural indicator Process Indicator Structural indicator Process Indicator Process Indicator
Providing reasonable accommodation for individual students with disabilities	Are there any laws, policies and measures regulating accommodation/adaptability (physical accommodation, learning material, course format, etc) of higher education to students with disabilities? Do they apply to private universities?	Are there any laws, policies and measures regulating accommodation/adaptability of higher education for students with disabilities?	Structural indicator Process Indicator
Ensuring transparency and accountability. Data collected by the State under its obligation to monitor the right to higher education must be available to all right holders Monitoring education - including all relevant policies, institutions, programmes, spending patterns and other practices - so as to identify and take measures to redress any de facto discrimination	Does any government data on higher education exist? Is it in the public domain?	Does the State regularly gather data on higher education, regarding persons with disabilities? Is the higher education data gathered by the State publicly available? Do civil society organisations face obstacles set by the State when monitoring the right to higher education?	Process Indicator Structural indicator Structural indicator Process Indicator Outcome indicator









 State obligations	 Ask yourself	 Indicators	 Type of indicator
Non-discrimination and equality	What is the share of persons with disabilities across levels of education (bachelor, master, PhD)?	<u>Gross enrolment ratio in higher education (GER) (%) and Tertiary completion rate (first degree) (%)</u> disaggregated by persons with disabilities and level of education	<u>Outcome indicator</u>
Non-discrimination and equality	What is the share of persons with disabilities across subject areas (programme orientation)?	<u>Gross enrolment ratio in higher education (GER) (%) and Tertiary completion rate (first degree) (%)</u> disaggregated by persons with disabilities and programme orientation	<u>Outcome indicator</u>
Non-discrimination and equality	What is the share of persons with disabilities across private/public institutions?	<u>Gross enrolment ratio in higher education (GER) (%) and Tertiary completion rate (first degree) (%)</u> disaggregated by persons with disabilities and type of institution (public/private)	<u>Outcome indicator</u>
Ensuring accountability	What can a student do if they have been discriminated against? Is there an established procedure for complaints?	<p><u>Does the State have effective administrative complaint mechanism(s) to file complaints on violations of the right to education?</u></p> <p>Are there any on campus policies to raise awareness of discrimination towards persons with disabilities?</p> <p>Do universities have effective administrative complaint mechanism(s) to file complaints of discrimination towards persons with disabilities?</p>	<u>Process Indicator</u> <u>Structural indicator</u>

Table V: Socio-economic status



Countries use different variables to collect disaggregated data on socio-economic status. The most common categories are household income, parental profession, parental level of education. International organisations usually disaggregate data by bottom/top wealth quintile (ratio between first and last quintiles).

 State obligations	 Ask yourself	 Indicators	 Type of indicator
Providing equal access without discrimination, on the basis of capacity, to the best of their available resources and especially by the progressive introduction to free higher education	Do any international treaties regarding the right to higher education apply to the State?	<p><u>International human rights treaties relevant to the right to higher education ratified by the State</u></p> <p>⇒ Check the <u>legal framework</u> box</p>	<u>Structural indicator</u>
Ensuring national implementation of ratified treaties Non-discrimination and equality	What does the constitution say about the right to higher education? What constitutional protections are there around discrimination? Does it guarantee non-discrimination based on socio-economic status?	<u>Coverage of the right to higher education in the constitution or other forms of superior law</u>	<u>Structural indicator</u>
Ensuring national implementation of ratified treaties Non-discrimination and equality	Are there any national laws or policies which protect the right to higher education? What protections are there around discrimination?	<p><u>Coverage of the right to higher education in domestic law</u></p> <p><u>Do domestic laws forbid discrimination in access to education, specifically regarding socio-economic status?</u></p>	<u>Structural indicator</u> <u>Structural indicator</u>







 State obligations	 Ask yourself	 Indicators	 Type of indicator
Non-discrimination and equality	How are marginalised or vulnerable groups (check language) supported? Are there any incentives, support or affirmative actions policies to reduce inequality?	Is there a special funding system to ensure access to education for students from marginalised groups, specifically persons from low income families?	Structural indicator Process Indicator
		Are there any affirmative action or other policies aiming to reduce inequalities for students from low income families (such as tuition subsidies, grants, quotas, etc.)?	Structural indicator Process Indicator
		Are there any affirmative action policies aiming to reduce inequalities for first generation students (such as tuition subsidies, grants, quotas, etc.)?	Structural indicator Process Indicator
		Has the State allocated budget to implement laws and policies targeting special groups, specifically people from low income families and those of marginalised socio-economic status? ➔ Check also the sections on financing higher education and privatisation of higher education.	Process Indicator
Ensuring transparency and accountability. Data collected by the State under its obligation to monitor the right to higher education must be available to all right holders. Monitoring education - including all relevant policies, institutions, programmes, spending patterns and other practices - so as to identify and take measures to redress any de facto discrimination.	Does any government data on higher education exist? Is it in the public domain?	Does the State regularly gather data on higher education, disaggregated by socio economic status (household income, parents profession, bottom/top quintile, etc.)	Process Indicator
		Is the higher education data gathered by the State publicly available?	Structural indicator
		Do civil society organisations face obstacles set by the State when monitoring the right to higher education?	Structural indicator Process Indicator Outcome indicator
Non-discrimination and equality	What is the share of students from low income families across levels of education (bachelor, master, PhD)?	<u>Gross enrolment ratio in higher education (GER) (%) and Tertiary completion rate (first degree) (%)</u> disaggregated by socio-economic status and level of education ➔ Check also disaggregated data on parental level of education, region and place of residence.	Outcome indicator
Non-discrimination and equality	What is the share of students from low income families across subject areas (programme orientation)?	<u>Gross enrolment ratio in higher education (GER) (%) and Tertiary completion rate (first degree) (%)</u> disaggregated by socio-economic status and programme orientation ➔ Check also disaggregated data on parental level of education, region and place of residence.	Outcome indicator
Non-discrimination and equality	What is the share of students from low income families across private/public institutions?	<u>Gross enrolment ratio in higher education (GER) (%) and Tertiary completion rate (first degree) (%)</u> disaggregated by socio-economic status and type of institution (public/private) ➔ Check also disaggregated data on parental level of education, region and place of residence.	Outcome indicator
Ensuring accountability	What can a student do if they have been discriminated against? Is there an established procedure for complaints?	Does the State have an effective administrative complaint mechanism(s) to file complaints on violations of the right to education?	Process Indicator Structural indicator
		Are there any on campus policies to raise awareness of discrimination based on socio-economic status? Do universities have effective administrative complaint mechanism(s) to file complaints of discrimination based on socio-economic status?	

Table VI: Prior education/Attainment

 State obligations	 Ask yourself	 Indicators	 Type of indicator
Providing equal access without discrimination, on the basis of capacity, to the best of their available resources and especially by the progressive introduction to free higher education.	Do any international treaties regarding the right to higher education apply to the State?	<u>International human rights treaties relevant to the right to higher education ratified by the State</u> ➔ Check the <u>legal framework</u> box	<u>Structural indicator</u>
Ensuring national implementation of ratified treaties. Non-discrimination and equality	What does the constitution say about the right to higher education? What constitutional protections are there around discrimination?	<u>Coverage of the right to higher education in the constitution or other forms of superior law</u>	<u>Structural indicator</u>
Ensuring national implementation of ratified treaties. Non-discrimination and equality	Are there any national laws or policies which protect the right to higher education? What protections are there around discrimination?	<u>Coverage of the right to higher education in domestic law</u> <u>Do domestic laws forbid discrimination in access to education?</u>	<u>Structural indicator</u> <u>Structural indicator</u>
Non-discrimination and equality	How are marginalised or vulnerable groups supported? Are there any incentives, support or affirmative action policies to reduce inequality?	<u>Is there a special funding system to ensure access to education for students from marginalised groups</u>	<u>Structural indicator</u> <u>Process Indicator</u>
		<u>Are there any affirmative action or other policies aiming to reduce inequalities as a consequence of prior secondary education?</u>	<u>Structural indicator</u> <u>Process Indicator</u>
		<u>Has the State allocated budget to implement laws and policies targeting special groups?</u> ➔ Check also the sections on financing higher education and privatisation of higher education.	<u>Process Indicator</u>
Ensuring transparency and accountability. Data collected by the State under its obligation to monitor the right to higher education must be available to all right holders. Monitoring education - including all relevant policies, institutions, programmes, spending patterns and other practices - so as to identify and take measures to redress any de facto discrimination.	Does any government data on students transition to higher education exist? Is it in the public domain?	<u>Does the State regularly gather data on secondary education, disaggregated by rural/urban, subnational region, private/public, socio-economic status?</u>	<u>Process Indicator</u>
		<u>Is the secondary and higher education data gathered by the State publicly available?</u>	<u>Structural indicator</u>
		<u>Do civil society organisations face obstacles set by the State when monitoring the right to higher education?</u>	<u>Structural indicator</u> <u>Process Indicator</u> <u>Outcome indicator</u>
Non-discrimination and equality	How does the State assess 'capacity'?	<u>What are the legal provisions on 'capacity' assessment?</u>	<u>Structural indicator</u>









 State obligations	 Ask yourself	 Indicators	 Type of indicator
Non-discrimination and equality	<p>How does secondary education affect higher education enrolment and completion rates?</p> <p>For example: Do students completing their secondary education in rural areas have the same chances of accessing university as those completing their secondary education in urban regions? Do students completing their secondary education in public schools have the same chances of accessing university than those completing their secondary education in private schools?</p>	<p><u>Gross enrolment ratio in higher education (GER) (%) and Tertiary completion rate (first degree) (%) disaggregated by type of secondary education institution (private/public), region of secondary education (subnational region, rural/urban), place of residence</u></p>	<u>Outcome indicator</u>
Ensuring accountability	<p>What can a student do if they have been discriminated against? Is there an established procedure for complaints?</p>	<p><u>Does the state have effective administrative complaint mechanism(s) to file complaints on violations of the right to education?</u></p> <p>Are there any on campus policies to raise awareness of discrimination based on prior education/attainment?</p> <p>Do universities have effective administrative complaint mechanism(s) to file complaints of discrimination based on prior education/attainment?</p>	<u>Process Indicator</u> <u>Structural Indicator</u>

Table VII: Place of residence

 State obligations	 Ask yourself	 Indicators	 Type of indicator
Providing equal access without discrimination, on the basis of capacity, to the best of their available resources and especially by the progressive introduction to free higher education	Do any international treaties regarding the right to higher education apply to the State?	<p><u>International human rights treaties relevant to the right to higher education ratified by the State</u></p> <p>⇒ Check the <u>legal framework</u> box</p>	<u>Structural indicator</u>
Ensuring national implementation of ratified treaties Non-discrimination and equality	What does the constitution say about the right to higher education? What constitutional protections are there around discrimination?	<u>Coverage of the right to higher education in the constitution or other forms of superior law</u>	<u>Structural indicator</u>
Ensuring national implementation of ratified treaties Non-discrimination and equality	Are there any national laws or policies which protect the right to higher education? What protections are there around discrimination?	<p><u>Coverage of the right to higher education in domestic law</u></p> <p><u>Do domestic laws forbid discrimination in access to education, specifically regarding place of residence?</u></p>	<u>Structural indicator</u> <u>Structural indicator</u>









 State obligations	 Ask yourself	 Indicators	 Type of indicator
Non discrimination and equality Ensuring physical accessibility to higher education.	How are marginalised or vulnerable groups supported? Are there any incentives, support or affirmative actions policies to reduce inequality?	<u>Is there a special funding system to ensure access to education for students from marginalised groups</u>	<u>Structural indicator</u> <u>Process Indicator</u>
		<u>Are there any affirmative action or other policies aiming to reduce territorial inequalities or inequalities based on place of residence (such as tuition subsidies, grants, quotas, etc.)?</u>	<u>Structural indicator</u> <u>Process Indicator</u>
		<u>Has the State allocated budget to implement laws and policies targeting special groups, specifically those marginalised because of their place of residence?</u> → Check also the sections on financing higher education and privatisation of higher education.	<u>Process Indicator</u>
Non-discrimination and equality Ensuring physical and economic accessibility to higher education	What is the relationship between where someone lives and their access to higher education?	<u>What is the share of students pursuing a higher education degree in the region of origin/residence (where they completed upper-secondary education)?</u> Disaggregate by rural/urban; region; income quintile	<u>Outcome indicator</u>
Ensuring accountability	What can a student do if they have been discriminated against? Is there an established procedure for complaints?	<u>Does the State have an effective administrative complaint mechanism(s) to file complaints on violations of the right to education?</u> Are there any on campus policies to raise awareness of discrimination based on place of residence? Do universities have effective administrative complaint mechanism(s) to file complaints of discrimination based on place of residence?	<u>Process Indicator</u> <u>Structural indicator</u>





Table VIII: Financing higher education: assessing resource allocation and execution

 State obligations	 Ask yourself	 Indicators	 Type of indicator
Providing equal access without discrimination, on the basis of capacity, to the best of their available resources and especially by the progressive introduction to free higher education. Avoid <u>retrogressive measures</u>	What share of the national budget is allocated to higher education and how has it evolved throughout the years? How is the higher education budget distributed amongst higher education institutions, programs and regions and how does it affect the right to higher education?	<u>Higher Education expenditure ratio</u> disaggregated by public/private (nonprofit vs. for-profit), programme orientation, subnational region	<u>Process Indicator</u>
Accountability. Avoid <u>retrogressive measures</u>	What percentage of the approved budget for higher education in the last fiscal year was actually executed?	<u>Education budget execution rate</u>	<u>Process Indicator</u>

Providing equal access without discrimination, on the basis of capacity, to the best of their available resources and specially by the progressive introduction to free higher education. Avoid <u>retrogressive measures</u>	What is the public expenditure/ student rate and how has it evolved over time?	<u>Current public expenditure in higher education per student as a percentage of GDP per capita disaggregated by public/private (nonprofit vs. for-profit), elite vs. community, programme orientation, subnational region</u>	<u>Process Indicator</u>
Ensuring accountability	Do universities have financial autonomy?	Is there a mechanism to oversee budget expenditure of autonomous universities?	<u>Process Indicator</u>
	Is budget allocation to higher education centralised or decentralised?	<u>If the educational system is decentralised, is the distribution of funds for higher education from national to local level commensurate with the responsibilities devolved to the local level?</u>	<u>Process Indicator</u>
	What are the existing mechanisms to oversee budget allocation and expenditure?	<u>If the higher education budget is allocated by different ministries or agencies (at national or regional level), is there a mechanism available to oversee coordination among all the different levels of responsibility?</u>	<u>Process Indicator</u>
Ensuring transparency and accountability	Are key documents related to financial decisions regarding higher education publicly available?	<u>Is there public access to key public financial documents related to higher education?</u>	<u>Structural indicator</u>
		<u>Does an independent body (e.g. parliamentary committee) monitor the higher education budget?</u>	<u>Process Indicator</u>
Seek international assistance and cooperation for the full realisation of the right to higher education in case of insufficient resources	In case of insufficient resources for the realisation of the right to higher education for all, States are compelled by international human rights law to seek international assistance and cooperation for the full realisation of this right. Is it the case in your State?	<u>Does the State take steps to seek international assistance and cooperation for the realisation of the right to higher education?</u>	<u>Process Indicator</u> <u>Outcome indicator</u>
Ensuring economic accessibility to higher education	Does the State regulate tuition fees? If so, at what governmental institutional level are the decisions made and are they applied nationally, including to autonomous universities? Are regulated tuition rates applied nationally and decided through a democratic (parliamentary) discussion rather than being devolved to each university or/and set according to the 'market'? Has the State implemented laws, policies and/or taken any measures to reduce the financial burden of tuition for students and their families? What is the average cost per month / per year for a student in a public higher education institution as a percentage of total household expenditure? (tuition, material, transportation, lodging, etc.)?	Are tuition fees which are regulated by the State decided through a parliamentary vote?	<u>Process Indicator</u> <u>Structural indicator</u>
		<u>Has the State allocated budget to implement laws and policies targeting special groups?</u> → Check indicators for affirmative action targeting special groups on the previous sections	<u>Process Indicator</u>
		<u>Percentage of household expenditure on higher education, disaggregated by quintile, ratio between the lowest and highest quintile</u>	<u>Process Indicator</u>
Ensuring economic accessibility to higher education	What is the share of the higher education budget that is allocated to students' financial aid (tuition grants, mobility grants, housing, etc.)?	<u>Percentage of higher education budget allocated to student financial aid as a share of total higher education budget, disaggregated by type of financial aid and groups</u>	<u>Process Indicator</u>

Table IX: Privatisation of higher education

 State obligations	 Ask yourself	 Indicators	 Type of indicator
<p>Setting minimum educational standards to ensure accessibility and quality of higher education in private higher education institutions.</p> <p>Ensuring that private educational institutions conform to standards established by the State in accordance with its obligations under international human rights law</p>	<p>Are there any laws regulating private higher education? What do they say and how are they enforced?</p>	<p><u>What laws and policies regulate the privatisation of higher education and private higher education institutions?</u></p>	<p><u>Structural indicator</u></p>
		<p><u>Is there an accreditation system for private higher education institutions?</u></p>	<p><u>Structural indicator</u></p>
		<p><u>Are there minimum educational standards applicable to non-government higher education institutions?</u></p>	<p><u>Structural indicator</u></p>
<p>Ensuring accountability. Ensuring that private educational institutions conform to standards established by the State in accordance with its obligations under international human rights law. Monitoring education - including all relevant policies, institutions, programmes, spending patterns and other practices - so as to identify and take measures to redress any de facto discrimination</p>	<p>Does the State monitor private higher education institutions?</p>	<p><u>Is there a monitoring body controlling whether minimum educational standards are met in private higher education institutions?</u></p>	<p><u>Structural indicator</u></p>
<p>Ensuring transparency and accountability</p>	<p>Is there a clear, transparent budgetary strategy regarding public financing of private higher education institutions?</p> <p>What share of the national higher education budget is being invested in private higher education institutions and how is it allocated/distributed?</p> <p>Are public subsidies to private institutions tied to requirements of contributing to the general interest (i.e. non selective enrolment of students)?</p>	<p><u>Share of the national higher education budget invested in private higher education institutions</u>, disaggregated by type of private higher education institution (nonprofit/for-profit) and disaggregated by type of investment (public/private partnerships, direct investments, incentives/subsidies, scholarships/grants), by subject area/programme orientation, by level of education.</p>	<p><u>Process Indicator</u></p>
<p>Respecting the liberty of individuals and bodies to establish and direct educational institutions given that such institutions conform to minimum standards as may be laid down by the State. Providing equal access without discrimination, on the basis of capacity, to the best of their available resources and specially by the progressive introduction to free higher education</p>	<p>What is the share of students enrolled in private higher education?</p>	<p><u>Percentage of private enrolment in higher education</u></p> <p>Disaggregated by level of education; subject area/programme orientation; region; socio-economic status; nationality/migration status; place of residence; racial, ethnic, caste identity, indigenous or autochthon status; disabilities; type of private institution (nonprofit/for-profit)</p>	<p><u>Outcome indicator</u></p>

 State obligations	 Ask yourself	 Indicators	 Type of indicator
<p>Providing equal access without discrimination, on the basis of capacity, to the best of their available resources and specially by the progressive introduction to free higher education</p>	<p>What is the average cost per month per family for a student in a private higher education institution as a percentage of total household expenditure? (tuition, material, transportation, lodging, etc.)?</p>	<p><u>Percentage of household expenditure on private higher education</u></p>	<p><u>Outcome indicator</u></p>
<p>Non-discrimination and equality</p>	<p>Is the offer on certain areas of study concentrated in the hands of private actors? What does it mean in terms of availability and accessibility of the right to higher education?</p>	<p><u>Ratio between public/private offer in higher education institutions according to field of studies.</u></p>	<p><u>Process Indicator</u> <u>Outcome indicator</u></p>
<p>Non-discrimination and equality</p>	<p>What is the impact of privatisation for the most marginalised, disadvantaged and vulnerable groups?</p> <p>Are there any regulations or policies in place to promote inclusion in access and participation in private higher education institutions?</p>	<p>⇒ Check indicators for affirmative action targeting special groups on the previous sections ('variables related to personal characteristics of students')</p>	



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Writing up your findings and presenting your conclusions

Once you have collected data and analysed your findings, you are ready to design and implement your [advocacy](#) plan. This section will help identify how and who you can report to when identifying deprivations or violations of the right to higher education.

DESIGNING YOUR ADVOCACY STRATEGY: WRITING UP YOUR FINDINGS

How you present your findings will depend on the aims of your project and your intended audience. There are various types of advocacy you can undertake to bring about the change you want to make, for example:

- ▶ political advocacy or lobbying aims to influence decision-makers, legislators, civil servants, policy implementers, etc.

- ▶ [campaigning](#) aims to mobilise affected communities, civil society, and the public to put pressure on the government to change its policies and practices regarding the right to education
- ▶ [litigating](#) is when you bring a complaint to a judicial mechanism, such as a court
- ▶ reporting aims to take your evidence and analysis to authoritative human rights mechanisms which monitor compliance with the right to education. It means, for example, writing a [shadow report](#) to the CESCR, for example. For further information on these mechanisms and further guidance on human rights reporting, see Chapter 7 sections 7.7 and 7.8 of the [Right to Education Handbook](#)

Once you have decided your strategy, you can start writing up your findings. If you want to influence policymakers, then you may think about a short policy brief where you present the results of your monitoring activity and suggest recommendations to different stakeholders (governments, multilateral organisations,

civil society organisations, etc.). If you wish to raise awareness about the issue, you may want to produce something more accessible like a video or a multimedia report or a fact sheet. You may also consider writing a blog or developing a social media campaign. If you want to report your findings in international and regional human rights fora, then the right way forward is presenting a complaint or a parallel/shadow report.

In any case, think about combining different advocacy approaches by creating a range of different strategies depending on the intended audiences. The way you convey the evidence you gathered during the monitoring process is crucial for an effective advocacy strategy:

- ▶ Ensure a human rights-based approach to advocacy
- ▶ Contrast the data you have gathered with the legal commitments that the State has undertaken (nationally or internationally) or with the promises that the government has explicitly made to its citizens

- ▶ Include data that supports your findings and that speaks to the intended audience
- ▶ Use tables for the presentation of a large amount of data in an organised manner
- ▶ Use graphs and infographics for a more compelling and easy-to-read visual representation of data
- ▶ Consider using testimonies, videos, photos, and any other visual data that humanises your campaign, including when reporting to UN treaty bodies
- ▶ Draw conclusions regarding a state's compliance with its obligations and possible violations of the right to education and make recommendations



Take a look at UNESCO's [World Inequality Database on Education \(WIDE\)](#), which can help you present inequalities in education in a unique and engaging way, as illustrated [here](#).



For further information on report writing and advocacy see [step 6](#) of the Right to Education Monitoring Guide.

SHARING YOUR MATERIAL

Once you have designed your advocacy strategy and produced the corresponding material, you may then share the results of your monitoring at a national, regional, and international level.

National	Regional	International
<ul style="list-style-type: none"> ▶ Ministry body in charge of higher education ▶ Youth ministry ▶ Governmental bodies ensuring Human Rights Protection (National Human Rights Commission, for example) ▶ National representations of UN bodies: UNICEF, UNESCO, UNDP ▶ Researchers ▶ Teachers and Student's Unions ▶ Local civil society organisations advocating for the right to education ▶ Local media 	<ul style="list-style-type: none"> ▶ European Committee of Social Rights ▶ African Commission on Human and People's Rights ▶ Interamerican Commission on Human Rights ▶ Arab Human Rights Committee ▶ The media ▶ In case of litigation: ▶ European Court of Human Rights ▶ Interamerican Court on Human Rights 	<ul style="list-style-type: none"> ▶ The UN treaty bodies ▶ The UN Special Rapporteur ▶ The Human Rights Council ▶ Civil Society Organisations advocating for the right to education ▶ The media

When sharing information with the media (TV, radio, newspapers, Internet, etc.), consider the relative advantages and disadvantages of each of these forms.

CASE STUDY SUMMARY: ACCESSING INEQUALITIES IN FRENCH HIGHER EDUCATION SYSTEM

Accessing inequalities in Higher Education (France)

RTE has developed extensive research on inequalities in France's higher education system in collaboration with students from the [Human Rights Law Clinic of Sciences Po](#) and from the [École](#)

[Normale Supérieure Paris-Saclay](#) as well as researchers from the [University of Geneva](#), [University of Orléans - ERCAE](#).

The collaboration has resulted in the publication of

- an [internet page](#) on the right to higher education
- a report: "[Limited Potential](#)". [The Right to Higher Education in France Impact of Place of Origin and of Cost on Inequality](#) (2019)
- a policy brief: [The impact of place of origin on inequalities in higher education in France](#) (2020)
- a series of blogs on the impacts of Covid on higher education (2021)
- a round table discussion with civil society representatives, including students unions, on the impact of place of origin and cost of studies in the realisation of the right to higher education in France (2021)
- a round table discussion with representatives from the French government and parliament and researchers: [Threatened by inequalities: the right to higher education in France](#) (check here to see the [video](#)) (2022)
- a [research report](#) published at the 3rd Unesco World Higher Education Conference (2022)
- a short [video](#) with testimonies from higher education students

Based on this research, RTE will also prepare a shadow report to be presented to the Committee on Economic, Social and Cultural Rights (CESCR) under France's review (2023).

Monitoring Access and Participation in Higher Education

From a Human Rights Perspective

This guide is part of a series of thematic guides providing practical advice on monitoring various aspects of the right to education from a human rights perspective.

For more resources on protecting the right to higher education, see our [Higher Education issue page](#).

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