



## Constitutional rights to education and their relationship to national policy and school enrolment



### Background

Access to education, and in particular completion of primary and secondary school, have lifelong impacts on health, employment and earnings. Yet as of 2010, 71 million secondary-school aged youth were not receiving a formal education. Girls and children from marginalized groups are often especially vulnerable.

Evidence from countries like Malawi and Uganda shows that eliminating school fees can significantly increase enrollment and reduce gender gaps. Likewise, studies from Canada, Turkey, China and elsewhere suggest that making school compulsory supports higher completion rates.

While countries typically establish whether education is compulsory and free through policy, enshrining these commitments in national constitutions assigns clear responsibility to the state for their provision and gives citizens a tool to hold governments accountable. For example, in Colombia, the Constitutional Court overturned a national law permitting primary schools to charge fees after activists challenged the law based on the constitutional right to education. Constitutions can also establish critical protections of equity and non-discrimination in education.

This article provides the first assessment of how constitutional rights to education vary around the world, and how they relate to national education policies and primary and secondary enrollment rates.

### Methods

This study analyzed the extent to which the constitutions of 191 UN Member States guaranteed the rights to primary, secondary, and tertiary education as of June 2011, as well as whether those guarantees were universal or specifically protected the right to education based on gender, disability, religion, ethnicity, socioeconomic status, or linguistic group.

- When constitutions specified that the enforcement of education rights depended on the availability of resources, the provisions were categorized as aspirations rather than guaranteed rights. Likewise, when a right was phrased as an aim, goal, or objective, or when a state's duty to protect citizens' education was explicitly stated to be nonenforceable, it was coded as aspirational.

Next, this study examined whether countries that had constitutional guarantees of the right to free and compulsory education were more likely to have national policies ensuring free and compulsory education compared to countries without these constitutional protections, using a database of national education policies as of March 2012 for 174 countries.

Finally, to assess whether the presence of rights in a constitution is associated with national educational outcomes, this study analyzed the relationship between constitutional protections and net enrollment rates at the primary and secondary levels, using the most recent enrollment ratio data available for each country from the UNESCO Institute for Statistics from 2009-2011.

- This component of the study used data on constitutional provisions in force as of August 2007, both because some countries only have enrollment data for 2009 available and because a time lag was expected between the introduction of a right in a constitution and an impact on enrollment rates.
- The analysis controlled for factors that are likely to affect school enrollment rates, including per capita GDP and urbanization.

## Findings

### Constitutional rights to education

- As of June 2011, 81% of constitutions guaranteed or aspired to protect the right to primary education. In contrast, only 37% included protections for secondary education.
- Forty-three percent of constitutions guaranteed free and compulsory primary education. However, just 5% guaranteed free and compulsory secondary education.
- Thirty-eight percent of constitutions specifically guaranteed gender equality in schooling and 14% did so for students with disabilities.

### National policies

- One hundred percent of countries that constitutionally guaranteed free education at the primary level had a comparable national policy. However, only 86% of countries without a constitutional guarantee of free primary education had a policy establishing free primary.

- Ninety-two percent of countries with a constitutional guarantee that beginning secondary school is free and compulsory had an equivalent national policy. By contrast, only 67% of countries that constitutionally guaranteed secondary education without specifying it would be free or compulsory had a national policy of free and compulsory education at the beginning of secondary.

### Relationship between constitutional rights and enrolment rates

- Countries with a constitutional guarantee of the right to education, free education, and/or compulsory education at the primary level had primary enrollment rates that were 4.8 percentage points higher on average than countries that did not have this protection ( $p \leq 0.05$ ).
- In countries with a constitutional guarantee of secondary education, net enrollment rates at this level were 8.3 percentage points higher than in countries whose constitutions lacked this protection ( $p \leq 0.01$ ).

*Table 1. The relationship between constitutional guarantees and net enrolment rates*

	Primary $\beta$	Secondary $\beta$
At least one aspect of the right to primary education is guaranteed	4.81*	
At least one aspect of the right to secondary education is guaranteed		8.26**
Natural log of per-capita GDP, PPP-adjusted	5.52***	18.05***
Percent urban	-0.02	-0.10
Constant	38.43***	-87.99***
N	131	100
Adjusted R-squared	0.33	0.74

\*  $p \leq 0.05$ .

\*\*  $p \leq 0.01$ .

\*\*\*  $p \leq 0.001$ .

*This research brief presents key findings from the following article: Heymann SJ, Raub A, and Cassola A. Constitutional Rights to Education and their Relationship to National Policy and School Enrollment Insights from a New Global Dataset. International Journal of Educational Research. 2013; 60: 38–45. To access this and other WORLD publications, please visit <http://worldpolicycenter.org/publications>.*

