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增进和保护所有人权——公民权利、政治权利、
经济、社会和文化权利，包括发展权

教育权问题特别报告员基肖尔·辛格的报告

增编

对哈萨克斯坦的访问*

概要

教育权问题特别报告员基肖尔·辛格应政府的邀请于 2011 年 9 月 12 日至 20 日对哈萨克斯坦进行了访问。在访问期间，特别报告员收集了关于该国教育权情况的第一手资料。

哈萨克斯坦明确承诺，通过批准《经济、社会、文化权利国际公约》和《儿童权利公约》等条约，保护和促进受教育的权利。这些承诺反映在哈萨克斯坦宪法，宪法保障每个人接受免费教育的权利。特别报告员承认，由于长期对教育进行投资和国家承诺提供免费的小学和中学教育，哈萨克斯坦已在这两级教育实现几乎普遍的入学，以及实现相当高的识字率。他还欢迎计划扩大学前教育和促使国家的高等教育体系现代化。然而，特别报告员也注意到，在教育质量和促进教育机会均等方面仍面临重要的挑战。他特别强调，有必要继续对多语种教育进行投资，需要在促使残疾人融入主流教育方面进行投资，以及必须确保居住在我国的移民和难民能够接受教育。

* 本报告的概要以所有正式语文分发。报告本身载于概要附件，仅以原文和俄文分发。

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on his mission to Kazakhstan (12–20 September 2011)****Contents**

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I. Introduction

1. In the present report, the United Nations Special Rapporteur on the right to education, Kishore Singh, submits the findings of his mission to Kazakhstan, undertaken from 12 to 20 September 2011, and discusses the situation of right to education in the country.

2. During the visit, the Special Rapporteur met with various Government authorities, including the Minister of Education and Science, the Minister of Labour and Social Protection, the National Ombudsman of the Republic of Kazakhstan, the Secretary of the Human Rights Commission, the Executive Secretary of the Assembly of the People of Kazakhstan and the Deputy Mayor of Almaty. He also met with various representatives of United Nations agencies and civil society organizations working in Kazakhstan.

3. The Special Rapporteur visited universities in Astana and Almaty, and primary and secondary schools in those cities and in rural areas of the Almaty Region (Oblast). He also visited a technical school and special schools for children with disabilities and children diagnosed with behavioural problems. While visiting education establishments, he met with directors, teachers, support staff and students.

4. The Special Rapporteur expresses his gratitude to the Government of Kazakhstan for its invitation and full cooperation during his mission. He also extends his thanks to the Office of the United Nations High Commissioner of Human Rights Regional Office for Central Asia and to the United Nations Country Team in Kazakhstan. Lastly, he expresses his gratitude to all those who took time to meet with him and share their views and experiences in the field of education.

5. Over the past two decades, Kazakhstan has experienced historic political and economic development. The country has made commitments to protect and promote the right to education through its ratification of international human rights treaties. Due to the recognition in the Kazakh Constitution of the right to free education at the primary and secondary levels, the country has very high literacy rates and almost universal enrolment at the primary and secondary levels of education.

6. As the country continues to enjoy accelerated economic growth, it has a great opportunity to invest substantially more in the education system, which would help it to ensure higher quality in education and avoid the exclusion of marginalized groups. In particular, attention must be given to the inclusion of students living in poverty and, considering the rich multi-ethnic and multilingual nature of the population in Kazakhstan, the promotion of multilingual education. Specific action is also required to ensure adequate education opportunities for persons with disabilities, and for migrants and refugees.

II. Legal framework

A. International legal framework / international obligations

7. Kazakhstan is a party to various core international human rights instruments: the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol thereto; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; and the Convention on the Rights of the Child and the Optional Protocols thereto, on the involvement of children in

armed conflict and on the sale of children, child prostitution and child pornography. It has signed, but not yet ratified, the Convention on the Rights of Persons with Disabilities. All these instruments contain specific provisions on education and place an obligation on the State to take all necessary steps to protect, observe and promote the exercise of the right to education for all persons in its territory, without discrimination.

8. Kazakhstan is not a party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which provides for, *inter alia*, the right to access to education. Such education should be free and compulsory, at least in the elementary stages; technical and professional education should be made generally available and higher education should be accessible, on an equal basis with nationals of the State of employment. Kazakhstan has affirmed that it does not intend to ratify the Convention in the near future in view of the far-reaching financial implications that would arise from its implementation.¹

9. In accordance with article 4, paragraph 3, of the Constitution, international treaties ratified by Kazakhstan take precedence over national legislation, and can be directly applied in the domestic legal order except in cases where their application requires the promulgation of a law. On 10 July 2008, the Supreme Court of the Republic of Kazakhstan adopted a regulatory decision on the direct applicability of international treaties in national courts and tribunals, which requires judges to be guided by the norms of the international treaties to which Kazakhstan is a party.²

10. Under domestic law and the international human rights instruments ratified by Kazakhstan, the State has an obligation to provide and facilitate education for its inhabitants without discrimination.

B. Domestic legal framework and national policies

11. The Constitution, adopted by national referendum on 30 August 1995,³ has supreme legal force and direct effect in the entire territory of the republic. Articles 19 and 30 of the Constitution guarantee all Kazakh citizens the right to education in one's native language, free and compulsory secondary education in State schools and the right to free higher education on a competitive basis. Fee-paying education is available in private schools under the terms and procedures established by law.

12. The National Human Rights Plan of Action for 2009–2012 is aimed at strengthening the national system of promotion and protection of human rights and the education of the general public regarding human rights and the mechanisms for their protection. The Plan identifies a set of concrete measures to eliminate gaps in national legislation and practice and to improve the coordination of governmental and non-governmental institutions working in the field of human rights protection.⁴

¹ Report of the Working Group on the Universal Periodic Review: Kazakhstan—views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review (A/HRC/14/10/Add.1), p. 2, first paragraph.

² National report submitted by Kazakhstan under the universal periodic review mechanism (A/HRC/WG.6/7/KAZ/1), para. 22.

³ Amended by the Laws of the Republic of Kazakhstan of 7 October 1998, 21 May 2007 and 2 February 2011; A/HRC/WG.6/7/KAZ/1, para. 118.

⁴ Report of the Working Group on the Universal Periodic Review: Kazakhstan (A/HRC/14/10), para. 12.

13. The general legislative framework is governed by those provisions of the Constitution that deal with education, and by two core laws regulating education in the country, which are the Law on Education of 7 July 1992 (as amended on 27 July 2007) and the Law on Higher Education of 1993. These laws determine the State educational policy, the objectives and principles of education, the administrative structure, and the system of private schools.⁵

14. The Law on Education provides for the following levels of education: preschool, secondary, vocational and technical secondary, higher and post-graduate. Secondary education consists of three stages: (a) elementary (four-year programme); (b) basic secondary (five years); and (c) senior secondary (two years). The law regulates public relations in the sphere of education, defines the basic principles of national policymaking in this area and is aimed at ensuring protection of the constitutional right of citizens to education. According to article 23, “preschool education for 5(6)-year-olds shall be mandatory and it shall be provided in the family, preschool organizations or schools under a general educational programme. In state educational organizations, such education shall be free”. The Law also introduced a new model of higher professional education, consisting of three levels: basic higher education (four-year bachelor’s degree programmes), four-year specialized higher education courses, and higher scientific education (two-year master’s degree programmes).⁶

15. Subsequent regulations have been adopted in accordance with the two above-mentioned laws, including the State standards for higher education as well as the regulations for organizing the activities of preschool organizations (Order No. 708 of the Ministry of Education and Science), which were approved on 10 July 2000.⁷ As regards the rights of the child, an important role devolves upon the Committee on the Protection of Children’s Rights, established on 21 February 2006 under the auspices of the Ministry of Education and Science.⁸ The Committee has the competence to consider personal appeals on child rights issues from the general public as well as matters related to the quality of educational services for children provided by State and public institutions. It is important to accentuate its authority in order to ensure an independent and thus conducive exercise of its mandate.⁹

16. Implementation of the respective laws on education, as well as strategic planning, management and funding of the education system, including the preparation of draft education budgets, is carried out under the supervision of the Ministry of Education and Science as the competent central authority.¹⁰ In accordance with the Law on Education, the functions of the Ministry include: defining and executing the State educational policy; drafting regulations concerning State funding for education; drafting and adopting State educational standards, curricula and syllabi; preparing State orders concerning the training

⁵ UNESCO, “A compilation of background information about educational legislation, governance, management and financing structures and processes: Central Asia”, document 2009/ED/EFA/MRT/PI/23, p. 27.

⁶ Ibid.

⁷ Ibid.

⁸ Concluding observations of the Committee on the Rights of the Child (2007) (CRC/C/KAZ/CO/3), para. 3; see also concluding observations of the Committee on the Rights of the Child (2003) (CRC/C/15/Add.213), paras. 9 and 13.

⁹ Compilation prepared by the Office of the High Commissioner for Human Rights under the universal periodic review mechanism (A/HRC/WG.6/7/KAZ/2 and Corr.1), para. 4.

¹⁰ UNESCO, “A compilation”, p. 28.

of specialists; providing assistance in the organization of the educational process in the Kazakh language; and establishing international agreements on educational issues.¹¹

17. The Ministry of Education and Science consists of several Committees and two Departments (Administration and Finance). The Committees are directly in charge of the corresponding branches. The Committee for Education is responsible for the management of the education system, the proposals on the financing of educational institutions from the State and regional budgets, the educational standards and programmes, and the appointment of the heads of higher schools. Article 36 of the Law on Education guarantees the principle of self-government of educational institutions.¹²

18. The national strategic plan for the development of education is detailed in the State Programme of Education Development in the Republic of Kazakhstan for 2011–2020.¹³ In a drive to modernization, the overall goal of the plan is to increase the competitiveness of education and the development of human capital by ensuring access to quality education for sustainable economic growth.¹⁴ Its objectives include, inter alia, the transition to a 12-year education model, the improvement of the inclusive education system in schools and the updating of educational content. It is also aimed at integration into the European Higher Education Area.¹⁵ The Plan contains an analysis of the country's education policy in terms of strengths, weaknesses, opportunities and challenges. It includes detailed goals and targets relating to education at all its levels, and addresses aspects such as developing financing mechanisms, enhancing teacher motivation, curricular adaptation, and expansion of the education infrastructure. The Plan further develops previously adopted strategies, such as the State Programme of Education Development for 2005–2010, the State Programme of Technical and Vocational Education Development for 2008–2012, the Children of Kazakhstan Programme for 2007–2011 and the Balapan Preschool Education Programme for 2010–2014.

III. Overall situation of education in Kazakhstan

A. Primary and secondary education

19. Access to both primary and secondary education in Kazakhstan is almost universal. In 2008, the enrolment rate for children (of the typical age per level) was 99.8 per cent at the primary level, 100 per cent at the basic level and 99.6 per cent at the secondary level.¹⁶ Thus, Kazakhstan has already achieved Millennium Development Goal 2, with respect to securing universal access to primary education. Moreover, Goal 3, relating to the elimination of gender disparity in primary and secondary education, has also been achieved in Kazakhstan.¹⁷

20. According to a 2010 report on the progress of Kazakhstan towards achieving the Millennium Development Goals, 90 per cent of children not attending schools come from

¹¹ Ibid.

¹² Ibid.

¹³ Approved in Presidential decree No. 1118 of 7 December 2010. Available from www.edu.gov.kz/fileadmin/user_upload/npa/gosprogramma/program_2020_english.doc.

¹⁴ Kazakhstan, State Programme of Education Development in the Republic of Kazakhstan for 2011–2020, second page.

¹⁵ Ibid., second to fourth pages.

¹⁶ *Millennium Development Goals in Kazakhstan – 2010* (Kazakhstan and the United Nations Country Team for Kazakhstan), p. 40.

¹⁷ Ibid., p. 12.

poor and disadvantaged families.¹⁸ In this context, after conducting an assessment on the remaining gaps in the education system, the country decided to make further commitments under what it called a “MDG+ agenda”. In the field of education, the MDG+ agenda embraced an expanded version of Goal 2 to focus primarily on secondary education, enhancing quality in education, and promoting the enrolment of marginalized groups such as children with special needs and students from socially vulnerable groups.¹⁹ As developed below, further attention must be given to sources of inequality such as: school infrastructure, teachers’ qualification and working conditions, the use of pedagogical materials and learning technologies, unified education data collection systems, and assessment of learning outcomes.

21. While noting continuously high enrolment levels, the 2010 review on the MDG+ agenda underlines that some schools still practice instruction in several shifts and that some urban schools are overcrowded. In the 2009/2010 academic year, about 66 per cent of daytime comprehensive secondary schools had classes in two or three shifts. A total of 37.1 per cent of students had classes in the afternoon. Higher birth rates are expected to increase pressure on schools even with construction of additional schools.²⁰

22. There has been an increase in the proportion of rural schools, from 76.4 per cent in 2006 to 78.8 per cent in 2009.²¹ However, disparities in the quality of education provided in rural and urban areas are an important concern. With a vast territory not evenly populated, remote rural communities tend to be serviced by smaller schools with lower capacity. Despite a gradual decrease in the number of ungraded schools, it is noted that the majority of such schools are concentrated in rural areas, offer lower quality services and are particularly affected by the shortage of qualified staff and poor training facilities.²² The State Programme of Education Development includes a number of measures to improve the conditions of ungraded schools, including establishing resource centres to enhance the capacity of these schools, investing in information technology, and supporting alternative boarding schools and transportation services.

23. Investment in new information technologies and learning through the Internet (e-learning) is one of the main elements in the efforts to improve quality across the education system. The State Programme of Education Development includes the target of promoting distance learning through the Internet and providing all ungraded schools having 10 or more students with new computers and access to broadband Internet. Investments in distance-learning processes is an understandable choice, given the distances in the country, however this measure may have limited impact if not accompanied by adequate assistance to teachers working in remote locations and continuous monitoring after implementation.

24. Another central challenge for the consolidation of good quality education is the improvement of data collection including, in particular, the consolidation of a national system for assessing learning outcomes. As noted in the Millennium Development Goals review, despite the country’s long-standing participation in the Millennium Development Goals and Education for All initiatives, Kazakhstan lacks a uniform database that could be updated on a regular basis.²³ Lack of disaggregated information on quality issues, for example, can make it difficult to assess possible inequalities affecting rural or minority schools.

¹⁸ Ibid., p. 47.

¹⁹ Ibid., p. 39.

²⁰ Ibid., p. 40.

²¹ Ibid.

²² Ibid., p. 41.

²³ Ibid., p. 48.

25. As part of the country's planned transition to a 12-year education cycle, the Government made efforts to establish a national testing system, under which standard assessments would be conducted at the conclusion of primary, basic, secondary and profession-oriented schools. Unifying the evaluation of learning outcomes is another essential step towards better identifying and addressing inequalities within the education system.

26. In order to ensure the equal rights of women and to combat covert discrimination, some initiatives are being taken, such as the establishment of the Kazakh State Women Teachers Training Institute and the development of pedagogical material, within the framework of the Strategy for Gender Equality (2006–2016).

B. Preschool education

27. According to the Law on Education, preschool is the first level of the education system in Kazakhstan, and preschool-age children have the right to education alongside school-age children. Preschool education in Kazakhstan is delivered through nurseries and kindergartens, of which there is currently an acute shortage.

28. Preschool enrolment falls well short of the high enrolment rates seen at the primary and secondary levels. Many preschool organizations, which had a widespread presence in the Soviet period, were closed in the early 1990s, resulting in a high number of children who did not have access to preschool, particularly in rural areas.²⁴ Despite an increase between 2005 and 2010, the preschool enrolment rate at the national level remains relatively low.²⁵

29. According to the 2010 Millennium Development Goals review, during the 2008/2009 school year, only 35.6 per cent of Kazakh children of preschool age were enrolled; rural areas were particularly underserved, with an enrolment rate of 20.1 per cent.²⁶ The same report indicates that over 900,000 children aged 1 to 6 years were not enrolled in an organized preschool programme, and 260,000 children were on the waiting list for a place in a preschool.²⁷

30. In one policy review, it was further indicated that there were not only fewer preschool organizations in rural areas, but they tended to be more compact.²⁸ In the same review, it was also noted that the integration of care and education and the emphasis on the child's holistic development improved the quality of preschool education. However, it was also pointed out that more could be done by strengthening the linkage between social-sector services and the education sectors and by investing more in teacher qualification and career-prospects improvement (given the fact that part of the workforce is ageing).²⁹

31. Causes of the low levels of enrolment include limited financial support and demographic changes. State funding for preschool education did not exceed 0.2 per cent of gross domestic product (GDP) between 2007 and 2010. It is also recognized that an increase in the birth rate will likely continue to affect the already overcharged preschool units.

²⁴ UNESCO, "Ensuring equitable access to preschool education: Kazakhstan's experience", UNESCO Policy Brief on Early Childhood No. 33, first page.

²⁵ Kazakhstan, State Programme of Education Development, ninth page.

²⁶ *Millennium Development Goals*, p. 43.

²⁷ *Ibid.*, pp. 43-44.

²⁸ UNESCO, "Policy review report: early childhood care and education in Kazakhstan", Early Childhood and Family Policy Series No. 12 (2005), p. 22.

²⁹ *Ibid.*, pp. 7 and 28.

32. The Government recognizes that preschool education requires further investment, and that increased attention must be paid to underserved areas. Through the implementation of the Balapan State programme, it expects to establish a network of public and private kindergartens that could cover up to 70 per cent of children aged 3 to 6 by 2015, and the State Programme of Education Development contains a target of universal coverage for the same age group by 2020. Measures adopted to expand the network of preschool education vary according to regional particularities; such measures include investing in family-run nurseries and establishing mini-centres opened on school grounds utilizing surplus space.

C. Technical and vocational education

33. Technical and vocational education is mainly delivered on two levels: through vocational schools offering basic labour-market training, and through secondary vocational schools offering secondary-level vocational and higher-labour market training. Students typically attend between the ages of 15 to 17, following the end of compulsory education. While some State colleges exist, most vocational colleges are privately run. Some institutions are well resourced and well respected, but they are in the minority. Student numbers are relatively small, with around 500 to 800 colleges serving approximately 500,000 pupils.³⁰

34. Since 1991, the number of vocational schools across the nation has decreased by more than 30 per cent.³¹ Moreover, the existing infrastructure, material and technical base of the technical and vocational education system does not guarantee high-quality staff training or attractive education programmes for young people.³²

35. The Special Rapporteur acknowledges the efforts made and measures being taken under the auspices of the Ministry of Education and Science and its Technical and Vocational Education Department to modernize the system of technical and vocational education for qualitative standards for training. Vocational education and training is currently undergoing a set of reforms under the State Programme for Educational Development (2011–2020), including measures such as the independent assessment of a graduate's qualifications developed by the employers' associations and the assignment of educational institutions on a contractual basis to major enterprises for industrial placement and internships,³³ as well as reforms under the related State Programme for Accelerated Industrial and Innovative Development (2010–2014).³⁴

36. The Government aims at improving the quality of vocational education and training and ensuring that it is better oriented towards the labour market, in order to increase the employability of both youth and adults, as well as the quality and international compatibility of the labour force.³⁵ Along these lines, for example, the development objective of a World Bank project currently being implemented is to raise the relevance,

³⁰ British Council, Overview of Vocational Education and Training System—Skills around the world: Kazakhstan. Available from www.britishcouncil.org/learning-skills-for-employability-kazakhstan-country-vet-system.htm.

³¹ *Ibid.* According to statistics, as of 1 July 2011 there were 786 technical and vocational education institutions countrywide, including 306 vocational schools and 480 colleges; 22.8 per cent were located in rural areas. Kazakhstan, State Programme of Education Development, eleventh page.

³² Kazakhstan, State Programme of Education Development, eleventh page.

³³ *Ibid.*, forty-third and forty-seventh pages.

³⁴ Adopted in Presidential Decree No. 958 of 19 March 2010 (see www.invest.gov.kz).

³⁵ Kazakhstan, State Programme of Education Development, eleventh page ff.

quality, and efficiency of technical and vocational education through an improved policy framework and institutional capacity.³⁶

37. The budgetary allocation to technical and vocational education (only 0.2 per cent of GDP)³⁷ must be increased in order to enhance infrastructure and facilities in a way that facilitates innovation and adaptation to the new labour-market requirements. In particular, the development and implementation of required occupational standards, qualifications, assessments and certification standards is as important as the provision of training for policymakers and advisers, for developers in education and training, and for teachers and managers in educational institutions.

38. The technical and vocational education system requires the resources, means and infrastructure to provide quality education and thereby facilitate the ability of young women and men to exercise their right to education as well as their ability to find sustainable employment

D. Higher education

39. Every Kazakh citizen has a right to obtain free higher education on a competitive basis. There were 148 universities in 2011; of these, 42 offered distant education, and 10 offered adapted international accreditation.³⁸

40. Kazakhstan joined the Bologna Process in 2010,³⁹ becoming part of the European Higher Education Area. A new system of university classification—universities, national universities, research universities and academies and institutes—has been adopted.⁴⁰ The principle of university autonomy in academic, financial and management activities is being implemented. The reform process also emphasizes academic freedom and academic mobility as part of the Bologna process. In 2012 the State standards for general secondary education will be integrated with the State standards for higher education (baccalaureate).⁴¹ Some Kazakh higher education institutions are members of the European University Association. Furthermore, the integration of the country's higher education sector into the global educational space is promoted through the implementation of joint educational programmes with foreign partners and the development of the students' economic mobility.

41. The Ministry of Education and Science is reorganizing and improving higher education, including postgraduate education, and the university system.⁴² The three-cycle system of higher and postgraduate education (bachelor/master/doctorate) has been adopted. A credit system of education has been introduced. A shift has been made from a focus on quality control of education to the creation of a system of quality assurance. The National Accreditation Centre was founded in 2005. A process has been started to introduce

³⁶ World Bank, Technical and Vocational Education Modernization project. See <http://web.worldbank.org/external/projects/main?pagePK=64312881&piPK=64302848&theSitePK=40941&Projectid=P102177>.

³⁷ Kazakhstan, Ministry of Education and Science, *Education and Science in Numbers* (Astana, 2011) p. 24.

³⁸ *Ibid.*, p. 25.

³⁹ Currently comprising 47 countries; see www.ehea.info/members.aspx.

⁴⁰ Kazakhstan, *Education and Science in Numbers*, p. 26.

⁴¹ Kazakhstan, State Programme of Education Development, thirty-fifth to thirty-sixth page.

⁴² Presidential Decree No. 922 of 1 February 2010 on the strategic plan of development of Kazakhstan to 2020; Presidential Decree No. 957 of 19 March 2010 on approval of the list of governmental programmes.

democratic principles for the management of higher educational institutions, involving, inter alia, the establishment of Trustee Councils and the introduction of corporate management.

42. The Government allocates funds from the national budget to invite foreign lecturers and academics to Kazakhstan, and awards about 200 educational grants yearly to foreign students (from Turkic-speaking countries) for studies in Kazakhstan. Although the current legislation does not provide for portable grants, the Bolashak International Scholarship initiative (initiated in 1993) sponsors about 3,000 students from Kazakhstan to study abroad.⁴³

43. In compliance with current domestic legislation, higher education institutions have a right to self-governance, independence in the adoption of decisions concerning the organization of the educational process, staffing issues and financial/economic activity.⁴⁴ However, the rector of a public university is for instance appointed directly by the Ministry of Education and Science.⁴⁵ Universities can define their own curriculum only within the framework of State educational standards stipulated by the Ministry of Education and Science; with the approval of the Committee for Education, universities may define the requirements for students' admission. Private university institutions may provide educational services only after obtaining a license from the Ministry of Education and Science, which monitors the application of State educational standards of quality.

44. In general, national education policy is made at the central level by the presidential administration and ministries, who define the general principles of education management, reform strategies and priorities, and monitor the implementation of the programmes.

45. The main challenges that remain include ensuring equal access and opportunities for all with respect to universities, and realizing full university autonomy as well as the full participation of students. Moreover, to improve educational policy, disaggregated statistics and indicators are necessary, in particular on the enjoyment of bursaries and other relevant realization factors as well as on university programme investments.

46. Nazarbayev University, in Astana, has been established as the new flagship university in Kazakhstan. The University, which functions in partnership with foreign universities and provides instruction in English only, has been accorded a special legal status with unprecedented independence, autonomy and academic freedom in setting the academic policy. It is allowed to operate according to its own standards, and there is a provision for the establishment of its own endowment fund.⁴⁶ This autonomy allows the administrators full self-governance, without being subjected to the binding effect of the regulations of the Ministry of Education and Science on programmes, curriculum and other related matters.

47. The accordance of this special legal status ensuring full autonomy to Nazarbayev University reflects the limited implementation of the principle of self-government of educational institutions in line with article 36 of the Law on Education.

48. Given that English is the only language of instruction at Nazarbayev University, consideration should be given also to providing education in a national language. The

⁴³ Kazakhstan, report submitted as part of the application for membership of the Bologna Process (2010), pp. 20-21.

⁴⁴ National report on the right to education in Kazakhstan, p. 19.

⁴⁵ Kazakhstan, report submitted as part of the application for membership of the Bologna Process, p. 2.

⁴⁶ On 15 June 2011, upon the entry into force of a *lex specialis*, the legal status of the University changed and it became an "autonomous educational organization". "Leading-edge university to spread innovation and excellence across country", *Astana Calling*, bi-weekly publication of the Ministry of Foreign Affairs, Kazakhstan, No. 201 (22 November 2011), p. 4.

Government recognizes the importance of continuous learning of the Kazakh language, from kindergarten to higher education, so as to enable every Kazakh citizen to acquire full command of the State language, and plans to introduce KAZTEST—a system to evaluate a person’s level of Kazakh language skills.

E. Quest for excellence in education

49. A number of programmes have been developed to foster excellence in education, such as the establishment of the Nazarbayev University, designed to attract the “best and brightest”. The presidential programme Daryn is also aimed at facilitating the selection of talented youth for attendance at specialized schools.⁴⁷ The network of these specialized schools, which currently number 33, is being expanded. The Nazarbayev Intellectual Schools—founded to build academic excellence—are conceived in a similar vein; the project will be expanded in all regions of Kazakhstan, from 6 schools at present to 20 by 2020.⁴⁸ Similarly, Kazakhstan has set the target of having, by 2020, two universities that are ranked among the world’s best.⁴⁹

50. The Bolashak initiative provides educational opportunities for young talented Kazakh citizens. Under the programme, international scholarships are awarded on the basis of an annual list of the most in-demand specialists in Kazakhstan; about 3,000 students, at 25 universities, were sponsored in 2011.⁵⁰

51. All these schemes and programmes are indicative of the country’s quest for excellence in education.

IV. Key challenges

A. Promotion of equal opportunities in education

52. Further efforts are required to ensure the identification and effective involvement of children from vulnerable groups (growing every year in composition and in number)⁵¹ into the Kazakh education system.

53. The challenges listed below indicate some of the most important barriers that can limit the education prospects of Kazakh children. They include economic obstacles (potentially affecting all groups living in poverty), language and cultural obstacles (potentially affecting those belonging to minorities), physical obstacles (potentially affecting children with disabilities) and administrative obstacles (potentially affecting migrants and refugees). These obstacles can be interrelated and mutually reinforce each other. Thus, the promotion of a more inclusive education system requires not only understanding specific challenges, but also a full understanding of the interplay between them.

⁴⁷ Kazakhstan, *Education and Science in Numbers*, p. 7.

⁴⁸ Kazakhstan, State Programme of Education Development, seventeenth page.

⁴⁹ *Ibid.*, eighteenth page.

⁵⁰ Kazakhstan, *Education and Science in Numbers*, p. 29.

⁵¹ *Millennium Development Goals* (note 16 above), p. 48.

1. Ensuring basic education free of cost

54. The main reason behind the success of Kazakhstan with regard to its almost universal enrolment of children in both primary and secondary levels is, arguably, the country's expanding system of providing education free of charge. It is thus crucial to continuously monitor practices at the local level to ensure that no costs are imposed on parents with low income.

55. The imposition of additional financial costs, such as contributions to teacher and parent associations, or contributions for school maintenance or the acquisition of school uniforms and materials, can become a serious obstacle for children from poor families to access high-quality educational services. Reports indicate that families are increasingly contributing to preschool and secondary education, despite improvements in the financial aid provided to general secondary education organizations. In 2009 schools collected an average of US\$ 300 or more from each family; in primary grades the amount may be less, in senior grades it is higher.⁵² At the preschool level, the shortage of public nurseries and kindergartens results in high fees unaffordable to low-income families.⁵³

56. This said, investment in social assistance schemes is part of the Government strategy to ensure education for those living in poverty. In 2009, total spending on financial aid exceeded US\$ 33.9 million (about 2 per cent of total school maintenance spending), twice as much as in 2008. Under the annual Road to School campaign, children from poor families receive financial aid from entrepreneurs, institutions, sponsor organizations and the community. In 2009, over 190,000 children in the country benefited from such support, which totalled US\$ 6.8 million.⁵⁴ The supply of hot meals in schools (covering 61.3 per cent of school students) is another incentive. Despite these measures, the number of children not attending schools has reportedly not dropped.⁵⁵

57. The Special Rapporteur recognizes the importance of investing in social assistance schemes in order to further encourage school attendance among children in economically disadvantaged situations. As some of these schemes specifically prioritize children living in poverty, efforts are required to ensure full transparency in the selection of beneficiaries and to correct possible exclusion errors. Moreover, efforts to prevent the imposition of costs to families at the local level would be needed.

2. Multilingual and minorities' education

58. Kazakhstan is a multi-ethnic society, and its unique cultural diversity is one of its strengths. In order to preserve and promote such a precious asset, education in multiple languages is essential.⁵⁶ Kazakh is the official language, but Russian, of which most citizens have full command, is used equally officially in State institutions (A/HRC/13/23/Add.1, para. 3). Many citizens also speak English.

59. The Constitution of Kazakhstan stipulates in article 7, paragraph 3, the vested right of all citizens to speak and learn their own language, declaring that the State shall promote

⁵² Ibid., p. 47.

⁵³ Ibid., p. 44.

⁵⁴ As compared with 2008, when 100,000 children were supported with a total of 405 million tenge (US\$ 3.4 million in 2008), see *Millennium Development Goals*, p. 46.

⁵⁵ Ibid.

⁵⁶ The composition of the population of Kazakhstan is as follows: 58.6 per cent ethnic Kazakhs, up to 26.1 per cent ethnic Russians, and 15.3 per cent other ethnic groups, including Ukrainians (2.9 per cent), Uzbeks (2.8 per cent), and Uighurs, Tatars and Germans (1.5 per cent each). In addition, another estimated one hundred ethnic groups (about 4.3 per cent) live in Kazakhstan. Report of the independent expert on minority issues on her mission to Kazakhstan (A/HRC/13/23/Add.1), para. 3.

conditions for the study and development of the languages of the people of Kazakhstan. Further, in article 19, paragraph 2, the Constitution guarantees that everyone has the right to use his or her native language, to enjoy his or her own culture and to choose freely his or her language of communication, education, instruction and creative activities. These vested rights are further repeated and concretized in the Law on Languages of 1997.

60. Pursuant to article 9, paragraph 3, of the Law on Education, which stipulates the right to education in one's native language, the Government policy is to provide general secondary education in pupils' native languages and/or teach native languages as subjects. The organization of multicultural education in its complete variety remains a daunting challenge. According to available statistics, children from more than 100 ethnic backgrounds attended schools in the 2008/2009 academic year, with Kazakhs accounting for 71.4 per cent; Russians, 14.7 per cent; Uzbeks, 4 per cent; Ukrainians, 1.5 per cent; Germans, 1 per cent; Uighurs, 1.7 per cent; and others, 5.7 per cent. As a whole, school instruction is offered in six languages.⁵⁷

61. Current alternatives for education in one's own native language are provided by Government institutions in cooperation with cultural associations. In this context a number of Sunday schools (about 79) have been established by national and cultural associations, providing language teaching, including German, Korean, Hebrew, Tartar and Polish, for children and adults.

62. The Special Rapporteur salutes the efforts to maintain, and even increase, the coverage of schools with specific language instruction, so as to offer minority children from more numerous and diverse ethnic backgrounds an inclusive education. However, he stresses that greater attention and resources should be dedicated to improving the teaching standards in minority schools. Further, resources need to be allocated to developing and maintaining the system of and infrastructure for minority schools and overcoming deficiencies in textbooks and learning materials (A/HRC/13/23/Add.1, paras. 48 and 49). Besides the mere supply of textbooks, it is just as relevant for minorities to have new editions of textbooks with content that reflects the multi-ethnic character of Kazakh society and the contributions of minorities to its diverse culture.

63. In this respect, it is pertinent to underline the importance of the constructive interfaith dialogue promoted by the Assembly of the People. Created in 1995, the Assembly gained constitutional status in 2007, and its composition includes nine Members of Parliament, who represent all ethnic minorities. All legislation on ethnic issues passes through the Assembly. The Assembly plays a crucial role in promoting mutual understanding and respect for the richness of linguistic and cultural diversity.

3. Persons with disabilities

64. Kazakhstan has signed (11 December 2008), but not yet ratified, the Convention on the Rights of Persons with Disabilities, which enshrines the right, and its prerequisites, of persons with disabilities to inclusive, barrier-free education.

65. Under the Law on Social Protection of Disabled Persons in the Republic of Kazakhstan, the rehabilitation of children with disabilities falls within the competence of the Ministry of Labour and Social Protection. It is in charge of financing and administering support programmes for low-income families under the Law on State Targeted Social Support of 2001. The Ministry of Health develops a policy of basic health services for children and their mothers, undertakes initiatives for the early detection of risk groups in

⁵⁷ *Millennium Development Goals*, p. 41.

cooperation with oblast education departments, and manages the system of early childhood orphanages.⁵⁸

66. While public education policy in Kazakhstan is underpinned by a commitment to the full integration of children with special needs into society, the Ministry of Education has no competence for children with disabilities and they are therefore not covered by the regular education system. Special education organizations are in place to provide opportunities for children with special needs to receive a general secondary education. There are 101 special remedial education organizations (A/HRC/WG.6/7/KAZ/1, para. 122).

67. New methods of inclusive education are being employed for the integration of children with disabilities. More than 12,000 children with disabilities study in public schools and kindergartens, and several regions provide distance education for children with special needs. A quota system is in place to ensure access for children with special needs to colleges and universities (A/HRC/14/10, para. 69).

68. The Special Rapporteur visited an educational establishment that provides education to children with disabilities, and was impressed with the quality of the conditions. In particular, he noted efforts made in providing learning facilities for children with disabilities that offer advanced computer-based techniques. But not all such children and adults benefit from such a good system, and in any case, such educational facilities are exclusive rather than inclusive education.

69. Inclusive education has not yet been developed, and facility provisions to meet the needs of students with physical disabilities have largely yet to be established. Kazakhstan has more than 150,000 children with disabilities, and only one third have access to teaching and development programmes. Children with disabilities are placed in special (correctional) boarding schools away from home, because there are no special educational establishments at their place of residence. Public schools do not have the necessary conditions or trained teaching staff to work with children with disabilities. As a result, such children are not able to attend regular schools and kindergartens.⁵⁹

70. A recent study conducted by the United Nations Children's Fund (UNICEF) and the National Human Rights Centre (Ombudsman) in State-run residential institutions for children in Kazakhstan that provide care and education not only for children with disabilities, but also for orphans and children without parental care, reveals that violence by staff and among children is a serious problem.⁶⁰ It provides a number of recommendations for the prevention and elimination of all forms of violence against children.

71. Thus, the Special Rapporteur recalls that in realizing the right to education for persons with disabilities, particular focus shall be put on the inclusion into the general education system and the adoption of measures to prevent and eliminate discrimination against children with disabilities.⁶¹ Effective individualized support measures are needed in order to maximize the academic and social development of children with disabilities, consistent with the goal of full inclusion.

⁵⁸ UNESCO "A compilation" (note 5 above), p. 28.

⁵⁹ Kazakhstan NGO report submitted to the Human Rights Committee at its 102nd session (2010), p. 35.

⁶⁰ See R. Haarr, "Violence against children in State-run residential institutions in Kazakhstan: an assessment" (UNICEF, 2011).

⁶¹ See, for example, the International Disability Alliance submission to the Committee on Economic, Social and Cultural Rights at its forty-fourth session (2010).

4. Migrants

72. Kazakhstan is not party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and has affirmed that it does not aim to ratify the Convention in the near future in view of the far-reaching financial implications that would arise from its implementation (A/HRC/14/10/Add.1, para. 1). However, the Special Rapporteur underlines that under domestic law and the international human rights instruments ratified by Kazakhstan, the State has the obligation to provide and facilitate education for its inhabitants without discrimination and regardless of their legal status.

73. Inclusive education and the implementation of the right to adequate and accessible education must also be ensured in the administration of education. Consequently, all children, including migrant children, must be allowed to attend school without any administrative precondition, such as a “*propiska*” document.⁶² In accordance with article 8, paragraph 2, of the Law on Education, the legal and practical impediments to the schooling of migrant children can be overcome through, inter alia, administrative acts and decisions that declare the acceptance of all children to schools as a per se rule.

74. As an example of how administrative barriers can affect the enjoyment of the right to education by migrants and refugees, it was reported to the Special Rapporteur in the course of his visit that in 2010 the Prosecutor General’s Office, after an inspection of schools, issued a decree to expel the children of foreign nationals who failed to provide proof of their permanent residency status in Kazakhstan. As a result of the joint efforts of all relevant stakeholders, the Ministry of Education and Science issued a decree allowing the children expelled from school to be re-enrolled.⁶³

75. A recent monitoring of schools in Almaty, Taraz and Karaganda also identified a number of cases where State schools had violated the right to education of refugee children as well as of migrants, by either expelling or not admitting children of refugees without local registration and working permits.⁶⁴

76. The Special Rapporteur considers that educational legislation and governance should ensure that all children, regardless of their citizenship, legal and social status, are guaranteed the right to adequate education. The State should adopt legal, administrative and organizational measures to allow for non-discriminatory school enrolment for all children. In this framework, related legislation and administrative practice should be harmonized and, if necessary, disambiguated in order to clarify that education also includes the education of migrants’ children and that access to education should be granted universally, without discrimination and on an equal basis with Kazakh citizens.⁶⁵

⁶² Reportedly, children without a *propiska* certificate (registration of place of residence) have been denied admission to schools in Astana and other parts of Kazakhstan, Kazakhstan NGO report (note 59 above), p. 35.

⁶³ Decree No. 468 of 28 September 2010 on the approval of regulations on receiving preschool, primary and basic secondary education by foreigners and stateless persons permanently residing in Kazakhstan.

⁶⁴ Kazakhstan, NGO Report (note 59 above), p. 35

⁶⁵ See Organization for Security and Cooperation in Europe/Office for Democratic Institutions and Human Rights, “Opinion on the draft law of the Republic of Kazakhstan on migration of the population” (Warsaw, 24 September 2009) and “Opinion on the draft law of the Republic of Kazakhstan on the regulation of migration processes” (Warsaw, 11 April 2011).

5. Refugees

77. Article 12, paragraph 4, of the Constitution states that foreigners and stateless persons in Kazakhstan enjoy the rights and freedoms and bear the responsibilities established for citizens, unless the Constitution, laws or international treaties of Kazakhstan stipulates otherwise. In accordance with article 1 of the Law on Education, citizens of Kazakhstan, foreigners and stateless persons have the right to choose their educational establishment and form of instruction, subject to enrolment conditions.⁶⁶

78. According to the Convention on the Rights of the Child, the International Covenant on Economic, Social and Cultural Rights and other international norms and laws, access to public general secondary education should be universal, irrespective of a child's legal status. In signing those international instruments, Kazakhstan undertook obligations to recognize the right of the child to education and to ensure the availability of primary and secondary education for all children. However, as reported above, at times refugee children meet significant barriers when trying to access general primary and secondary education due to their lack of the required documents (school progress records, residence permit, proper identification) and the legal status of their parents (temporary foreign residents).

79. Additional barriers to refugees' education are a lack of knowledge of the Kazakh and Russian languages and the refusal by some parents to allow girls to study in higher grades or alongside boys.⁶⁷ Also, many migrants and refugees cannot afford to cover the costs of education at various levels, be it preschool, vocational or professional-technical education or higher education. Due to a lack of permanent residency status, refugees do not have the same access to Government loans and scholarship programmes for higher education that permanent foreign residents and nationals do. The main local funds generally target nationals of Kazakhstan.

B. Responding to quality imperatives

80. In spite of achievements in primary and secondary education, as mentioned above, challenges remain in the areas of learning outcomes and the quality of education provided.⁶⁸ The development of life skills is not integrated into curricula or national standards as an expected educational outcome.⁶⁹ The low status of the teaching profession and the poor quality of teacher training are central concerns with regard to the improvement of the overall quality in education. Both were identified as weakness by the State Programme of Education Development, thus deserving specific attention. In 2009, for example, 27 per cent of secondary teachers had no professional certification and there were 2,440 teaching vacancies.⁷⁰

81. A lack of attractive salaries and career prospects have been identified as key reasons for the departure of qualified teachers from the education system—most qualified and promising teachers prefer to quit the technical and vocational education system for enterprises. In this sense, the State Programme of Education Development includes a number of measures aimed at enhancing salaries and career prospects for teachers and promoting teacher qualification. Measures included raising salaries (a pay raise was introduced during the period of the visit), introducing differentiated coefficients for the

⁶⁶ Second and third periodic reports submitted by Kazakhstan to the Committee on the Rights of the Child (CRC/C/KAZ/3), para. 71.

⁶⁷ *Ibid.*, para. 72.

⁶⁸ UNICEF, "Country profile: education in Kazakhstan", p. 3.

⁶⁹ *Millennium Development Goals* (note 16 above), p. 47.

⁷⁰ *Ibid.*, p. 45.

calculation of a teacher's salary in relation to his or her qualification and experience, and investing in teacher training opportunities.

82. Efforts to improve the quality in education also include the revision of school textbooks and improvements in specialized school infrastructure, introducing new subject classrooms and multimedia rooms. Rules for the preparation, review and publication of textbooks, teaching materials and manuals were introduced, and in 2008 over one thousand textbooks were deemed non-compliant with the new standards. Thus, further efforts are still required to disseminate improved and updated materials. The monitoring of compliance with the State-wide standards of education developed in 2007, especially in rural areas, is a priority in improving education in Kazakhstan.⁷¹

83. In order to guarantee quality education, Kazakhstan has established the National Education Quality Assessment System (NEQAS), to ensure the comparability of national and international indicators, as well as regional NEQAS structures for regional quality appraisal. Kazakhstan also takes part in international comparative studies on international quality assessments, such as the Programme for International Student Assessment (PISA) and the Trends in International Mathematics and Science Study (TIMSS). Moreover, the Unified National Testing has the objective of increasing the credibility and reliability of knowledge estimates to ensure equity-based access to higher and vocational education.

C. Financing education

84. State resources for education in Kazakhstan are provided through the national and local budgets, according to information provided by the Ministry of Education and Science. The Special Rapporteur applauds the efforts of the Government of Kazakhstan in fostering and enhancing the educational sector with an increase in State budgetary resources. The share of State budget spending on education increased from 3.7 per cent of GDP in 2007 to 4.2 per cent of GDP in 2011, with a peak of 4.4 per cent of GDP in 2009; it is important to maintain a sustained increase in budget expenditure. Education-related expenditures and costs must be taken into account: between 2006 and 2009 for instance, such expenditures had more than doubled.

85. In the State Programme of Education Development, the Government candidly admits that underfunding of education is an impediment in attaining goals and objectives set for education⁷² and that there is a need for the development of new mechanisms for financing.⁷³ In this context, a revealing comparison of Unified National Testing results and per-student costs has shown that no correlation between significant costs and the quality of education exists.⁷⁴ A number of institutional and structural features of the national budgeting and financing system are impeding the efficient allocation and utilization of resources in the field of education. As a consequence, budgeting has not always served as an effective tool for implementing intended educational policy priorities, despite an increase in resources.

86. Consequently, the Government is seeking to move towards a transition to per capita funding mechanisms by 2015, taking into account the particular circumstances of regions and educational institutions, from preschool organizations to technical and vocational education institutions, with the exception of ungraded schools. It thus intends to implement result-oriented financing as an integral part of reforms in the management of public

⁷¹ UNICEF, "Country profile", p. 4.

⁷² Kazakhstan, State Programme of Education Development, fifteenth page.

⁷³ Ibid., third page.

⁷⁴ *Millennium Development Goals*, p. 47.

expenditures in the secondary education sector. A methodology of per capita normative financing was being developed in 2011; this will help increase the efficiency of budgetary expenditures with responsibility and accountability. It is important to provide for the development of grants and preferential credits for those often smaller educational institutions to guarantee a smooth transition without affecting the right to education, as well as to ensure transparency and accountability in financial management.

87. Given its impressive economic advancement and abundant resources, Kazakhstan can and should further enhance investment in education, both in terms of the national budget as well as in proportion to the GDP, especially since education is acknowledged to be one of the main priorities in the Kazakhstan 2030 Strategy. Investing in this strategic sector is not only an obligation, but also an essential step in the consolidation of democracy.

V. Conclusions and recommendations

88. Over the past two decades, Kazakhstan has experienced historic political and economic developments. The country's MDG+ agenda, with its long-term education development goals and strategies, is highly relevant in the context of global reflections on taking the Education for All agenda forward beyond 2015.

89. The Special Rapporteur commends the Government for achieving almost universal enrolment at the primary and secondary levels of education, as well as for its determination to continue to invest in preschool, technical, vocational and higher education. Nevertheless, he also underlines that there are a number of remaining challenges that Kazakhstan will need to address in order to ensure the full implementation of the right to education for all.

90. The Special Rapporteur notes that Kazakhstan has all the prerequisites in place to implement "Education for All" and switch to high-quality lifelong education for each citizen of the country according to his or her needs and capacity. The following recommendations are aimed at assisting the Government in this regard.

1. Responding to quality imperatives with respect to education for all

91. Kazakhstan must enhance the quality of education provided, by integrating the concept of an inclusive education into national education development strategies; by revising and upgrading of national educational standards and curricula based on the principle of interrelation and continuity of preschool, primary and secondary education standards.

92. Increasing investments in the qualification of teachers and in the improvement of their career prospects is also crucial to improve the quality of education. Teachers are the mainspring of quality education, and replacing the aging workforce with well-qualified and trained teachers is a huge challenge for the country. Also, while training young teachers, Kazakhstan needs to take steps to ensure that the proportion of male and female teachers, which is currently lopsided, becomes more balanced.

2. Enhancing investment in education

93. As a country with abundant resources, Kazakhstan can and should invest much more in education in terms of its national budget, especially as education is acknowledged to be one of the main priorities in the Kazakhstan 2030 Strategy. It should continue to adapt budgeting mechanisms in order to ensure that financial resources are utilized more judiciously and equitably. Investment in education must focus on improving quality standards that are applied uniformly throughout the

country. Priority must be granted to reaching groups traditionally excluded from education systems, such as children living in poverty, children with disabilities and children of minorities. Continuing to invest in education at all levels as a matter of national priority is not only central to consolidating the significant development recently experienced by the country, but it is an obligation of the State established by both national and international law.

3. Promoting inclusive education

94. Kazakhstan must ensure inclusive education, providing all children, including migrant and refugee children, with access to education without any legal or administrative precondition such as the *propiska*. This can be achieved by, inter alia, stipulating that administrative acts and decisions determine the acceptance of all children to schools as a matter of course. Concentrated efforts to adapt classrooms and train education staff must be made to promote the inclusion of children with disabilities in regular classrooms. The placement of children in boarding schools should be revised in the light of their best interests.

4. Promoting minority education

95. While noting the historical and geopolitical circumstances in Kazakhstan and the Government's policy towards strengthening the Kazakh language as the State language, these efforts should not result in the reduction of efforts to ensure education to minority groups. Kazakhstan must ensure quality in minority-language schools, guarantee adequate funding and resources, and ensure equality of access to university education for students from all groups.

5. Preserving the richness of multicultural and multilingual diversity

96. One of the challenging tasks facing Kazakhstan is to preserve and enrich multicultural and multilingual diversity, while ensuring respect for the culture of the community. In this, education can play a key role. Interfaith and intercultural dialogue promoted through the Assembly of the People could provide a larger space to universal values of human rights and democratic citizenship.

6. Institutionalized and adequate data collection mechanism

97. Kazakhstan must ensure nationwide, systematic and regular collection of data in the area of education, including in a disaggregated manner, with particular attention to vulnerable groups that are more likely to be excluded from the education system. Kazakhstan could establish an inter-agency commission to assume the key role in coordination and monitoring (statistics agency, ministries and agencies concerned) and to achieve agreement on the collection and analysis of data relating to education.
