

Guiding Principles on Inclusive Distance Learning



Submitted to:

Henrietta Fore, Executive Director, UNICEF

Stefania Giannini, Assistant Director-General for
Education, UNESCO

Developed by:

Rangita de Silva de Alwis, Assoc. Dean Penn Law

Lindsay Holcomb, Penn Law '21

Cassandra Dula, Penn Law '21

Michael Machado, Penn Law '20

Advisors



Natalie Jabangwe

CEO, EcoCash, Africa's Largest
FinTech Startup

Shaloo Garg

Managing Director, Microsoft
for Startups



**Kamakshi
Sivaramakrishnan**

Founder & CEO, Drawbridge
(Acquired by LinkedIn)

Acknowledgements

We thank Dean Theodore Ruger,
Dean of the University of
Pennsylvania Law School, for his
support.

We also thank Professor Cary
Coglianese, Professor Zeid Al
Hussein, Professor Beth Simmons,
and Professor Regina Austin for their
support.

We also acknowledge the work of
Legal Education Programs at the
University of Pennsylvania law
School. Legal Education Programs is
the distance learning arm of the Law
School.

This project was prepared as part of the Financial
Times Innovative Lawyer Global Legal Hackathon to
Address COVID-19.

*In April 2020, an amicus brief filed by Harvard Law School’s Martha Minow’s 300th Anniversary University Professor and the school’s former dean, her team at Selendy & Gay, provided the 6th Circuit Court with the historical legal context that would allow it to draw on precedent—in particular *Brown v. Board of Education*—to reach new conclusions on the fundamental right to a basic education. The 6th Circuit ruled that “some minimal education—enough to provide access to literacy—is a prerequisite to a citizen’s participation in our political process” and therefore a fundamental right “foundational to our system of self-governance” that the state must provide.*

The **Guiding Principles on Inclusive Distance Learning** consist of principles and values enshrined in the Universal Declaration of Human Rights (UDHR), the Convention on the Elimination of Discrimination against Women (CEDAW), the Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities (CRPD), the International Convention on Economic, Social, and Cultural Rights (ICESCR), and the Sustainable Development Goals (SDGs) and are meant to guide a human rights-based approach to distance learning at a time of global crisis. Article 26(1) of the UDHR emphasizes the critical importance of this charge:

“Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.”

The Penn Law students in the class on International Women’s Human Rights come together to recommit ourselves to these universal, indivisible, and non-derogable human rights principles. While COVID-19 has undoubtedly exacerbated existing challenges in education, and created new ones, it has also presented an opportunity for the international community to reevaluate the distance learning model and innovate new ways to reach those who are most often left behind. As Hannah Arendt wrote in *Between Past and Future*:

“Education is where we decide whether we love our children enough not to expel them from our world and leave them to their own devices, nor to strike from their hands their chance of undertaking something new, something unforeseen by us, but to prepare them in advance for the task of renewing a common world.”

Examined under the auspices of the human rights tradition, education should be conceived of as a series of innovations and reinventions, using the values and ideas of the past in order to critique and transform the present. To that end, we call upon all stakeholders, including governments, multinationals, transnational corporations, community organizations, educators and students to adopt these fundamental doctrines and align their efforts with these bedrock values of inclusive education.

Whereas...COVID-19 has forced school closures in over 130 countries and over 850 million children and youth are affected by the closure, distance learning and design thinking must go hand in hand to deliver inclusive and accessible education for all.

- In times of crisis and economic uncertainty, inclusivity and accessibility must be the utmost concerns of any educational program. As the ICESCR provides, “Education has a vital role in empowering women, safeguarding children from exploitative and hazardous labor and sexual exploitation, promoting human rights and democracy, protecting the environment, and controlling population growth.” By investing in education, states can ensure that all children are able to live an enlightened, joyful, and free life.
- Inclusive education is also a fundamental human right. **An inclusive education system is one that accommodates all students whatever their abilities or requirements.** UNICEF defines inclusive educational environments as those that adapt physical structures, teaching methods, and curriculums as well as culture, policy and practice to be accessible to all students without discrimination.
- SDG 4 requires that states ensure inclusive and equitable quality education and promote lifelong learning opportunities for all. **Given that nearly fifty percent of the world's population lack internet access, education often demands a contextual solution.** This will require cost effective educational products that eliminate barriers to quality education for all, including women and girls, children and persons with disabilities, and migrant populations.
- Keeping in mind that **women and girls engage in 2.6 times more unpaid domestic work** than men and boys, educational tools must make a special effort to reach those who are most marginalized in the workforce, ensuring that all students have access to the same opportunities, regardless of sex or gender.
- Article 10(c) of the CEDAW mandates the revision of pedagogical methods with a view towards eliminating stereotyped concepts of the roles of men and women. **Revising textbooks to present more inclusive lessons, abolishing gender-specific curricula, and encouraging co-education** can all help to prevent typecasting students’ abilities based on sex or gender. Taken as a whole, the CEDAW provides a comprehensive framework for challenging the various social constructs that have created and sustained sex-based discrimination in educational settings and beyond.
- Article 24 of the CRPD calls for states to fundamentally disavow discrimination. Children with disabilities must be able to access education without discrimination and on the basis of equality, including **the removal of legal, physical, communication, social, financial and attitudinal barriers.**
- Article 11(1)(c) of the CEDAW requires that states take all appropriate measures to ensure the same rights and privileges for men and women in the workplace. Recognizing that **nearly three quarters of all teachers are women**, it is imperative that educational institutions provide equal pay, equal benefits, and equal treatment in respect to work of equal value to all of their staff regardless of gender.

- Article 13(d) of the CEDAW mandates the provision of **equal educational opportunities for rural women**, recognizing the significant roles which rural women play in the economic survival of their families. Both formal and non-formal training can play an enormous role in ensuring that these most marginalized women are able to achieve functional literacy as well as technical proficiency.
- Article 30 of the CRC recognizes the immense importance of the unique traditions and cultural values guiding each community's efforts to protect, support, and educate their children. To that end, in those communities in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, **education must be informed by difference and must respect the traditions and customs of minority groups**.
- As Article 13(2)(b) of the ICESCR provides, education must be accessible to everyone regardless of each person's individual circumstances. Students must not be discriminated against because of any protected characteristic, schools must be within safe physical reach, whether online or in person, and education must be affordable to all. **Modern technology therefore must be available to all students** in order to ensure that they can access all of the features of a fruitful education regardless of whatever extenuating circumstances may arise.

Technology will play a critical role in the future of inclusive and quality education. However, well-intentioned endeavors at distance learning will be constrained if they fail to develop adaptive technology that meets the realities on the ground. **Any technological innovation in distance learning must be founded on the needs of the those furthest left behind**, whether they be women, girls, children in conflict-affected areas, or persons with disabilities. If distance learning is to be impactful and sustainable, it must include women educators, women and girls involved in learning, teachers involved in mobile schools, and women technologists from the Global South, as well as the removal of barriers to creating applications. As Brad Smith, president of Microsoft, has stated:

“Just as COVID-19's impact has no borders, its solutions must not have borders, as it requires the collaboration across public and private sectors to ensure every student stays engaged and continues learning.”

To this end, domestically and regionally produced devices and transnational partnerships, as called for by SDG 17, are vital. The assumption that the world's most marginalized communities do not have the innovative capital or the technological wherewithal to establish robust internet connectivity is patently false and diminishes the enormous strides made by companies like M-Pesa, Liquid, and Econet in Africa, and Ant-Financial in Asia. These partners have already created innovative blockchain technology for money transfers during the crisis and can play a key role in the sustainable transfer of distance learning.

Visual Aids:

Figure 1: A Multilayered Approach to Distance Learning During the COVID-19 Crisis

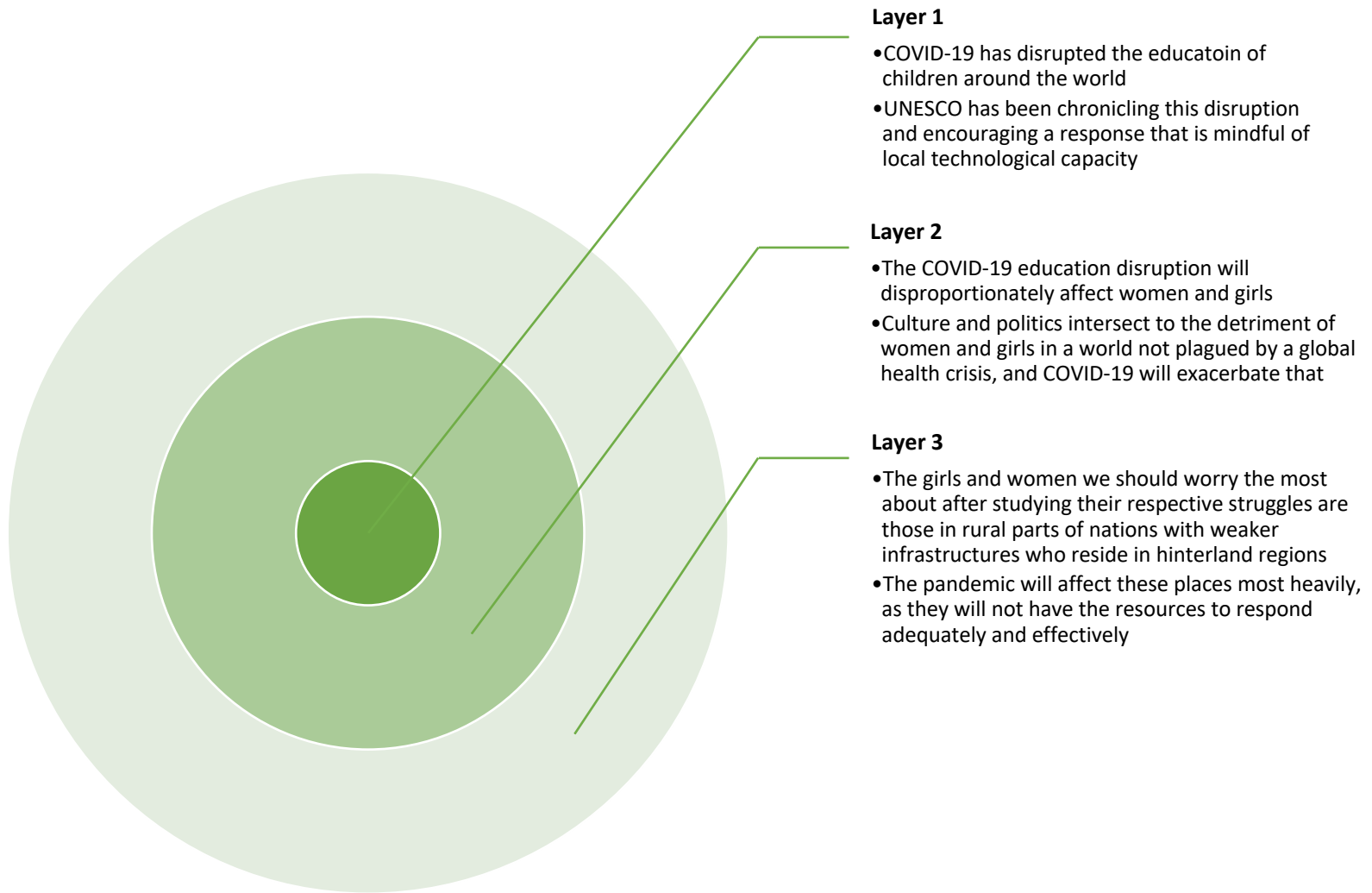


Figure 2: The Guiding Principles on Inclusive Distance Learning - at the intersection of the CEDAW, the CRC, the CRPD, and SDG 4

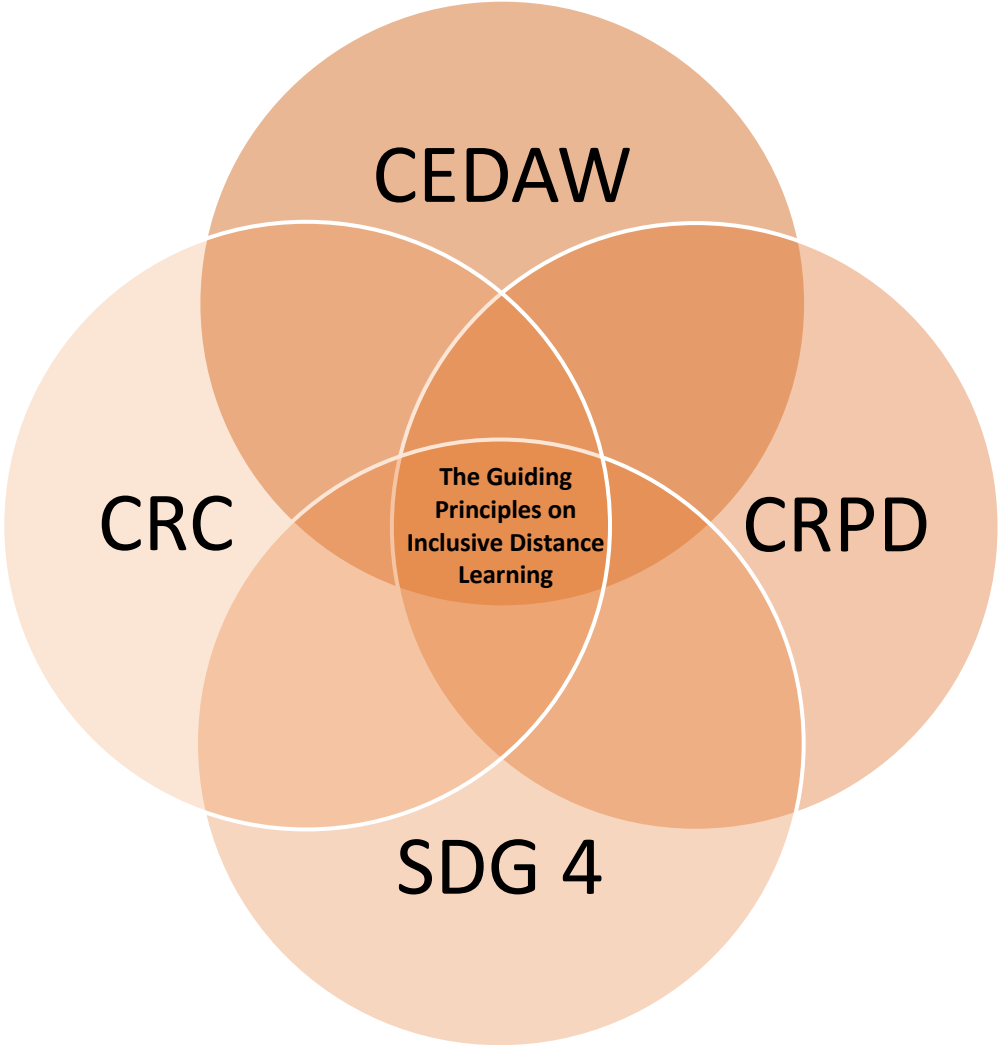


Figure 3: Bringing together the language of the CEDAW, the CRC, the CRPD, and SDG 4

