

# **Compulsory Education and Child Labour: Historical Lessons, Contemporary Challenges and Future Directions**

**Working Draft**

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## 1. Introduction

There is a growing recognition that child labour elimination and the achievement of universal basic education are interrelated challenges – that one cannot be achieved without the other. The central place of education in combating child labour has its historical roots in the nineteenth and early twentieth century campaigns in industrial countries. These campaigns, in which the labour movement played a central role, focused on minimum age regulations linked to educational requirements that became, over time, compulsory. The compulsion was as much on the state to provide education for all children, as on individual families.

In a seminal study, Myron Weiner (1991) accords compulsory education the principal role in eliminating child labour, past and present.<sup>1</sup> Weiner's interpretation of the historical record has subsequently sparked a lively debate amongst academics. This historical debate has been complemented more recently by an examination of the relationship between education and child labour from a human rights perspective. The right of all children to free and compulsory education is enshrined in international law in a variety of treaties. Additionally, Education for All (EFA) became a central development goal in the 1990s – and its economic benefits became increasingly recognized.

And yet for much of the 1990s, the twin goals of universal education and the progressive elimination of child labour inhabited segregated worlds. This was despite the fact that the bottom 20 per cent hard-to-reach children for EFA are mainly child workers. Working children comprise the largest group excluded from education. Conversely, education plays a multiple role in combating child labour. First, universal compulsory education up to the minimum age for employment is a critical preventive measure. Second, education of good quality plays an important protective role as part of a wider protective environment for children. Finally, education provides developmental opportunities by widening options for children beyond compulsory education, putting them on the right track for the future world of work.

Against this background, the paper builds on the comparative approach (historical and contemporary) adopted by Weiner, updating and extending his analysis to encompass the human rights and development dimensions of the role of compulsory education in child labour elimination efforts, with a greater emphasis on the apparatus of implementation. The paper begins (section 2) by examining the historical lessons learned from legislating for and implementing compulsory education, drawing on the experience of the first industrial nations, especially – Britain, Germany, USA and Japan. The paper then examines the range of international treaties (section 3) that enshrine the right to education, and the sometimes tension between the human rights approach and the more recent, and increasingly dominant, economic development perspective (section 4). Progress in promoting free and compulsory education is examined in key countries and in the special circumstances of Sub-Saharan Africa (section 5) as a means of elaborating key issues for policy makers (section 6). The paper concludes (section 7) with an outline of the theory (from lesson learned) and the operational practice of implementing compulsory education, leading finally to a future research agenda.

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<sup>1</sup> Weiner, 1991, p. 3.

## 2. Lessons of the past

Policy makers have naturally tended to look at historical evidence to understand why child labour declined in today's advanced industrial countries in search of strategies to encourage its elimination in developing countries. Historical analysis does best when it illuminates the present, as well as the past, and helps chart the future. In this section we examine the historical experience of the first industrial nations in introducing compulsory education and its relation to child labour.

### *2.1 Child labour trends in the first industrial nations*

The history of the child labour debate begins with the industrial revolution in Britain. Prior to the end of the eighteenth century child labour went largely unquestioned. During the early part of the first industrial revolution in Britain, for example, child labour was seen more as an opportunity than a problem. Industrialization offered an opportunity for children to find work who might otherwise not find jobs. Indeed, by the 1830s it was thought that the more a country became industrialized, the more it would make use of child labour.<sup>2</sup>

How many children worked during this phase? As Humphries points out, most of the first industrial nations only started to monitor and measure the extent and the importance of children's work when they sought to control or eliminate it.<sup>3</sup> In the British case, the first complete census was in 1851, whilst in France and the USA, such surveys were not held until the very end of the nineteenth century – in all cases this was well after the high water mark of child labour use.

Historians have therefore turned to other sources to gauge the extent of child labour, principally contemporary industry studies. These suggest that children and young people made up between one third and two thirds of all workers in many British textile mills in 1833 and over one quarter in many mines in 1842. An industrial enquiry of 1839-1843 in France found that children under the age of 16 comprised 12.1 per cent of the labour force. Other studies suggest that in Belgium in 1843 children made up 19.5 per cent of the work force whilst an estimate for the north-eastern states of the US suggests that by 1832 women and children made up 40 per cent of the manufacturing labour force.<sup>4</sup>

Britain was peculiar not simply as the first industrial nation, but because of the extent and intensity of the use of child labour. Child labour was more extensive in Britain in the nineteenth century than any other country (or in the contemporary developing world) because of its much greater labour input, making it more “an industrious revolution” in its early stages.<sup>5</sup> But child labour was also important to the other early starters down the path to industrialization notably, Belgium, France, the Western parts of Prussia and the USA. The use of children in key sectors such as textiles and mining was within a cultural setting pre-disposed to “making children useful”.<sup>6</sup>

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<sup>2</sup> Cunningham, 1996, pp. 41-42.

<sup>3</sup> Humphries, 2002, p. 4.

<sup>4</sup> Ibid, p. 9.

<sup>5</sup> Ibid, p.18.

<sup>6</sup> Ibid, p. 21.

By the end of the nineteenth century the era of extensive use of child labour was over. This decline began in Britain and the early starters around the middle of the century and affected children 5-9 years old in the first instance. For children aged 10-14 the decline began around 1870, whilst the participation rates of children over 14 years remained high well into the twentieth century.<sup>7</sup>

## *2.2 Explaining the decline of child labour*

A number of interpretations have been put forward over the years to explain the decline in the demand and supply of child labour in the first industrial nations. At least five factors have been identified as the principal cause of the historical decline of child labour: *family strategies- technological change- child labour laws- compulsory education laws –changing ideologies of childhood.*

### *2.2.1 Family strategies*

The simplest explanation put forward argues that as child labour is a function of poverty once household incomes rose – particularly of the male “breadwinner” – the need for an economic contribution from children necessarily declined. Rising wages allowed working class families to change their strategy and invest in their children by sending them to school.<sup>8</sup>

### *2.2.2 Technological change*

The early phase of industrialization required unskilled labour and therefore children and adults were close substitutes. Child labour was strategically important in the transition to factory production and children made up a large proportion of the labour force in many mills and mines throughout the industrial revolution. But once technology became more sophisticated, as for example in the mines and the mills, the demand for child labour declined.

### *2.2.3 Child labour laws*

The traditional explanation suggests that the most important factors in the decline of child labour were State legislation and the regulation of labour markets. Examples cited include the impact in Britain of the Factory Act of 1833; the 1864 act which reduced child labour in the potteries; and the 1874 Mines Regulation Act; the first child labour regulations in Prussia and France in 1839 and 1874 respectively; and US legislation of 1933.

### *2.2.4 Compulsory education*

It was a political scientist, rather than economic or social historian, who has made the most forceful case in recent years for the role of compulsory school legislation in reducing the supply of children for employment. Weiner argues that compulsory education effectively stopped child labour in both the early starters and the new industrialized countries. Just to take the example of Britain, the participation of 10-14

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<sup>7</sup> Ibid, p. 22.

<sup>8</sup> See Nardinelli, 1990.

year olds in the labour market fell markedly after the introduction of compulsory education. The argument boils down to a displacement effect on children's time allocation – once schooling is in place children are simply not available for work during a great part of the day. Besides, as Weiner and others have argued, school attendance may be easier to enforce than minimum age laws.

### 2.2.5 *Changing ideologies of childhood*

The British social historian Hugh Cunningham has written extensively on the history of child labour. An important part of Cunningham's interpretation of the historical record is the changing conception of childhood that accompanied industrialization. Under the impact of a romantic movement, childhood began to be defined as a period of happiness and dependency to which all children had a right. It was in the 1830s and 1840s in Britain, Cunningham suggests, that child labour began to be viewed as wrong because it violated this sense of the right of children to childhood.<sup>9</sup> A prevailing view began to emerge that it was the duty of the state to protect children – to protect those who cannot protect themselves. Indeed, what is being asserted as a consequence of this new conception of childhood is the right of children *not* to work.<sup>10</sup>

### 2.3 *Summing up*

Each one of the interpretations (suggesting a single prime factor) above is open to critique. To begin with, the rise in real wages does not always neatly fit the chronology of the removal of children from the workforce. For example, real wages more than doubled in Belgium between 1853 and 1891, but children continued to work and were contributing a higher percentage of the family income. A similar counter argument can be made regarding technology where advances, as for example in mid-nineteenth century Catalonia, led to an increase rather than a decrease in child labour. Technology, therefore, is not an independent factor – it can only *enable* the reduction of child labour. Regarding legislation, it could be argued that the impact of child labour laws may have been as much an *effect* of the decline of child labour as its prime cause. Similarly, it might be argued that compulsory education laws do not guarantee completion of schooling neither do they absorb all the available time for work. Finally, changes in the ideology of childhood might also be viewed as a consequence of more fundamental changes in the political economy.

It is difficult, therefore, to find a “magic bullet” from historical analysis. Each of the five factors played an important role in the decline of child labour, but they tended to operate in concert. Given the focus of this paper on compulsory education, it is important to note that its introduction often took place within a context of other favourable changes, such as child labour legislation and a rise in adult male wages. The challenge for historians is to separate out the impact of compulsory education through studies that control for other possible explanatory variables.<sup>11</sup> As I shall argue in the concluding section, this could form part of a future research agenda on the historical impact of compulsory education on mass education and child labour elimination efforts.

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<sup>9</sup> Cunningham, 2001, p. 15.

<sup>10</sup> Cunningham, 2003, p. 10.

<sup>11</sup> Humphries, 2002, p. 46.

## 2.4 The Weiner thesis

Having explored the historical context of the decline of child labour and its varying interpretations let us now revisit in more depth the role of compulsory education as expounded by Myron Weiner.

Weiner observes that all industrialized countries at a certain moment in their history introduced compulsory education and this action by the state helped to re-define childhood. According to Weiner: *Compulsory primary education is the policy instrument by which the state effectively removes children from the labour force.*<sup>12</sup> The pattern of policy intervention in education varied considerably from country to country but what was consistent was the notion that universal education was a duty of the state.

This development was most evident in the first industrial nations in Europe and was related to an important extent to the widening of democracy in general and the rise of the labour movement in particular. Between 1840 and the 1880s the population of Europe rose by 33 per cent, but the number of children attending school increased by 145 per cent.<sup>13</sup> Progress was striking, especially in France and Italy, where the primary school was used as a tool of nation building. In France a provision for free education was introduced in 1867 and was then made compulsory under a series of reforms undertaken in the 1880s by the Minister of Education, Jules Ferry. Training institutions for women teachers were established in every department. Also remarkable was the expansion in secondary education for girls. There were no secondary school for girls in 1880 but by 1913 there were 138, and the number of girls in them had reached a third of that for boys. The fastest expansion, though, occurred in Italy where the number of primary school children doubled in the fifteen years after unification in 1860.

The era from 1870 to 1914 was for most European countries the age of the primary school. Even in well – schooled countries such as Sweden and Norway the number of primary school teachers trebled. The number of primary school children also trebled in Britain.<sup>14</sup> Germany took the lead in promoting compulsory education, and many countries such as England, France and Japan were influenced (as much as anything by the link to economic and military progress) by her example. Let us now turn to examine in more detail some key country case examples.

### 2.4.1 Germany

State provided compulsory education is largely a German invention. The duty of the state to introduce compulsory education was advocated by Martin Luther in 1530. In 1817 the Prussian state issued a decree ordering all children 5-12 years to attend school and followed this in 1836 with a school building programme. By the following year (1837) over 80 per cent of children were enrolled in some form of elementary school. After 1848 the school system, which had had a significant local element in terms of administration and financing, was placed under central control. By German unification in 1871 school attendance was universal. The state paid only 5 per cent of

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<sup>12</sup> Weiner, 1991, p. 3.

<sup>13</sup> Hobsbawn, 1989(a), p. 118.

<sup>14</sup> Hobsbawm, 1989(b), p. 150.

public elementary school costs, 75 per cent came from local communities, and 20 per cent from school fees.

This expansion in mass education went hand-in-hand with a concern with child labour. The earliest official response over child labour also occurred in 1817. A campaign against factory child labour began in the 1820s, with legislation following in 1839 mandating five hours of daily schooling for factory children. In 1853 the minimum age for work was raised from nine to twelve, limiting the daily work day to six hours for children between twelve and fourteen, with three hours for compulsory education.

After German unification in 1871 greater attention was paid to enforcing child labour laws through an Inspectorate and fines on employers for violations. The enforcement of compulsory education laws also reinforced the child labour laws. By 1904, out of 9.2 million children under age fourteen, just 1.8 million were employed, and only a few hours, mainly in agriculture, and virtually all attended school. Germany was among the most successful states in ending child labour and in establishing compulsory education.

#### 2.4.2 England

England followed a more voluntary path than Prussia that delayed the implementation of a national system of education. Prior to 1833, education in England was wholly voluntary, financed by parents, charitable organizations and religious institutions. As late as 1869, two-thirds of all school expenditures in England came from voluntary sources. Ultimately, the example of Prussia was to influence the decision by the state to take a decisive role in providing mass education. This followed fifty years of dithering.

The first formal attempt to introduce a system of state provided universal compulsory elementary education was made in a Parliamentary Bill of 1820. This initiative was doomed to failure without a corresponding attempt to curb child labour, for “schools might be provided, but they would not be filled”.<sup>15</sup> This had been the observation of Robert Owen in 1816, when in relation to Manchester he had remarked that, “there was more school room than children to fill it”.<sup>16</sup>

In 1833, influenced by the Prussian example, Parliament approved state funding to aid voluntary societies to build schools for the poor. In the same year, mass agitation to reduce the working hours of children, resulted in part-time education for factory children under the Factory Act. This gave 9-11 year olds in the mills two hours of schooling, six days a week.<sup>17</sup> This system of part-time education was subsequently extended to other industries and was intended to enable children to remain in the labour force. 1833 marks a watershed in official recognition that children had the right to special protection and to education. Moreover, the principle of compulsory

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<sup>15</sup> Simon, 1960, p. 152.

<sup>16</sup> Ibid.

<sup>17</sup> Both Marx and Engels commented on the poor quality of the education provided. In 1859, Marx observed: “In fact, the education clauses of the Factory Acts, while they require children to have certificates of school attendance, do not require that they shall have learned anything”, Padover, 1975, p. 82.

education had been conceded for the first time. But without state funding, this proved a hollow victory.

The 1830s also witnessed the emergence of the labour movement with universal education as part of its political agenda. Labour leaders stressed the overriding necessity to withdraw children from the labour market so that they could have time for education. By 1850, free compulsory education provided by the state linked to child labour legislation, became an established part of the political agenda of the labour movement.

Though state funding for education steadily increased in the 1840s and 1850s, there was still official opposition to compulsory education on the grounds of the necessity of child labour and that to introduce it would give a great, “shock to our education and social system”.<sup>18</sup> It was the revival of the labour movement in the 1860s that provided the impetus behind a national campaign (the National Education League was formed in 1869) that also embraced far-sighted employers. The resulting Elementary Education Act of 1870, though it did not impose compulsory education, did enable local school boards to do so. In the following year the London School Board made education compulsory for all children up to the age of ten. Finally, in 1880, school boards were required to enforce compulsory education and parents could be sanctioned for keeping their children out of school. As we shall see in the concluding section of the paper enforcement was far from being an easy task.

Education in England had moved from charity to a right upheld by the state. But given that Britain was the first industrial nation, why had this taken so long? England ought to have had some universal compulsory system of education, comparable to less advanced countries, before the 1840s.<sup>19</sup> Part of the reason was the demand for child labour. After 1865, this factor (and others related to the influence of the church) was pushed aside by economic and political events. Moreover, it was the combined effect of the second round of child labour legislation and the education acts after 1870 that significantly improved the lives of working children. After 1870 non-attendance was less of a problem. Quality issues, for example, class sizes and the competence of teachers became more important from the mid 1880s. Here is early evidence that compulsory education can itself create pressure for quality improvements – that quantity pushes quality.

Significantly, then, the sharpest decennial decline in child labour in England occurred between 1871 and 1881 when the State moved rapidly towards compulsory education.<sup>20</sup> Compulsory education not only increased the number of children at school it also edged up the minimum age of entry to the labour market<sup>21</sup>. Part-time education still meant that child labour was common thirty years after the 1880 Act. This situation was further eroded when an act of 1910 required all children to attend school full time until the age of 14 and finally, the Education Act of 1918 prohibited the employment of children of school age.

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<sup>18</sup> Simon, 1960, op. cit. p. 348. Statement from the 1861 public inquiry into education.

<sup>19</sup> Best, 1985, p. 176.

<sup>20</sup> Cunningham, 2003, p. 11.

<sup>21</sup> Cunningham, 1996, p. 43.

But only in 1931 do figures for child employment disappear from the census. Concerns with child labour had started a century earlier. On the most optimistic interpretation, therefore, it took a century to get rid of child labour in the first industrial nation.<sup>22</sup> However, this historically unique experience of the first industrial nation, should not be interpreted as a counsel to contemporary societies with a major child labour problem to take their time over abolition efforts. Subsequent experience points to the fact that the pace of change can be quite rapid once a historical “tipping point” has been reached. Besides there have been important historical changes over the last century and a half which make child labour elimination a much less daunting challenge. Not least of these is the emergence of a worldwide movement against child labour incorporating a new global ethic regarding child labour elimination. Importantly there is now virtual universal acceptance of the principle of eliminating child labour and of extending free and compulsory education, at least up to the end of the primary phase – a global consensus that was missing in the past.

### *2.4.3 The United States*

Massachusetts pioneered public education from the seventeenth century with a law passed in 1642. What element of compulsion existed placed the responsibility on parents to ensure the education of their children – including at home. A law passed in 1647 required each town to provide schools. The call for compulsory school-attendance legislation began in the 1820s. Again, the most concerted effort to extend public education occurred in Massachusetts, which became the leading force for what became known nationally as the common school movement – a movement for free, universal education paid for by government. The notion of limited government prevented compulsory education from spreading before the Civil War.

Only after 1865 do we see a movement for compulsory education laws across the states. By the latter half of the nineteenth century the movement for public education was having an impact – public education increased from 47 per cent of total expenditure for education in 1850 to 79 per cent in 1900.<sup>23</sup> Most of this public expenditure came from local taxes. By this time most children were in school with five years of schooling commonplace.

Massachusetts also led efforts to enforce compulsory education. In 1876, the state passed legislation prohibiting the employment of children under ten and stipulating that those between ten and fourteen must have attended school for at least twenty weeks in the previous year. A law passed in 1878 required employers to have birth certificates and proof of school attendance on file for inspection. By 1885 sixteen out of thirty-eight states had compulsory education laws, and by 1900 thirty-one states required attendance from ages eight to fourteen – by 1918 the process had been completed.<sup>24</sup> Enrolments exploded as a result of compulsory education laws. In 1870 six and a half million 5 to 18 year olds were in school by 1916 this had risen to 20 million. Children were also kept in school longer over the same period: 32 days

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<sup>22</sup> Cunningham, 2003, p. 11.

<sup>23</sup> Weiner, 1991, p. 144.

<sup>24</sup> Weiner, *Ibid*, p. 145.

(1870) to 157 days (1915).<sup>25</sup> Remarkably, between 1890 and 1918, one public school was opened for every day of the calendar.<sup>26</sup>

There was a corresponding increase in the teaching force that rose from 200,515 in 1870 to 604,301 in 1915. More significant were the qualitative changes that transformed teaching into a profession, particularly in the cities, from “schoolkeepers” to “schoolteachers”, and subsequently “educators”. Special schools led to greater specialization that further enhanced the profession.

Child labour, having increased in the last decades of the nineteenth century, declined substantially thereafter. Compulsory education laws had the most impact in states that also had child labour laws for children of the same age. In was in those Southern states such as North and South Carolina, Georgia and Alabama, which had neither child labour nor compulsory education laws until after 1900, that child labour grew with the economy.<sup>27</sup> By 1914, all but one state had minimum age legislation with education requirements usually linked to it.

In a highly de-centralized political system that characterizes the United States attempts at national legislation were constrained. Not until the 1930s with the New Deal did limited Federal legislation enshrine the principle that all children are better off if they remain in school and out of the labour market, at least to age sixteen.

#### *2.4.4 Japan*

Japan achieved similar educational growth to Britain but from a much lower industrial base. Japan’s rapid educational advance was based on an already high literacy base, and was part of a deliberate state-directed policy of “catching-up” modernization following its opening to the West in the 1850s. After this period, the promotion of mass education became a central objective of the State during the Meiji Restoration from 1868 - 1911. Japan became the first non-western country to make education compulsory. A decree of 1872 announced a plan for a unified state education system. Compulsory education for four years was established in 1886 and extended to six years in 1907. Between 1880 and 1900 primary school attendance doubled, and by 1910, 98 per cent of six-to-thirteen olds were attending school. The abolition of school fees in 1900 gave a final impetus to this expansion. That said, girls were still being removed from school to work in the textile factories in the early part of the century.<sup>28</sup> Japan then achieved similar educational growth to Britain but from a much lower industrial base.

Since the central government was not in a position to fund primary education, it ordered local governments to collect revenues to support compulsory education - education consumed as much as 43 per cent of Japanese town and village budgets. This emphasis on local financing changed in the late 1880s when the central government began to subsidize compulsory education, with a resulting soaring in elementary school enrolments – from 1.3 million in 1873 to 5 million in 1903.<sup>29</sup>

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<sup>25</sup> Perkinson, 1968, p.

<sup>26</sup> Faulkner, 1971, p. 191.

<sup>27</sup> Weiner, op. cit. pp. 145-146.

<sup>28</sup> Saito, 1996, p. 89.

<sup>29</sup> Ibid, p. 151.

This pattern has been maintained in the post-war period. Compulsory education of nine years is enshrined in Article 26 of the Japanese Constitution of 1946 and Article 4 of the Fundamental Law of Education. Other legal provisions oblige local authorities to provide schools and provide where appropriate financial assistance to disadvantaged children. Employers are prohibited from employing children of compulsory education age.<sup>30</sup>

#### *2.4.5 Conclusions*

What is striking in examining the historical record of the adoption of compulsory education and child labour laws is the diversity of countries, approaches, arguments, and political coalitions that brought about change. These diversities account for the differences in timing of state interventions. What is constant is the notion of education as a duty adopted as state policy. Where the state was slow to act, political coalitions outside of the state structure were crucial in introducing and extending compulsory education and child labour laws. In England, this political action took the form, perhaps unique in the history of opposition to child labour, of a mass movement in which children's voices were heard via the many parliamentary reports and also popular literary works.

Compulsory education and child labour laws proved to be mutually reinforcing. Child labour legislation became enforceable only when children were required to attend school. Compulsory education laws (and birth registration systems) usually preceded child labour laws, and they proved less difficult to enforce than child labour laws. The effective enforcement of compulsory education laws substantially reduces or eliminates child labour<sup>31</sup> and entailed an interlocking system combining truant officers, home visits, school registers that are accurate and detailed, and the ultimate sanction of the law.

### **3. Free and compulsory education as a human right**

The language of rights, as we saw in the previous section, has been integral to all attempts to combat child labour. In 1921, the ILO linked compulsory education with the minimum age for employment. By recognizing the role of education in eliminating child labour, this policy development – and the movement of the previous century to end child labour that led to the establishment of the ILO – helped to provide the underpinnings for the emergence of the right to education.<sup>32</sup> Historically, the labour movement played an important role, both at the national and international level, in promoting the right to education.<sup>33</sup>

The right to free and compulsory education, at least at the primary or basic level, is enshrined in a number of international human rights treaties, starting with the Universal Declaration of Human Rights (1948).

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<sup>30</sup> ILO, 2004 (a), p. 20.

<sup>31</sup> Weiner, op. cit., p. 191.

<sup>32</sup> Tomasevski, 2003, p. 2.

<sup>33</sup> The International labour movement called for an international campaign against child labour in 1866.

### 3.1 The Universal Declaration of Human Rights

The 1948 Universal Declaration of Human Rights states: *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.* (Article 26).

### 3.2 UNESCO Convention against Discrimination in Education

The 1960 UNESCO Convention against Discrimination in Education states: *The States Parties to this Convention undertake to formulate, develop and apply a national policy which...will tend to promote equality of opportunity and of treatment...and in particular: (a) To make primary education free and compulsory.*

### 3.3 International Covenant on Economic, Social and Cultural Rights

The 1966 International Covenant on Economic, Social and Cultural Rights has in Article 13 the most wide-ranging and comprehensive article on the right to education in international human rights law. Article 13 states: *Primary education shall be compulsory and available free to all; secondary education in its different forms, including technical and vocational ...education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education...(Article 13 (2)).* The International Covenant goes on to state that any ratifying State that does not provide free and compulsory primary education shall undertake *within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years...of the principle of compulsory education free of charge for all* (Article 14).

### 3.4 Convention on the Rights of the Child

The first specific global reference to the right of children to education was enshrined in principle 7 of the 1959 Declaration of the Rights of the Child. The 1989 Convention on the Rights of the Child (CRC) stipulates, in Article 28, that the right to education should be achieved “progressively” and on the basis of equal opportunity. The latter reflects the fact that vast numbers of children suffer discrimination in access to education, including working children. Given the cost of education not all States will be able to meet the educational needs of all their children at a stroke – hence the reference to the right being achieved “progressively”. That said, article 28 states a core minimum: free, compulsory primary education for all, and different forms of secondary education and vocational guidance “available and accessible” to all. Higher education must be accessible “on the basis of capacity”.<sup>34</sup>

Article 28 also addresses the delivery of education, in so far as States must take measures to reduce dropout and ensure that school discipline respects the child’s rights. States are also asked to promote international co-operation in the field of education, not least to meet the needs of developing countries.<sup>35</sup> Several other articles

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<sup>34</sup> UNICEF, 2002, p. 406.

<sup>35</sup> Hammarberg, 1998, pp. 7-8.

of the Convention are also pertinent, for example article 19 concerning measures to protect children against all forms of physical or mental violence, injury or abuse; article 22 on the rights of refugee children; article 23 about the rights of children with disabilities; article 30 about children of minorities, and not least article 32 about child labour; and article 27 guaranteeing a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

Equally, if not more important as part of the CRC, are the "general principles" laid out in particular in Articles 2 (Non-discrimination), 3 (Best interests of the Child), 6 (The Right to Life, Survival and Development), and 12 (The Views of Children). These provide a useful guide concerning implementation of Article 28 and raise important issues.

### 3.5 ILO Conventions

ILO Conventions since 1921 (Convention No.10 on the minimum age for employment in agriculture) have linked compulsory education with the minimum age for work. The Minimum Age Convention, 138 (1973) states in Article 2 (3): *The Minimum Age...shall be not less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.* Convention 182 on the Worst Forms of Child labour continues this tradition. In Article 7 (2)) it states: *Each Member shall, taking into account the importance of education in eliminating child labour, take effective and time-bound measures to: (c) ensure access to free basic education, and, wherever possible and appropriate, vocational training, for all children removed from the worst forms of child labour...* In Article 8 *universal education* is mentioned as one of the objectives of international co-operation and/or assistance. Mention should also be made of the Convention concerning Indigenous and Tribal Peoples, 1989, No.169 which has a number of pertinent elements relating to securing the right to education of groups who are often most at risk of discrimination and of child labour.

### 3.6 Key definitions

International human rights law has to be interpreted. It is important, therefore, to give meaning to the key concepts and principles set out above, in particular: *Education – Compulsory – Free – Progressively – Equal Opportunity.*

#### 3.6.1 Education

The definition of education is not limited to instruction delivered within schools though this will normally be the case. The UNESCO definition of 1974 states: *The word "education" implies the entire process of social life by means of which individuals and social groups learn to develop consciously within, and for the benefit of, national and international communities, the whole of their personal capacities, attitudes, aptitudes and knowledge. This process is not limited to any specific activities.*<sup>36</sup>

At the beginning of the process of forming international law in this area terms such as "elementary", "primary", "fundamental" or "basic" were often used interchangeably.

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<sup>36</sup> UNICEF, 2002, p. 410.

This has continued since 1948. The “World Declaration on Education for All”, adopted at Jomtien in 1990, states: *The main delivery system for basic education of children...is primary schooling. Primary education must be universal, ensure that the basic learning needs of all children are satisfied...*<sup>37</sup> While primary education is not synonymous with basic education, there is a close connection between the two. As UNICEF has stated: *Primary education is the most important component of basic education.*<sup>38</sup> By virtue of article 13 (2) (d), individuals *who have not received or completed the whole period of primary education* have a right to fundamental education, or basic education as defined in the World Declaration on Education for All. The right to fundamental education extends to all who have not yet satisfied their *basic learning needs*.<sup>39</sup>

#### 3.6.1.1 General features of education: The 4 “A’s”

Education in all its forms at all levels must exhibit the following features whose appropriate application must be guided by the best interests of children:

- *Availability*

Functional educational institutions and programmes have to be available in sufficient quantity. This means school buildings, water and sanitation facilities, trained teachers, teaching materials, etc.

- *Accessibility*

Educational institutions and programmes have to be accessible to everyone, without discrimination, within reach, and affordable.

- *Acceptability*

The form and substance of education, including curricula and teaching methods, have to be relevant, culturally appropriate and of good quality.

- *Adaptability*

Education has to be flexible so that it can adapt to the changing needs of children, communities and societies.

#### 3.6.2 Compulsory

The notion of compulsion appears at first sight unnecessarily harsh, particularly on the poor. The element of compulsion highlights the fact that none of the “duty bearers”, neither parents, nor guardians, communities or the state are entitled to treat as optional the decision as to whether the child should have access to primary education. John Stuart Mill in his classic, *On Liberty* (1859) justified compulsory education on the grounds that education was necessary for the future welfare of the individual child and of society at large. Mill stated that: “It is in the case of children that misapplied notions of liberty are the real obstacle to the fulfilment by the State of its duties”.<sup>40</sup> Compulsory education helps free the child and governments and others ought not to hide behind “misapplied notions of liberty”.

#### 3.6.3 Free

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<sup>37</sup> UNESCO, 1990.

<sup>38</sup> U.N. Committee on Economic, Social and Cultural Rights, 1999 (a).

<sup>39</sup> U.N. Committee on Economic, Social and Cultural Rights, 1999 (b).

<sup>40</sup> Quoted in Weiner, op.cit. p. 125.

The nature of this requirement is unequivocal. The right is expressly formulated so as to ensure the availability of primary education without charge to the child, parents or guardians. Fees imposed by Government, local authorities or schools, and other direct costs, such as materials and uniforms, constitute disincentives for poor parents. They are also highly regressive in effect. Free and compulsory education are therefore linked. Education should be free so that it can be made compulsory.

#### *3.6.4 Progressively*

All nations must plan for the progressive provision of education *to the maximum extent of available resources*. This means that while states must prioritize free primary education, they also have an obligation to take concrete steps towards making secondary and higher education progressively available and accessible. To this end states are also required to adopt a plan of action within two years. The plan must cover all the actions that are necessary in order to secure each of the requisite parts of the right and must be sufficiently detailed so as to ensure the comprehensive realization of the right. Participation of all sections of civil society is vital in the drawing up of the plan and its periodic review. The plan, moreover, must set out a series of targeted implementation dates for each stage of the progressive implementation of the plan.

#### *3.6.5 Equal opportunity*

The general principle of non-discrimination has to be adhered to. The major bar to equality of opportunity in education is, usually, the lack of resources – either in terms of government under-funding so that education is not made available to all members of the population, or in terms of families' poverty making the opportunity cost of sending children to school too high. The Committee on the Rights of the Child has identified a number of groups suffering from discrimination: girls, rural children, minority groups, disabled children, and children in detention.<sup>41</sup>

#### *3.7. U.N. Special Rapporteur on the right to education*

The principle of education as a human right places an obligation on a series of “duty bearers” – parents, communities and governments – to help facilitate and safeguard the right to education for the child.<sup>42</sup> These duty bearers in effect form a hierarchy with different roles and responsibilities towards children as “rights-holders”. In the first instance there is the expectation that the government, as the provider/funder of public schooling, will provide adequate levels of financial resource allocations from national budgets to the education sector.

How is the implementation of the right to education being monitored? In 1998, the United Nations Commission on Human Rights appointed a Special Rapporteur (Katerina Tomasevski) on the right to education – with an annual budget of \$8,000! The remit of the Special Rapporteur is very wide: to report on the status of the right to education and constraints encountered, especially gender inequality, and to assist

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<sup>41</sup> UNICEF, 2002, pp. 411-416.

<sup>42</sup> Wright, 2003, p. 6.

governments with implementation. This agenda has been set out in a series of annual reports. These have highlighted, for example, concerns over cost recovery measures such as school fees, and continuing patterns of exclusion from the school system affecting girls, nomadic and indigenous groups, rural populations, those without citizenship such as refugees, or without birth certificates, and the internally displaced.

The Special Rapporteur has in particular seen her work as providing a corrective to the dominant economic development paradigm. A symptom of this, claims Tomasevski, was the turning of the right to education into a development goal in the 1990s.

#### **4. Implementing the right to education: the two pathways**

The other dominant discourse in education and child labour action has been utilitarianism. Modern mass education systems were not designed or created on human rights principles. While such principles can be discerned in the ideology behind the mass expansion of education in some countries, the key driving force lay in utilitarian motives to do with nation building, initiation into a national culture, political socialization, preparation for employment, promoting religion, etc. Political economy factors rather than liberal notions dominated. This pattern continued in the developing world in the 1960s and 1970s. Utilitarian and instrumental arguments rather than rights-based ones prevailed.<sup>43</sup>

##### **4.1 Post-war expansion**

After 1945, with the process of de-colonization, education topped the agenda for nation building and development in many of the newly independent nations. As Julius Nyerere of President of Tanzania put it: *Education is not a way of escaping the country's poverty. It is a way of fighting it.*<sup>44</sup> UNESCO set global targets at a series of regional meetings from 1960-1966. All eligible children were to be enrolled in primary school by 1980, with 1970 set as the target for Latin America.

The results were dramatic. In 1960, fewer than half of the developing world's children aged 6-11 were enrolled in primary school, but by 1980, primary enrolment had more than doubled in Asia and Latin America – in Africa these had tripled. However, at the same time population growth also surged whilst economic performance declined. The debt crisis and structural adjustment policies led to a fall in real expenditures on education of between 40-60 per cent in the 1980s.<sup>45</sup>

##### **4.2 Education for All (EFA)<sup>46</sup>**

Amid this crisis in education a major new initiative, the World Conference on Education for All, was convened at Jomtien, Thailand in March 1990 to set out a new vision. The aim was to revive the international community's commitment to basic education. Convened by UNDP, UNESCO, UNICEF and the World Bank, and

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<sup>43</sup> Ibid, p. 2.

<sup>44</sup> UNICEF, 1999, p.11.

<sup>45</sup> Ibid, pp. 11-13.

<sup>46</sup> Interestingly, Marx and Engels, in the Communist Manifesto (1848), came up with the same phrase when they called for: "Free education for all in public schools". Quoted in Padover, 1975, p. 69.

attended by 155 governments and NGOs, the Conference outlined an “expanded vision”.

The Conference Declaration focused, as part of this “expanded vision” on quality, child development, and the needs of the poorest countries. Six key goals were identified, including: *universal access to and completion of primary education by the year 2000*.<sup>47</sup> The Jomtien goals were also reflected in a series of UN conferences which followed in the 1990s: The World Summit for Children (1990), the World Summit for Social Development (1995) and the Fourth World Conference on Women (1995).

Out of these meetings emerged from the Development Assistance Committee (DAC) of the Organization for Economic Co-operation and Development (OECD), a core global consensus on development goals regarding education: *universal access to basic education by 2000, with completion by 80 per cent of primary-age children; closure of the gender gap in primary education and secondary education by 2005; universal primary education by 2015, improvements in the quality of education, and enhanced access for low-income communities*.<sup>48</sup>

The rising profile of child labour at this time was also reflected in major international conferences held in 1997 at Amsterdam and Oslo. The Oslo conference in particular focused on education in its final adopted text.

#### *4.3 The Millennium Development Goals (MDGs)*

By the end of the 1990s – a decade after Jomtien - there was little grounds for celebration in terms of educational progress. World Bank data revealed that over the 1990s the average rate of primary school completion in the developing world improved from only 72 to 77 per cent. This global picture masks large regional differences with Sub-Saharan Africa having the worst performance by far, with barely half of all children completing primary school.

In September 2000, at the United Nations Millennium Summit world leaders endorsed a set of time-bound and measurable goals and targets. The Summit’s Millennium Declaration also outlined a process to achieve these goals, including a stronger focus on human rights. Goal 2 of the MDGs is to *achieve universal primary education*, with a target of 2015 to *ensure that all boy and girls complete primary school*. Goal 3 is to *promote gender equality and empower women*, with the target of 2005, to *eliminate gender disparities in primary and secondary education*, and 2015 to achieve this *at all levels*.

Again, the World Bank observes, that at the trend rate achieved over the 1990s, by 2015, the global primary completion rate will not exceed 83 per cent. There are, according to the World Bank, some 86 countries that are at risk of not reaching the 2015 goal. In particular, Sub-Saharan African countries will need to perform at historically unprecedented levels to achieve the education MDGs. This will require an even stronger combination of political will, deep and sustained reforms, faster

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<sup>47</sup> UNESCO, 1990, op. cit.

<sup>48</sup> Fyfe, 2001, pp. 71-72.

diffusion of best practices, and intensified financial effort than has been marshalled hitherto.

The political economy framework to achieve the MDGs was set at the “Financing for Development” summit held at Monterrey, Mexico in 2002, in which the removal of trade barriers, debt relief and more aid were pledged to developing countries who undertake tough political and economic reforms. This global compact was reaffirmed at the “World Summit for Sustainable Development” held at Johannesburg, South Africa, in August 2002.<sup>49</sup>

#### *4.4 Recognition of the inter-connection between EFA and child labour*

It took a surprisingly long time to get a high-level international endorsement of the inter-connection between the global goals of EFA and the progressive elimination of child labour. During the latter part of the 1990s, child labour took-off as an international issue. But little connection was made with the EFA agenda. Here were two ships passing in the night. Jomtien, coming soon after the adoption of the CRC, failed to consider the fundamental concept of child rights as the underlying principle behind EFA. Under international human rights law, 80 per cent coverage will not do. It is the bottom 20 per cent, or the so-called hard-to-reach, including working children, which remains the great challenge to achieving EFA.

##### *4.4.1 Agency responses*

In September 1994, the ILO and UNICEF held a joint meeting in New York to agree a common policy framework in education and child labour. This meeting was seen at the time as a step towards more effective inter-agency collaboration that would also embrace UNESCO, the World Bank and WHO. This promising initiative was not sustained. It was not until after the International Conference on Child Labour, held at Oslo in October 1997, that the ILO and UNICEF began to work broadly within a similar framework in child labour and education with resource support from the Government of Norway. A development that was in one sense ironic, in that one of the great deficits in an otherwise very important initiative, was the lack of a high level educational input.

After Oslo, UNICEF supported the development of a global programme (1998-2002) using education as a preventive strategy against child labour that was launched in 34 countries. At the same time, the profile of education within IPEC (International Programme on the Elimination of Child Labour) launched in 1992, also began to rise. The first major education initiative was the launch in 1995 of a project focused on developing the role of teachers, educators and their organizations in child labour efforts. At the same time, IPEC began to support non-formal or transitional education for former child workers, and later embraced vocational education and skills training. There has been a remarkable shift in a decade in the recognition of the importance of education in combating child labour and IPEC has become a leading catalyst in this area.

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<sup>49</sup> UNDP, 2003, p. 1.

It was only after Jomtien that UNESCO began to focus on street and working children with the launch of a global programme in the early 1990s. Implementation, given UNESCO's weak field presence was through partners such as UNICEF, but more particularly, NGOs. This focus, though, failed to infiltrate the follow-up to Jomtien at the various high level meetings held at New Delhi (1993) and Amman (1996). Would the decade review of EFA, held at Dakar in April 2000, prove a turning point?

#### 4.4.2 Developments in the new millennium

The World Education Forum held at Dakar, Senegal, in April 2000, affirmed education as a fundamental right, with free compulsory primary education of good quality as a long-term target to be attained by 2015. Special mention was made of girls, children in especially difficult circumstances and those belonging to ethnic minorities – but there was no specific mention of working children as a target group.<sup>50</sup>

It took another two years for the education and child labour connection to be formally made outside of a purely child labour context.<sup>51</sup> This was achieved at the 2002 UN General Assembly's Special Session on Children (UNGASS). The Children's Statement at the opening of UNGASS, on 8 May 2002, included a reference to: *equal opportunities and access to quality education that is free and compulsory*. This was followed by a consensus outcome document of the General Assembly, "A World Fit for Children" with goals and targets to be met.<sup>52</sup> The opening Declaration states: *All girls and boys must have access to and complete primary education that is free, compulsory and of good quality as a cornerstone of an inclusive basic education (para. 5)*. In the Plan of Action, the connection between education and child labour is first, and finally, made: *Education is a human right and a key factor to reducing poverty and child labour...(III,B,2,38)*. As part of the implementation strategy, reference is made to promoting...*innovative programmes that encourage schools and communities to search more actively for children who have dropped out or are excluded...especially girls and working children...Special measures should be put in place to prevent and reduce drop out due to...entry into employment (para. 40(2))*. In the section of the outcome document dealing with child labour, reference is made to the importance of...*providing working children with free basic education and with vocational training and their integration into the education system in every way possible...(para.36)*. Finally, universal education is seen as an important part of international co-operation efforts, with an over-riding need to: *Mainstream action relating to child labour into national poverty eradication and development efforts, especially in policies and programmes in the areas of health, education, employment and social protection (para.39)*.

The connection made at UNGASS was also reflected in the work of the G8 Task Force on Education and the Working Group on Education for All - that child labour was a major impediment to EFA.<sup>53</sup> The G8 Summit in June 2002 declared: "Stronger efforts must be made to eliminate the worst forms of child labour and to mainstream

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<sup>50</sup> UNESCO, 2000, The Dakar Framework.

<sup>51</sup> In fact, the 14<sup>th</sup> International Conference on Public Education, held at Geneva in July 1951, under the auspices of UNESCO, adopted a recommendation affirming the interrelation of child labour and compulsory education. See International Labour Review, 64 (5-6), Nov- Dec. 1951.

<sup>52</sup> UNICEF, 2002.

<sup>53</sup> ILO, 2004 (a), p. 4.

working children into formal schools”. At the same time UNESCO declared *...if we want to achieve Education for All, the issue of child labour must be taken more squarely into account.*<sup>54</sup> In 2003, at the first ever high level round table organized by the ILO, UNESCO, Global March and the World Bank, held at New Delhi, on linking policies in child labour elimination, poverty reduction and EFA, a Declaration was adopted, stating: *The international community’s efforts to achieve Education for All (EFA) and the progressive elimination of child labour are inextricably linked. On the one hand, education – and, in particular, free and compulsory education of good quality up to the minimum age for entering employment is a key element in preventing children from working in dangerous and hazardous conditions. On the other hand, child labour is one of the main obstacles to EFA and poverty alleviation. Girls’ work is a serious impediment to achieving gender parity in primary and secondary education by 2005 (13, November, 2003).*<sup>55</sup>

Finally, it should be acknowledged that the Global Campaign for Education and the Global March Against Child Labour were giving momentum to and gaining support for EFA and the progressive elimination of child labour.

#### 4.5 The two pathways

Child labour was lifted up the international agenda in the 1990s due to the combination of two forces – one focused on the development implications, whilst the other viewed child labour as a human rights violation. These ways of seeing the child labour problem (and education) were mirrored in the series of international meetings outlined above. Out of these meetings developed a language and a set of global goals. But they did not bridge the divide between the two pathways – indeed, according to Tomasevski, they gave rise to this division.<sup>56</sup> Because these two perspectives on education (and child labour) are an important part of the context for examining our central theme – free and compulsory education – it is important, at the end of this section, to spend a little time outlining each.

##### 4.5.1 The economic development perspective

This perspective, mostly associated with the World Bank, views education and child labour through a macro-economic lens, and sees them both as a cause and effect of poverty and underdevelopment. The human capital framework is central to this perspective because it views education (and latterly, the education of girls) as the central investment for economic development. Economists have developed a considerable body of knowledge on “rates of return” to education, both for the individual and the wider society.<sup>57</sup> In many respects, this approach is as old as economics itself. Adam Smith believed in the value of state intervention in education, whilst Alfred Marshall stated that: *The most valuable of all capital is that invested in human beings.* This approach in economics, though, really emerged as a special field in the 1960s.<sup>58</sup>

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<sup>54</sup> Ibid, p. 4.

<sup>55</sup> Global March, 2003. Global March was launched in 1998 but after the adoption of C.182 turned its focus to education. A second roundtable took place at Brasilia in 2004.

<sup>56</sup> Tomasevski, 2003, p. 93.

<sup>57</sup> See in particular the review of the field by Psacharopoulos and Patrinos, 2002.

<sup>58</sup> Watkins, 2000, p. 28.

In a landmark study in 2004, IPEC, in examining the costs and benefits of eliminating child labour, concluded that this would result in *enormous economic benefits*. In fact, globally, benefits would exceed costs by a ratio of 6.7 to 1.<sup>59</sup> The principal economic benefit is seen in human capital terms – the enhancement of productive capacity – through the replacement of child labour by universal education. This perspective is also mirrored in the 1998 ILO “Declaration Fundamental Principles and Rights at Work and its Follow-up”, which states: *Child labour is detrimental to development, since it means that the next generation of workers will be unskilled and less well educated*.<sup>60</sup>

According to the World Bank, between 60-90 per cent of the growth achieved in Japan and other East Asian industrializing countries can be put down to human capital, rather than by natural resources or finance. Just to take one example. On the eve of its rapid growth spurt in 1960, South Korea had the same primary school enrolment rates as Pakistan. Had South Korea’s educational performance remained on a par with Pakistan, its GDP by 1985 would have been 40 per cent lower than was achieved.<sup>61</sup> We shall examine South Korea’s educational performance in the next section of the paper.

That said, not all economists subscribe uncritically to the human capital view. The Nobel Laureate, Amartya Sen, points out that the benefits of education exceed its role in human capital formation, important as that is. It is a question of means and ends. Education is important for economic development, as the historical record shows, but it tells us nothing about the *why* of economic development. According to Sen, economic development (and education) leads to the expansion of human capability, to more choice and freedom for individuals.<sup>62</sup> From Sen’s perspective, therefore, child labour and the denial of education, is part of *unfreedom*. It is through free and compulsory education that millions of children can be lifted out of the “unfreedom” represented by child labour.

#### 4.5.2 *The human rights perspective*

A rights-based approach to education and child labour does not deny the economic development rationale in favour of universal education and child labour elimination – it simply sees it as redundant. Rights trump economic development considerations. Education, from a rights perspective, is an end in itself, not a means. Moreover, the right to education is pivotal because it acts as a multiplier (or “passkey”) in enhancing other human rights – or as the Committee on Economic, Social and Cultural Rights puts it, education is *an empowerment right*.

According to Tomasevski, the economic development perspective (and pathway) has come to supplant the much older one based on international human rights law. This process, she contends, began at Jomtien and continued through to the Millennium Summit, where the right to education was turned into a development goal. This has undermined the right to education evidenced by a change in language with *strong*

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<sup>59</sup> ILO, 2004 (b), p. 4.

<sup>60</sup> ILO, 1998.

<sup>61</sup> Watkins, op cit. p. 30.

<sup>62</sup> Sen, 1999, pp. 292-297.

*nouns and weak verbs.*<sup>63</sup> It has also taken away a sense of urgency as the global targets have been deferred to 2015. It has been the World Bank that has principally produced this shift in approach and created these two global pathways in education.

Tomasevski has certainly seen her role as providing a corrective to the economic development paradigm. There is a danger, though, of creating false choices and polarization. This is an ever-present danger in child labour. Each – child labour and education – has their own language, as do the fields of development and human rights. What is needed, as Tomasevski is the first to point out, is *building bridges between the worlds of education, macroeconomics and human rights* thereby leading the way to *rights based development*.<sup>64</sup>

That said, the balance must be weighted in favour of the rights perspective as the real basis for the commitment to free and compulsory education. Even if an economic justification could be found for child labour this would still be opposed on human rights ground. Conversely economic calculations of cost-benefit in eliminating child labour and providing education are not the fundamental grounds for opposing one and supporting the other – children have the right to education and to their freedom from work and governments cannot use the excuse of a lack of resources or not having all the necessary elements in place. Governments simply have to do it.

## **5. Country and regional case studies**

This section of the paper begins by exploring progress made in three of the most important countries for EFA and child labour elimination – Brazil, China and India. These countries belong to the E-9 group set up after Jomtien and the recently constituted G 20 group of developing countries. There is additionally treatment of South Korea, followed by an overview of the special situation of Sub-Saharan Africa, as a prelude to examining the attempts made by Uganda and Kenya to introduce free and universal education.

### *5.1 India*

India represents so many contrasts. At the state level there has been inspiring developments in promoting universal education but with slower progress at the central level.

The global effort for EFA and child labour elimination has no more important battleground than India. India probably has the largest population of illiterates and the single largest population of child workers in the world today. India represents over a third of the global total of out-of-primary school children. About a half of all children aged 5-14 years are not enrolled in schools, or approximately 105 million. These so-called “nowhere children” do not feature in official child labour statistics. In fact, estimates for child labour range from 10.4 million from official figures to NGO estimates of 114 million.<sup>65</sup>

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<sup>63</sup> Tomasevski, op.cit, p. 101.

<sup>64</sup> Annual Report of the Special Rapporteur, 2002, pp 7-8.

<sup>65</sup> Lieten, 2001, p. 56.

Global figures mask vast disparities reflecting caste, sex and urban/rural inequalities. The net effect is that a boy from a non-poor upper-caste family has a 75 per cent chance of attaining the eighth grade whilst a girl from a poor scheduled-caste family has virtual no chance of reaching the fifth grade.<sup>66</sup> In addition there are vast disparities among the different states – 25 per cent female literacy in Uttar Pradesh compared with 86 per cent in Kerala. India has one of the highest female-male literacy gaps in the world. No country in the world has a higher gap than Rajasthan.

This says nothing of the quality of education in India, referred to by the Committee on the Rights of the Child, as *characterized by a general lack of infrastructure, facilities and equipment, insufficient numbers of qualified teachers and a drastic shortage of textbooks and other relevant learning materials.*<sup>67</sup>

### 5.1.1 Public policy

Indian reformers in the nineteenth century, such as Gopal Krishna Gokhale, proposed free and compulsory education. This was opposed by the colonial administration that favoured providing an education for an elite.<sup>68</sup> After Indian Independence in 1947, Article 45 of the Directive Principles of the 1950 Constitution urged all states to provide “free and compulsory education for all children until they complete the age of fourteen years”. Moreover, the aim was to reach this target in a period of ten years by 1960. The target date was shifted, however, first to 1972, then to 1976, and later to 1990. The National Policy on Education formulated in 1986 again revised the date for universalizing elementary education. It set 1990 as the target for universalizing primary education up to grade five, and 1995 for elementary education to grade eight. The deadline though slipped once again when the revised national policy in 1992 stated: *it shall be ensured that free and compulsory education of satisfactory quality is provided to all children up to 14 years of age before we enter the twenty-first century.*

Those in India concerned by this ever-receding target introduced a constitutional amendment into Parliament in July 1997 that was finally adopted in November 2001, making education a fundamental right. This is an important step forward. In India, elementary education is a shared responsibility of central government and the states, appearing as it does on the “concurrent list”. In practice, state governments are the main actors, which perhaps helps explain the disparities in reach and quality across the country.<sup>69</sup>

This uneven picture reflects what Sen terms *the Indian scepticism about basic education.*<sup>70</sup> Education policy in India illustrates the gap between aspiration and means. The end was willed – universal education – but not the resources to make this

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<sup>66</sup> Dreze and Sen, 2002, pp. 151–152.

<sup>67</sup> UNICEF, 2002, p. 411.

<sup>68</sup> In 1835, the great English historian T.B. Macaulay, wrote his famous Minute on Education, which stated: “It is impossible for us, with our limited resources, to attempt to educate the body of the people. We must at present do our best to form a class who may be interpreters between us and the millions whom we govern.” Quoted in Ferguson, 2004, p.190. This pattern of priority given to elite education has remained remarkably persistent.

<sup>69</sup> Probe, 1998, p. 12.

<sup>70</sup> Quoted in Fyfe, op cit. p. 79.

ambitious goal a reality. Public expenditure on education as a proportion of GDP actually declined in the 1990s, from 4.4 per cent in 1989 to 3.6 per cent in 1999.<sup>71</sup>

How can this lack of progress in achieving universal education be explained? Myron Weiner examined the ideological underpinnings of this inertia and scepticism regarding basic education and child labour elimination in India. For Weiner, the failure to universalize primary education in India is a failure of political will: *India's low per capita income and economic situation is less relevant an explanation than the belief systems of the state bureaucracy, a set of belief widely shared...At the core of these beliefs are the Indian view of the social order, notions concerning...the role of education as a means of maintaining differentiations among social classes, and concerns that "excessive" and "inappropriate" education for the poor could disrupt existing social arrangements.*<sup>72</sup>

Weiner points to a paradox in India – that compulsory education laws do not make education compulsory. Compulsory education was written into state laws as early as the 1930s having been widely debated in the early part of the twentieth century – though Ghandi opposed compulsion. After Independence, the 1950 Constitution, as we have seen, made compulsory education official national policy. All these laws, Weiner suggests, permit, but do not require, local authorities to introduce compulsory education. In fact, the procedures to enable this are deliberately intimidating. Even when local authorities have succeeded in overcoming these there has been little enforcement.

This inertia has gone hand-in-hand with a certain degree of societal tolerance of child labour as a “harsh reality”.<sup>73</sup> It has been political realism which has conditioned an ameliorative approach from Government towards child labour and a reluctance to both recognize education as a fundamental right and to act upon this principle.

Instead, the answer for the poor, and working children, was voluntary non-formal education (NFE). In 1978, a national NFE programme was launched for out- of-school children aged 9-14 years. NFE centres were to be provided wherever 20-30 children could gather. The seventh five-year plan emphasized the role of NFE as a means of attaining universal education. Between 1983-84 and 1988-89, the number of centres registered an average growth of 16 per cent. But NFE centres came to suffer from the same shortcomings as the formal system – lack of oversight, inadequate infrastructure, lack of community participation, debilitating curriculum, etc. The Probe team found no pupil who had graduated from the NFE programme to the formal school system, despite this being the principal rationale for the programme.<sup>74</sup>

NFE came to be widely seen as an inferior second track of educational provision that reproduces existing inequalities, and also seemed to legitimize child labour. Premised on the need to mop-up the millions of dropouts from the formal system, the real

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<sup>71</sup> Dreze and Sen, op. cit. p. 166.

<sup>72</sup> Weiner, op cit. p. 5.

<sup>73</sup> The official position has remained consistent over the last eighty years, or more. At the first ILO Conference in November 1919, the delegate from India defended the slow implementation of compulsory education by stating: “We are all doing our best, but we cannot accomplish wonders without some lapse of time, and we only ask for a little time”. Quoted in Fyfe, op. cit. p. 79.

<sup>74</sup> Probe, op. cit. p. 99.

problem, in fact, was those children who have never been to school. After twenty-one years, the national NFE programme was abandoned as a failure.<sup>75</sup>

This experience of NFE in India has wider significance for discussions of child labour and education. In many ways, NFE became the programme of choice to respond to working children in the 1990s, at all levels, from NGOs to national and international agencies. NFE was to a large extent over-sold, sometimes accompanied by the notion of “separate but equal” strands or pathways, to universal education. But what was meant to be temporary and transitional became in some instances permanent and competitive to the formal education system.<sup>76</sup>

Lets us return to the main issue. Why are so many children out of school in India? Dreze and Sen examine two entrenched myths. The first, prevalent in some official circles, is that poor parents lack interest in education. The authors cite the evidence from recent studies (Probe Report) that reveals that the vast majority of Indian parents value education for their children. The second myth reflects the “harsh reality” view that the poor are dependent on child labour. This results, perversely, in a social justice/welfare justification of child labour. But the causation might run the other way – out-of-school children may be filling their time with work as a “default occupation”. This is likely to be particularly true of the very young children.<sup>77</sup>

We are left with the original question. If most children have the time and parents have the interest, why are so many children out of school? Dreze and Sen focus on the time and effort required of poor parents to send their children to school in the face of often poor quality education. In face of this, both parents and children become easily discouraged. The competing attraction of child labour reinforces this “discouragement effect”.<sup>78</sup>

To sum-up, there has been a lack of a political constituency for the right to education – with little political capital to be gained in India to getting all children into school of a decent quality. There are, though, some important exceptions to this picture at the state level, which provide a more positive picture of what can be achieved, to which we now turn.

### *5.1.2 Kerala: the peculiar state*

Kerala has achieved 90 per cent literacy, gets most of its children into school and keeps them there and has achieved gender parity in education. Almost all children aged 5-15 years attend school in all the districts of the state. There is one school for every 2,400 inhabitants in Kerala making access to education unparalleled in India. But perhaps the most impressive educational indicator is the retention rate. In 1975, 82 per cent of all children who entered grade 1 completed the fifth grade – a decade later the figure was 97 per cent.

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<sup>75</sup> Mehrotra, 2001, pp. 13-14.

<sup>76</sup> This is not to decry those NFE programmes that are genuinely transitional in design and effect. See also IPEC, 2004 (c), where a thematic review report came to broadly similar conclusions on the quality of some NFE approaches, though there are some positive elements such as flexibility, accessibility and relevance.

<sup>77</sup> Dreze and Sen, op. cit. p. 156.

<sup>78</sup> Ibid, p. 158.

Kerala has achieved universal basic education and gender parity. Despite being one of the poorest Indian states, Kerala has consistently spent more on education than most other states. Whereas 36-38 per cent of the state budget goes to education, the average for India has been only 25 per cent. Its non-plan expenditure per capita on primary education has been the highest of the 14 states – and it has targeted that expenditure on primary education. In 1991-2 primary education received 49 per cent of the education budget as against 30 per cent for secondary education. That said, child labour and traditional patterns of inequality have not been entirely eliminated. Child labour can still be found among traditional coastal fishing communities; people belonging to the scheduled tribes of Kerala's highlands; and the underclass of Tamil migrant workers in the state.

How did Kerala achieve this? Kerala has been called a “peculiar state”<sup>79</sup> – so special that it is difficult to take it as a model for the rest of India. Kerala has a long history of valuing education. In the early nineteenth century, schools opened by Christian missionaries, served as models – they served the poor and the children of oppressed castes, they encouraged the education of girls, and paradoxically they introduced courses of secular instruction. Missionaries also influenced traditional rulers. In 1817, the ruler of Travancore, issued the famous Royal Rescript that stated: *the state should defray the entire cost of the education of its people in order that there might be no backwardness in the spread of enlightenment among them...and that the reputation of the state might be enhanced thereby.*<sup>80</sup>

The foundations of mass education was laid in the 1860s when by government decree church schools were opened to all children, including those from poor communities and the lower castes. In 1904, the state government declared primary education free and announced plans to build primary schools throughout the state. In the 1930s, scholarships were made available to children from poor, low caste communities; and, in the 1940s, a midday meal programme was established.

The achievement of mass education is all the more striking given that some of the worst forms of untouchability and distance pollution were practised in Kerala – Ghandi called Kerala “India's madhouse of caste”.<sup>81</sup> The early struggles of the oppressed castes focused on gaining access to primary education for all boys and girls, and to higher education as well. One such success story is of agricultural workers going on strike in 1914 to gain admission for a girl from a agricultural worker family to a government school.

The extension of mass education took place after 1956 when the modern state of Kerala was formed. The labour movement, particularly rural worker trade unions, contributed powerfully to the dominance of governments in Kerala committed to both land and educational reform, as well as to the greater equality of women.

Kerala demonstrates what is possible when the political will exists to invest in the universal education, and it shows how literacy and education are of immense instrumental importance in social development. Kerala's performance with respect to a set of crucial social indicators – life expectancy, infant mortality, and birth and

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<sup>79</sup> So described to the author by the Secretary of Labour for Kerala during an ILO mission in 1992.

<sup>80</sup> Probe, op. cit. p. 13.

<sup>81</sup> Boyden & Myers, 1995, p. 11.

death rates - put it a different league from the rest of the country. Female education has had a particularly striking impact – demonstrating the truth of education leading to empowerment and freedom.

Although the advances in education and social equity in Kerala are undeniable, the impact of universal education on child labour is less clear. Official intervention in child labour has been less than intense – the state government has put little effort into enforcing child labour legislation. A closer look at the education system in Kerala shows that, although school attendance is compulsory, the law is not actively enforced. This is probably because the demand for education is so strong that it is hardly necessary.

Despite the fact that children may still work around schools hours, the achievement of universal education in Kerala seems at least to have prevented the worst forms of child labour found elsewhere in India. Moreover, Kerala shows that it may be easier to raise the political will for universal primary education by making education an attractive service that children, parents and communities demand and expect, than for the elimination of child labour, which may have a more limited backing.<sup>82</sup> And in time this indirect approach through education (and poverty reduction) becomes perhaps a more organic and sustainable way to deal with child labour than a head-on assault.

### *5.1.3 Himachal Pradesh*<sup>83</sup>

At the time of the formation of Kerala in the mid -1950s, the northern state of Himachal Pradesh was officially viewed as “extremely backward”. In 1961 literacy rates were 21 per cent for men and 9 per cent for women. By the 1990s, though, the state had made spectacular progress. In 1991, literacy rates in the 10-14 years age group were as high as 94 per cent for males and 86 per cent for females. In the last decade rapid progress has been made bringing the state very close to universal primary education.

In several ways this growth has been even more impressive than that of Kerala. First, it has taken place over a much shorter period. Second, it has been achieved almost entirely through government schools with little private education. Third, the scattered nature of the population - one-third of the rural population lives in villages of less than 300 people. Fourth, child labour has been a major impediment in the past.

How can this be explained? The Probe team found a high motivation among parents for education and the explanations of this relate strongly to its perceived empowerment effects. There is, moreover, a social consensus about the value of education for *all* children. Most parents support compulsory education, not only at the elementary stage but, in many cases, up to grade 10. There is lower gender bias in attendance at the primary stage and girls have high educational aspirations. In the 13-18 year age group, 73 per cent of girls attend school. The education of girls is seen as having important employment pay-offs.

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<sup>82</sup> Ibid, p. 11. This builds on Weiner and is echoed by Basu (1999). In effect, it might be argued, the best child labour laws may be compulsory education laws.

<sup>83</sup> The main source for this section is the Probe (1998) report, pp. 115- 126.

Schools are better maintained and are better staffed – single teacher schools have virtually disappeared. Pupil - teacher ratios are around 27, as against 50 in the other states researched by the Probe team. Accurate school records are kept of enrolment and attendance. Teachers take a more professional approach to their work and more are female – 41 per cent. Parents take an active interest in schools. The educational administration in the state is comparatively efficient and responsive.

These are effects of deeper social and political forces. First, there is official commitment to universal education. Per capita expenditure is about twice the all-India average. Second, there is a commitment to reducing disparities, including educational ones, through free textbooks up to grade 10 for scheduled caste and tribes. Third, there is the quality of educational management. And finally, and not least, there is parental demand (and vigilance) with rising educational aspirations as part of a virtuous circle in marked contrast to the “discouragement effect” elsewhere. Indeed, there are many examples of village social solidarity and support of local schools. Education, through its empowerment effects can help create a virtuous circle, no better demonstrated than by the schooling revolution in Himachal Pradesh. This has now to be built on progressively and sustained further up the educational ladder.

## 5.2 *China*<sup>84</sup>

The issue of political choice finds another striking expression in India’s closest comparison<sup>85</sup> – China. Like India, China set ambitious goals for universal primary education and had to move the deadline, first set for 1962, several times. The Compulsory Education Law of 1986 adopted a pragmatic approach, with different plans of action and intermediary target dates for different parts of the country according to their development status. The aim was to achieve at least five years of primary education for virtually all children in the country by 2000, and nine years of compulsory education for a large majority of the appropriate age group in the same period. It has been the latter, which has proven more difficult to achieve.

The eastern coastal and developed urban areas, comprising roughly a quarter of the nation’s population, had achieved virtually universal primary education of five to six years by 1990. Other urban and developed rural areas representing about 50 per cent of the country’s total population were expected to reach universal primary education by 1995. The remaining quarter of the population in the remote, mountainous and sparsely populated areas, did not have a precise deadline but were expected, by and large, to reach universal primary education by 2000. Overall, the net enrolment ratio, the proportion of children in the 7 to 12 year age group attending school, increased in China from 20 per cent in 1949 to 97 per cent in 1988 – the India figure was some 20-25 per cent lower. Retention in China has also been better, suggesting that 70-75 per cent of the primary age group in 1990 completed a full cycle, whereas the ratio was 50-55 per cent in India.

Again, it is important to put China’s educational achievements into an historical context. During the Nationalist period from 1927 to 1949, attempts were made to popularize education. In 1936, the enrolment rate of school aged children reached 40

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<sup>84</sup> The main source for this section is Ahmed, et al. 1991.

<sup>85</sup> This comparison of the educational performance of China and India is an important focus of both Weiner and Sen who draw broadly the same conclusions.

per cent. In 1944, the government issued “Laws to Guarantee the Right to Education of the People” making universal primary education a goal. This goal was taken up by the newly-born People’s Republic of China, established in 1949.

From 1950, there emerged local community funded schools that by 1952 were taken over by state funding wherever possible. But decades of economic and political instability, including dead-end experimentation, did not unravel until the late 1970s. From 1978 there was an emerging consensus concerning the value of universal basic education leading to important reforms and targets set in the early 1980s. The decision of the Communist Party to reform education based on the domestic experience and the educational experiences of other countries was made public in May 1985. The “Decision” mapped out important policies for the implementation of the nine-year compulsory education system in China, as part of the overall development plans of the country. Subsequently, both the State Education Commission and the Ministry of Finance made the critical policy statement: *Educational development should be included in the country’s overall development plans*. The “Decision” involved a series of policy shifts setting out three different regional plans; enhancing the role, status and conditions of teachers throughout the system; establishing a division of labour between local and central government; and setting funding targets.

#### 5.2.1 *The Compulsory Education Law*

On 12 April 1986 the compulsory education law was adopted leading to considerable progress in educational development. In 1949 there were 24.4 million pupils in 347,000 primary schools. By 1988 there were 793,000 primary schools, with a total of 125 million pupils. The rate of enrolment for children in the age group 7 to 11 years was 97.15 per cent, and the retention rate was 96.9 per cent. The focus was expansion in the rural areas. UPE has been achieved despite having the largest number of children to enrol, and with 80 per cent in the rural areas.<sup>86</sup>

At the policy level a pragmatic approach prevailed with different emphasises in different environments. For example, teaching in minority area primary schools was done in children’s mother tongue. Other areas, for example, Shanxi Province, emphasized the need to improve the social status of teachers. Nevertheless, from 1989, clear targets were set and publicized at the provincial and below regarding quality improvements for which local officials were held accountable. One important element of the policy framework was the prohibition in the employment of children who had not attained nine years of schooling. This was probably a unique requirement.<sup>87</sup>

Implementation was not without its difficulties. The increasing recruitment of child labour in the economy, alongside other persistent factors, such as low teacher’s pay, inappropriate curricula and poor quality materials, has led to rising dropouts. In 1988, over four million primary students – 3.3 per cent of the total dropped out of school. One indicator of continuing quality concerns is teacher contact time in the first four years of basic education. A UNESCO survey of 1996 ranked China 82 out of 86, with half the contact hours of the Philippines that was ranked first.<sup>88</sup>

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<sup>86</sup> Colclough & Lewin, 1993, p. 84.

<sup>87</sup> Ibid, p. 89.

<sup>88</sup> See Buckland, 2000, p. 30.

Regional disparities persist with education and child labour problems persisting among the so-called national minorities. Yunnan Province, for example, lags ten years behind the rest of the country in terms of basic education.<sup>89</sup> The province is home to 25 ethnic minority groups, many living in remote and scattered areas. The province has 14 per cent lower completion of nine years basic education. In the remote areas of the province, girls are at risk of trafficking and other worst forms of child labour.<sup>90</sup>

Nevertheless, China's educational record is impressive and important. China has achieved universal education at a lower cost (3 per cent of GNP has gone to education) than most other countries. A number of factors lie behind this achievement. Slower population growth and initially lower teacher costs are part of the answer. Decentralization has led to a variety of local funding. The policy framework has been precise with clear targets set for enrolment and retention, with local accountability. Finally, teacher quality has been improved (by 1988, 70 per cent of primary teachers had reached the minimum level of qualification) through training and there have been incentive payments to many, putting them in the top half of public sector salary earners.

Moreover, educational reforms were part of much wider socio-economic reforms from the early 1980s. A generation later these had had a very dramatic impact. China's economic expansion has been at an unprecedented speed and a scale. Since 1978, China has accounted for three-quarters of all the people in the world lifted out of poverty. The number of poor dropped from 49 per cent of the population in 1981 to 6.9 per cent in 2002. Perhaps not surprisingly, therefore, China hosted in May 2004 an international conference on poverty alleviation.

### *5.3 South Korea*

South Korea is an interesting example as it represents the importance given to secondary education. The state moved in stages – “progressively”. Compulsory education initiated in 1948 for six years, was subsequently extended to nine years. From 1955 to 1970 the emphasis was on primary school expansion. From 1965 greater attention was given to secondary education. By the end of the 1970s, 99 per cent of all elementary school age children in South Korea were in school. However, tuition fees represent a major source of funding around 65 per cent. Three per cent of Gross national Product (GNP) was expended on education in 1979 – 19 per cent of the government budget.

It was secondary education that led the way to spectacular economic growth in South Korea starting in the early 1960s, leading to more than doubling of per capita income from 1965 to 1985. The importance given to secondary education in South Korea differs from the current global emphasis on primary education as the route out of poverty. What South Korea did in the 1970s was to spend four-fifths of its education budget on basic education, while countries with a similar level of economic development focussed on higher education. One significant effect of this improvement in basic education was that because more women were educated, the

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<sup>89</sup> Yiqun, 2003.

<sup>90</sup> ILO, 2004 (d).

number of school age children remained stable. This allowed a growing amount of resources to be devoted to improving the quality of education. Moreover, this policy choice of building up the education system progressively was sustained over a long period.<sup>91</sup>

#### 5.4 Brazil

While Brazil is a middle-income country, and one of the leading industrial nations, the nine states of the northeast are among the poorest regions in the world. The poorest 50 per cent of the population in these states have per capita incomes broadly in line with the average for South Asia. This is the highest concentration of poverty in Latin America.<sup>92</sup> In 1995, over half of the children in the rural northeast received less than four years of schooling.<sup>93</sup>

##### *5.4.1 National efforts towards Education for All*

Though the right of all citizens to free primary education was recognized in the constitution of 1824, education received little attention in Brazil until the 1950s.<sup>94</sup> In 1960 only about 60 per cent of all children in the 7-14 year age group were attending school, and the illiteracy rate was 40 per cent. By the mid -1990s, 89 per cent of children were attending schools, the illiteracy rate was 16 per cent, but only 50 per cent who entered at grade one remained in the school system to complete eight grades. And those who remained typically took twelve years to graduate because of the extremely high repetition and dropout rates. Inefficiency at the primary school stage had knock-on effects on the proportion of children going on to secondary and higher education.

Brazil's 1988 Constitution made eight years of education compulsory, establishing a public commitment to education for all. A thirty-year effort to achieve universal access to primary education had to face and surmount profound historical social and economic inequalities in Brazilian society. In the 1980s, the South and Southeast Regions promoted policies aiming at universal access to primary education, reaching high rates of coverage. However, it was only from the mid-1990s that the poorest regions – the North, Northeast and Midwest – followed suite. Therefore, in 1991 the net enrolment rate in the Northeast was 73 per cent, whilst that for the Southeast was 95 per cent. In 1995, the average length of schooling in the Northeast, the poorest region in the country, was four years, two years less than those who lived in the richer South and Southeast regions. This inequality was also reflected in repetition rates. In 1995, 44 per cent of all pupils repeated grade one – but the figure for the Northeast was 57 per cent and for the Southeast, 25 per cent. Moreover, the Northeast in 1996 had an illiteracy rate of 28.7 per cent, practically twice the national average (14.7 per cent).

Against this backdrop, the progress made in achieving universal primary education in the second half of the 1990s has been remarkable. Brazil became a founding member of the E-9 Group in 1993 as a follow-up to the Jomtien Declaration. A first response

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<sup>91</sup> Tomasevski, op. cit. p. 23.

<sup>92</sup> Watkins, op. cit. p. 100.

<sup>93</sup> De Castro, 2000, p. 13.

<sup>94</sup> Ibid, p. 13.

consisted of the Ten Year Education for All Plan (1993-2000), which mobilized the government and civil society. The Federal government began to strongly support universalization efforts in the Northeast with domestic and foreign (World Bank) investment of \$740 million between 1993 and 1998. In 1998, these efforts were expanded to the North and Northwest regions through a new Fundescola - school empowerment fund – programme. In 1998, almost 110 million textbooks were distributed to students by the Federal government through the National Textbook Programme and now all pupils attending public schools receive textbooks free of charge; the national school meal programme was improved through de-centralization and expanded in order to guarantee at least one meal per day to every child enrolled in pre-school and primary school; and a new funding model (FUNDEF) was adopted in 1998 which automatically redistributes public funds for compulsory primary education provided responsible de-centralization and shared responsibility between the three levels of government – Federal – State – Municipality. States and municipalities are required to invest 25 per cent of their tax revenues in education – 15 per cent of which must go to primary education.<sup>95</sup>

The impacts of these policy reforms have been quite striking. The criterion for the redistribution of central funds – based on the number of pupils enrolled in the municipal and state-managed schools – encouraged schools to ensure enrolment of all school-aged children. As a result there was an increase of 6 per cent in the total enrolment in public primary schools between 1997 and 1998, with the highest increase in the Northeast (12.1 per cent) and the North (7.7 per cent), which were precisely those where enrolment in compulsory primary education were the lowest. In 1999, the net enrolment rate for 7-14 year age group reached 93 per cent in both regions. And nationally it rose from 86 per cent in 1991, to 96 per cent in 1999. The goal of providing access to primary education has been practically attained.<sup>96</sup>

Expansion at the primary school level – the number of pupils completing primary education grew by 124.3 per cent between 1990 and 1998 – has generated a strong demand for secondary education. For this reason, Brazil has turned its attention to the reform and expansion of the secondary education system. The government recognizes that eight years basic education is insufficient for full and productive citizenship – at least twelve years of education is required. Growth at the secondary level has been spectacular. From 1991 to 1999, the enrolment rate in secondary schools increased by 136 per cent, perhaps unparalleled in any other country. From 1995- 2000, there has been annual rates of growth in this sector of 10 per cent, reflecting growing demand for schooling in an increasingly competitive labour market.

Quality and effectiveness issues still remain as important challenges. Some 46 per cent of primary school pupils are still two years behind or more. Regional disparities have been reduced but not eliminated. Brazil has an inverted gender disparity in which boys are dropping out of the school system at an early stage – 53.6 per cent of primary school graduates are girls, and at secondary level the figure is 58.3 per cent female graduates. At higher education the disparity is even more marked with 61.4 per cent of graduates being female.

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<sup>95</sup> Maranhao, 2000, p. 7.

<sup>96</sup> De Castro, 2000, p.14.

#### 5.4.2 Education and child labour efforts

In the build-up to the adoption of the new constitution, a large demonstration by over 1.4 million children, resulted in the presentation of a petition to the national Congress, demanding that it include guarantees of children's rights – including the right to education and protection from neglect, discrimination and exploitation.<sup>97</sup> There was considerable public support for this stance and a new policy for children was provided for in the Statute on Children and Adolescents enacted in July 1990. The Statute has ten articles on child labour and makes it plain that work and the right to education are incompatible.

The Statute resulted in the setting up of Municipal Councils for Child and Adolescent Rights, which oversee the delivery of services to children in each municipality, formalizing a consensual partnership between the government and civil society.

The Municipal Councils have function as a public forum where child labour problems can be discussed and elevated on the public policy agenda. They can also act as a watchdog concerning children's welfare. In the municipality of Campos, for example, an aggressive programme targeted the many out-of-school children working in the sugar cane fields. The children were offered alternative municipal services such as schooling. Other Municipal Councils have been valuable vehicles for the dissemination of ideas, as for example in Salvador, where a local NGO called AXE has developed a successful approach to reintegrating street children into the school system.

The National Programme for the Elimination of Child Labour (PETI) is a cash transfer programme which aims to remove the mechanisms that exclude the poorest from the school system. It is a programme of the 42 member National Forum that has targeted over half a million children as part of a much larger Alvarado programme aimed at the poorest states. From 2000 the government moved to integrate *bolsa escola* (see below) and other preventive initiatives with PETI under programme Alvarado. The programme provides poor families with a monthly allowance per child enrolled in and attending school. After school activities are also organized to keep children out of work in the hours they are not in school. As of September 2002, 810,000 children had benefited in all of Brazil's 27 states. There is community-based monitoring of the programme which helps generate a sense of ownership thereby ensuring sustainability.<sup>98</sup> PETI is perhaps the most important national effort to eliminate child labour in the world today. It symbolizes political will, social concern and financial commitment to tackle child labour in Brazil.

#### 5.4.3 Bolsa Escola

The best-known demand-side programme in the world is *bolsa escola* (school grant). The idea behind the initiative came from a group of academics in 1986 who were concerned with school exclusion due to low income.<sup>99</sup> The proposed solution was initially designated as minimum income linked to education and was first aired in a book which appeared in 1994. In Brazil it has been assessed that half of the minimum

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<sup>97</sup> Boyden and Myers, op. cit. p. 23.

<sup>98</sup> ILO, 2004 (a) op. cit, p. 18.

<sup>99</sup> Buarque, 2001, p. 2.

income is enough to ensure that families take their children out of child labour and bring them to school. In Brazil this is calculated as \$40 per month per family.

*Bolsa escola*, as an institutionalized programme, was first implemented in the Federal District of Brazil and in the city of Campinas in 1995. Since then the programme has been adopted in many parts of Brazil, through State and Municipal programmes, and the Federal child labour programme. It has also been exported to Mexico and will soon be launched in Mozambique.

How does it work? Any family whose income is equal to or lower than half of the minimum wage per household member qualifies for the programme. Payments are conditional on a school attendance rate of 90 per cent of monthly classes for all school age children in the family. In 2002 some 10 million, or nearly all children estimated to be in extreme poverty, were assisted.

The programme has proved a highly cost-effective way of promoting universal education and keeping children out of the labour force. For the equivalent of \$6.30 per child per month, the programme has played an important role in lowering dropout rates for grades one through to eight throughout Brazil to as low as 0.4 per cent in some areas compared with an average of 5.6 per cent among no-beneficiaries. The programme has been found by the World Bank to be well designed and administered.<sup>100</sup>

Nevertheless, it is important to point to the limitations of such cash transfer programmes such as *bolsa escola*. They are not a substitute for other educational initiatives (both demand-sided and supply-sided) particularly those focused on quality improvements relating to curricula and the need to extend school hours through extracurricular activities. The World Bank report (2001) also highlighted issues concerning coverage and financial sustainability.

### 5.5 The special case of Africa

The challenge of universal education is greatest in Sub-Saharan Africa where net enrolments are lowest (61 per cent) and 45 million out-of-school children live.<sup>101</sup> It is the only region where the absolute number of children out of school is growing and may reach 54 million if current trends continue. Africa also faces a large projected increase in primary school population (37 per cent) by 2015, setting a daunting demographic challenge. By 2015, Africa could represent three-quarters of all children not enrolled in school – up from the present one-third. It is also the region with the highest proportion of child labourers.

Completion rates of the full primary cycle in most countries in the region is barely over 50 per cent, and if it continues to increase at its present rate, will most likely only reach 60 per cent by 2015. Alongside there are significant in-country disparities, including gender gaps. Africa also has some of the lowest transition rates to secondary education, many below 10 per cent. Two thirds of all African countries have a GER in the secondary sector of below 40 per cent.

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<sup>100</sup> World Bank, 2001, p. iv.

<sup>101</sup> DFID, 2001, p. 13.

The impact of debt on the region has become a major barrier to universal education. During the first half of the 1990s, debt transfers amounted to approximately twice the level of regional spending on education. In 1996, external debt servicing was absorbing more than a quarter of government revenue in Ethiopia and Niger, and more than half of revenue in Tanzania. Debt servicing dwarfs government spending on basic education in many countries. In Ethiopia, debt repayments represent 2.5 times the spending on basic education – and this in a situation where three quarters of the primary school population (nine million children) are not in school and where fewer than 10 per cent of girls enrol in primary school. In Tanzania, the figure for 1997/98 was four times the spending on primary education. Again, in a country where fewer than 5 per cent of children enrol in secondary education and where 2.2 million children are not in school.<sup>102</sup>

HIV/AIDS is having a devastating effect on the region, dwarfing all other problems facing the region. HIV/AIDS is a very significant impediment to achieving universal education, particularly through its impact on the performance of education systems, as for example, through the high sickness and attrition levels among the teaching force. At least 95 per cent of AIDS orphans – some 11million - live in Africa. Aids orphans are particularly vulnerable to missing out on education, and to child labour. Additionally, conflict has severely disrupted education through displacement of populations. There are over 23 million refugees and displaced people in Africa, whose children are more at risk of being denied education through a loss of civil status.

It is not surprising that of an initial 18 countries that were part of the World Bank's Fast-Track Initiative (FTI), launched in 2002, 11 were from Africa. Africa is also a priority for UNICEF's education acceleration strategy focused on 25 countries where education indicators suggest that they are at most risk of failing to achieve the gender parity MDG goal set for 2005. Keeping Africa on-track for 2015 will be a daunting task. Against this challenging background we now turn to two country examples – Uganda and Kenya – where recent progress has been made in introducing free and universal education.

### 5.6 Uganda<sup>103</sup>

One of the poorest countries in the world, with some of the worst human development indicators, Uganda has emerged as a symbol of what sub-Saharan Africa could achieve in making education free and universal. Uganda's Constitution of 1995 affirms that, *all persons have a right to education*. Under the Universal Primary Education (UPE) programme launched in 1997, the aim is to provide basic education to all children aged between 6 and 12 years. The programme has been built on a government commitment to increase education financing, on concerted donor support, and on a range of strategies for overcoming disparities and improving quality. Education is yet, though, to be made compulsory.

Before the programme was launched, Uganda suffered from an education profile typical of many African countries. In the 1980s enrolments had stagnated with a Gross Enrolment Rate (GER) average of 73 per cent. Access favoured the better off,

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<sup>102</sup> Watkins, op. cit. pp. 151-155.

<sup>103</sup> The main source for this section is Watkins, op. cit. pp. 218-219.

boys, and those in urban areas. Net enrolment varied between 46 per cent for the poorest quintile, to 81 per cent for the upper quintile. There was a pronounced bias against girls. In out of 45 districts, in only 11, did girls represent 49 per cent of the enrolment. By the mid 1990s, one in three 6-11 year olds were not enrolled in school. Parents, moreover, contributed more than 75 per cent of total primary school expenditure through school fees, materials and Parent/Teacher Association levies. The cost of putting one child through school amounted to 20 per cent of the average per capita income. Poor families with more than one child were being priced out of the school system.

To change this situation, the burden of education financing was shifted away from households to the public purse. The UPE programme committed itself to paying the statutory fees for four children per household, instructional materials in the form of textbooks, teachers' salaries, school construction materials, and libraries. To ensure gender balance, at least two of the four children are girls.

Spending on education rose from 1.6 per cent of Gross National Product (GNP) in the early 1990s to 4 per cent by the end of the decade. Over 70 per cent of the 1997-98 education budget was allocated to basic education, compared to 40 per cent in the early 1990s. This enormous increase was partly due to redistribution, a significant increase in economic growth, and debt relief under the Highly Indebted Poor Countries (HIPC) initiative.

UPE advocacy campaigns were also critical in getting all stakeholders to understand the policy and their role in its implementation.<sup>104</sup> With the Constitution, primary education became a responsibility of district governments. The intention was to move decision making close to the schools. Government allocates funds directly to schools based on enrolment. As part of a strategy to deal with persistent quality issues, an action plan was agreed to deal with teachers' pay. Teacher training has been strengthened through a national programme and eighteen core Primary Teachers Colleges.

The implementation of the UPE policy led to an almost doubling in enrolments from 1996 to 1999, with net enrolment at over 90 per cent. This is comparable to many countries in East Asia with far higher income levels. Uganda demonstrates that with strong government commitment, poor educational performance can be overcome – it's the antidote to fatalism about Africa's development prospects. Moreover, Uganda is also one of the few success stories in dealing with HIV/AIDS.

### *5.7. Kenya<sup>105</sup>*

Despite progress made, Kenya provides a vivid example of some of the problems facing many other countries in the region as they attempt to meet the goal of UPE. Since independence in 1963, the government has been committed to UPE but this was not made part of the constitution. It was not until the Children's Act of 2002 that the government for the first time bound itself to ensuring access to education for every child. In January 2003, the new government launched Free Primary Education (FPE),

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<sup>104</sup> Government of Uganda, 2000, p. 5.

<sup>105</sup> The source for this section is ILO, 2004 (e).

though this is not compulsory. As a result of this new policy, the NER rose by around 22 per cent by the end of the year. But this still left over half of the primary school age children not enrolled in school and there is a high attrition rate. Though participation has increased, FPE has also exacerbated the problems of teacher shortages and limited school facilities. Regional imbalances remain with the northeast in particular experiencing extreme disparity. At the secondary level there has been a growth in enrolments of over 5 per cent in 2001 and 2002. Dropouts, however, are also still quite high, and there are regional and gender disparities.

That said, the impact of IPEC programmes has been impressive in reducing dropouts, with some 3,375 at risk children being retained. The hallmark of the current education system, nevertheless, is the expansion of basic education from 8 to 12 years. The current programme appears to be facing financial constraints (in relation to the slow growth of the economy) despite the increase in the education budget in 2003/4 of over 17 per cent and external donor support.

Kenya, (along with Uganda) needs to consider policy reforms that balance free education with a commitment to progressively introduce compulsory education, as called for at the TBP consultation workshop in June 2004, to deal with continuing disparities within the education system and quality problems.

## **6. Policy issues in education and child labour**

In this section the four axis explored in the paper are brought together. Having examined the historical context (axis 1); set out the framework of international human rights law (axis 2); the sometimes competing perspectives of economic development and human rights (axis 3); and the contemporary educational performance at country and regional level (axis 4); we now turn to identifying key issues for policy makers in connecting education for all and child labour elimination efforts.

### *6.1 Education and child labour: poverty or policy failure?*

In explaining the persistent and connected problems of education and child labour there are those who stress the role of poverty and those who explain poor educational outcomes, such as the failure to implement the right to free and compulsory education, in terms of policy failure. These explanations in turn lead to very different approaches to addressing these problems.<sup>106</sup> As a way of arriving at a proper weight to be given to each let us turn to a parable:

#### ***A parable***

*There was a country that had a protracted debate about the desirability of introducing free and compulsory primary education stretching over 50 years. Millions of children were not in school, many of them forced to work under highly exploitative conditions. Successive governments took the view that mass public education was beyond the financial means of the state. When the foundations of a national school system were finally laid, the results were extraordinary. Within the space of ten years,*

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<sup>106</sup> Kabeer, 2001, p. 4.

*the number of children in state schools increased from fewer than 10,000 to over 1 million. Over the next ten years, numbers doubled. Child labour declined dramatically. The country in question was **England**, during the 20 years after the 1870 Education Act.*<sup>107</sup>

There is persuasive evidence then from the historical record and from the contemporary experience, that sound educational policies, backed by political will and adequate resources, can overcome the obstacles that poverty presents. States which have made impressive strides in promoting universal education have been not necessarily been the wealthiest – but they have been the most committed to forms of social and economic policy which promote universal access to education whilst protecting and promoting household livelihoods. These have had mutually reinforcing effects – virtuous circles rather than the vicious circle of poverty, illiteracy and child labour.

The implementation of free and compulsory education through legislation and enforcement is an essential part of the process of achieving the right of all children to education and the effective elimination of child labour. These goals depend on multiple factors, not least education system reform.<sup>108</sup>

## *6.2 Legislation and enforcement*

Legislative provision helps set a positive policy environment and has considerable symbolic as well as practical importance. There are today 25 countries (roughly 85 per cent of developing countries have compulsory education laws) which have no legislation making education compulsory – a figure which is likely to be higher (an additional 36 countries) given the numbers of countries that fail to report at all whether education is or is not compulsory, or report unclear information. The length of compulsory education ranges from 13 years in the Netherlands to 4 years in Sao Tome Principe. The average length is around 8 to 9 years.<sup>109</sup> And at least 23 countries have no minimum age for employment. Many, if not most countries, have failed to harmonize the school leaving age and the minimum age for work in line with ILO standards.<sup>110</sup>

The largest number of out-of-school children is found in countries without birth registration systems.<sup>111</sup> Without an identity access to school and other entitlements are denied. Birth registration is a foundation right mandated in international human rights law. Some 37 countries deny education to non-citizens such as refugees, the internally displaced or those without birth certificates. Anti-discrimination legislation is vital to counter social exclusion. At the moment enrolment statistics tell us the number of children who are at school, but not the number who *should* be at school.

Minimum age labour laws and compulsory education laws are interdependent – the enforcement of one contributes to the enforcement of the other. In this sense, it is

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<sup>107</sup> Watkins, op. cit. p. 195.

<sup>108</sup> See Colclough and Lewin, 1993.

<sup>109</sup> Tomasevski, op.cit. p. 26.

<sup>110</sup> Melchiorre, 2004, p. 4.

<sup>111</sup> Tomasevski, op. cit. p. 127. The importance of birth registration is much neglected in child labour discourse and action.

crucial to establish a link between school and labour authorities, legislation and practice. There is a potential to better integrate school and labour inspectorates. Teachers, alongside other social actors, such as trade unions, have an important monitoring function regarding school attendance and child labour.<sup>112</sup> These practical issues of enforcement are taken up further in the next section.

### *6.3 Problems of disparity*

Ultimately, if the right to education is to be realized all major barriers to access, quality and achievement have to be removed. The essence of human rights based programming is to focus on those groups whose rights are being denied and then analyze and remove as soon as possible the barriers that prevent realization of the right to education.<sup>113</sup>

Oxfam's Education Performance Index (EPI) is one tool for examining disparities within the education system. The EPI concentrates on three dimensions of basic education: net enrolment –gender equity –school completion rate<sup>114</sup>. Using this tool, Kerala would rank near the top of the EPI, in 12<sup>th</sup> place alongside China and South Korea. Bihar, though, would rank in 100<sup>th</sup> place, below Chad and Mozambique. The north-east of Brazil would rank alongside Mozambique in 97<sup>th</sup> place, 49 places below Brazil's national ranking.<sup>115</sup> China has an EPI ranking 40 places above its income ranking. Indeed, China has a slightly higher average income than Pakistan, but its citizens are three times more likely to enrol in school and almost twice as likely to complete school. The gender gap in enrolment is six times lower than in Pakistan.<sup>116</sup> That said, in China, the 25 provinces in which ethnic minorities constitute the majority of the population, would together rank in 69<sup>th</sup> position.<sup>117</sup>

This type of analysis should provide an analytical framework within which the performance or non-performance of the key duty-bearers can be examined. In fact, there is an interdependent hierarchy of duty bearers that have to be influenced and supported in order to adequately address the range of barriers that prevent certain at risk groups from realizing their right to education.

Weaknesses in an education system could mean that the service does not extend to certain populations and groups or that the quality is skewed against them. The need is to focus on those who are most affected by these disparities – such as indigenous and tribal groups.<sup>118</sup> Here there are often tensions between policy choices. In education and child labour there is the dilemma of whether to target these groups directly, through child labour and education projects, or to focus on making broader system changes e.g. quality improvements, that help to eliminate the disparity. This may not be an either/or, as there is a place for both as part of a comprehensive and phased approach.

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<sup>112</sup> ILO, 2004.

<sup>113</sup> Wright, op.cit. p. 4.

<sup>114</sup> Watkins, op.cit. p. 91.

<sup>115</sup> Ibid, p.14.

<sup>116</sup> Ibid, p. 96.

<sup>117</sup> Ibid, p. 109.

<sup>118</sup> See Larsen, 2003, for an extensive examination of their educational needs and responses.

#### *6.4 Cost and financing issues*<sup>119</sup>

How can we make the realization of the right to education more affordable? While the right to education has been a key element of almost every international declaration on human rights since the UN was established there has been a shift away from the original position that education should be “free”. This is a critical issue for EFA.

Many of the calculations of affordability tend to focus on access and neglect the cost of improving quality and of reaching the hard-to-reach, such as child workers, where a disproportionate effort (and therefore also disproportionate cost) needs to be made.

Many countries have seen their economies shrink and with it the size of the public sector. In many countries the real expenditure on education has declined. In some cases this has been accompanied by a change in the distribution between sectors with the share to primary education declining. Experience has shown that when public expenditure on education declines, with a shift away from free and compulsory education, there is almost always a decline in access and quality that inequitably impacts on girls, minorities, and poor and marginalized groups.

There has also been a blurring in the distinction between private and public spheres in education with a range of strategies that channel public funds to private, semi-private or community schools – these include a number of “demand-side financing” programmes. An important lesson learned across the board is the need for effective management to ensure decentralization serves equity and quality in education.

There are three key strategies for the future. First, the role of the state in the provision of education must be redefined, to ensure that it retains its responsibility to provide the legal and policy framework and the resources, to set and monitor standards, to set targets, and to ensure resources are distributed in such a way as to achieve equity and quality. Second, in many countries there needs to be a greater budgetary shift to the social sector and away from military expenditure to create a better balance. International efforts, such as debt relief and 20/20, can help support this. Third, there needs to be greater transparency in the cost and financing of education to ensure greater public accountability and thereby more effective investment of scarce resources.

#### *6.5 Quality matters*<sup>120</sup>

It is not enough simply to ensure that children attend school. The quality of education is also of paramount concern. The poor quality of education is itself a depressant on the demand for education. Some children would rather work than be subject to a school regime that is irrelevant to their needs or where they face rejection and even violence on the way to and at school. Access and quality issues in education, sometimes seen in tension in terms of priority action, are intimately linked. Historically, as we have seen, there is some evidence that the pressure of enrolments (access and retention) following the introduction of compulsory education force quality improvements.

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<sup>119</sup> The main source for this section is Buckland, 2000.

<sup>120</sup> The main source for this section, and particularly the “child -friendly school” concept, is Wright op. cit. pp. 8-9. See also UNICEF (2000) “Defining Quality in Education”.

Children have a right to quality education. This means schools where children feel welcome to stay and are inspired to learn. Schools will be attractive to children and have the support of parents and the community if they are in line with what UNICEF calls “Child-Friendly Schools”. The qualitative characteristics of “Child-Friendly Schools” include:

- Teachers exercise due care over their pupils
- The school does not practice corporal punishment or forms of discrimination
- The school maintains a balanced atmosphere in which pupils can both learn and play
- Teaching materials are free of bias towards one set of learners or stereotyping of another set such as ethnic minorities and indigenous peoples
- The use of child-centred teaching methods
- The physical facilities and infrastructure are kept clean and safe
- The school provides compensatory inputs that encourage all children to come to school regularly and punctually and to stay in school and learn over the basic education cycle e.g. the provision of free school meals, regular health and nutrition checks, etc
- The curriculum is seen as relevant and engages pupils in a “journey of learning”
- The school welcomes the involvement of parents and is accountable to the community it serves

Taking both access and quality interventions in education it is possible to develop a conceptual framework that may be of more general interest and utility. Table 1 outlines a range of interventions under the twin axis of access and quality that are sequenced to provide a very general matching to the life cycle of the child – from early childhood interventions to work orientation approaches at the upper age range.<sup>121</sup> These intervention types are not comprehensive or mutually exclusive. For example, some interventions aimed at access are equally valid for quality improvements.

**Table 1: Education interventions against child labour**

Note: Could also be a box.

**Access**

- Early childhood approaches (birth registration; school readiness programmes; alternative community child care to free girls` time)
- Monitoring systems (community and school-based sentinel systems; attendance drives/campaigns; “child-seeking schools”)
- Bilingual education (use of indigenous languages)
- Economic incentives (stipends, scholarships, school grants, free meals, etc)
- Distance education (delivering education to remote and nomadic groups)
- Transitional approaches (non-formal education approaches such as accelerated learning)
- Extra-curricular activities (after school programmes)
- Water and sanitation facilities (separate facilities for girls)

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<sup>121</sup> See also IPEC, 2004 (a), p. 7 for a matching model.

## Quality

- Promotion of the “child-friendly school” concept
- Life skills education
- Work orientation programmes (vocational education and skills training, apprenticeships, livelihoods programmes for girls, etc.)
- Teacher training and support (including proper status, remuneration and the freedom to innovate)

### 6.5.1 The role of teachers

Teachers are central to all reforms to improve the scope and quality of education. For teachers to play their role in these interventions they need to be supported and empowered. Teachers, in particular, need to have the right level of education and training and to have their needs met in terms of salary and conditions of service, in line with the 1966 joint ILO/UNESCO Recommendation concerning the Status of Teachers.<sup>122</sup> The capacity of teachers needs to be strengthened through progressive pre-service and in-service training as part of universal and relevant continual professional development. Finally, as many as 35 million additional primary school teachers will be needed by 2015 if universal education is to be achieved – this in the face of the declining status of teachers world-wide.<sup>123</sup>

### 6.6 Girls' education<sup>124</sup>

Issues of access and quality education find their most striking illustration in the plight of girls in developing countries. Of the 121 million children out of school most – 65 million - are girls. It was for this reason that at Dakar in 2000, girls' education was given priority: *The most urgent priority is to ensure access to, and improve the quality of education for girls...* Following Dakar, 13 agencies, led by UNICEF, and including the ILO, formed the United Nations Girls' Education Initiative (UNGEI) to mount a *sustained campaign to improve the quality and availability of girls' education.*

Although the international community has committed itself to girls' education as a human rights issue and the benefits of investing in girls' education are clear, it has so far failed to become a priority for development investments. There are many reasons for this resistance, important among them the economic contribution of girls' work, which has been consistently underrated, and therefore undercounted.<sup>125</sup>

As a result of this policy neglect until this century, girls' primary school completion rate still lags behind boys, at 76 per cent compared with 85 per cent. This yawning gender gap means that millions more girls than boys are dropping out from school each year. As a result, the majority of the children not in school are girls. The most worrying situation is sub-Saharan Africa, where the number of girls out of school rose

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<sup>122</sup> ILO/UNESCO, 1966.

<sup>123</sup> Report of Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel, 2003, p. 17. Ratteree (2004) also puts stress on the need for social dialogue with teachers as part of an effective education reform process.

<sup>124</sup> The main source for this section is UNICEF, 2003.

<sup>125</sup> Now being somewhat rectified by the inter-agency child labour research project, “Understanding Children's Work” (UCW).

from 20 million in 1990 to 24 million in 2002. Globally, some 70 countries have girls' attendance and enrolment rates of less than 85 per cent.

UNICEF in its 2004 *State of the World's Children* report, devoted to girls' education, put forward a seven-step plan of action to respond to the "silent emergency" of 65 million girls out of school. These measures are broadly relevant for achieving EFA (and indeed child labour elimination), therefore, some elements will feature in the concluding section of the paper. Nevertheless, it is worth highlighting at this stage, the need for a new paradigm for education, called for in the report, by including girls' education as an essential component of development efforts. It is to this theme that we now turn.

### *6.7 Education, child labour and the development agenda*

The fundamental shift needed in education and child labour is one of ambition. These issues have to be integrated into the national development effort called for at UNGASS. This paradigm shift also finds expression in the Time-Bound Programmes (TBP) launched by IPEC.<sup>126</sup> This approach means engagement with not just the social ministries of education and labour, but with planning and finance ministries, that are politically more influential in public policy formulation.

National Poverty Reduction Strategy Papers (PRSPs) are the largest development planning framework for around 80 countries. Launched in 1999 by the World Bank and the International Monetary Fund (IMF), this process has not hitherto highlighted child protection concerns. However, PRSPs are a work-in-progress and can be influenced at all stages from causal analysis, through integrated programme design, social audits of deficits, and better social dialogue, to reflect education and child labour concerns. Other multisectoral frameworks such as the UN Development Assistance Framework (UNDAF), the Highly Indebted Poor Countries (HIPIC) initiative, and sectoral development plans such as Sector Wide Approaches (SWAPS), provide other vehicles for mainstreaming.

Moreover, this does pose the challenge of operationalizing the concept of rights-based development as a way of bringing the "two pathways" together. Part of this challenge is for the human rights community to clearly and comprehensively translate basic human rights standards into a language and approach that both economists and educational practitioners can easily understand and apply. Developing rights-based indicators will be part of this challenge.

The World Bank has an important role as the largest source of international finance for education. The Bank's commitment to empowering poor people as one pillar of poverty reduction makes rights issues such as education and child labour a legitimate subject for its policy dialogue with governments and other stakeholders within the PRSP process.<sup>127</sup> The Bank is also pivotal in debt relief and in raising the level of international financing of education. World Bank lending to education declined from \$1.86 billion in the 1990s to \$1 billion in 2000-2001, as have Official Development Assistance (ODA) flows.

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<sup>126</sup> See, IPEC, 2003, "A Manual for Action Planning for Time-Bound Programmes to Eliminate Child Labour".

<sup>127</sup> DFID, 2003, pp. 27-28.

## 7. Conclusion

This concluding section brings together the theoretical insights derived from the earlier part of the paper, with a greater focus on the operational apparatus needed to ensure more effective implementation of compulsory education as part of a child labour strategy. The section begins by summing up the policy lessons from the historical and contemporary experience of how governments have set about making education free and compulsory. This is followed by an examination of the problems of enforcement and how they might be overcome. The roles and responsibilities of the various duty bearers to ensure free and compulsory education of good quality for all children is examined next. Finally, a future research agenda is outlined.

### 7.1 *Towards a policy framework*

From the historical and contemporary experience of introducing and enforcing free and compulsory education we witness many variations, for example, centralized/decentralized management. That said, key lessons emerge, the elements of which provide a policy framework<sup>128</sup> as set out below:

- Governments have to want to do it. Political will is the key factor and message that emerges from the variety of experience, past and present.
- Compulsory education laws (though they usually precede child labour laws) facilitate the enforcement of child labour laws. Compulsory education and child labour laws are complementary and not competitive.
- Education is made compulsory when enrolment rates are already quite high. Compulsory education is possible and *necessary* when the task is to enrol and retain the last 10 to 20 per cent hard-to-reach children – precisely the population likely to be working.
- Birth registration sometimes precedes the introduction of compulsory education and is critical for its enforcement and of minimum age laws.
- The introduction of compulsory education has to be by central government over the whole country to avoid disparities by region or population group.
- Successful enforcement requires a focus on retention through an apparatus of attendance and truant officers, backed up by the judiciary, which can sanction parents or guardians for non-compliance with compulsory education laws.
- Compulsory education is usually phased-in, starting with the primary age group, and after the necessary lead-time, extending the system progressively to secondary and post-secondary education.
- The minimum age for work and the school leaving age need to be matched. If the school leaving age is lower than the minimum age for work, children are likely to seek work thereby undermining both the right to education and the freedom from work.
- Part-time education may be legitimate after the period of compulsory schooling. To permit part-time education in place of full-time education, as may occur under some forms of NFE, is to nullify compulsory education.
- Making education free is a means of ensuring that it is compulsory. Introducing free education without compulsory education undermines the effort to implement the right to education. Free education is not a substitute for compulsory education.

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<sup>128</sup> The main source is Weiner, op. cit. pp. 191- 195.

- Once education is compulsory the public also needs educating on its importance with a system of positive incentives to promote the demand for education. The biggest incentive by far is a high quality education service that delivers real outcomes for children and that is accountable to parents and the local community.
- Finally, the key to a successful policy in removing children from the labour force and placing them in schools, is ensuring that these policy elements are linked – up and properly sequenced. Minimum age laws and compulsory education laws must be matched. Compulsory education must be progressively built-up and the minimum age for work being raised only after the minimum years for schooling have been increased.

## 7.2 *Enforcement: past and present*

### 7.2.1 England: the experience of the past

As was mentioned in the historical part of the paper, enforcing compulsory education was not an easy task in the first industrial nations. In England in the mid 1860s the Children's Employment Commission came to the conclusion that "against no persons do the children...require so much protection as against their parents"<sup>129</sup> Poor parents continued to demand work from their children. In the rural areas (after 1870 this was where most children worked) it was difficult to prosecute parents for their children's non-attendance. School inspections to monitor attendance began in 1850. But even with professional attendance officers, authorities were unwilling to prosecute poor parents, often because the local magistrates, who might be landowners themselves, were sympathetic to the demand for child labour.<sup>130</sup> In 1894, a teacher in Lincolnshire noted that a recent fine for non-attendance was the first such conviction for ten years.<sup>131</sup> Large numbers of rural children only went to school during the winter or bad weather.

Enforcement was also a problem in London where magistrates refused to cooperate with the School Board because they did not believe in the value of compulsory education and saw no reason to encourage the poor to rise above their station. Attendance rose when these quality issues were addressed. In London compulsory education was linked to efforts to make the schools more attractive with better materials and course content.

Indeed, the reasons for making education compulsory in England was to compel the remaining 20-30 per cent of children identified in the 1871 census as neither in school or work. In England and Wales there were nearly 100,000 prosecutions a year for truancy in the last decades of the century – the second largest offence after drunkenness.<sup>132</sup> By 1910 the number was down to 37,000 prosecutions by which time the norm of school attendance had been finally established.

Historically, the state developed an apparatus for enforcement that combined teachers, social workers, truant officers, school census takers, etc. Moreover, these knew their community. Once a child was enrolled, truant officers would go to the child's home if

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<sup>129</sup> Best, p. 134.

<sup>130</sup> Walvin, 1982, p. 75.

<sup>131</sup> Ibid.

<sup>132</sup> Cunningham, 1996, op. cit. p. 46.

they failed to attend. Parents were less willing to bribe truant officers than employers to bribe factory inspectors. Good data, including school registers of attendance and birth registration, facilitated this process. In this sense, compulsory education laws were easier to enforce than minimum age laws.

#### 7.2.2. Enforcement apparatus

To enforce compulsory education governments:

- Appoint trained attendance officers or truant officers to go to the homes of parents or guardians whose children fail to go to school. Attendance officers may be teachers, appointees of the local school board or the local government, or members of the local police department;
- They prepare enumeration registers, conduct household surveys, check attendance registers at school, and visit the homes of children who have failed to attend school for several days or weeks; and
- They have the facility to go to local judicial officers to issue notices against parents or guardians whose children do not attend school. Ultimately, sanctions are applied.

#### 7.2.3. Problems of enforcement in developing countries

In developing countries such a well-established and inter-locking system of enforcement do not exist. The Probe report outlines the reality for India that is not untypical of much of the developing world.<sup>133</sup> Weaknesses of school inspection found by the Probe team included: poor coverage with infrequency of inspection visits especially of remote schools; lack of follow-up even of those schools visited; low morale within the inspectorate related to a sense that there will be little if no official action based on complaints; most of the time school data on enrolment and attendance is poorly kept and often inflated and fraudulent; a lack of community accountability and involvement which makes the inspectorate out of touch with what is going on in the school; the inspectorate are not only over-stretched but under qualified and trained with little social standing.

This picture of poor enforcement machinery for compulsory education is mirrored by the labour inspection system in developing countries. As Derrien graphically points out, “Labour inspectors who try to apply laws to protect children from work encounter a wall of incomprehension”<sup>134</sup> This reflects the cultural environment in which labour inspection has to operate in regard to controlling child labour. In the face of this cultural barrier, the labour inspectorates most evident failing is a lack of resources, from needed logistics, to numbers, training and data. Finally, inspectorates are poorly connected to other professional systems, including education professionals. The link with education is critical and points the way to developing a more effective enforcement apparatus across both the labour and school inspection systems in developing countries.

#### 7.2.4. Developing community and school-based monitoring mechanisms

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<sup>133</sup> Probe, op.cit. pp. 89-92.

<sup>134</sup> Derrien, 1991, p.90.

A potentially powerful way to enhance enforcement of both labour and compulsory education laws is to increasingly link them and share common databases on attendance and illegal working - to link the inspectorates to community interest and organization.<sup>135</sup> This can be accomplished by increasing attention to the educational and community mobilization functions of the two systems – labour and education - of inspection. A preventive apparatus can be put in place through regular monitoring of school attendance; the identification of those potentially at risk; home visits; and community awareness and mobilization activities, such as enrolment and re-enrolment drives and truancy sweeps. Such a school and community based system of monitoring and enforcement will depend on building partnerships among key duty bearers.

### 7.3. Roles and responsibilities<sup>136</sup>

Upholding the right to free and compulsory education places certain obligations on a hierarchy of duty bearers who have to be influenced and assisted to perform their respective roles.

#### 7.3.1 Parents and communities

The principle of education as a human right places an obligation on parents and communities as the primary custodians of the welfare of children, to help facilitate and safeguard the right to education for the child. In practice this means an obligation to prepare the child for education and ensure regular attendance at school. This implies the need to forgo opportunity benefits of child labour to ensure that the “rhythm of schooling” is factored into the daily routine of the child. It also means that parents and communities need to be more involved with schooling and schools being more accountable in return. In order to play this role however, parents and communities need to be sensitized not only about their responsibilities, but also about their own rights regarding quality education. Additionally, they will need capacity building to develop the necessary administrative and political skills through community mobilization and empowerment. In particular, adult basic education becomes essential where there is a legacy of unfulfilled education rights as is often the case with marginal groups, such as working children.

#### 7.3.2 Teachers and school managers

Teachers and teacher organizations often played a key role in industrial countries promoting universal education and campaigning against child labour. In England, Germany, and Austria, for example, teachers and their organizations campaigned against child labour in order to promote free and compulsory education. Teachers and school managers have a responsibility to facilitate access, attendance and achievement. They can be part of the attraction force or pull-factors that encourage the demand for education – schools which are in line with the “child-friendly school” concept. They should also be part of the “child-seeking” concept of the effective school. Teachers can be part of a school-based monitoring system outlined in the previous section. In Bangladesh, the Philippines, Tanzania, Turkey and Cambodia, for example, teachers and their organizations have been active in child labour efforts

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<sup>135</sup> Bequele and Myers, 1995, p. 106.

<sup>136</sup> Main source is Wright, op.cit. pp.6-14.

from local home visits and child labour committees to national campaigning. To carry out these responsibilities, they need to be supported and empowered. In particular teachers need to have their needs met in terms of salary, conditions of service, and proper professional development. Most of all they need to have the trust and respect of the communities and to feel that the job they do is appropriately valued and respected.

### 7.3.3 Planners and administrators

As duty bearers, planners and administrators have a responsibility to advise on education policy and manage service delivery. In this sense they have a critical role to play in determining the coverage of the education system and its quality. In turn planners and administrators need the trust and respect of teachers and school managers on whom they rely for school data, not least on attendance. Planners and administrators play a critical mediating role between communities and policy makers. These duty bearers in turn need their capacity built in participatory planning techniques and policy dialogue.

### 7.3.4 Central and local governments

In democratic societies, governments serve the people and have a major obligation to respect, protect and facilitate their rights. For education this means governments have an obligation under international human rights law to facilitate and safeguard the right of all children to free and compulsory education and the freedom from work. The expectation is that such governments will put in place appropriate policies and sector plans, and also secure the necessary resources. In addition, governments have an obligation to adequately address those barriers that constrain the fulfilment of that right for all children. An example would be the abolition of school fees and other charges in education. The policy framework set out above provides a guide on what needs to be done.

Additionally, parliamentarians are an important pressure group for legislative and policy action. Again, governments need supporting and educating to make sound policy choices. Not least they need to secure an adequate total resource package (including where necessary external assistance) to avoid the excuse that free and compulsory education is not affordable. Finally, governments may need technical assistance and external expertise to help on an on-going basis in the planning and implementation of free and compulsory education.

### 7.3.5 Civil society

As a group civil society organizations (CSOs) play a key role in community empowerment and in policy advocacy with governments. It has been the trade union movement and NGOs who have often highlighted the problems of disadvantaged groups and taken the lead in holding governments to their national and international commitments. A good example of the role of NGOs is the MV Foundation based in Andhara Pradesh in south India. Since its founding in 1991, the MV Foundation has enrolled nearly 150,000 children and made 168 villages child labour free through social mobilization efforts which have included 1,500 teachers and 8,000 youth

activists.<sup>137</sup> At the core of the strategy are residential camps where children who have never been to school are prepared to enter formal school. There is a special emphasis on girls. The Foundation takes an uncompromising approach to child labour and the need for all children to be in the formal school system. At the international level there has been important advocacy work from the Global March Against Child Labour and the Global Campaign for Education. In turn CSOs and NGOs need capacity building, particularly in the area of policy and budget analysis and advocacy. This is a potentially important area for future advocacy and social mobilization for CSOs to ensure that state budgets progressively realize the right to education in line with the 20/20 initiative adopted at the World Social Summit in 1995. Parliamentarians are a key target group for advocacy to ensure “child-friendly budgets”. CSOs also have an important role in the PRSP process that is a tailor-made opportunity for making national budgets more participatory, transparent and sensitive to children’s rights and social policy.<sup>138</sup>

### 7.3.6 External partners and the international community

At Dakar, the international community made the commitment that no country would lack the resources to implement EFA if it had the will to do so. A whole development apparatus has been put in place to support education as apart of the MDGs. Against this background external partners are important duty bearers, whether as bi-laterals or multi-laterals. Ultimately that means having the political will to help construct a fair globalization process through a reformed international trading system along with broader and faster debt relief.

### 7.4. Knowledge gaps: towards a future research agenda

This paper has set out to map the historical lessons of introducing free and compulsory education and child labour elimination; review contemporary experiences; and examine the problems of enforcement and how they might be overcome. These main lines of narrative and analysis have been set within a much broader context of education and child labour efforts as part of a human rights and development approach. Inevitably, this process has helped to highlight important knowledge gaps. Below are a series of possible topics and questions for future research:

- Historical research which aims to separate out the independent impact of compulsory education.
- Comparative analysis of how developing countries are implementing compulsory education including the constraints they face and the problems encountered when education is made free but not compulsory.
- The role of the judiciary in implementing free and compulsory education.
- Models of policy advocacy, including budget initiatives, in support of the right to education.
- Models of approach to enforcement, including linkages between labour and school inspectorates.

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<sup>137</sup> Wazir, 2002, v.

<sup>138</sup> See Gore and Minujin, 2003, on budget initiatives for children.

- At what point do societies implement compulsory education? Compulsory education matched to socio-economic data such as per capita income and enrolment rates.
- What has been the impact of NFE approaches and programmes on the formal education system and has it proven to be a good use of limited resources?
- Who gets left out in national efforts to implement free and compulsory education?
- What impact does compulsory education have on the pressure to improve quality?

## **Annex**

### **Towards a future agenda for action in education and child labour**

The over 100 million children out of school and the over 250 million in child labour represent a silent emergency of our times. Education denied and child labour not only rob children of their future, they compromise *our* future. Drawing on the historical record, and the analysis of the contemporary situation, the following 10 next steps are directed to the “duty bearers” in government and the international community. These steps are not simply good development economics, they are more fundamentally, the *right* things to do.

#### *1. Undertake a problem analysis*

Examine the barriers to universal education for at-risk groups. Use the EPI in disaggregated form. Make the analysis at the country level part of the TBP and/or the CCA/UNDAF.

#### *2. Reform and enforce legislation*

Ensure national legislation conforms to ILO standards and other international human rights instruments in the areas of the minimum age for work and the right to free and compulsory education. In particular ensure that the minimum age for employment and the school leaving age are harmonized in conformity with ILO standards. Explore more creative ways to improve monitoring school attendance in the community using teachers and a range of social actors.

#### *3. Allow no school fees of any kind*

Education is a human right and a public good. All school fees and charges for primary school must be immediately abolished. When school fees were abolished in Malawi and Uganda, school enrolments rose dramatically.

#### *4. Allocate 6 per cent of GNP to education*

This is in line with the formal position of the ILO, and is also the position of the Special Rapporteur on the Right to Education. Spend most of the education budget on primary education as Uganda and others have done. Properly plan and invest in secondary and higher education.

#### *5. Make schools “child-friendly” and “child-seeking”*

Quality matters and it pays. Promote “child-friendly schools” and “child-seeking schools”. Teachers are key to quality improvements and their voices must be listened to as part of the education reform process. Teachers’ status and conditions must be enhanced in line with the 1966 ILO/UNESCO Recommendation.

#### *6. Think globally, but act locally*

Responsible, well managed and resourced de-centralization and local ownership in education pays dividends, as witnessed in a range of Indian states, Botswana, Brazil,

Colombia, Jordan and South Africa. In education, as in other contexts, creative responses are needed, both inside and outside the education box. For example, incentive packages and financial assistance targeted at low-income groups. Early childhood programmes can foster the “rhythm of schooling” in the lives of children. Effective NFE approaches that are transitional in nature must be scaled-up to overcome the “perpetual pilot” syndrome.

#### *7. Prioritize girls’ education*

As the most neglected and vulnerable group, girls require special attention in education and addressing these deficits can have an enormous impact on the general development effort. A national ethos of “no girl out of school” must be created through systematic public campaigning explaining the benefits of educating girls.<sup>139</sup> At the local community and school level many changes can be made to facilitate girls’ attendance, such as separate water and sanitation facilities, curriculum development and the greater recruitment of female teachers.

#### *8. Integrate education and child labour into the development agenda*

Integrate strategies for EFA with child labour elimination efforts and put these issues high up in the public policy agenda of finance and planning ministries. Utilize the many national development mechanisms and fora, including TBPs.

#### *9. Create a social alliance to make education and child labour more compelling political issues*

Advocacy through a broad social alliance, including where appropriate children themselves, is critical to educating the public on the importance of universal education and combating child labour. Building a political constituency for these issues is absolutely critical. Both the Global March and the Global Campaign are leading resources in this area.

#### *10. Increase international funding for education and child labour*

Increased aid flows are fundamental to achieving universal education and the MDGs more generally. All industrialized countries should direct 10 per cent of official aid to basic education, making good on commitments made at Dakar and Monterrey. Overall, there has to be a more concerted move towards the agreed global target of 0.7 per cent set some 35 years ago. The Fast Track initiative needs to be extended to cover more countries, conditional on a real political commitment to universal education. The World Bank calculates that \$2.56 billion per year is needed for just 48 low-income countries between now and 2015. Moreover, this assistance needs to be better targeted through integrated policies from bilateral and multilateral donors on the issues of basic education and child labour elimination.<sup>140</sup>

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<sup>139</sup> UNICEF, 2003, op. cit. p. 75.

<sup>140</sup> Oonk, 2004, p. 6.

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