

Removing obstacles in the way of the right to education

RIGHT TO EDUCATION PRIMERS NO. 1

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K. Tomaševski

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Preface

An essential prerequisite for human rights work is incurable optimism, which is needed in particularly large doses for tackling the right to education. Advances are few and far between, and fragile at that. Retrogression is frequent and self-reinforcing and – worse – it is not challenged as a human rights violation because the right itself is cloaked behind a conceptual confusion. Advances in conceptualizing human rights have been largely confined to civil and political rights, with economic and social rights lagging behind. Although the right to education cuts across this division, it has shared the ill fate of economic and social rights. Clarity in defining what the right to education is, when this right is violated, and how violations should be remedied and prevented in the future has yet to be attained.

This publication is the first in the series of Primers, which aim to elucidate key dimensions of the right to education. The obvious point of departure has been the need to dismantle prevalent misconceptions because they hinder advancing education as a human right. Those conceptual obstacles which are particularly widespread are tackled, and their dark sides are highlighted. The words of others are used much more than my own so as to relate the many controversies which any and every facet of education arouses. This publication strives to provide food-for-thought because there are reasons for denying that education is a human right and these have to be brought into the open and effectively countered. A much shorter version of this text was published in *International Children's*

*Rights Monitor*¹ and prompted calls for more. The multitude of issues which have to be described and analysed cannot be tackled all at once hence ten publications are planned for 2001 so as to sketch, step by step, the full panorama of the right to education.

This series of primers is part of the emerging public access resource centre on the right to education at the Raoul Wallenberg Institute of Lund University. Its objective is to broaden the interest for the right to education and to increase the level of knowledge about it. Alongside publications, the essential background information on the right to education is being gradually made available in a systematic manner. Such background information includes excerpts from the relevant international treaties which guarantee the right to education, ratifications and reservations which reveal the international legal commitments for each country, constitutional provisions on the right to education, important court cases and decisions of national human rights commissions related to the right to education. This information will be accessible at www.right-to-education.org as of 15 March 2001 and will also include full texts of the publications.

The resource centre is being developed in support of my work as the Special Rapporteur on the right to education of the United Nations Commission on Human Rights. Special Rapporteurs are appointed by the Chairman of the Commission on Human Rights, subsequent to the Commission's decision to create a specific mandate. The mandate on the

¹ Tomaševski, K. – Eight barriers on the road to the right to education, *DCI Monitor*, vol. 13, No. 3, September 2000, pp. 13–16.

right to education was created by the Commission in its resolution 1998/33 in April 1998. The particular person's expertise in a specific field, in my case a long track record of working on economic and social rights, the human rights of women and the rights of the child, seems to have been decisive and I have therefore continued along the same path.

The Commission's decision to appoint a Special Rapporteur on the right to education originated in a widely shared assessment that economic, social and cultural rights had been neglected, if not marginalized. The text of the resolution whereby my mandate was created was uncertain on the contours of the mandate² because advancing human rights is a process. The initial description of a mandate is thus narrow and cautious, to be broadened and deepened as work progresses.

Working as a Special Rapporteur encompasses three tracks: annual reports provide a summarized overview of relevant developments worldwide, country missions are carried out to examine the pattern of problems *in situ*, alleged violations are tackled through correspondence with the respective governments. My two annual and two mission

² The Commission on Human Rights in its resolution 1998/33 of 17 April 1998 mandated me to (i) Report on the status, throughout the world, of the progressive realization of the right to education, including access to primary education, and the difficulties encountered in the implementation of this right; (ii) Promote assistance to Governments for urgent plans of action to secure the progressive implementation of the principle of compulsory primary education free of charge for all; (iii) Focus on gender, in particular the situation and needs of the girl child, and to promote the elimination of all forms of discrimination in education; (v) Develop regular dialogue with actors such as UNESCO or UNICEF, and with financial institutions, such as the World Bank.

reports are available on the homepage of the High Commissioner for Human Rights in English, French and Spanish, as are the resolutions of the Commission on Human Rights and other pertinent documents.³ My third annual report is forthcoming in March 2001. The texts of all my reports are also available on www.right-to-education.org.

Much too little can be fitted into United Nations reports. Space limitations demand a great deal of economizing so as to bring to the Commission's attention all the important issues that affect the right to education, while the accepted style does not facilitate easy reading. To supplement and reinforce my work as the Special Rapporteur on the right to education, I have continued research on the right to education and initiated specialized teaching and training programmes. Special Rapporteurship is an honorary function, entailing much unpaid work and a great deal of battling to assert and defend the right to education, particularly for the millions of children who do not know that such a right exists, least of all that they should be enjoying it. The corollary of the recognition of education as a human right is that this right may be denied and violated hence it is necessary to challenge denials and violations. By no stretch of imagination could one imagine deniers and violators sitting back and applauding. Special Rapporteurs thus continue their existing jobs so as to be financially and organizationally independent. Where their professional and academic endeavours can be moulded to

³ The website of the United Nations High Commissioner for Human Rights (www.unhchr.ch) includes information about my mandate, easiest to access by searching for 'education'.

support their UN work, as my case has fortunately been, much can be done.

Advancing the right to education necessitates conceptual clarifications so as to create knowledge as to what it is and is not; teaching and training to equip people who want to promote the right to education with the tools they need; monitoring what is happening in education so as to single out incidents and phenomena which require the attention of particular governments or inter-governmental organizations; collecting and analysing court cases and decisions of domestic human rights commissions which clarify how the right to education is applied; studying aid flows and negotiations of debt relief to discern the fate of the right to education and strive to enhance it; helping individuals who feel that their right to education has been denied or violated to assess

whether this is indeed so and then to channel their grievances in the most fruitful direction.

This first publication maps out a range of conceptual obstacles that have to be removed because they hinder advancing the right to education. It reproduces and enlarges key points I have been making in the United Nations reports. It also brings in actors and sources which are absent from these reports – voices of children who are objects of schooling rather than subjects of rights, mothers lamenting having educated their girls to then have to pay a higher dowry to marry them, economists who argue how education should be financed, judges who defend the best interests of each child against decisions by governments, schools or parents that often reflect different values.

K. Tomaševski
Lund, 6 January 2001

Introduction

We have not enabled all children and young people to go to school and discussing the right to education thus requires exposing and opposing the abyss between the normative and empirical worlds. Children, more than adults, *should* but often *do not have* the right to education. Recognizing and guaranteeing their right to education thus remains priority.

Once in school, children can be subjected to indoctrination as well as beaten into submission hence merely getting them into schools secures only one part of their right to education. International human rights law has therefore from the very outset guaranteed fundamental freedoms in education. Mere respect of such freedoms, without guaranteed access to education for all children and young people, leaves the poor (in poor and rich countries alike) condemned to

Box 1

Domino-effect: No education, no right to vote for illiterate people in Brazil, A.D. 1985

Two dimensions of the political and legal situation of illiterate people in Brazil merit attention.

Firstly, it is the fact that so many people are precluded by the very Constitution from possessing a right to vote. This appears unusual when we consider how liberal the electoral legislation in Brazil has been in granting women the right to vote in 1932, and also lowering the minimum age for voting to 18 that same year. This constitutional impediment represents a rare

exception as illiterate people have the right to vote even in countries where the rate of illiteracy is equal or superior to Brazil's. As examples one can recall India, Nigeria, Venezuela, Mexico and Ecuador.

Secondly, the paucity of calls for altering this political status of illiterate people also merits attention. Although proposals for granting the illiterate people the right to vote have been tabled before Congress as of the 1950s, the fact is that this denial of the right to vote has persisted from the times of the first constitution until today. Although the country is living through a period of democratization, in which institutional

mechanisms for political representation hold a prominent place, extending the right to vote to illiterate people is not a priority issue for a single one out of the major five political parties nor is it being discussed as a matter of further political opening.

The prerequisite of literacy for the right to vote today translates into the political exclusion of approximately 15 million people, who represent some 30% of the potential electorate of the country. This is, without any doubt, an obstacle for political representation that would accurately translate into political platforms the thoughts and feelings of the whole population.⁴

⁴ Sadek, M. T. & Borges, J. A. – *Educación y ciudadanía: La exclusión política de los analfabetos en el Brasil*, Instituto Interamericano de Derechos Humanos, Cuadernos de CAPEL (Centro de Asesoría y promoción electoral), San José, Costa Rica, 1985, p.15.

illiteracy or schooling of such poor quality that it cannot meet even the most generous definition of education. The right to education straddles the division of human rights into civil and political, on one hand, and economic, social and cultural, on the other hand, thereby affirming the conceptual universality of human rights. Both the right to education and rights in education thus ought to be recognized and protected.

Moreover, many human rights can only be accessed through education, particularly rights associated with employment and social security. Without education, people are impeded from access to employment. Lower educational accomplishment routinely prejudices their career advancement. Lower salaries negatively affect their old-age security. Denial of the right to education triggers exclusion from the labour market and marginalization into the informal sector, which is accompanied by the exclusion from social security schemes because of the prior exclusion from the labour market. Redressing the existing imbalance in life chances without the full recognition of the right to education is then impossible. Moreover, illiterate people are routinely precluded from political representation. In many countries, literacy in general or in a particular language is prerequisite for becoming a candidate in elections. As recently as 1985, as Box 1 illustrates, illiterate people were precluded from having a right to vote in Brazil.

There is thus a large number of human rights problems which cannot be solved unless the right to education is addressed as the key to unlock other human rights. Education operates as multiplier, enhancing the enjoyment of all individual rights and freedoms where the right to education is

effectively guaranteed, while depriving people of the enjoyment of many rights and freedoms where the right to education is denied or violated.

Why do we need law?

The right to education is easiest to analyse by focussing on the corresponding governmental obligations on two levels:

- on the level of individual states as is customary in human rights, and
- on the level of global and regional inter-governmental structures within which governments act collectively.

While individual states are held primarily responsible for ensuring that human rights are effectively safeguarded, global economic and fiscal policies can constrain both the ability and the willingness of individual governments to guarantee the right to education. The identification and elimination of obstacles – especially financial – to the realization of the right to education is the key to progress. There is, nevertheless, no commitment to the right to education by international financial institutions such as the World Bank and the International Monetary Fund, nor the international donor community as a whole. The main reason are corollary duties and responsibilities.

The collective voice of governments has been supportive of education but less so of the human right to education, indicating that there is a difference between the two. This difference is epitomized in the post-war history. An internatio-

nal commitment to universal primary education for all children in the world was made once per decade. None materialized. Each betrayed pledge was followed by a similar pledge, which was also betrayed. The difference which human rights bring can be expressed in one single word – violation. The mobilizing power of calling a betrayed pledge a human rights violation is immense. Moreover, legal enforcement of human rights obligations makes violations expensive. Resort to legal enforcement requires pre-existing individual and collective commitment to the right to education.

The turn of the millennium has been marked by attempts to forge consensus within the international community on diagnosing problems faced by the whole world and devising solutions for them. High hopes have been focussed on these global summits, hopes that a global vision of our common future will emerge and that commitments will be made to translate it into reality.

The established practice has been convening a follow-up global conference for each issue – women, environment, social development, or children – where one was held in the 1990s. The one on education was held ten years after the Jomtien Conference in 1990 had instilled a great deal of optimism by forging a set of global commitments. The Fourth Global Meeting of the International Consultative Forum on Education for All took place in Dakar on 26–28 April 2000. This meeting has been referred to as *Jomtien+10* in popular parlance as it was based, as the title of the final document indicates, on the acknowledgment that commitments made at Jomtien in 1990 had not been met. The 1990 commitment had been to achieve universal primary education by the year 2000 but the target

year was postponed to 2015. Whether we will do better in the first decade of the new millennium than in the last decade of the previous one is an open question. Answers tend towards pessimism unless corrective action is urgently undertaken.

The 1990 Jomtien Conference was convened against the diminishing coverage of primary education in the 1980s, especially in Africa, where the proportion of primary-school age population in school *declined* by 10%.⁵ Further retrogression was feared and could only be halted through parallel measures at the global level and in individual countries. The Jomtien Conference was a historic event intended to enhance priority for basic education through a global mobilization around time-bound targets. The language of the final document adopted by the Jomtien Conference merged human needs and market forces, moved education from governmental to social responsibility, made no reference to the international legal requirement that primary education be free-of-charge, introduced the term ‘basic education’ which confused conceptual and statistical categories. The language elaborated at Jomtien was different from the language of international human rights law.

Those who saw Jomtien as a donor-driven process were proved right because donors’ support for education did increase in the immediate follow-up to the Jomtien Conference. As a corollary, many developing countries started elaborating education-for-all strategies through assessments of

⁵ Colclough, C. and Al-Samarrai, S. – *Achieving Schooling for All: Budgetary Expenditures on Education in Sub-Saharan Africa and South Asia*, IDS (Institute for Development Studies) Working Paper No. 77, Brighton, November 1998, p.3.

basic learning needs (in the Jomtien jargon) and estimates of the associated resource requirements. The gap between the needs and the funds did not diminish much although the *Jomtien+5* meeting noted that “the downward trend of falling enrolments that we witnessed during the ‘80s has been reversed.”⁶

Reversing the retrogression of the 1980s necessitates profound domestic and international changes. Too few have taken place as yet and retrogression was only halted, perhaps temporarily. While individual governments were traditionally deemed capable of complying with their human rights obligations if they exhibited the necessary political will, the tumultuous 1980s showed that the political will of many individual governments of poor countries was no longer sufficient to halt and reverse previous retrogression. A great deal of global mobilization, within and outside the United Nations, was necessary to ‘adjust adjustment,’ to challenge and change the fiscal austerity which had badly affected primary education, making the right to education an un-affordable luxury in open contradiction to the international human rights law. Human rights obligations demand that the maximum of available resources be allocated to human rights, thus explicitly targeting fiscal austerity. This line of reasoning would have been immensely helpful in drafting education strategies at Jomtien and, ten years later at Dakar, but was absent from both.

⁶ *Education for All. Achieving the Goal, Mid-Decade Meeting of the International Consultative Forum on Education for All, 16–19 June 1996, Amman, Jordan, Final Report*, p.7.

An illustration of similarities and differences between the final documents adopted at Jomtien in 1990 and at Dakar ten years later is given in Box 2. From the human rights perspective, no significant improvement was achieved in the year 2000. The status of the right to education in these global education strategies was obviously controversial because the formulations that were ultimately agreed upon in Dakar replicated ‘the language of Jomtien.’ Suggestions to adopt the language of international human rights law, with its definitions of rights and obligations, violations and remedies, were apparently not heeded. References to human rights and to some treaties in which these are defined were more numerous than they had been in 1990, but the corresponding obligations were not mentioned. Most importantly, the final document adopted in Dakar was silent on the fate of education in resource allocations – from global to local.

The process of negotiating the final text adopted at Dakar had started in 1999 from a 30-page draft to end with a 5-page text in April 2000. Difficulties in reaching an agreement on collective commitments which the Dakar Conference was to finalize thus must have been considerable.⁷ One important feature of this process was the key role of international agencies rather than governmental delegations in negotiations. This had been institutionalized in the convening of the Jomtien Conference by

⁷ The full text of the five-page final document which was adopted by the Dakar Conference, and the supplementary text (entitled “Notes on the Dakar Framework for Action”) which was subsequently developed by the World Education Forum Drafting Committee on 23 May 2000 are available at <http://www2.unesco.org/wef/en-conf/dakframeng.shtml>.

Box 2

Plus ça change ...? Human rights provisions at Jomtien and Dakar compared

Jomtien (1990)⁸

Every person – child, youth and adult – shall be able to benefit from educational opportunities designed to meet their basic learning needs.

Recalling that education is a fundamental right for all people, women and men, or all ages, throughout the world;

Universal access to, and completion of, primary education (or whatever higher level of education is considered as “basic”) by the year 2000;

Meeting basic learning needs constitutes a common and universal human responsibility. It requires international solidarity and equitable and fair economic relations in order to address existing economic disparities.

Dakar (2000)⁹

We re-affirm (...) that all children, young people and adults have the human right to benefit from an education that will meet their basic learning needs ...

Education is a fundamental human right.

Ensuring that by 2015 all children, particularly girls, children in difficult circumstances and those belonging to ethnic minorities, have access to and complete free and compulsory primary education of good quality;

Achieving Education for All will require additional support by countries and increased development assistance and debt relief for education by bilateral and multilateral donors, estimated to cost in the order of \$8 billion a year.

the executive heads of UNICEF, UNDP, UNESCO, and the World Bank, later joined by the UNFPA. The focus of the negotiations in 1999–2000 was, then, on commitments of these agencies to a policy that would – or not – explicitly affirm the

right to education. The consequences of defining education as a human right are corollary duties and responsibilities, entailing changes in policies and practices of the respective agencies. Rights entail corresponding obligations as well as remedies for violations.

⁸ *World Declaration on Education for All and Framework for Action to Meet Basic Learning Needs*, Adopted by the World Conference on Education for All, 5–9 March 1990, Jomtien, Thailand, UNESCO, Paris, April 1990.

⁹ *The Dakar Framework for Action - Education for All: Meeting Our Collective Commitments*, Text adopted by the World Education Forum, Dakar, Senegal, 26–28 April 2000.

These have been defined for individual governments but international agencies remains largely beyond the reach of international human rights law. An explicit acknowledgment that these agencies are committed to the right to education would have triggered a search for making them accountable for promoting rather than hindering it. This topic is discussed in Primer No. 5, entitled *Is the World Bank moving towards the right to education?* and scheduled for publication in May 2001.

The cost of the process leading to the Dakar Conference was \$300 million.¹⁰ There were few financial commitments to carry out whatever transpires to have been agreed in Dakar; the \$300 million was apparently spent to review the situation and reach an agreement that ultimately could not be reached – what to do after the conference has ended to reverse the ill fate of education, especially in the allocation of public funding.

A sideshow was a heated debate as to whether education was or was not a human right. On the positive side, the advocates of selling and purchasing education lost the battle as references to the right to education were included in the final document. On the negative side, the advocates of buying and selling education won the war (one would hope temporarily) because there has been no financial commitment needed by the millions of poor children to get education as a matter of right.

The Dakar Conference has not done much to eliminate barriers in the way of the right to education. These are easy to

articulate and this is done here by presenting a series of misconceptions, starting from the key obstacle which is routinely singled out for hindering the right to education – poverty.

Overcoming major obstacles

Similarly to the reluctance exhibited by the key actors at Jomtien and Dakar, barriers that need to be overcome on the road to the right to education can be traced to the price which recognizing the right to education entails. In the case of international agencies such as the World Bank or the International Monetary Fund, their policies have to be adjusted to making (at least) free primary education available and accessible to all children. This is costly for them because it often interferes with debt servicing by the respective governments, while they are owed much of this debt. In the case of individual governments, budgetary allocations have to be adjusted to the requirements of international human rights law, education law has to be altered to recognize children as the subject of the right to education, curricula and textbooks have to be altered to accommodate all human rights for all, methods of instruction hindering human rights have to be eliminated. In the case of parents, accepting that their children are not their property but people with rights necessitates challenging the world-wide heritage of denying that children have any rights.

The way to the right to education is long and uphill. It is necessarily a relay-race because obstacles are many and diverse. First and foremost, economists and statisticians are needed to facilitate creating rights-based economic and fiscal policies and the associated statistics. A range of professions and academic disciplines are necessarily involved in moulding education so

¹⁰ Dominique Marlet of Education International obtained the figure of \$300 million in an interview with Svein Ostveit, at the time the Executive Secretary of the Education for All Forum, on 17 August 1999 (www.ei-ie.org) and publicised it within the Global Education Campaign on 9 May 2000 (mailing_list_global_edu_campaign@ei-ie.org).

that it can contribute to poverty eradication. It is, however, the principal task of the human rights community to dismantle misconceptions about linkages between poverty and human rights and these are addressed first.

1.1 “Poverty is a human rights violation”

At the beginning of the new millennium, the new vocabulary of donors’ policies in education includes human rights and poverty eradication. Neither of the two is new but the linkage between them is novel. Clearly and powerfully articulated human rights – both in education and in poverty eradication – are necessary in order to prevent the current focus on poverty from lowering the goals of international development co-operation. The changes in donors’ policies have come at a time of constantly decreasing aid hence this fear. The shift from development to poverty eradication may lower the goal of helping individuals, communities and countries to develop by merely halting impoverishment. The shift from education to basic education focussed donors’ funding to the lowest rung in the education pyramid, sometimes also diminishing the age-range of beneficiaries from the previous 6–15 to 6–11.

Investment in education for all children was historically assigned to the state because it yields economic returns with much delay and, moreover, only in combination with other assets. The history of compulsory education did not revolve around economic arguments alone but these carried considerable weight. The need for a large pool of literate people was a driving force behind compulsory education during early industrialization as was the need to keep children out of the labour market thus

enabling adult workers to negotiate and uphold fair wages. The economic rationale behind compulsory education also included ensuring that people can support themselves after leaving school lest they become a financial burden on public authorities.

Nevertheless, today education rarely attains the priority in budgetary allocation which international human rights law requires, and where it does, allocations tend to favour higher at the expense of primary education. South Korea is a favourite example of the sound economic rationale for investing first in primary and then secondary education, with two-thirds of public funding having been allocated to primary education in 1960–1975, followed by allocating one-third of the total to secondary education in 1975–1990.¹¹ This rationale is summarized in Box 3, which reproduces an extract from a 1996 retrospective overview by Korea’s ministry of education. The importance attached to *secondary* education differs from the current global emphasis on *primary* education as the passageway out of poverty.

The example of South Korea is important because disappointments with education which has been ill-suited to income generation have been many. Recently they have been evidenced in Eastern Europe, where the generally high levels of education have not proved to have been a sound economic investment. It is indicative that only one in seven young people in Central Europe has rated education as essential for getting ahead in life.¹²

¹¹ Thomas, V. et al. – *The Quality of Growth*, The World Bank & Oxford University Press, Washington, D.C./New York, September 2000, p. 68.

¹² UNICEF Innocenti Research Centre – *Young People in Changing Societies*, The MONEE Project, Regional Monitoring Report No. 7, Florence, 2000, p. 42.

Box 3

The economic rationale for education in South Korea

With scarce natural resources, Korea has relied heavily on human resources to develop its economy. Education being a major source for trained manpower, educational policies have changed in accordance with the types of human resources demanded by a changed economy. In the 1950s, when low-level skilled workers were needed in manual industries, efforts were geared to undertake a massive scale literacy campaign to produce a manual workforce. In the 1960s, skilled workers were in great demand for light industries, and the focus was shifted to expand vocational education at the secondary school level. As the importance of heavy industries grew in the 1970s, technicians who could deal with complex modern manufacturing processes were in demand. The government responded by expanding junior technical colleges. The number of junior colleges nearly doubled in this period. In the 1980s, economic competitiveness based on high-level technology and information industries became fierce and this challenge urged the Korean

government to strengthen research and education in basic science and technology.

Though there have been some mismatches, it is generally agreed that secondary school enrollment and investment in education have a positive and crucial relationship with economic growth in Korea. Expansion of secondary enrollment and public investment in secondary education were very important in offsetting diminishing returns to investment in physical capital, and thus made significant contribution to achieving sustained per capita income growth. It is often pointed out that the positive effect from public investment in secondary education was made possible because Korea had a universal elementary education and had, as well, comparable rates of investment in physical capital along with export-oriented growth strategies. In other words, Korea expanded and universalized elementary education followed by secondary education, and only after achieving this, shifted its emphasis to the expansion of higher education.

What Korea did right in the 1970s was that it spent four-fifths of its education budget on basic education, while countries with similar level of economic development focussed on higher education. One significant effect of this improvement in basic education was that due to increased number of women with a basic education, the number of school age children remained stable. Thus a growing amount of resources could be devoted to a stable number of children, allowing for improvements in the quality of education. In contrast, other countries which neglected the importance of basic education observed a growing number of school age children, and had to direct their educational resources to build more schools, with less resources left to improve the quality of education. Amongst the other ingredients of the relatively successful story of Korea's educational development, a right choice of policies, and an undisrupted implementation of these policies are deemed to have been crucial.¹³

¹⁴ *The Development of Education. National Report of the Republic of Korea*, The Ministry of Education, Seoul, September 1996, p. 1-2.

Disillusionment with education which is producing armies of unemployed graduates is well known throughout the world and demonstrates the necessity of adapting education to the children's future, to their prospects for supporting themselves. When this is not done, the parental choice not to send their children to school easily falls into the pattern described for Burkina Faso:

People who do not send their kids to school cannot solely be discarded as 'ignorant' but might have made a rational choice. Firstly, education is conducted in French, the official language, which is not spoken by most people. When children come to school, they first have to learn French before they may be able to access other subjects. Secondly, unemployment is common among the youth with years in school. The economic incentive to send children to school is thus less convincing today. A main problem is that many children who go to school do not return to farm work any longer. To send children to school might constitute a double loss: first they cannot participate in farming and herding and thus contribute to subsistence, and, second, they might be able to get a job after school but would be unwilling to accept farming again.¹⁴

A contribution to poverty alleviation of thus-designed schooling is unlikely because of the abyss between educational systems (as these have historically developed) and poverty-reduction strategies (which have started in earnest at the turn of the millennium as a condition for debt relief). Educational systems

¹⁴ Hagberg, S. – *Burkina Faso: Profiles of Poverty*, Sida, Stockholm, June 2000, p. 38.

were routinely designed to enable children to progress to post-primary education and ultimately acquire jobs, for which – as in Burkina Faso – French was essential as was migration to cities where post-primary education, and later the jobs, were. The most likely employer was the government. Re-design of formal schooling so as to enable young people to create their livelihood in rural areas, and to make it attractive for them to do so, remains a challenge yet to be met. Education alone cannot even start addressing key problems. Poverty-alleviation strategies anticipate meeting this challenge and, to do so effectively, they would need to analyse the process of impoverishment (and enrichment) so as to discern the chain of causality.

This is seldom done and poverty remains a notion that is not deemed to be man-made, which it almost always is. The statement that poverty is a human rights violation sounds good because people can intuitively sense that poverty and human rights clash against each other. Everybody can feel that something is wrong when children cannot go to school because they are too poor, and nobody is today publicly advocating that primary-school children should be working as was done in 1723:

Going to School in comparison to Working is Idleness, and the longer boys continue in this easy sort of life, the more unfit they will be when grown up for downright Labour.¹⁵

The change in the past two centuries has been profound; although children are often forced to work, nobody is openly

¹⁵ Fägerlind, I. and Saha, L. – *Education and National Development: A Comparative Perspective*, Pergamon Press, Oxford, 1983, p. 36.

demanding that they should do so. On the level of rhetoric, there is agreement that children should be at school until they reach the minimum age for employment, usually set at the age of 15. There is no underlying commitment to make this happen, however. Poverty is routinely cited as the major cause of child labour. Conventional wisdom relates the lack of access to education to poverty and sees the solution in throwing money at the problem. A recipe of pouring money into countries where too many children are precluded from going to school might – paradoxically – do no good. Suffice it to mention that only 60% of educational budgets in Benin, Burkina Faso and Mali were spent in the late 1990s¹⁶ although the need for additional funding was – and is – constantly emphasized. Increasing an educational budget of a central government does not automatically translate into funding to teachers, schools, textbooks, and everything else that children need. Most children are not in national capitals hence their schooling necessitates a functioning country-wide educational system. Problems are inversely related to the proximity to the national capital – the more distant, the less likely they are to be addressed.

The willingness and ability of governments to raise funds and use them to educate children varies a great deal; neither should be presumed to exist already. Box 4 takes Pakistan as an illustrative example and highlights the linkage between raising and allocating revenue, adding the price which children – particularly girls – pay for the government’s failure to prioritize education.

¹⁶ Conhye, B. and Coulibaly, M. – *Policies, Procedures and Strategies for the Allocation of Resources for Education in Sub-Saharan Africa. A Review of the Literature*, Association for the Development of Education in Africa (ADEA) and Council for the Development of Social Science Research in Africa (CODESRIA), Paris/Dakar, May 1999, p. 19.

Child labour constitutes a huge obstacle for children’s education because it is mostly poverty-driven as children have to contribute to the survival of their families. Our fragmented manner of addressing these issues leads to singling out poverty in some regions and territories while not in others. Myopic images of peace-making, as they were put into practice in Kosovo, have revolved around ethnicity and religion, autonomy and statehood, but not about education for the young and the price which children and young people have to pay when the survival of their families is jeopardized. Unsurprisingly, “adolescents out of school and work request intensive courses for computer and foreign language skills so that they become qualified to work for international organizations” and these adolescents have pinpointed the core problem: “if parents had jobs, adolescents would have to work less.”¹⁷

To attain meaning, statements positing that poverty is a human rights violation would have to be followed up by identifying the actor (more likely, actors) who are perpetuating, or even increasing poverty. This is not the case and poverty becomes like the weather – everybody is complaining about it but deeming it to be beyond anybody’s control.

All donors are today committed to the eradication of poverty but so they were in the 1970s and there is not much to be shown as successful eradication of poverty. Something did happen, however. Poor school children seeing donors and their employees driving in their shiny four-wheel jeeps have learned

¹⁷ Promoting Kosovar adolescent/youth protection and capacities: Youth-identified problems and solutions, Kosovar Youth Council, June 2000, mimeographed, text available at <http://www.war-affected-children.org/kosovo-e.asp>.

Box 4

Obstacles to girls' education in Pakistan: Raising and allocating revenue

Pakistan continues to secure support of its international creditors and donors despite frequent breaches of various conditions for continued funding. Pakistan's tax to GDP ratio of 13% (about one-third of what it is in OECD countries), making raising revenue the government's key priority. General Pervez Musharraf, its military leader, has called taxation "make or break" for Pakistan, referring to the fact that merely 1% of the population of 140 million pays any income tax as "shameful."¹⁸ Six nuclear tests, whose cost has never been revealed, had led in May 1998 to economic sanctions, which further aggravated Pakistan's inability to service its

foreign debt and were then quietly lifted. Sartaj Aziz, the finance minister at the time, had announced in 1997 that "annual government revenue was insufficient even to pay for debt servicing and defence."¹⁹ Both these items have been provided for but funding for education remains minuscule. One consequence is an estimated 16% literacy rate amongst rural women, another that much debate about promoting education for girls revolves around parents' paying fees.²⁰ The widespread avoidance of taxation is reflected in a dual economy and accounting. This inevitably affects education. What is officially recorded and

what is unofficially charged for girls' education varies a great deal:

"Girls in rural Sindh usually say 'yes' when asked if they like primary school. They belong to the literate minority in Pakistan. But their eyes darken as they start to talk about daily charges for invisible things in exchange for an education. They pay for teacher attendance, fees for fake school committees, and for textbooks and tuition that are supposed to be free. Some girls have to do domestic chores in the homes of their teachers if they cannot make cash payments."²¹

¹⁸ Bokhari, F. – Musharraf firm on Pakistan tax reforms, *Financial Times*, 26 May 2000.

¹⁹ Bokhari, F. – Plan to widen tax base in Pakistan, *Financial Times*, 14–15 June 1997.

²⁰ Kim, J. et al. – *Evaluation of the Balochistan Rural Girls' Fellowship Program: Will Rural Families Pay to Send Girls to School?*, The World Bank, Washington D.C., November 1999.

²¹ Carlsson, C. – Invisible burdens, *Guardian Weekly*, 8–14 June 2000.

Box 5

Paying for nominally free schooling: A lamenting Russian mother

“Pay, pay, and pay again, that’s what we have to do,” said Sveta, for whom the last days of August were torture as she struggled to get her 15-year old son, Fedya, ready for school again.

A few private schools now exist in Russia. The overwhelming majority of parents, however, still send their children to state schools. “The only trouble is,” said Sveta, “that we now have to pay for so much that we might as well be educating our kids privately. First she went to a bazaar in the Olympic

stadium to buy books and atlases, which in Soviet times the school would have provided. Then she took on the crowds in Detsky Mir (Children’s World), the department store only slightly less forbidding than the secret police headquarters next door. In an hour, she spent what her husband, an engineer, officially earns in a month on trousers and a jacket.

Fedya hates return to school as it coincides with his birthday and there is never enough money left for a present.

In some schools, not only equipment but also tuition now costs money. Teachers whose official earnings average about 800 roubles (£20) a month have taken to giving extra private lessons, without which the child cannot hope to succeed.

“Nobody gets paid properly. So the traffic cop earns on the side, so that he can pay the teacher, so that she can pay the doctor. And everyone evades tax.”²³

one important lesson. The then Norwegian minister of development co-operation has found that children have a very good idea how not to be poor after schooling:

In a classroom in Tanzania, the pupils were asked what they wanted to be when they grew up. Everybody answered: aid worker.²²

The flip-side of the statement that poverty is a human rights violation implicitly equates the antipode of poverty

(which must be wealth) with the realization of human rights. Children whose parents purchase for them the best education that money can buy are then assumed to have their right to education recognized and realized. If the parents are at same time paying tax for an education that should but does not exist, *they* will not think so. Box 5 conveys grievances of a Russian mother, whose son’s education constitutes a considerable items in the family budget although it is nominally free of charge.

²² The Norwegian Minister Kari Nordheim-Larsen touches on the hot issue of Tanzania, *Development Today*, vol. 4, No. 4, 8 March 1994.

²³ Lane, S. – Russia’s new pay-per-class state schools, *The Independent*, London, 7 September 1999.

Box 6

Educational cost of corruption in Nigeria

In November 1998, the Federal Government announced that it had recovered over 63 billion naira (nearly US\$ 750 million) from the family of the late Head of State, General Sani Abacha, allegedly stolen within one year. Added to the money and other property recovered from the Security Adviser to the late Head of State, the recovered sums amount to about 125 billion naira (US\$ 1.4 billion). This amount surpasses the total federal budget for education, health, social welfare, transportation and power generation in two consecutive years (1997 and 1998).

Unaccounted federal revenue of about US\$ 12.4 billion is still uninvestigated. It is documented as having been received from surplus oil sales in 1991 and was reportedly misappropriated by General Ibrahim Babangida, Nigeria's erstwhile military ruler.²⁴ Up till now, no charges have been brought against the former Head of State or those who collaborated with him. Also, the Abubakar administration has not investigated widespread allegations of corruption levelled at former and serving State military administrators. By not taking

action against these people, the Abubakar Administration condones the crime of corruption and the systematic violations of economic and social rights.

As a consequence of the massive misappropriation of national resources, critical service sectors of the nation are in acute dysfunction. ... Many schools, including primary and post-primary institutions, have resorted to imposing various fees and levies on students as a direct result of grossly inadequate funding; this has led to massive withdrawals of pupils from schools.²⁵

1.2 "We are only talking about money"

A cynical image of aid defines it as poor people in rich countries helping rich people in poor countries. Box 6 illustrates the scope of corruption during the military reign in Nigeria and its devastating effects on education. The children are paying the price of corruption twice: firstly, they have been deprived of education, and, secondly, they will have to pay back the loans which successive military governments had taken and spent.

²⁴ A panel set up under the late General Sani Abacha's administration to investigate the activities of the Central Bank of Nigeria discovered that the money had been misused. The panel reported that the money was never paid into the account of the Central Bank, but to a dedicated account accessible only to the former Head of State, General Ibrahim Babangida, and the Governor of the Central Bank. The panel noted that the misuse of the money amounted to "a gross abuse of public trust." (Statement made by Dr. Pius Okigbo, chairman of the panel, in September 1994, during the presentation of the panel's report to the late General Sani Abacha.)

²⁵ Report submitted by the Special rapporteur of the Commission on Human Rights, Mr. Soli Jehangir Sorabjee, U.N. Doc. E/CN.4/1999/36 of 14 January 1999, paras. 60-62.

The placement of corruption on the agenda of international financial agencies and the donor community promises a change, but making this change happen will require a great deal of courage and determination. The postulate of international human rights law whereby governments should use the available resources to their utmost to secure all human rights for all serves as ready-made guidance.

International co-operation is defined as the principal means for facilitating the realization of the right to education but its prospects are hampered by a vicious circle. The volume of aid is at its lowest in history. The constantly diminishing aid flows include assertions that much aid is misappropriated or misused. Alongside corruption, nuclear weapons are a frequent target of critique. Amartya Sen, Nobel laureate in 1998 for restoring an ethical dimension to vital economic problems, has been asked about India's resources and priorities. He has suggested that the government should prioritize education, health care and land reform. Asked where India would find the money, Sen replied: "If one has any sense of priority, to say that India does not have the money is absolute, utter, unmitigated nonsense."²⁶

From the recipients's perspective, the glaring discrepancy between vast aid needs and minuscule aid flows does not give donors moral credibility to demand accountability. In its extreme, such attitude becomes give-us-the-money-and-go-away. Children who cannot go to

school because the dialogue between donors and recipients has worked itself into a blind alley have no voice. Getting the children, their parents and teachers involved in securing that funds for education reach their destination is not a particularly difficult task. It would rupture the vicious circle of enrichment of intermediaries and impoverishment of beneficiaries which aid often sustains. And why isn't this done if it would be sensible and useful? We all know it, we just need to act upon it.

1.3 "Listen to what I say, don't look at what I do"

Rights-based development is a syntagm that has spread within international development co-operation at the turn of the millennium. The term indicates that development should be founded upon human rights. Previously, the rights of actors funding and carrying out development interventions were asserted and protected but not necessarily the rights of beneficiaries. These beneficiaries were treated as objects of development interventions (*developees*) with *developers* retaining all the rights. It is against this heritage that the term rights-based development has been coined.

In the words of Claire Short, Britain's Secretary of State for International Development, there are three particular changes that ought to be made so as to make development aid rights-based:

- if we want to work for human rights we must be willing to take risks and reach out where we can, rather than sit

²⁶ Chanda, N. – Ethics pays: Interview with Amartya Sen, *Far Eastern Economic Review*, 18 March 1999, p. 30.

smugly at home and feel good about hectoring governments that oppress their people;

- this new approach also has implications for the way we work. In our White Paper, the Government commits itself to a rights-based approach to development. This means making people the central purpose of development. Not by speaking or acting on their behalf, but by allowing them to speak for themselves – to articulate their own interests and needs;
- strategies for development should not be a secret deal between governments – done behind closed doors.²⁷

The heritage of changing vocabularies in international development co-operation entails a risk that human rights language may be appropriated without its contents. There are no self-activating safeguards against abuses of the term ‘rights’ or ‘rights-based.’ As these terms have been divorced from their grounding in international human rights law, there is a risk that ‘rights’ will become a weasel-word into which almost any contents can be fitted. The process whereby this is done is well known and entails exercise in power. It would thus benefit from the application of human rights simply because human rights are safeguards against abuse of power.

Partnership has become a keyword in international development co-operation, also at the turn of the millennium. Partnership between indebted governments and their creditors assumes a relationship of equals. Where one side desperately needs

²⁷ *All Human Rights for All. A Speech by Claire Short, Secretary of State for International Development to the Law Society*, Department for International Development, London, 3 December 1998, p. 6.

a cheque while another holds the chequebook, it takes a great deal of creativity to define such a relationship as one of equals.

The language of partnership assumes relationships which would have made human rights work redundant from the outset. The term ‘partnership’ disguises inequalities and hampers identifying, exposing and opposing abuses of power. Those who wield power may abuse it hence human rights safeguards are necessary, always and everywhere. Human rights NGOs have been established to expose and oppose human rights violations, and this role neither will nor can be taken over by governments, individually or collectively. Moreover, human rights work cannot always be carried out in partnership with governments. There is an adage shared amongst human rights NGOs whereby one cannot work in human rights and be popular with governments. Human rights work necessitates identification of those who wield power so as to be able to prevent or remedy its abuse.

Despite this new language of rights-based education and partnership, the practice of selling and purchasing education is gaining ground, embodying a risk that education will be moved from international human rights law to international trade law. Contemporary changes can be illustrated by an increasing resort to the term ‘rights’ to denote shareholders’ or creditors’ rights²⁸ rather than in the sense attributed to this term in international human rights law. In education, UNESCO has thus defined the danger of depleting the rights-language of its original meaning:

²⁸ The World Bank’s two indicators chosen to assess the legal infrastructure underpinning its recent focus on knowledge-based economy have been creditors’ and shareholders’ rights. The World Bank – *Knowledge for Development. World Development Report 1998/99*, Oxford University Press, New York, 1999, p. 178 and 181.

In so far as the ‘right to lifelong learning’ is understood to include a ‘right’ to continuing education, it would seem in practice to amount to little more than the ‘right’ of any citizen to participate, at his or her own expense, in the market for goods and services generally, with more or less encouragement from public funds depending on the situation in individual countries.²⁹

This process of transforming the rights-language so as to make it fit the prevalent ideological commitment to the free market is accompanied by broadening and deepening inequalities in access to education. Donors’ concentration on basic education has made universities, particularly in Africa, starved of funding. The profits of exporting education services to people who have no access to them in their own countries dwarfs aid for basic education. Moreover, information and communication technology is referred to as a global phenomenon, although only 5% of people in the world have access to it. A new term – digital divide – has been coined to depict this new abyss.

Public investment in education has led to the completion of upper-secondary education by more than half of the working-age population in the OECD countries. As Table 7 shows, the OECD has moved to almost all-encompassing enrollment at the secondary level, while for most developing countries not even data on enrollments are available.

²⁹ UNESCO – *World Education Report 2000: The Right to Education – Towards Education for All throughout Life*, Paris, 2000, p. 60.

Children aged 5–15 constitute 13% of the population in OECD but 30% in developing countries. UNESCO has perceptively observed that adults in the OECD countries are running out of children to educate and attention has thus switched to prolonging their own education (‘right to lifelong-learning’), which fits the aging populations.³⁰ In developing countries, meagre funds have to be stretched to educate a large proportion of children. As a consequence, virtually all children will complete 11 years of compulsory education in the OECD, while in developing countries all-encompassing primary education has yet to be attained; providing 11 years of education to all remains a distant dream.

The abyss between knowledge-based and education-deficit regions is not likely to be narrowed spontaneously but rather to increase. International trade in education services is emerging as a principal means for increasing this abyss. The globalization of professional and academic qualifications has been based on “a relatively uniform culture, set of business practices and language”³¹ and has re-actualized the phenomenon of brain drain.

The linkage between aid for education and trade in education services is evidenced in donors’ allocations for students from developing countries, which makes such

³⁰ UNESCO – *Teachers and Teaching in a Changing World. 1998 World Education Report*, Paris, 1998, p. 29.

³¹ Bennell, P. and Pearce, T. – *The Internationalization of Higher Education: Exporting Education to Developing and Transitional Economies*, Institute of Development Studies, Brighton, September 1998, p. 21.

Table 7:
Net enrollments in secondary education

Above 90%	Canada, Cyprus, Czech Republic, Denmark, Finland, France, Korea, Netherlands, New Zealand, Norway, Sweden, United Kingdom, USA
80 – 90%	Australia, Austria, Bahrain, Belgium, Estonia, Germany, Greece, Hungary, Iceland, Ireland, Poland
70 – 80%	Bulgaria, Georgia, Indonesia, Iran, Latvia, Malta, Portugal, Romania, United Arab Emirates
60 – 70%	Brunei Darussalam, China/Hong Kong SAR, Croatia, Egypt, Guyana, Kuwait, Luxembourg
50 – 60%	Algeria, Chile, FYR of Macedonia, Mexico, Mongolia, Peru, Philippines, Turkey, South Africa
40 – 50%	Botswana, Cape Verde, Colombia, Costa Rica, Indonesia, Saudi Arabia
20 – 40%	Dominican Republic, El Salvador, Laos, Namibia, Paraguay, Swaziland, Syria, Venezuela
Less than 20%	Djibouti, Eritrea, Lesotho, Mozambique, Niger

Note: The figures refer to 1996 and are not available for most developing countries.

Source: UNESCO – World Education Report 2000, Table 6, pp. 142–145.

funding into both aid and export revenue. Diminished aid for higher education in developing countries leads to increased numbers of students going to study abroad. A further link is diminished public funding for higher education in the donor countries themselves, which pressurizes educational institutions to seek ways to overcome financial shortfall, including through exporting their services. This *circulus inextricabilis* has attracted attention but too little is known about it as yet. Data ought to be compiled and collated from a maze of public and private institutions, with a further difficulty inherent in the protection of commercial confidentiality of such data. More importantly, the underlying conceptual change treats education as a commodity to be sold and purchased and necessitates reaffirmation of education as a right.

Another conceptual change has been brought about by sanctions, which are imposed against a particular state but, because the state is a legal rather than real-life concept, they harm the country. Sanctions against Iraq have been particularly long and comprehensive, and their effects on education harsh, as Box 8 illustrates. There have been pronouncements of human rights bodies on this issue, with the Committee on Economic, Social and Cultural Rights lamenting that humanitarian exemptions do not encompass access to primary education,³² and the Commission on Human Rights reaffirming that food and medicine should

³² Committee on Economic, Social and Cultural Rights – The relationship between economic sanctions and respect for economic, social and cultural rights: General comment No. 8 (1997), U.N. Doc. E/C.12/1997/8 of 12 December 1997, para. 5.

Box 8
Effects of sanctions on primary education in Iraq

... in one school, a class of over 60 children crowd into a room a few metres square, sitting on the cold concrete floor. There are no desks. Electric wiring has been taken from the walls, the door from its frame, and the glass from the windows. The deputy principal says teachers do not bother to show up for a salary whose value has been shrunk by inflation since 1991 from \$40 to \$2 a month. At Al-Hilla, pupils are divided into three shifts of three hours a day each. Most children take an extra three years to finish primary school, even though all subjects save reading, writing and arithmetic have been cancelled.³³

not be used as tools for political coercion,³⁴ but not mentioning education. Deprivation of education can be encompassed by sanctions – as Box 8 illustrates – which would then, according to Marc Bossuyt’s study for the Sub-Commission on the Promotion and Protection of Human Rights, constitute a violation of the right to education.³⁵

³³ Iraq: Surviving sanctions, *The Economist*, 12 December 1998, p. 51.

³⁴ Commission on Human Rights – Human rights and unilateral coercive measures, resolution 1998/11 of 9 April 1998, para. 4.

³⁵ Sub-Commission on the Promotion and Protection of Human Rights – The adverse consequences of economic sanctions on the enjoyment of human rights. Working paper prepared by Mr. Marc Bossuyt, U.N. Doc. E/CN.4/Sub.2/2000/33 of 21 June 2000, para. 26.

1.4 “If we only had better indicators. ...”

Children are a popular object for fundraising because they elicit a sense of guilt when deprived of food, water, schooling, or clothing. Statistics on children deprived of access to school are used a great deal, even if they show two sides of the coin. On the one hand, such data reflect this sense of guilt towards children who we have failed as adults. On the other hand, these data show that we really do not know how many children we have failed, not even to the closest ten million.

The full scope of investment necessary to make schools really rather than nominally available is hidden because the most frequent internationally used indicator – enrollment – does not capture either out-of-school children or the real-life schools. A UNESCO/UNICEF pilot survey of primary schools in the least developed countries has revealed that electricity or piped water is an exception rather than a rule, while many children finish primary school without ever seeing a single textbook in their mother tongue.³⁶ This reality is often hidden behind the existing education statistics – nominally available schools are counted in, children registered at the beginning of school year are counted as if they attended school the whole time, teachers are presumed to be teaching although their salaries may not have been paid for months or even years.

Quantifications have become a hallmark of every international strategy; education is no exception. A desperate

³⁶ Schleicher, A. Et al. – The conditions of primary schools: A pilot study in the least developed countries. A report to UNESCO and UNICEF, Paris, 1995, [mimeographed].

search for the exact number of children precluded from schooling yields precise, if varying data – from 100 to 150 million. The purport of such exercises is to demonstrate precision, to delineate the scope of the problem and assess the effort needed to solve it. No matter how much they vary, the numbers of out-of-school children are numbing and tend to elicit apathy or frustration rather than decisive action. Moreover, poor starving children tend to be portrayed not as subjects of rights but objects of charity. The effects of their marginalization spring to global attention when they strive to make their way to rich countries or get involved in wars which are seen as senseless from these rich countries. The tendency to romanticise poverty interferes with common sense. Rather than seeing poverty as brutalising and dehumanising, with the instinct for survival pressurizing people towards selling their children or their own organs to survive, poor people tend to be portrayed as waiting for a solution to their problems while patiently starving to death.

A widespread approach has then emerged prioritising the counting of poor people so that measures could be devised to somehow alleviate their poverty. Education has become part of the package which routinely follows from this approach. A commonsensical approach holds true that education *could be* the first step on the ladder out of poverty, but unless additional steps are in place, education on its own cannot do much, if anything. Teaching landless peasants the alphabet does not lead to their land ownership or to productive use of that alphabet unless they can create some way of earning their livelihood.

The full range of issues to be built into education strategies often turns out to be too complicated or costly, and sights are then lowered to getting children to school. A drawback is that nobody knows how many children are out of school, where they are, who they are, how old they may be, why they are not in school, which language they understand. A hunt for figures follows, with varying outcomes, as Box 9 illustrates. Counting the children makes obtaining the figures costly in time and resources because it requires field-work. Mathematical modelling comes to rescue by facilitating the creation of data which exhibit the desired precision at low cost.

Would it really make a difference if we knew that precisely 107,982, 346 children lack access to any education whatsoever? It is unlikely that we could ever get the figures right because quite a few children would die while being counted because they regularly lack not only education but also food, shelter and safe water.

Those children who are encompassed by enrollment statistics, and thus counted as having access to education, do not necessarily have their *right* to education recognized. The way from access to school to education that is compatible with human rights is long and progress is impeded by another set of conceptual obstacles.

1.5 “Education is inherently good”

The assumption that education is inherently good is as prevalent as it is unfounded on reality. Images of education not being good-and-desired are rare. One has been unearthed by

Box 9

Not counting the children: Education statistics as virtual reality

Education statistics is governed by the rule of correlation: it is the least available for those countries where education is also the least available and the need for data is thus greatest. The consequence is resort to technological shortcuts. Mathematical models are applied to invent the size of the population of Angola or Afghanistan. Nobody can fault it because nobody knows how many people there may be in these two and many other countries. Statistics on school enrollments are created by estimating the numbers of children in each age bracket, pupil-teacher ratios are construed by associating the statistically created numbers

children who should be in school with the numbers of teachers recorded on the payroll.

UNESCO's *2000 World Education Report* posits, for example, the population of Laos to be 5,032,000, then postulates the number of children aged 6 to 14 to be 1,204,000, and then reports the gross enrollment ratio as 112%. A journalist visiting Laos at the end of the year 2000 asked a local analyst about the population size, which he had gathered from the internationally available statistics to be around 5 million, to be told: "Well, maybe. Something like that. They have never been counted properly. So how would anyone know?"³⁸

There is one thing we do know, however, and this is why education statistics may be created. If schools are funded by the criterion of the number of enrolled children, they will be tempted to report the highest possible number. If schools are required to transfer fees collected from the enrolled children, they will be tempted to report the lowest possible number. This has happened in Uganda, where the number of children enrolled in school had been under-reported while the collected fees had to be furnished, and then over-reported after the fees were abolished in 1997 and schools started receiving funds by the numbers of reportedly enrolled children.³⁹

Victoria Brittain in Angola: "When a *soba* (chief) explains that people do not want to send their children to school because they see that those who go become politicians or businessmen and are thieves and liars, you know you have got a really fundamental need for a change."³⁷ Because negative images of education are rare, the assumption that it is inherently good is widespread and seldom, if ever, challenged. Discussions about

education tend to focus on how to provide it and how to increase the provision.

³⁷ Brittain, V. – Building tomorrow from today's rubble, *Guardian Weekly*, 27 April - 3 May 2000.

³⁸ Engel, M. – Lazy, hazy, crazy Laos, *Guardian Weekly*, 28 December 2000 – 3 January 2001.

³⁹ Educational and fiscal statistics in Uganda have been discussed in the report on the mission to Uganda which I undertook as the Special Rapporteur on the right to education in 1999 (E/CN.4/2000/6/Add. 1 of 9 August 1999) and will be further analysed in Primer No. 8, planned for June 2001.

Any subject which is taught can be abused. Anti-human-rights messages can be found in mathematics as these examples show:

- In Hitler's Germany, a mathematics textbook nudged learners to calculate financial savings that would ensue from eliminating mentally ill people: "The construction of a lunatic asylum costs 6 million DM. How many houses at 15,000 DM each could have been built for that amount."⁴⁰
- One maths book, printed in the US during the Afghan war for use amongst Afghani refugees, offered the following mathematical problem: "If you have two dead Communists, and kill three more, how many dead Communists do you have?"⁴¹
- A school textbook in Tanzania in the 1970s included the following mathematical problem: "A freedom fighter fires a bullet into an enemy group consisting of 12 soldiers and 3 civilians all equally exposed to the bullet. Assuming one person is hit by the bullet, find the probability that the person is (a) a soldier, (b) a civilian."⁴²

⁴⁰ Mazower, M. - *Dark Continent: Europe's Twentieth Century*, Penguin, 1999, p. 176.

⁴¹ McGirk, T. - Afghan warrior joins the Great Game, *The Independent*, 30 September 1993.

⁴² McCormick, P. - Political education as moral education in Tanzania, *Journal of Moral Education*, vol. 9, 1980, No. 3, p. 171.

The widely shared belief that getting all children into school is always a solution, never a problem persists, however. Parents whose children have been beaten in school so badly that they ended up in emergency ward to be treated for injuries know better. Abuses of education became institutionalized through re-education camps, where political dissidents were (still are) brainwashed into regurgitating the dogma espoused by the powers that be.

Throughout history, education has been particularly effective in the militarization of boys. Participation in warfare has been part of traditional initiation rituals, through which boys become men. Glorification of war continues through history textbooks which are dotted with wars and war heroes, through the promotion of violent sports, and limitless commercialization of computerized war games. Education for war has, unfortunately, a much longer tradition and commercial attractiveness than education for peace.

An image that education is good and one just needs to secure additional funds to provide more of it could never be endorsed by the indigenous peoples in Latin America, who have experienced education as oppression. As illustrated in Box 10, those who dared to rupture the denial of education and ventured to school were severely punished. Women who remain openly indigenous while schooling children have three layers of prejudice to overcome.

A judgment about the contribution which education made to the genocide in Rwanda by creating and reinforcing mutual Hutu-Tutsi prejudices is pending. The UN Special Rapporteur on Rwanda at the time has noted how successive governments conditioned the population to the acceptance of ethnic discrimination and moulded education to fit this aim:

Box 10

Bolivia: The toll of being a woman, indigenous and a teacher

Regarding the discrimination that still affects the indigenous woman, in her traditional skirt, the Vice-President of the Republic, Victor Hugo Cárdenas, made the following statement in a press interview:

“Cárdenas recognizes that progress is slow, though tangible, and does not deny that indigenous communities still suffer from

marginalization and racism. For example his wife, Lidia Katari, a teacher by profession, is unable to teach because she dresses in the traditional Indian skirt, shawl and bowler hat. ‘Years ago they told her that she either got rid of that attire or stopped working. She asked for leave and is now in the battle for her own rights and the rest of the indigenous

population.’ The experience of Cárdenas’s grandfather was far more bloody: his boss ordered his hand to be cut off because he considered it insolence that he should be able to write. Cárdenas’s father had to change his Aymara family name and adopt a Spanish family name from his mother’s line.”⁴³

The schools took it upon themselves to develop actual theories of ethnic differences, based on a number of allegedly scientific data which were essentially morphological and historiographical. In the first case, the two main groups can be differentiated by appearance, as the Tutsi are ‘long’ whereas the Hutu are ‘short’; the Tutsi are handsome, genuine ‘black-skinned Europeans’ while the Hutu are ‘ugly’, genuine ‘Negroes’. The fact that the Hutu occupied the country before the Tutsi makes them indigenous, whereas the Tutsi, as descendants of Europeans, are invaders. These purportedly scientific data inevitably created a psychosis of fear and mistrust which gradually became a veritable culture of mutual fear and led to

another theory, that of pre-emptive self-defence based on the ‘kill or be killed principle’. This theory was a major factor in the 1994 genocide.⁴⁴

Using human rights safeguards to constrain the power inherent in writing history books, from which the coming generations are going to learn their own history, is often needed but lacking. The issue is deemed to be ‘technical’ regardless of its often being a veritable political minefield.

⁴³ Committee on the Elimination of Racial Discrimination – Thirteenth periodic report of Bolivia, U.N. Doc. CERD/C/281/Add. 1 of 12 July 1995, para. 38.

⁴⁴ Commission on Human Rights - Report on the situation of human rights in Rwanda submitted by Mr. René Degni-Ségué, Special Rapporteur, U.N. Doc. E/CN.4/1997/61 of 20 January 1997, para. 25.

Dubravko Lovrenovic, a professor of history at the University of Sarajevo, has recalled a voice which euphorically told him by phone on the eve of the war: "It is now our turn to write history."⁴⁵ Writing history to describe to *both* Tutsi and Hutu children what happened in Rwanda, how and why, will inevitably be as difficult as it is important. The emergence of truth commissions has played a pioneering role in quite a few countries by re-writing recent history, often negotiating a history that can be accepted by the victims and their victimizers, by the oppressed and their oppressors. More than fifty years after the end of the Second World War, the pre-war history is being re-written throughout Europe.

Moreover, the role of education in conflict-generation is seldom portrayed in history textbooks. They tend to remain confined to consequences, especially violence, while keeping silent about the myriad of factors which generated and facilitated the underlying conflicts. Box 11 highlights two facets of education in Sri Lanka – its previous role in segregating Sinhalese and Tamil children and its potential role in creating a bridge between the communities.

Sierra Leone has provided a blatant example of the contribution which education has provided to spawning warfare, as illustrated in Box 12. The initial enthusiasm for mass education at independence soon gave way to the

institutionalization of inequality. Mass enrollment at the beginning of primary school did not lead to mass persistence throughout primary and secondary education to continue at the university and education was slanted towards the interests of the narrow elite whose children actually made it all the way up to the university. Frustrated expectations of early school leavers – especially boys – have been shown to lead to criminality, violence and warfare. Their abandonment by the system of education to their own fate was accompanied by the paucity of lawful methods for securing livelihood and the attraction of pursuing unlawful ones with impunity. The abundance of bad models to imitate and the absence of good ones made the choice of many adolescents a foregone conclusion. The neglect of adolescents, highlighted in Sierra Leone, has been an unintended consequence of the priority for primary education in global education strategies as of the 1990s and will hamper efforts at peace-making unless it is reversed.

An important obstacle to universalizing the right to education is a view that education is not indispensable for human survival nor required for subsistence, that families can function with children labouring rather than learning. The absence of education for victims of armed conflicts and disasters dooms them to remain recipients of assistance while preventing them from becoming self-sustaining. Water, sanitation, medical services, shelter, clothing and food constitute the 'survival package' which is offered through humanitarian relief. Including education in this package is a development of the 1990s, but overcoming the previous 'ideology of survivalism' has yet to become institutionalized.

⁴⁵ Magas, B. – *Question of Survival. A Common Education System for Bosnia and Herzegovina*, Seminar organized by the Bosnian Institute, London, and held at St Anthony's Monastery, Sarajevo, April 1998, The Bosnian Institute, London, 1999, p. 43.

Box 11

Fence or bridge between communities? Two faces of education in Sri Lanka

Since the 1970s, history has not been taught as a separate subject, but incorporated into the social studies curriculum. In Sinhala-medium schools the texts used for teaching Buddhism, Sinhala language and social studies were found to contain the most damaging messages for ethnic relations, conveying negative images of Tamils and the historical enemies of the Sinhalese and celebrating ethnic heroes who are presented as having vanquishes Tamils in ethnic wars. In Tamil-medium schools ethnic antagonism was not conveyed in the school texts themselves, however. Government textbooks do not contain anti-Sinhala attitudes. Texts used in teaching Hinduism and the Tamil language are mostly monocultural in content, with very few references at all to the Sinhalese or other ethnic groups. Social studies was the subject in which prejudice was most strongly conveyed, despite the fact that Tamil-language social studies texts themselves contain primarily a Sinhalese version of Sri Lankan history.

In Sinhala-medium schools, a considerable amount of history is taught in the Buddhism curriculum. It emphasizes Sinhalese confrontations with Tamils in defence of Buddhism. Teachers of Buddhism generally supported such use of history. They felt it important for their students to know about 'struggles that the leaders of the country undertook to preserve the faith.' Positive lessons from history are not included. No attempts are made to teach about the contributions that certain Tamil kings made to Buddhism, or the links that existed between Sri Lankan kingdoms and Buddhist centres in south India, for example.

In the case of social studies teaching in the Tamil-medium, ethnic prejudice and antagonism was conveyed despite its absence in the school textbooks themselves. Tamil teachers and students alike saw the official history contained in the textbooks as erroneous, but necessary for passing exams. In addition to the official history, Tamil reinterpretations were taught and discussed

which conveyed a reverse image of the same long history of conflict.⁴⁶

"Just as much as Tamil is my mother tongue I want Sinhala to be my father tongue. To be clever, I must know English too," says 14-year-old Siva from one of Sri Lanka's tea-growing estates. His personal language plan, and ployglot optimism, is evidence that Sri Lanka's attempt to heal decades of bitter language politics through trilingual education is bearing fruit. Yes, there are few countries in the world where the consequences of government language policy have been so serious and so disastrous.

After independence in 1948, Sri Lanka embarked on a remarkable roller coaster of language politicisation. In 1956 Prime Minister SWRD Bandaranaike's government made Sinhala the sole official language. Through the 1960s Tamil objections to the Sinhala Only policy eventually established the 'right to an education' in the two national languages, but also segregated the school system.⁴⁷

⁴⁶ Nissan, E. – *Sri Lanka: A Bitter Harvest*, Minority rights Group International, London, 1996, p. 36.

⁴⁷ Bianco, J.L. – Sri Lanka's trilingual peace, *Learning English Supplement, Guardian Weekly*, November 1999.

Box 12

The role of education in spawning warfare Sierra Leone

Arguably, the most negative aspect of Sierra Leone's elitist system of education has to do with a complete failure to cater for those who do not make it within the system. School drop-outs are simply not provided for in any serious or meaningful way. Thus, those who do not survive and rise to the top of this narrow and competitive system simply become the 'forgotten aspirants' in a very elitist educational process.

In situations where only a tiny minority can get a complete and reasonable quality education, the price of ignorance weighs more heavily on those who have some schooling than those who never had access to school. This creates considerable frustration in the semi-schooled population of 'forgotten

aspirants', which in turn could serve as a time-bomb waiting to explode. It is not surprising therefore to find 'forgotten aspirants' playing a role as combatants on both sides of the rebel war in Sierra Leone.

Because of the demonstrated impact of education in promoting social mobility in newly independent Sierra Leone, wrong signals have been sent to the subsequent generations. This has given rise to unrealistic expectations about what can be achieved by virtue of mere school attendance and certification. At independence in 1961, the drive for indigenisation meant that nationals with little more than secondary level qualifications were catapulted to top positions. Later, the new and expanding

population of university graduates were guaranteed high-level jobs regardless of specialisation. Most secondary school graduates could also be certain of reasonable jobs within the public sector.

When economic growth and job creation began to lag behind output of universities and schools, reality dictated that educational qualifications per se could no longer be a guarantee of any job, much less top level jobs. Unfortunately, expectations continued to fly in the face of this new reality. The belief that schooling leads to good jobs could not be questioned. Hence a strong sense of delusion persisted amongst learners that society owes them something once they have gone through the education system.⁴⁸

⁴⁸ Wright, C. – Reflections on Sierra Leone, in: Tawil, S. (ed.) – *Final Report and Case Studies of the Workshop on Educational Destruction and Reconstruction in Disrupted Societies, 15-16 May 1997, Geneva, organized jointly by the International Bureau of Education and the University of Geneva*, Geneva, 1977, p. 21-22.

1.5 “Education equals the right to education”

Historically, education was defined in many different ways but not as a human right and this heritage colours domestic laws and policies in most countries. Religious schools combined proselytizing with literacy, compulsory education later became a duty rather than a right of the child. And yet, getting all children to school is still mistaken for their right to education, although they can be brainwashed, indoctrinated, abused, harmed for life. All rights of the child apply to education and in education. If they do not, human rights will not be achieved through education.

A great deal of attractive rhetoric about integrating (the popular term is ‘mainstreaming’) human rights education into all education has been generated during the past decade. Teachers are expected to be its conveyers in school, while parents are expected to send their girls to school because it is – in theory – an excellent idea. Bridging the abyss between theory and practice necessitates looking far beyond education to identify *all* factors which hamper girls’ education.

The girls’ right to education is inextricably linked with the rights they can gain through education, but these lie beyond education strategies. A glimpse into detrimental effects of formal schooling on the girls’ marital prospects in Uganda and Nepal, in Box 13, demonstrates the need for mainstreaming all human rights in education strategies. The intrinsic value of education, which is so optimistically assumed in all international strategies, clashes again social norms which confine girls to early marriage, negotiated between their parents and those of the prospective bridegroom. The price

which a girl can fetch, for the Karimojong in Uganda, is reduced if this girl has gone through formal schooling. The price which the girls’ parents have to pay to the bridegroom’s family, as lamented by a Nepali mother, increases with the girl’s formal schooling.

It is easy to ignore these real obstacles to the schooling of girls because they are assumed to have been eliminated, that all the rights have already been recognized for all women and girls. Human rights instruments are, as the term ‘instrument’ indicates, tools which ought to be used to secure equal rights for girls. Trying to promote the girls’ right to education without heeding the obstacles to their right to marriage or property diminishes the value of the girls’ education for their parents, thus closing off an obvious road towards change. The advantage which human rights have over the fragmented visions of advances which can be made in isolated areas, such as education, is considerable. The human rights approach forces designers of development strategies for whatever isolated sector to look at *all* human rights and fundamental freedoms.

A large number of articles of faith accompanies schooling for girls. Primary education for girls aged from six to eleven is expected to delay marriage, lower fertility, improve the health of the next generation. It is a counterintuitive argument that eleven year old girls, after merely five years of schooling, would not marry and bear children since there usually there is no alternative for them.

Education of girls requires much more than getting girls into schools – it necessitates altering gender roles. The prospects which girls have *after schooling* influence the

Box 13

Pitfalls of reductionism: The price parents pay for having schooled their daughters

In Uganda, the Moroto district Assistant Chief Accounting Officer Abdul Aziz has depicted education as an obstacle to the girls' marital prospects: "Educated girls do not fetch the 100–120 head of cattle for bride-price. Myth has it that education turns them into prostitutes, they lose virginity which is culturally treasured." On average an educated Karimojong girl fetches bride-price as low as 5–10 cows.⁴⁹

Sukhiya Yadav of Armani village in Rautahat district in the Tarai [in Nepal] has four daughters and two sons. She married off her

three daughters before they were 12 to avoid having to pay a high dowry price (*lilak*). Times changed, and seeing other people in the village sending their daughters to school, Sukhiya wanted to educate her youngest daughter. So she enrolled her little girl along with her son in the local primary school. Now the daughter is 14 and has passed the fifth grade. But this is not a proud moment for the mother, who is constantly worried about her daughters's future. Sukhiya's daughter has passed the primary level but cannot continue going to school because the secondary school is far away and it is not proper for an

adolescent girl to be sent such a distance. And her marriage will be a very expensive proposition because it takes more dowry to get older girls married. Sukhiya is not sure any more whether she did the right thing by sending her daughter to school.

"In my zeal to educate my daughter I have brought devastation to my family because now I'll have sell off all my land to pay the *lilak* for her wedding. If only I married her off before sending her to school."⁵⁰

attractiveness of schooling for the girls and for their parents. These prospects are determined by the ability of girls and women to exercise all their human rights – from equal political participation and representation, to equal access to bank loans. It is by focussing on the gender dimensions of education that we learn how much change is needed to transform education into rights-based education.

⁴⁹ Kakembo, T.W. – Karimojong choose pen over virginity, *The Monitor* (Kampala), 29 June 1999.

Frank Dall has pointed out how detrimental "the classroom-centred model designed to service a pre-industrial European society" has been.⁵¹ One visible feature of this model are square schools, even if all huts around them are

⁵⁰ CWIN, *Voice of the Child Worker*, Issue No. 24, March 1995.

⁵¹ Dall, F. - Education and the United Nations Convention on the Rights of the Child: The challenge of implementation, *Innocenti Occasional Papers*, Child Rights Series No. 4, Florence, November 1993, p. 40.

Box 14
Making education relevant is not easy

Sixteen years of good work in vain. This is the most brutal interpretation of an evaluation report on one of FINNIDA's [Finland's International Development Agency] longest standing programmes in Africa.

The project, which cost FINNIDA more than FIM 30 million during 1974–1990, aimed at establishing practical subjects such as carpentry, woodwork and leatherwork in all upper primary schools in Zambia. It was launched following the Zambian education authorities' drive to

provide practical education to all pupils to balance the theoretical subjects. Since most Zambian students are unable to continue their education beyond primary school, the plan didn't sound far-fetched as the mastering of practical subjects would have offered them at least a basis for employment.

Perhaps the saddest thing about the project is that it failed despite good and professional input from the FINNIDA project staff because the whole concept was based on totally wrong assumptions.

The weakness in the project concept stemmed from the fact that FINNIDA and the Government of Zambia worked on the assumption that the parents would welcome the opportunity for their children to learn such useful skills, whereas in fact their priority aim was for their children to pass examinations in academic subjects and to progress to relatively well paid office jobs. They saw practical subjects as either irrelevant or even as an obstacle.⁵²

round. There must be schools whose size and shape fits the environment, but the iron rule of school-building is to make them square. Building schools is usually the first step towards providing education for children, although there is no evidence that the building itself, expensive as it may be, has any effect on children's learning. School uniforms constitute a considerable expense for parents and, again, no association with children's learning has even been established. Taking children away from their family for full-time schooling – especially girls – has often proved impossible but it was only in the 1990s that adjusting the time-table to children's lifestyle started prevailing over the conventional

idea of full-time schooling, away from home, with a schedule designed for industrialized countries, and with expectations to match.

Box 14 illustrates how things can go wrong when good intentions – *vocationalizing* education so as to make it relevant for African children – clash against expectations based on previously imported models of schooling. Vocational education is twice or even four times more expensive than general education and, when given *instead* of general

⁵² Harsh criticism of FINNIDA education programme in Zambia, *Development Today*, vol. 5, No. 2, 8 February 1995.

Box 15

Memorizing, memorizing, memorizing: Agonies of 13-year old schoolboy

Early morning. Seven o'clock. My mother comes into my room the third time, saying: "Common Adnan, get up, it is a full half-hour that I have been trying to wake you up." Her words are mixed up with my dream. I am facing the classroom being quizzed on Europe in the middle of XIX century. Panicking about the grade, I am trying to remember the year when the war between France and Prussia broke out. In another sequence, I am in the midst of writing a mathematics test to discover that I cannot cope with a single question. I am mixing up Pythagorean theorem with Archimedes's law, the capitals of Zimbabwe, Burkina Faso and Ethiopia are intertwined with the names of animals living in Mediterranean rocks, and it is dawning on me that carp lives in deep sea, that the core of the atom is

composed of deoxyribonucleic acids, while electrons circle around the core.

I got up. While washing my face and looking at myself in the mirror, I see a pale child's face with big, dark blue circles under my eyes, even to myself I look like a zombie from horror movies.

While looking at the dark circles under my eyes, I am not certain whether others may beat me in knowing better the number for oxygen in the table of chemical elements, the valence of magnesium, calculating faster the circumference and the surface of a circle, or stating that the Panama Canal connects Atlantic with Pacific.

I got dressed, half awake, and it occurred to me that I am scheduled for being quizzed in Bosniac today, and I am desperately trying to remember which

prepositions may be used in subordinate conjunctions. I brushed my teeth and am packing my school-bag, my head is bursting. Leaving my bedroom, I cast the last fond look towards my bed. It is tempting me to come back to it so that it could embrace me with its duvet as it did last night. My thoughts are interrupted by the bell. It is my school mate. While tying up my shoelaces, I am in deep thought. He is in the same situation I am in, and, nevertheless, I am better than he is. I am better than them all, the best. If I am terrified, how is it for the others? These are questions I am asking myself every morning. Everything is revolving around my head, every morning is the same. I wake up petrified with fear, and I go to bed petrified with fear, thinking whether I will get a second chance with Bosniac and be able to better prepare.⁵³

⁵³ Thoughts of a 13-year old about the school system in Bosnia and Herzegovina, Adnan Sakic, VII/2, Primary school Musa Cazim Catic, Sarajevo, text at www.saray.net/skola, 14 September 1999.

education, which parents see as the ladder leading their children to white-collar jobs, tends to become seen as a problem rather than a solution.

Many adults recall their school days as exercises in futility, when they were forced to memorize the names of national heroes, the dates of important battles, the exact length of rivers. Ronald Dore caricatured education in 1976 as “ritualistic, tedious, suffused with anxiety and boredom, destructive of curiosity and imagination; in short, anti-educational.”⁵⁴ It must be incomprehensible to children why we are forcing them to learn exactly the same things which we neither enjoyed nor found useful ourselves, except for passing exams. Much as the aims and purposes of education are beautifully defined in theory, the practice for most children is drudgery and they alternate from voting with their feet and truanting or going through the ritual of memorising masses of useless data and hating it.

Their right to question and challenge is not theirs, except in theory. Their voice is seldom heard. A boy aged 8 has feared becoming “the smallest unclever” in his family and pursued memorizing things which he found “very boring.”⁵⁵ A Bosnian boy aged 13 has agonised over the muddle in his head created by having to memorise all the varied information which the syllabus has inflicted upon him, as Box 15 illustrates, and has pursued as well. Their own experience is likely to result in their

⁵⁴ Dore, R. – *The Diploma Disease: Education, Qualification and Development*, George Allen & Unwin, London, 1976, p. ix.

⁵⁵ Cullingford, C. (ed.) – *The Politics of Primary Education*, Open University Press, Buckingham, 1997, p. 63.

inflicting the same kind of drudgery upon *their* children. Giving children a voice while they are still at school would make all the difference, as the Convention on the Rights of the Child anticipates. School should be child-friendly, based on the right of the child “to be curious, to ask questions and receive answers, to argue and disagree, to test and make mistakes, to know and not know, to create and be spontaneous, to be recognized and respected.”⁵⁶ The enormity of the task embodied in this vision clashes against the reality of schools that may be grappling with the lack of running water and sanitation, with the incompatibility of the school timetable with family and community life, with violence against and among children, with curricula and syllabi that force children to spend their schooling years constantly fearing that they will mix up the masses of information which they are forced to memorize.

1.7 “Investment in human capital is the key”

From the human rights viewpoint, education is an end in itself rather than merely a means for achieving other ends. Some economists, such as Alain Mingat, define education as efficient production of human capital and its purpose is then structuring “the supply of qualified people over a long period of time to make it more in line with economic demands.”⁵⁷ A

⁵⁶ Hammarberg, T. – A School for Children with Rights, *Innocenti Lectures*, UNICEF International Child Development Centre, Florence, 23 October 1997, p. 19.

⁵⁷ Mingat, A. – The strategy used by high-performing Asian economies in education: Some lessons for developing countries, *World Development*, vol. 26, 1998, No. 4, p. 697 and 700.

Box 16

Why people should not be labelled as *capital* or *resource*?

Is the recognition of the role of “human capital” adequate for understanding the importance of what has been called “human development,” to wit, the development of the capability of people to do the things they have reason to value and choose? There is a crucial difference here between means and ends. Seeing human qualities in terms of their importance in promoting and sustaining economic growth, significant as it is, tells us nothing about why economic growth is sought in the first place, nor much about the role of enhanced human qualities in making it directly possible for us to lead freer and more fulfilling lives. If an expansion of educational facility or health care increases labour productivity and thus the income level, the

perspective of “human capital” would give it immediate recognition. But if that expansion adds directly to the length of our lives, reduces our ailments, and makes us happier and more fulfilled *without* changing labour productivity or increasing commodity production, then that achievement would simply not get the recognition it deserves.

There is, thus, something of substance that is missed in the much-used perspective of “human capital.” The same applies, I am afraid, to the concept of “human resource development,” if it is narrowly interpreted as the improvement of human beings seen as a resource for further development. Being educated, being more healthy, and so on, expand our lives *directly* as well as *through*

their effects on making us better resources for further production, thereby expanding our productivities and incomes. To correct what is missed in the narrower perspective of “human capital” and “human resource development,” we need a broader conception of development that concentrates on the enhancement of human lives and freedoms, no matter whether that enhancement is – or is not – intermediated through an expansion of commodity production. Human beings are not only the most important *means* of social achievement, they are also its profoundest *end*. Being a fine piece of capital is not the most exalted state that can happen to a human being.⁵⁸

definition of people as human capital obviously differs from defining people as subjects of rights.

The contrast between the human-rights and human-capital approaches is best illustrated taking children with physical and learning disabilities as example. They may be excluded from school because providing wheelchair access might be deemed too expensive or their learning deemed

not to yield a sufficient marginal return on investment. This type of reasoning obviously challenges the very assumption of human rights, namely the equal worth of all human beings.

⁵⁸ Sen, A. – Human development and financial conservatism, *World Development*, vol. 26, 1998, No. 4, p. 734.

Human capital is commonly defined as the sum of economically relevant attributes (knowledge, skills, competences) held by the working-age population. A human rights response ought to be forged lest the postulate of the International Labour Organization that labour is not a commodity risks falling into oblivion. Furthermore, accepting underlying market value of human capital risks turning upside-down the idea that economy should serve people rather than the other way around. Amartya Sen's opposition to labelling humans as 'capital' or resource' is excerpted in Box 16.

Theodore Schultz examined in 1962 risks embodied in an imbalance between non-human capital, such as land and physical capital, and human capital, which meant a healthy and educated population at the time. Schultz advocated investing in people so as to raise their capabilities.⁵⁹ The literature on human capital has evolved in the past decades from the relationship between education and income, focussing on the economic value of schooling and/or the rate of return on schooling, especially private, to then affirm 'the productive utility of human knowledge.'⁶⁰ This is only one out of many purposes of education. Such reductionism precludes defining education in terms of the full development of human personality, frustrating the very foundations for human rights education which require sharing knowledge rather than trading it and co-operating rather than competing.

⁵⁹ Meier, G.M. – *Leading Issues in Economic Development*, Oxford University Press, New York, 1995.

⁶⁰ OECD – *Measuring What People Know. Human Capital Accounting for the Knowledge Economy*, Paris, 1996, p. 22.

The human-capital approach moulds education solely towards economically relevant knowledge, skills and competences to the detriment of human rights values. Education should prepare learners for parenthood and political participation, it should enhance social cohesion and tolerance and, more than anything, it should teach the young that all human beings – themselves included – have rights. A *productivist* view of education depletes it of much of this purpose and substance.

The human-capital approach has, however, revealed the importance of public investment in education as well as disparate prospects for attaining knowledge-based economies. The current international priority for basic education has led to a halt in financial support for post-basic education. This fares ill against findings that the foundation necessary to enable individuals 'to build up their human capital' is upper-secondary education.⁶¹ Moreover, without secondary and university education, what education will teachers have so as to be able to teach children?

1.8 "Teachers are merely an education-production-factor"

Designing rights-based education necessitates eliminating barriers which keep human rights separated from education. It is not only parents and children but also teachers who have rights. The status of teachers can be forgotten in education

⁶¹ OECD – *Human Capital Investment: An International Comparison*, Paris, 1998, p. 93.

strategies and it often is. It is much too easy to define teachers as a production factor in the manufacturing of human capital and forget that they are people with rights. (Besides having much to say about education.) Probing into the teachers' fate can reveal that neither their labour rights nor their trade union freedoms are recognized and that their salaries are much too low to enable them to teach as they have to combine three or four full-time jobs to be able to feed their families.

Although it is possible to imagine schooling taking place without schools but not without teachers, the attention to schools and textbooks in international education strategies is immense while they are relatively silent about teachers. René Prével, the President of Haiti at the time, thus described the quality of the teaching profession in 1997:

This year, we have had a success rate of about 10% in our *baccalaureat* results. In parallel, we made 1,500 teachers sit exams. Only 400 of them were able to put ten words in alphabetical order and just 41 were able to list ten fractions in increasing or decreasing order.⁶²

Against this facet of Haiti's reality, recent ideas about replacing humans by technological devices may not materialize or may not prove beneficial if they do materialize. For schooling that takes place without a school, water, sanitation, desks and chairs, books, blackboards, pens and paper, a teacher makes all the difference and the absence of a teacher prevents schooling

⁶² Goutier, H. – President of last resort. Interview with René Prével, *The Courier*, No. 161, January-February 1997, p. 40.

from taking place. For teenagers in the OECD countries who have replaced socialization by surfing the web, there is no evidence claiming benefits for their social skills, tolerance or even basic literacy. Box 17 highlights some of the doubts about usefulness of expecting a technological magic bullet for teaching and learning.

The advantage of teaching being labour-intensive is that employment of large numbers of people is possible – necessary – to educate the millions of children and young people in the world. Since teachers are locally trained, hired and paid, the additional benefit is that there is no need for foreign exchange, different from schools or schoolbooks that may be provided through loans which ought to be repaid. It seems, however, that instead of being seen as an actor indispensable for schooling, teachers may be perceived as an enemy of their own vocation.

One reason for viewing teachers as a burden rather than asset is the proportion of education budgets allocated to teachers' salaries. In a country where school-age children represent one third of the population, a ratio of one teacher per every fifty children makes teachers 0.6% of the population. As there is little besides teachers in the schooling process in many poor countries, teachers salaries necessarily form the bulk of the education budget. The consecutive crises through which education has passed in the recent decades triggered a constant search for cutting down education budgets. Because teachers' salaries constitute the bulk of education budgets, they were the obvious first target for budgetary cuts and an ideological rationalization has followed.

The protection of human rights of teachers sometimes slips into oblivion if teachers are defined as an education-

Box 17

No magic bullet: *Webucation* may not be such a good idea

What's wrong with computers in classroom?

They can hurt children's personal skills, work habits, concentration, motivation, the development of social skills and also I think that they can stand in the way of mental development because so much of the software has been designed by techies aiming to sell, not child development specialists trying to educate. What you end up with are very consuming and mindless games. This often takes place at critical periods of mental development when kids need to interact with human language in

social settings. They need to learn to use their own brains creatively and imaginatively and independently instead of being run through a series of tricks by a software program.

Where were all these millions wasted?

People are putting computers into school buildings that are literally falling apart. I have seen banks of computers that couldn't be hooked up because the walls are so old that they are unable to run wires through them.⁶³

Never mind Internet access; many village schools have to close in winter for lack of heat and electricity. Children used to be fed two or three meals a day by the schools, now they get nothing. Hungry children, teachers passionately point out, find it hard to concentrate.

Teachers are little better off. Their salaries, particularly in Ukraine and Moldova, often go unpaid and, in any case, rarely exceed \$50 a month. Supplies are often pitiful, with books and equipment dating from the Soviet period.⁶⁴

production-factor rather than being treated as people. The applicable international human rights standards are many because the problems teachers encounter are complex and multi-layered. They range from the application of the internationally prohibited grounds of discrimination to teachers' recruitment and deployment, to the protection of their professional and academic freedom, or to the role of teachers in human rights education. Problems in enforcement have ranged from the teachers' status as civil and/or public servants leading to the denial of their trade union freedoms, or a definition of teaching as an essential service leading to the denial of their right to strike.

The expectations upon teachers to integrate human rights education throughout the curriculum, against the background of denials of their own rights, demonstrate why human rights are indivisible. Acknowledging that all human rights ought to be recognized and protected clashes, however, not only against human-capital approaches but also against the trust in democracy as a substitute for human rights.

⁶³ Cramptom, T. – A shortsighted fad: Interview with Jane Healy, *International Herald Tribune*, 16 October 2000.

⁶⁴ Poverty in Eastern Europe, *The Economist*, 23 September 2000.

1.9 “No need for human rights as a corrective for democracy”

Without human rights correctives, resource allocation in education looks pretty much the same worldwide. Most money goes to universities, whose learners are the most expensive to school, the fewest in number, and the most likely to pertain to the country’s elite. Box 18 illustrates some facets of this pattern. Abraham Kinfe had this to add regarding the allocation of funding within the university: “At Dakar University there is no faculty of agriculture, while the study of French literature and culture is accorded high prestige and priority. It was not until 1979, nineteen years after the independence of Senegal, that the first school of agriculture was established.”⁶⁵

The lack of political voice of primary-school children, especially in rural areas, makes the allocation of funds for education a foregone conclusion, as Box 18 illustrates. University students are present in national capitals, politically articulate, and regularly come from the wealthiest segment of the population. The language of rights effectively favours university students and fits into the paradigm depicted by Massimo Cacciari through his *homo democraticus*,⁶⁶ who has all the rights but no corresponding duties, is unwilling to accept any limitations upon his freedom, including freedom of spending to

⁶⁵ Kinfe, A. – The missing millions, South, December 1989, p. 131.

⁶⁶ Cacciari, M. – L’invenzione dell’ individuo, *Microméga*, Suppl. No. 5, 1995, pp. 121–127.

satisfy all his desires, easily setting aside the needs of the next generation because they do not have a political voice.

Low budgetary allocations are typical for categories that lack a political voice hence human rights law strives to alter this pattern by remedying the lack of political voice through bestowing legal rights. Primary school children cannot form a political party, get elected to parliament and secure budgetary allocations for themselves. International human rights law requires progressive realization of the right to education where primary education ought to be made free of charge, and this should gradually extend to post-primary and, ultimately, university education. This approach is known as progressive realization and is exactly the opposite to results of political processes taking place in the absence of human rights correctives. Retrogressive realization of the right to education then provides those at the very top of the education pyramid with most funding while ultimately precluding those at the bottom – the youngest – from even getting started.

The proportion of children in the northern part of the world is small and their parents can secure funding for education by combining their political voice with paying tax. In Africa, children constitute the majority of the population but obtain a vote after becoming adults and joining the minority who has the right to vote. Few of their parents pay tax, many because they earn too little, and their vote seldom affects budgetary allocations, often because there is too little to distribute after foreign debt has been serviced. Children’s right to education thus goes beyond national and regional borders, it is universal and addresses governments collectively. It also

Box 18

Right-less children: Prioritising funding for universities

Aid to Africa:

Of the total US\$1.3 billion provided in education aid to Sub-Saharan Africa in 1980, 34% went to higher education whereas only 7% went to primary education.⁶⁷

Zambia:

Within education, 17% of the budget is being allocated to support welfare and tuition costs of 3,000 university students, while 1.6 million primary students received 60% of the budget. As a result, government spending in primary

school is \$22 per pupil. Households spend a further \$17 per pupil on average ...

Teachers are underpaid, poorly prepared and deployed, trained in insufficient numbers and provided with little support in schools. At a starting salary of about \$660 annually teachers are paid less than university students get for their meals and almost 25% below the CSO (Central Statistical Office) estimate of poverty line for a household with two adults and four children.⁶⁸

South America:

Education as a sector seems to have declined as a political priority, even in countries such as Costa Rica and Venezuela in which it has a fundamental component of the political project of democratization. Basic education saw an average expenditure cut of 4.8% per year between 1980 and 1987, while for higher education the annual decline was only 0.25% during the period.⁶⁹

highlights what an abyss there is between democracy and human rights, which have erroneously become treated as they were one and the same.

The absence of an enforceable claim upon governments to allocate a specific amount to education highlights the need to focus on the procedure whereby allocations are decided upon. Human rights are seldom costed because human rights standards do not determine how much should be spent on specific items, but define substantive and procedural human rights standards; the latter encompass the process of decision-making. Exercise of political rights thus becomes the necessary instrument for attaining economic and social

rights, imposing upon those who exercise them a duty towards others. University students are politically vocal, primary school age children are not, and the latter can easily

⁶⁷ Kinfu, A. – The missing millions, South, December 1989, p. 131.

⁶⁸ The World Bank – Program appraisal document on a proposed credit to the Republic of Zambia in support of the first phase of the Basic Education Sector Investment Program (BESSIP), 5 March 1999, Report No. 19008 ZA, pp. 1 and 4.

⁶⁹ Reimers, F.M. – *Education, Adjustment, and Democracy in Latin America*, Development Discussion Paper No. 363, Harvard Institute of International Development, Cambridge, Massachusetts, 1990.

be neglected in the allocation of resources. The proverbial preference for university students in budgetary allocations within education (in the extreme exceeding up to one thousand times the allocation for primary education) vividly illustrates the necessity for introducing the human rights rationale throughout the process of resource allocation, from global to local.

1.10 “Children are ours; and so are their rights”

As adults we should (but never do) acknowledge that we routinely abuse our power over children. International human rights law affirms the parental choice for education of their children, but requires states to constrain it where this choice jeopardizes the best interests of the child. This postulate has yet to be translated into practice. A visiting Martian would have a great deal of difficulty understanding what the humanity, as species, is really trying to do. In one country we are expelling girls from school because they are wearing a headscarf, in another we are precluding them from access to school because they are not wearing a headscarf. Nobody would be able to persuade such a visiting Martian that we really care about our children’s education or about their rights.

Assuming that advancing human rights is easy clashes against conflicting rights, as is often the case with parents and children. In a rare case where a child, sixteen years old, has been accorded the right to challenge parental disagreements about the choice of school for her, justice Dalcq in Bruxelles has acknowledged that the best interest of the child should

prevail. The case involved a girl whose divorced parents disagreed as to which school she should attend. The girl had ultimately refused to attend the school chosen by the mother (who exercised parental rights) and ended up attending no school, to then legally challenge the mother’s attempt to force her to attend the school which her mother had chosen.⁷⁰ The child’s choice of school was judicially vindicated so as to prevent further jeopardy of the child’s right to education.

An implicit agenda of schooling may be to keep children conformist and deferential, forcing them to kneel when addressing adults, training them to recite the official dogma without allowing them to ask questions, getting them to accept physical punishment for faults which children often cannot even understand. A textbook for Christian religious education used in East Africa highlights obedience as the explicit purpose of education: “At school we have to obey people who are not our parents and this is real preparation for life.”⁷¹ An excerpt from a textbook on children’s accounts of their childhood, used by fifteen year old Ugandans in the 1970s, describes the fearful, uncomprehending obedience which was instilled through schooling:

Children were trained from their earliest years to be respectful, obedient and mannerly, these being the

⁷⁰ Tribunal de Bruxelles – *A.M. (16 ans) v. K.N., O.M. et l’asbl Institut d’enseignement secondaire général La Retraite du SacréCœur*, 98/1510/c, 3 février 1999.

⁷¹ Boisvert, R. and Muthee, C. – *Children of God. Christian Religious Education for Standard 7*, Teacher’s Edition, Oxford University Press, Nairobi, 1991, p. 101.

standards by which adults became acceptable in society. All parents, and fathers in particular were very stern with their children who in any way departed from such standards. Furthermore the punishment for children who misbehaved, however harsh, had to be accepted without question or complaint. Thus the children, respectfully submissive, learned to fear their fathers as harsh and severe. Strong feelings of dislike though dutifully suppressed were very frequently mixed with this fear.⁷²

Inculcating obedience easily leads to children's following orders without questioning them, especially when punishment accompanies failure to do so. Corporal punishment socializes children into accepting violence, and the combination of obedience and violence easily makes them ideal child soldiers.

The curriculum is often design to accommodate what the closely involved adults, principally parents and teachers, are comfortable with rather than what children need and nominally have a right to get. There are few explicit assertions of children's right to learn about sexuality in school, a rare example was included in the Children's Charter, which was adopted on 1 June 1992 by the Children's Summit of South Africa. It posited that all children had the right to adequate education on issues such as sexuality.⁷³

⁷² Dagenais, R. and Mackay, C. – *Christians and the Holy Spirit. Pupil's Book, Primary 7*, Uganda Joint Christian Council, Kampala, 1976, p. 32.

⁷³ The Children's Charter of South Africa, Pretoria, June 1992, Article 8.

This was a courageous and immensely ambitious statement, at odds with the adults' proverbial intransigence regarding children's access to sex education. The 10-year United Nations Girls' Education Initiative, launched at the Dakar Education for All Forum in April 2000, requires a great deal of human rights input in responding to the Secretary-General's challenge to empower girls to protect themselves against HIV/AIDS:

Prevented from going to school, [girls] are denied information about how to protect themselves against the virus. Without the benefit of an education, they risk being forced into early sexual relations, and thereby becoming infected. Thus, they pay many times over the deadly price of not going to school.⁷⁴

There is no need to point out how controversial human sexuality, an inevitable part of HIV/AIDS-education, has been, and how much effort is needed to design and put into practice educational modules acceptable to all relevant actors. Progress is evident from the attention paid to children's right to obtain knowledge necessary for their self-protection, which has replaced the silence of the past decades.

Education law has traditionally treated children as objects of education, specifying the rights of parents, teachers and the state. The affirmation of the rights of the child has not yet

⁷⁴ The address by Kofi Annan, Secretary-General of the United Nations, launching the Girls' Education Initiative at the World Education Forum on 26 April 2000, mimeographed.

been accomplished in most countries. There is a welcome move in this direction, which prioritizes the best interests of the child as a step towards child's rights. The Supreme Court of Canada has affirmed that restraint should be exercised by adults, particularly parents, in order to mould education towards the best interests of the child:

[F]or a child who is young or unable to communicate his or her needs or wishes, equality rights are being exercised on his or her behalf, usually by the child's parents. Moreover, the requirements for respecting these rights in this setting are decided by adults who have authority over this child. For this reason, the decision-making body must further ensure that its determination of the appropriate accommodation for an exceptional child be from a subjective, child-centred perspective, one which attempts to make equality meaningful from the child's point of view as opposed to that of the adults in his or her life. As a means of achieving this aim, it must also determine that the form of accommodation chosen is in the child's best interest.⁷⁵

The Supreme Court of Colombia has taken this rationale one step further, holding that school children should have the possibility to express their personality. It was examining a case involving a boy, who had been wearing an earring in class,

⁷⁵ Supreme Court of Canada – *Eaton v. Brant County Board of Education*, [1997] 1 S.C.R., 241, para. 67.

whereupon the teacher commented that this earring suggested that the boy was a homosexual. The Court faulted the teacher's inappropriate behaviour and insisted that relations between pupils and teachers should be altered:

The subjects of the educational process are not divided into passive recipients of knowledge and active depositories of wisdom. The constitutional principle which guarantees the free development of personality and the right to participate in the educational community have transformed the learners into active subjects who participate in education through their rights and duties The relation pupil-teacher is not based upon the authority which the teacher can exercise as the ultimate depository of wisdom or through his hierarchically superior position, but rather upon reciprocal respect of the subjects of the educational process with the same possibility for free expression, under the sole condition of not jeopardizing the rights of others or the just order.⁷⁶

The most far-reaching interpretations of the rights of the child have focussed on children with disabilities. These overruled the previous exclusionary approach, whereby children had to fit into the existing schools and, if they could not, remain out-of-school or be segregated into special schools. Children relying on wheelchairs for their mobility could not access schools which were built without access for wheelchairs. Children unable to

⁷⁶ Supreme Court of Colombia – Judgment T-259 of 27 May 1998.

conform to criteria of linguistic proficiency or successfulness in testing were segregated into special schools. A veritable conceptual revolution has been created by turning around such premises, whereby the school had an implicit right to turn away the child because the child did not fit. Affirming the best interests of each child, and gradually equal rights of each child, has reversed the premises for decision-making – it is the school which has to adapt to the child, not the other way around.

The German Federal Constitutional Court has affirmed the need to design specific solutions through explicitly balancing all pertinent human rights dimensions:

The current state of pedagogical research does not indicate that a general exclusion of disabled children from integrated general schools can be constitutionally justified. Education should be integrated, providing special support for disabled pupils if required, so far as the organizational, personal and practical circumstances allow this. This reservation is included as an expression of the need for the State to consider all the needs of the community in carrying out its duties, including the financial and organizational factors.⁷⁷

... And moving to the right to education

There are grounds for optimism in considering the path travelled thus far because explicit affirmations of children's

right to education and their rights in education are novel; they started in earnest in the 1990s. The grounds for pessimism prevail, as is always the case in human rights work, because the scope of the challenge dwarfs the accomplishments thus far. The conceptualization of the right to education has not advanced as far as providing a clear-cut answer to a simple question: when is the right to education fully realized? Eliminating the obstacles that have been identified in this text should help channel attention and energy towards seeking an answer.

Another barrier has to be overcome before proceeding along that path, however – we have not yet secured *any* schooling for all children in the world. Primer No. 2, which immediately follows this one, is entitled *Securing free and compulsory primary education for all: The gap between promise and performance*. It outlines the requirements of international human rights law, presents a summarized global overview of promises and achievements identifying major difficulties that ought to be addressed, and then examines incomplete accomplishments in securing free and compulsory primary education country by country. The purpose is to provide a baseline assessment on the basis of which progress – or retrogression – can be monitored. The multitude of barriers to children's right to free primary education is revisited in Primer No. 5, entitled *Is the World Bank moving towards the right to education?*

Primer No. 3, entitled *Human rights obligations: Making education available, accessible, acceptable and adaptable* translates international legal obligations related to education into a simple 4-A scheme which integrates *all* human rights

⁷⁷ Federal Constitutional Court of Germany – Decision of 8 October 1997, 1 BvR 9/97.

dimensions. Defining the nature and scope of rights-based education requires studying experiences in putting into practice requirements of the international human rights law in different regions and countries. The realm of the possible is delineated by *minimal* standards which should be sought worldwide and the full realization as *optimal* standards. A unique task of governments is to elaborate educational strategy, regulate education by setting and enforcing these standards, carry out continuous monitoring, and undertake corrective action whenever it is necessary. This task, carried out by governments collectively and individually, forms the background for monitoring and responding to violations.

Ceaselessly lacking funds, teachers and schools tend to focus all attention to getting children to school. Securing that all children and young people attend school does not, however, automatically mould education towards desired ends. There is no global agreement on what education is *for*. Varying ends are laid down, in theory and in practice, ranging from *vocationalist* to *liberationist*. Moreover, the postulates embodied in educational policies and laws are often wide apart from what happens in the classroom. Our knowledge is inversely correlated with the importance of the objects of our interest: we know a great deal about the postulates of education policies and laws since these are available, usually in a codified form. We know less about the inputs in the process of teaching and learning, and least of all about what children and young people actually learn and what they do with whatever they have learned after their schooling has ended. Primer No. 4 is entitled *Human rights in education as prerequisite for human rights education* and it

examines the recognition and protection of human rights in education worldwide, and highlights experiences with access to remedy for violations of human rights in education.



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