Interactive Dialogue with the Members of the Board of Education, Sao Paulo, Brazil, on the Occasion of the Fiftieth Anniversary of *UNESCO's Convention against Discrimination in Education*

by

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Professor Alquéres, Chaireprson of the Board of Education,
Professor Nina Ranieri, UNESCO Chair on the right to Education, University of Sao Paulo,
Mr Paolo Fontani, Representative of UNESCO from UNESCO Office, Brasilia,
Members of the Board of Education of Sao Paulo,
Ladies and Gentlemen;

It is a great pleasure for me to have this opportunity of meeting the members of the Board of Education this morning. I would like to express my gratitude to the Faculty of Law, Sao Paulo University and especially Professor Nina Ranieri, for inviting me to have a dialogue with you with respect to the right to education on the occasion of the fiftieth anniversary of the UNESCO’s Convention against Discrimination in Education.

I would like to highlight some key issues along which we can have a dialogue.

**UNESCO’S Convention against Discrimination in Education and the Normative Framework of the Right to Education**

The UNESCO’S Convention against Discrimination in Education is the first instrument in the field of education which establishes the right to education comprehensively. The States parties to the Convention have the legal obligation to incorporate its provisions in their domestic legal order.¹ The Convention seeks not only to eliminate discrimination in education but also to adopt positive measures to promote equality of opportunity and treatment in that field. As an essential part of the body of international law,² the Convention has developed the content, and taken into account all the aspects of the right to education.

The normative framework established by the Convention is the cornerstone on which the edifice of the right to education in its various dimensions was developed further. The principle of equality of educational opportunities is an overarching principle – it is reflected in almost all United Nations human rights treaties and conventions,³ and is common to the work of all United Nations human rights treaties bodies.

**Experience in Monitoring of Implementation of the Convention**

Monitoring the implementation of the international conventions in States shows how international normative framework is operationalized. This is demonstrated by the Concluding Observations the UN human rights treaty bodies adopt after examining the reports States submit; and also by the

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¹ According to Article 4 of the Convention, the State Parties to the Convention have the obligation to: “undertake furthermore to formulate, develop and apply a national policy which, by methods appropriate to the circumstances and to national usage, will tend to promote equality of opportunity and of treatment in the matter of education (…)”

² It should be noted that a Recommendation against Discrimination in Education was also adopted by the General Conference on the same time as the Convention. While identical to the Convention in content, the Recommendation enables States that are not in a position to ratify the Convention to contribute to the fight against discrimination in education.

results of periodic consultations of Member States which UNESCO conducts for monitoring the implementation of conventions and recommendations. The periodic reports that States submit have the effect of informing all the States in the international community, of the measures they have taken domestically to fulfil their obligations under the conventions to which they are parties. The experience available in monitoring the implementation of the United Nations human rights treaties and UNESCO’s Convention shows that States face continuing challenges in bringing about equality of opportunity in education in law and in fact. Indeed, one witnesses an appalling gap between commitments and reality, between the obligations assumed by States and their fulfilment. Persistent inequalities in education and disparities in access to education of children from differing socio-economic backgrounds are aggravated with the falling standards and poor quality of basic education.

In face of such daunting challenges, the United Nations human rights treaties and the Convention against Discrimination in Education can guide actions by States. Decision adopted by UNESCO’s Executive Board during in September 2007, after examining the analytical report on the results of the seventh consultation of Member States on the implementation of the Convention and the Recommendation against Discrimination in Education, (covering the period 2000-2005)\(^4\) throw light on areas of action for future. Recognizing the significance of applying the principle of equality of educational opportunities and the importance of the application of the Convention, the resolution adopted by UNESCO’s General Conference in October 2007 requests the Director-General to intensify his efforts to encourage Member States to adopt effective domestic measures intended to secure education for all without discrimination or exclusion as part of the Education for All (EFA) process.\(^5\) The challenging tasks that lie ahead for bringing about the equality of opportunity in education were examined by the Joint Expert Group UNESCO (CR)/ ECOSOC (CESCR) on the Monitoring of the Right to Education,\(^6\) which also made important recommendations for future action.

**Major Issues**

Allow me to highlight some key issues, which deserve special attention.

*First, ensuring de facto equality of opportunity in education.*

As part of the EFA process, many countries have developed/modernized their national legislation. This has led to emergence and recognition of the right to basic education as a fundamental human right.

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\(^5\) See the decision taken by the Executive Board at its 177th session (177 EX/Decision 36) and the resolution accordingly adopted by the General Conference at its 34th session in October 2007 (34 C/Resolution 13), UNESCO, Paris.

In this respect, developments in Brazil deserves special attention. The modernized Education Law in Brazil provides for universal right to basic education of 12 years, and the country is in the process of implementing this national legislation\(^7\) of 1996, as amended in February 2006. Despite the progress made in recent years, this is a continuing challenge. Social and cultural barriers and unequal opportunities manifested in the access to education remain one of the most serious difficulties of national educational policy. Even in countries where educational opportunities are in general widely available, inequalities remain in the ability of all social groups to fully avail themselves of such opportunities. What is at stake is to close the attainment gap between pupils from marginalized and discriminated groups, and to ensure equality in educational opportunities \textit{in fact} for the children from differing socio-economic background, and born with certain advantages or disadvantages. Committing to human rights means that all government efforts are guided by the \textit{core principles of equality and non-discrimination} – and we all know Brazil had and still has a long way to go in all that relates to the very high levels of social and economic inequality. Inequality is the main threat to development in Brazil. The country investment in social protection is today a very good example of its commitment to eliminate extreme poverty. But Brazil still faces important challenges in areas such as the elimination of racial discrimination, with clear discrepancies of life expectancy, education and income levels between white and black. Regional differences are also remarkable with Brazilians that are away from the main developed areas still facing great challenges with regard to access to water, sanitation and health care, for example. 

\textit{Second, new approaches and mechanisms in terms of affirmative action and positive measures.}

Overcoming inequalities in education necessarily calls for greater emphasis on respecting the right to education in its inclusive dimensions.\(^8\) Inequalities in educational opportunity are often more pronounced in countries facing severe resource constraints and caught in widespread poverty. Recognizing the centrality of education in people’s lives, and its empowering role in 'eradicating extreme poverty and hunger', fundamental changes are required in the distribution of educational resources. Children from socially and economically disadvantaged and marginalized groups and from poor households who remain deprived of their right to basic education in today's learning societies, should be provided financial and pedagogic support in a spirit to mitigate inequities based, \textit{inter alia}, on social origin, wealth etc.

In this respect, let me mention that the Constitution of Brazil provides for positive measures as regards universalizing elementary (primary) and education, free of charges. Article 208 § VII of the Federal Constitution relates to the duty of the State for “Assistance to elementary school students through supplemental programmes of school books, educational supplies, transportation, food and health assistance.” Similar provisions are contained in the Education Law of 1996 in Article 4 (VIII).

\(^7\) The Darcy Ribeiro Law No. 9.394 of 1996, which establishes the direction and the basis of national education.

Third, maintaining standards and quality of basic education.

The Convention provides leverage in responding to quality imperatives. It is the first legally binding instrument which recognizes the importance of norms, standard and quality of education.\textsuperscript{9} Normative action as a follow up to the Convention can provide basis for ensuring \textit{minimum educational standards}. Development and application of norms for standards and quality education - both for public and private schools - with a focus on improving the conditions of the teaching profession, and measuring learning outcomes, must be a priority concern in national level action in order to address quality imperatives.

In many developing countries, drastic lack of adequately trained teachers, especially in rural areas, constitutes a severe drawback on quality education. Status of teaching personnel, teacher-student ratio, educational infrastructure and facilities, text books, assessment of learning outcomes, recruitment of qualified teachers and their career development, etc. are among main areas which call for minimum standards and norms.

I know that education of quality is also a key issue in Brazil, and the country recognizes a constitutional obligation to provide quality education. As regards private education, the Education Law in Brazil provides that it must conform to general norms and the quality as evaluated by public authorities.

Ensuring education to all means that what is at stake is not only to universalize access to basic education, but also to ensure success in education by extra pedagogic support to those who are marginalized and are victims of exclusion, with a focus on equitable approach.

Fourth, ensuring the effective protection of the right to education.

Judicial and quasi-judicial mechanisms are crucial to ensure the right to education is respected and protected. Emphasis must be putted at the role of the monitoring body following the implementation of UNESCO’s Convention in the EFA process, since the Convention has been recognized by UNESCO’s Executive Board as a key pillar.\textsuperscript{10} Its effective application can be a lever in pushing forward the EFA agenda, and advancing the right to education.

Committing to human rights means being guided by the core principles of \textit{transparency and accountability}. After years of dictatorship, Brazil has invested a lot to improve transparency and ensure accountability. Its efforts to enhance the capacity of the judiciary and to establish Ombudsman offices monitoring governmental activity are vital to the progress made. But much more must be done. Every case of corruption of abuse by one authority must be fully screened and abuses must be repaired.

Fifth, public investment in education.

\textsuperscript{9} In Article 1 § 2, the Convention states that “For the purposes of this Convention, the term 'education' refers to all types and levels of education, and includes access to education, the standard and quality of education, and the conditions under which it is given.”

\textsuperscript{10} Decision taken by the Executive Board at its 171 session, (171 EX/Decision 28), UNESCO Paris.
International human rights law in general carries the obligation of States to provide resources for giving effect to them. The General Comment 11 on Article 14 of the International Covenant on Economic, Social and Cultural Rights, elaborated by the UN Committee on Economic, Social and Cultural Rights (CESCR) clarifies such obligations with respect to universal primary education. The State obligations for enhancing national level resources for overcoming the constraints on the right to education consistently figure in the Concluding Observations which the United Nations human rights treaty bodies adopt after examining country reports submitted to them by States.

Political obligations undertaken by States for investment in education as a matter of priority are reflected in some instruments adopted by UNESCO. Thus, UNESCO’s Recommendation on the Status of Teachers (1966) gives high priority to education, and allocation of an adequate proportion of the national income for the development of education.11

Pursuant to their political obligations for achieving EFA and MDGs, it is incumbent upon Governments to provide adequate domestic resources for achieving Education For All (EFA) and put in place a legal and political system that ensure adequate public funding of education. The question of resource mobilization is also linked with that of judicious utilization of resources, with emphasis on financial assistance to socially and economically marginalized who remain deprived of basic education.

In this respect, I am happy to say that Brazil is exemplary as regards financing of education on the basis of constitutional provisions. The Constitution of Brazil (article 212) contains elaborate provisions for sharing of resources and responsibility in the Brazil’s federal system - 18 percent of the tax revenue at the federal level and 25 percent at state and municipal level are required to be allocated for maintenance and development of education, with priority to basic education. Moreover, the Constitution also provides for “the equalization of the educational opportunities and a minimum standard of quality of education” to be guaranteed by the Union in financing education. The Constitution of Sao Paulo is even more commendable in that it provides for 30 percent of the State budget for financing education, which bears evidence to strong public interest in education as a development priority.

Finally, Questions related to Educational Governance and the Role and Responsibility of Stakeholders in Education

The promotion of public participation is a core human rights principle that Brazil has also embraced after its democratization and that certainly has an important component in the success it is experiencing today. No public policy can be effective if it is not framed by a very good understanding on the needs and views of the people that it targets. Brazil has a very vibrant civil society and a strong academic community and I know the dialogue here is very present at all levels. The State retains its duties to ensure the fulfilment of human right, but the contribution of various stakeholders, such as NGOs and universities is crucial.

Education systems and enabling school management play a central role in the fulfillment of the right to education. The realization of the right to education involves the proper discharge of duties

11 In its article 10 (1), the Recommendation provides that “as the achievement of the aims and objectives of education largely depends on the financial means made available to it, high priority should be given, in all countries, to setting aside, within the national budgets, an adequate proportion of the national income for the development of education.”
of parents, public servants, private providers and students themselves. In this sense, we must continuously verify if human rights are respected inside the gates of our schools today. Thus, special attention needs to be paid to the standards and mechanisms that ensure all educational entities comply with the standards provided by human rights law.

With respect to school environment, let me also say that freedom from violence is a matter of serious concern for the exercise of the right to education. The same way schools play a key role in the prevention of violence, violence can undermine education with both teachers and students suffering its consequences.

I am aware that Brazil and particularly urban areas like Sao Paulo still struggle with incredibly high levels of violence and insecurity. There is no chance of winning the battle against violence without full respect to human rights. Efforts to end violence must address its root causes—promoting the rights to education, health care, work are important steps for the elimination of violence. Moreover, the fight against violence must be done in line with human rights standards - police violence and corruption are an incredibly dangerous ingredient that must be fully eliminated if we want to ensure long term peace and security. Here in Sao Paulo and around Brazil there are a number of nice initiatives to improve education facilities and open these to the communities around in areas where violence is so pervasive. I also hear about efforts to anonymously detect cases of State violence, to improve the relation between police forces and poor communities, but clearly more must be done.

Development can not be sustainable if it is not firmly anchored by the promotion and protection of human rights. A few countries might experience rapid growth under authoritarian rule, but history repeatedly shows that besides all violence and cruelty that pervades undemocratic regimes, economically they are never sustainable at a long term.

While concluding, let me emphasise that the right to education is not only a human right in itself, but also essential for the exercise of all other human rights. In that spirit, all the critical issues I have highlighted above call for greater emphasis on the core responsibility of governments for the realization of the right to education in an endeavor to bring it at the forefront of the actions and concerns of the global partnership for development, and to build a better world for present and future generations.

Thank you.

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