UNESCO Future Seminar

on

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Legal and Policy Framework for Financing Basic Education

by

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1. Human rights in general carry the obligation for States to provide resources for giving effect to them. States have responsibility under international human rights law to provide resources for the right to education. These are all the more important as the right to education is not only a human right in itself, but also essential for the exercise of all other human rights. It deserves high priority in public investment, as both the individual and the society are its beneficiaries.

2. Member States of UNESCO also have the obligations under UNESCO’s Constitution, of which the right to education is an integral part; providing necessary resources is indispensable for the realization of this right. Moreover, political obligations undertaken by States for investment in education are implicit in a number of instruments adopted by UNESCO in the field of education. Importance is attached to such obligations in UNESCO’s Recommendation on the Status of Teachers (1966) which gives high priority to education, and allocation of an adequate proportion of the national income for the development of education.

3. Such political obligations are reinforced by collective commitments made at the World Education Forum (2000), where Governments, along with other stakeholders, pledged themselves to a strategy, inter alia, to: “mobilize strong national and international political commitment for education for all, develop national action plans and enhance significantly investment in basic education.” (para. 8 i, emphasis added). Pursuant to commitments undertaken at the World Education Forum that “political will must be underpinned by resources”, it is incumbent upon Governments to provide domestic resources for achieving Education for All (EFA).

4. However, in spite of these commitments, public expenditure on education is decreasing, and the gap between commitment and reality has become a matter of serious concern. As a result of dearth of resources, the EFA agenda is falling behind, and making basic education accessible to everyone as a right remains a daunting challenge.

5. The High Level Group on EFA has consistently advocated the need for raising resources for EFA and allocating a certain percentage of national budget (15% to 20%) or share of GDP (4% to 6%) to education, of national budget) as a matter of norm. It is, therefore,

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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 reports submitted to them by States.

2 In its article 10 (l), 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.”

3 At its Fifth Meeting (Beijing, November 2005), the High Level Group on EFA recommended that “Countries increase the proportion of national budgets allocated to basic education to meet the scale and the scope of the national EFA challenge as expressed in their national education plan.”

In the Final Communiqué issued at the Sixth Meeting of the High Level Group on EFA (Cairo, November 2006), the Ministers of Education stated that “developing country governments will continue to increase the proportion of national budgets allocated to education, seeking to reach 4%-6% of GNP for education.”

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crucial to mobilize domestic resources for EFA based upon a sustainable legal and policy framework. In reflections on the innovative financing for education, consideration must be given to public funding of education and national resource mobilization for the realization of the right to education.

6. In this respect, it is important to note that the Paris Declaration on Aid Effectiveness (2 March 2005) stipulates that the system of financing education, including budgetary provisions, must be strengthened at the national level. Within the framework of the Declaration, the partner countries commit to "intensify efforts to mobilize domestic resources, strengthen fiscal sustainability and create an enabling environment for public and private investment." (Emphasis added). 'Strengthening public financial management capacity’ is part of these commitments. It may also be noted that at the Second Meeting of the Education International Task Force of the Leading Group on Innovative Financing (17 June 2010, Paris) one of the avenues explored was "mobilization of domestic resources." In this respect, high importance should be attached to the principle of solidarity which applies both at international and national level.

**Financing of Education and National Legal Framework**

7. Provisions of public funding of education in a country's constitution, national legislation and educational policies are important in order to give effect to its obligations for the realization of the right to education. Constitutional provisions for financing education provide firm basis for developing national legislation and education policies. Such provisions exist in some countries.

8. National legislation is very important for putting in place a legal and policy framework for financing education. As part of the EFA process, many countries have developed/modernized their national legislation. This is indeed commendable and imparts added significance to the need for public funding of basic education, which has emerged as a fundamental right. Recent

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The Oslo Declaration “Acting Together”, issued at the eighth meeting of the High-Level Group on EFA (December 2008) urgently calls on "national governments to allocate adequate domestic resources (4-6% of GNP/15-20% of public expenditure) to education (....)."

At the Seventh Meeting of the High-Level Group on Education for All (December 2007, Dakar), the Ministers of Education recommended that “National and local governments should mobilize sufficient domestic resources in accordance with indicative standards (~6% of GNI / 15-20% of government budget) in allocations to education, with a prioritization of basic education (>3% of GNI / 10% of government budget).”

At the Ninth Meeting of the High-Level Group on EFA (February 2010, Addis Ababa), the Ministers of Education called upon national governments to reinforce their determination to increase the current level of domestic spending to education to at least 6 percent of GNP and/or 20 percent of public expenditure, with greater focus on (...) equitable allocations of resources according to need."

5 Notably in Brazil and in Indonesia. Such provisions also exist in Costa Rica, in the Philippines, in Peru, and in Ethiopia.
developments in a number of countries can be cited as practical examples for moving in that direction.6

9. While exploring the possibilities of innovative financing mechanisms, national approaches in terms of mechanisms for financing education, including institutional mechanisms, are also useful for building upon available experience.7 In this respect, the responsibility of local bodies and municipalities is of special significance.8 Besides, countries having a federal structure require specific financing arrangements in terms of competence and responsibility of federal and provincial (state) authorities.9

**Financing Mechanisms and Equitable Resource Allocations**

10. The mobilization of resources is not enough. They must be judiciously utilized, and allocated where most needed. Policies for resource allocation should respond to the common challenges of bringing about equality of opportunity in education, and ensuring quality of education provided.

11. In face of challenges in responding to quality imperatives, normative basis for quality education should be a priority concern in public spending on education. In that spirit, national level norms should be developed for financing education, in keeping with obligations for quality and standards in education as laid down in UNESCO’s Convention against Discrimination in Education,10 and in the Dakar Framework for Action. Development and application of norms for standards and quality education - both for public and private schools - with a focus on optimizing development expenditure as against recurrent expenditure must be a priority concern in national level action.11 Status of teaching personnel, teacher-student ratio, educational infrastructure and facilities, text books, assessment of learning outcomes,

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6. For instance, in Brazil, Nigeria, Mexico, Argentina, Indonesia, Ecuador. Besides, the Education Laws in China and in South Africa also carry provisions for financing of education. Importance is given to public investment in education in China's National Plan Outline for Medium and Long-term Education Reform and Development (2010-2020).

As regards policies for public funding of education, Senegal and India can be cited as noteworthy examples.

7. Such as the Fundo de Manutenção e Desenvolvimento da Educação Básica - FUNDEB - in Brazil, 3 percent value added tax in China, elementary education fund (Prarambhik Shiksha Kosh) and 3 per cent education cess in India, Education Fund, with funds/contributions in form of Federal Government Guaranteed credit and local/international donor grants in Nigeria, Text Books Fund in Kenya, etc.

As regards the suggestion for Education Venture Fund to mobilise resources from new sources, for example, from entrepreneurs, provisions in educations laws in Brazil and in China are relevant.

8. The Icelandic Compulsory School Act (2005) provides that the municipality (…) shall finance the capital investment costs of compulsory education. In 2006, the share of education in total public expenditure in Iceland was 17 percent and 7.9 percent of GNP.

The National Education Act in Thailand (1999) also authorizes the State and local bodies to levy educational taxes as appropriate.

9. For instance, in India, within the framework of the Right of Children to Free and Compulsory Education Act, 2009, the Federal Government will contribute 65 percent as against 35 percentage of States contribution in public funding of education. In Nigeria, the Compulsory, Free Universal Basic Education Act, 2004, provides for funding from the Federal government, subject to it being matched by financial support from State governments.

10. 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.”

11. As an example, one can mention the Decennial Programme on Education and Training in Senegal (2000-2010), and the norms laid down therein for progressive realization of the right to education.
recruitment of qualified teachers and their career development, etc. are among main areas which call for minimum standards and norms.

12. Social and cultural barriers and unequal opportunities manifested in access to quality education remain one of the most serious difficulties of national educational policies. Overcoming inequalities in education is a continuing challenge for governments. Existing inequalities and disparities in education can be minimized by equity-based resource allocation. Besides inequalities in access to education, regional disparities, marginalization, and poverty prevail in many countries. As such, the education policies need to be designed with an equity-based approach, so that resource allocations are aimed at mitigating prevailing inequalities and disparities.

13. New approaches and innovative mechanisms for financing education in terms of affirmative action and positive measures are important for overcoming inequalities in education. This deserves greater emphasis as it is necessary for ensuring respect for the right to education in all its inclusive dimensions. 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 order to mitigate inequities based on social origin, wealth etc. Thus calls for fundamental changes in the allocation of educational resources and their proper utilization.

Way Forward

14. Based on available experience, normative action should be taken with a view to development and application of national level norms, based upon the legal and policy framework for funding education, especially basic education. To that end, efforts should be made to evolve through intergovernmental consultation some broad guidelines or manual. These can then be used in developing a national legal framework for financing education - for mobilizing resources and for their utilization, along with institutional mechanisms - in country specific situations.

15. Developing such framework is essential for countries which are struggling to achieve the EFA and realize the right to education. In face of decreasing public expenditure in education, such a framework is crucial. It would provide an enduring basis for such expenditure. This would provide new pathways, with firm legal commitments, in addressing the critical issue of mobilizing optimal resources for EFA and their judicious utilization. Such a development would contribute to invest sustainably in human capital formation through education, and to the fulfilment of State obligations under human rights law for the realization of right to education as a fundamental human right.

12 In South Africa, according to South African Schools Act, 1996, (article 34 (1), the State must fund public schools from public revenue on an equitable basis in order to ensure the proper exercise of the rights of learners to education and to redress past inequalities in education provision.

13 Conditional Cash Transfer Schemes, as part of social amenities, are designed as an incentive to families to accept the opportunity costs of sending their children to schools by providing an immediate benefit to households.