

# Free Elementary Education through Child Rights Lens Some Reflections

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## **Introduction**

The Convention on the Rights of the Child (CRC) formulated in 1989 and the World Declaration on Education for All adopted in 1990, marked the beginning of a new era of advocacy and action in favour of children at the global level. The Jomtien Declaration placed education at the centre stage in ensuring the welfare of children by declaring it as a basic need at par with other human and social needs and therefore an inalienable right of every individual and a basic obligation of the whole humankind. Within India, recognition to this perspective came initially with the amendment to the Constitution in 2002 making education a fundamental right. Further the establishment of the National Child Rights Commission which alludes in its Preamble to the CRC firmly places 'rights perspective' as the guiding framework for achieving the goal of educational for all the country. But operationalising the framework is not going to be smooth. First, there are no standard setting instruments on what such a right would entitle a child who get into the ambit of organized education, namely, the formal elementary school. But even more difficult is to determine the extent of violation of the fundamental right in case of those millions of children who remain outside the formal school either because they never get enrolled or drop out from school during the constitutionally mandated age of 6 to 14 years. Further, if one takes into cognizance the results of several achievement surveys such as the ASER, what about the right so those who suffer silent exclusion even while sitting in the classrooms as the school fails to impart any learning?

The EFA 2000 Assessment which preceded the recently adopted Dakar Declaration reveals that considerable progress has been made during the last decade of the 20<sup>th</sup> century. But we are far from the goals set 10 years earlier. The goal of EFA has been put back by more than a decade to 2015. Is it due to genuine difficulties faced by the countries concerned? Or are commitment and effort lacking among the national leadership? In these questions lies the origin of the debate on needs vs. rights. The issue is obviously a complex one. Mere rhetoric and recriminations will not help. It calls for a realistic and sympathetic examination of the problem in a context specific manner.

## **Needs and Rights: Deconstructing the Concepts**

Conceptual analysis would not only help fine tune contents of documents and declarations but also bring clarity in policies and programmes at the operational level. Is

there a real dichotomy between *needs* of children and their *rights*? Historically, the concept of human rights has evolved in response to the basic needs of individuals or social systems that they live in. Therefore, pitting 'needs' and 'rights' in opposing camps stands no logic. There can be no claim for a 'fundamental right' if it is not organically linked to a 'basic human need'. It is within this perspective that the Jomtien Declaration referred to 'basic learning needs' and correspondingly 'basic education as a fundamental right' of every individual. There may be no congruence between basic human needs and fundamental rights, yet they are inescapably linked.

But, human needs are not monolithic. They are rather hierarchical. This raises the question of priorities among human needs in terms of individual choices, family preferences and community expectations, and above all, priorities for spending by national governments. An overriding issue is obviously that of economic needs of the family and society overtaking the learning needs of the children. Social attitudes and preferences are no less important in sidestepping 'learning needs' of the children. Parents may decide to withhold the girl from the school against their own will preferring to be in harmony with the customs and traditions of the community they belong to. One can broadly specify basic human needs, but priorities cannot be universally determined and enforced. Instead local culture and context play a central role in any such determination of priorities.

Apart from the question of priority, acceptance of education as a basic need also recognizes that basic human needs, including need for education, form a mutually complementary basket of social provisions by the society. Within such a holistic social development perspective, provision of none of the basic needs, and consequently the rights, can be viewed or pursued in isolation from the provision and pursuit of other needs. What does an individual do if in a given society the provisions are not complementary – leaving the individual to fend for himself or herself with regard to certain basic needs and if that hinders access or scope to utilize the provision of other needs? More specifically, if one's economic well being is unsatisfactorily looked after by the state, can participation in basic education be ensured? Thus, any consideration of 'right to education' without adequate reference to the social, cultural and economic context in which it has to operate is likely to remain a hollow and perhaps futile pursuit.

### Poverty and School Participation

The core issue in the debate on needs vs. rights is: does poverty hinder participation of children in schooling. Though some do not consider it to be so<sup>1</sup>, many scholars concede that economic misery pushes families to the brink and constrain them from educating their children. As the UNESCO Commission on Culture and Development point out, "In spite of four decades of development efforts, poverty remains high. Although the

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<sup>1</sup> For instance, Myron Weiner (*The Child and the State in India: Child Labour and Education Policy in comparative Perspective*, Princeton University Press, Princeton, 1991) argues that non-participation of children in schooling is more due to official indifference of the state and the prevalence of child labour knowingly tolerated by the state and the society.

proportion of poor people has diminished significantly on all continents except Africa, absolute numbers have increased. ... Over a billion people have been largely bypassed by the globalisation process. Involuntary poverty and exclusion are unmitigated evils. All development efforts aim at eradicating them and enabling all people to develop their full potential. Yet, all too often in the process of development, it is the poor who shoulder the heaviest burden."<sup>2</sup> That children bear the major burden of poverty affecting every aspect of their physical, cognitive, social and emotional development does not need special evidence.

It is not that parents are unaware of the value of education or that they are unwilling to enroll their children in schools. But they are often helpless. The eye witness accounts narrated by Sainath<sup>3</sup> travelling through remote corners of India present a telling proof of the dismal life led by the poor. But interestingly their faith in education as the way out of the malaise also comes out clearly.

### Pangi's Tale

*The coolie work he does - when there is work to do - fetches Pangi perhaps two kilograms of rice for a day's labour. Pangi and his family also go out and collect roots, berries, leaves and bamboo shoots. These make up the bulk of their diet on some days. 'Our time has gone,' says his friend Anandram Khilo. 'But perhaps one day our children, if they get an education, will lead a better life than this.'*

*Through out the area are villages with schools but children too poor to go to them. Also, people who get steady work for no more than four months in the year. There is also a thirst for land among the worst off.*

*As we sit in the semi-darkness of Pangi's hut, ... 'After coming here,' says his wife, 'there were many things the children needed we couldn't provide them. We had no money and even if we had money, we had no place to buy them - medicines, clothes, foodstuffs, so many things. You see them grown up now, but coming here hurt us. It hurt our children worse.'* (pp. 129-130)

### The Birhor Colony

*Not a single child in the Birhor colony outside Jhabhar goes to school. Female literacy is almost nil. And Raju Birhor believes this is the case with the tribe in all its areas. 'We would like to send the children to school, but who can afford it?' he asks. 'We can't afford food,' says Rambirich Birhor. 'So why talk of school?' Malnutrition is visible on the faces in the settlement, more so among children. 'Besides,' says political activist Narendra Chaubey, 'they have very high infant mortality rates. Fewer of their children survive, compared to other communities in the region.'* (p. 156)

<sup>2</sup> Javier Perez de Cuellar et al. *Our Creative Diversity: Report of the World Commission on Culture and Development*, UNESCO, Paris, 1996 p.30

<sup>3</sup> P. Sainath, *Everybody loves a good drought: Stories from India's Poorest Districts*, Penguin, New Delhi 1996. p.

### Shiv Shankar Laiya

*When Shiv Shankar Laiya passed his matriculation exam in 1967, it was a big event for the Kahars of Godda. ... With the passage of time, that achievement has dimmed. Especially since Laiya remained jobless for the next twenty-six years. Meanwhile, the second matriculate, Joginder Laiya, died of tuberculosis. Today, not a single Kahar child in Nunmatti or at Gorighat village goes to school. 'Two are enrolled in school,' says Shiv Shankar Laiya, 'but who can afford to send them? It costs money. At least here they tend the goats and pigs.'* (p.175)

Sainath observes that the peculiar links between land, labour, credit and market have trapped the peasants into perpetual penury and dependence. Efforts to strengthen the human resources of poor must recognize that, unlike the non-poor, the absolute poor are trapped in a situation in which economic growth and social development are interdependent. The strong interrelationship between economic growth and social development highlights the vicious circle wherein low growth spawns low growth and poverty breeds poverty. Poor parents cannot provide their children the opportunities for better health and education needed to improve their lot. Because the poor lack the economic capabilities and social characteristics necessary to emerge from poverty, the legacy of poverty is often passed from one generation to the next.<sup>4</sup>

Empirical investigations clearly show that many working children are too poor to afford schooling, any legislation banning child labour must be linked with an effective anti-poverty plan. At the very least, working children who attend school must be partially compensated for the lost income.<sup>5</sup> Colclough and Lewin observe that one of the causes of the concentration of low enrolment ratios amongst the poorest countries is that state expenditures upon schooling cannot completely remove the costs of poor households of their children's attendance. Even if fees are not charged, there are usually the costs of some books to meet, and often there are school uniforms to buy. Moreover, the opportunity costs of school attendance are, in practice, a negative function of household income. It is the poor who depend upon the income from child labour. The poorer are the households concerned, and the higher the direct and indirect costs which they would need to meet, the more likely is it that public measures to increase primary provision would fail to elicit the required enrolment.<sup>6</sup>

This in no way implies that EFA has to wait till poverty is adequately eliminated. It only signifies the complexity of the issue of pursuing legislative measures as the means of achieving the goal of EFA in the developing world. Mahbubul Haq calls for adopting a

<sup>4</sup> *Report on the World Social Situation 1997*, United Nations, New York, 1997. P. 84

<sup>5</sup> M. Haq and K. Haq, *Human Development in South Asia 1998*, Oxford University Press, Karachi, 1998. (p.76)

<sup>6</sup> Christopher Colclough and Keith M. Lewin *Education for All Children: Strategies for Primary Schooling in the South*, Clarendon Press, Oxford, 1993; also see Jandhyala B.G.Tilak, 'How Free is "Free" Primary Education in India?' *Economic and Political Weekly*, 3 February 1996

more radical stance: "Let us honestly recognize that poverty is not merely a flu, it is more like a cancer. We cannot leave intact the model of development that produces persistent poverty and wistfully hope that we can take care of poverty downstream through limited income transfers or discrete poverty reduction programmes. If the poor lack education, if they lack critical assets (particularly land), if they lack credit since formal credit institutions refuse to ban on them, if they are socially excluded and politically marginalized, then a few technocratic programmes downstream are not the real answer. The real answer lies in changing the very model of development, from traditional economic growth to human development, where human capabilities are built up and human opportunities are enlarged, where people become the real agents and beneficiaries of economic growth rather than remain an abstract residual in human development processes."<sup>7</sup>

### **Inequality and EFA: The Burden of Implementing Equal Rights in an Unequal Society**

Commitment to providing Education For All is a relatively new phenomenon closely linked to the emergence of a democratic and egalitarian framework whether within a liberal or a socialist arrangement. In the strict sense, a standardised period of compulsory education for all as we understand today in the modern world emerged only during the 20<sup>th</sup> century even in many parts of Europe. Not that it happened suddenly after the World Wars. There had been both positive and negative phases in the history of evolving a system that caters to the education needs of all, beginning from the Middle Ages through the Enlightenment period. Even as late as 19<sup>th</sup> century there were leaders and thinkers who considered it inappropriate to give education to labourers and agricultural workers; or at best a short duration education suitable to their social status was recommended. In the midst of the French Revolution that proclaimed equality of all citizens, Voltaire argued, "It is absolutely necessary that a great proportion of mankind is destined to drudgery in the meanest occupations, that nothing but early habit can render intolerable, and that to give the meanest of people an education beyond the station in which Providence has assigned them is doing a real injury." It was in the 19<sup>th</sup> century that governments started to regulate conditions of employment for children and took on the role as protectors of children against employers and parents.<sup>8</sup>

<sup>7</sup> M. Haq and K. Haq Op cit., p.19.

<sup>8</sup> Voltaire congratulated La Chalotais: 'thank you for condemning the education of labourers. I who farm the land need agricultural workers and not tonsured clerics.' 'The lower classes should be guided, not educated: they are not worthy to be educated.' I consider it essential that there should be ignorant beggars on earth.' Reviewing the evolution of schooling practices in Europe, Philippe Aries (*Centuries of Childhood*, Pilmico, London, 1996) points out: "... it was considered that education should be confined to the rich, for, if it were extended to the poor, it would turn them against manual labour and make social misfits of them. The whole of society would suffer from the lack of an adequate labour force and from the presence of an excessive number of unproductive citizens. ... It was the exact opposite of the opinion held by the seventeenth-century reformers, who saw in education the only possible means of installing a sense of morality into the down-and-outs, of turning them into servants and workers, and hence of providing the country with a good labour force. But it was already the theme of social conservatism in the nineteenth century and colonial conservatism in the twentieth, which sees the school as the means taken by modern revolutionary ideas to reach the lower classes and undermine the authority of established fortunes." (pp. 296-97)

The purpose of recollecting the European experience is not to indicate that the developing world also has to pass through all such stages for achieving the goal of EFA. But, it does demonstrate that historical legacy does matter. It should be remembered that most part of the developing world was reeling under colonial oppression till a few decades ago which provided no scope for establishing a mass education programme. Thus the history of primary education in the developing world is quite short. Yet, the developments in the West had its reverberations in the colonies also. For instance, a vigorous campaign was launched, though unsuccessfully, to make primary education universal and compulsory in India nearly hundred years ago. In the western part of India, the then king of Baroda issued the first Compulsory Education Act in 1891 just when the legal provisions for compulsory education was being streamlined in many parts of the West. But he did not succeed in continuing the effort beyond a point.

The developing world is still coming to terms with its historical legacy. Political independence changed relatively little educationally in most developing countries.<sup>9</sup> Education is perhaps the most insidious and in some ways the most cryptic of colonialist survivals, older systems now passing, sometimes imperceptibly, into neo-colonialist configurations.<sup>10</sup> Economic disparities have increased. Social and gender discriminations remain unmitigated in many countries. Pursuing an egalitarian goal in the midst of such inequalities is undoubtedly a difficult challenge. In fact, observance of the principle of equal rights can function effectively only in an ambiance of democracy and freedom. The more the inequality, more difficult will it be to move towards the goal of education for all.

In the historical development of rights, few if any were recognized without a struggle, and conflict and power were the companions of the development of rights. The major problem arises from the character of contemporary society where a feeling of unfairness is pervasive. Implementing the principle of equal rights requires shared experiences and the narrowing of the range of inequalities, and that it is necessary to think about the kinds of institutions that facilitate or hinder these goals. Floors and ceilings, for example, need not be explored, not as solutions to all of the grievances we find in contemporary societies, but because gross inequalities lead to an incomprehensibly wide range of experiences and interests in society. A society in which the range of inequality is so extensive is one in which members share little. They cannot understand the claims and grievances of one another and they fear that recognizing the claims of those who are much different will come at their own expense. If the language of politics, that is, the language of values, is to be substantive, that language must be based on shared experiences.<sup>11</sup> Thus pursuing the goal of education as a basic human need and a fundamental right requires more serious efforts to reduce economic inequalities and remove social discriminations.

<sup>9</sup> Philip G. Altbach 'Education and Neocolonialism' *Teachers College Record* 72(1) (May), 1971

<sup>10</sup> Ashcroft, B., Griffiths, G. and Tiffin, H. (Eds.) *The post-colonial studies reader*, Routledge, London, 1995.

<sup>11</sup> Ronald J. Terchek *The Liberal Language of Rights: From Locke to Rawls*. In Parekh, B. and Pantham, T. (Eds.) *Political Discourse: Explorations in Indian and Western Political Thought*, Sage, New Delhi, 1987. (pp. 67-81)

## Social-Cultural Factors and Human Rights

While rights activists adopt an absolutist position on universal applicability of human rights including right to education, critics dispute their universality on grounds of their Western origin and their alleged individualist orientation. Whatever the position be, there has been little examination of how different people perceive human rights or of the dynamics between the rights of individuals and collectives. In many cultures rights are not separable from duties.<sup>12</sup> There is no doubt that the idea of basic human rights has roots in many religions, cultures and ideologies. It is important to avoid hegemonising a particular interpretation of human rights. The central spirit of human rights lies in respect for diversity and freedom of choice, not regimentation. As Amartya Sen points out, "... the view that Asian values are quintessentially authoritarian has tended to come, in Asia almost exclusively from spokesmen in power (sometimes supplemented – and reinforced – by western statements demanding that people endorse what are seen as specifically "Western liberal values"). But foreign ministers, or government officials, or religious leaders, do not have a monopoly in interpreting local culture and values. It is important to listen to the voices of dissent in each society. The recognition of diversity within different cultures is extremely important in the contemporary world. Our understanding of the presence of diversity tends to be somewhat undermined by constant bombardment with oversimple generalizations about "Western civilization," "Asian values," "African cultures" and so on. Many of these readings of history and civilization are not only intellectually shallow, they also add to the divisiveness of the world in which we live."<sup>13</sup>

It is essential to note that local perceptions on children and child activity have evolved over a long period of time and cannot be brush aside as irrelevant and irrational. In many societies, particularly in low-income rural areas, a gradual incorporation of the child into work activity occurs between the ages of 5 and 15, so that, whether for good or for bad, child work is part of the process of socialization. Some types of work are a source of pride, status and perhaps independence for the children themselves. Examining the role of child work in the context of poverty and under-development, Rodgers and Standing emphasize that child employment not only reflects economic processes but depends on normative attitudes towards children in society, the culturally determined roles and functions of children, the values by which the activities of children are judged, and the nature of socialization processes. Clearly it is inadequate to attempt to explain child activity patterns in micro-behavioural terms without considering the nature of the social formation, the cultural constraints, the nature of household, kinship and community obligations, the structure of the labour market, and the access to it of different socio-economic groups. In conventional micro-models these factors generate constraints, exogenous variables or "tastes" which are omitted from the analysis. Thus, in addition to structural socio-economic factors, at least two sets of determinants of child work should be considered: (1) the social and cultural framework – attitudes to children and their roles, cultural constraints, and the social institutions which govern the processes of

<sup>12</sup> Javier Perez de Cuellar et al. *Our Creative Diversity: Report of the World Commission on Culture and Development*, UNESCO, Paris, 1996. (p. 41)

<sup>13</sup> Amartya Sen, *Development as Freedom*, Oxford University Press, New Delhi, 1999. (pp. 246-7)

acculturation and socialization; and (2) the nature of decision making at the household or other micro-unit level, and the employment of children as an outcome of the trade-offs between alternatives in economic behaviour.<sup>14</sup>

### The Question of Child Labour and School Participation

In a strict sense, all children who are not attending school are participating in the labour force. According to estimates by the International Labour Organization, some 250 million children between the ages of 5 and 14 work in developing countries and some 50 million to 60 million children between the ages of 5 and 11 work in hazardous circumstances.<sup>15</sup> This is in spite of the fact that most countries have child protection acts and laws prohibiting child labour in place. There is a strong argument, with considerable justification, that strict enforcement of laws banning child labour is an effective means of ensuring full participation of children in primary education.

There is no doubt that considerable amount of child labour, even of the hazardous kind, takes place due to apathy of those who are to protect the rights of the children. One will also often come across willful connivance of the state machinery with profiteering employers for whom child labour is simply a source of making more money. Some bring in parents also as willing partners in the child exploitation process. Why does this oppression of children continue even in democratic societies as in India. Is it really unpreventable? Reviewers have found several plausible causes for the continuance of the phenomenon. Main argument is that child labour is necessary for the well being of the poor as the State is unable to provide relief. The second argument is that school education would turn the poor unsuited for the kind of work that is required to be done – a familiar line of thought reminiscent of the 17<sup>th</sup> and early 18<sup>th</sup> century Europe - often heard from the parents. A third argument is that the State cannot interfere in the parents' rights who know what is best for their children and families.

The arguments are weak and utterly indefensible. Poverty may be pushing parents to subject their own children to such oppressive conditions. But if one recalls the voices from the field quoted from Sainath's accounts in an earlier section, parents are compelled to take recourse to such measures by circumstances not out of their own will. However, empirical analysis of the reality points to the fact that creating an effective educational system is likely to have a more far-reaching impact on child labour than direct regulatory attempts in the labour market. In many cases, child labour represents a reasoned rejection by parents of an education system that seems irrelevant to their child's future.<sup>16</sup>

Recent years have witnessed intense social propaganda and action by national and international NGOs which has resulted in more serious effort to tackle the problem. Most

<sup>14</sup> G. Rodgers and G. Standing 'The Economic Role of Children: Issues for Analysis (pp. 1- 45). In Gerry Rodgers and Guy Standing (eds.) *Child work, Poverty and Under Development*, International Labour Office, Geneva, 1981.

<sup>15</sup> *The State of the World's Children 2000*, UNICEF, New York, 2000 (p.24)

<sup>16</sup> M. Haq and K. Haq, *Human Development in South Asia 1998*, Oxford University Press, Karachi, 1998. (p.76)



observers, however, agree that mere legislative measures will not suffice. Governments and international agencies have to come out with proactive policies in both education and economy that benefit the poor more directly. Condemnation at international platforms and leaving things to the market forces is not likely to solve the problem. Rather adequate institutional arrangements have to be worked out not only for blocking children from entering the labour force but also for better quality education and improved employment prospects for the adults. Projects run by many NGOs have clearly demonstrated that children are quite willing to put in that extra bit of effort to get educated. It is the responsibility of the State to ensure release and proper provision of education to children who have been subjected to forced labour. Mere campaigns for liberation of child labourers from the drudgery of forced work is not enough. The State has the obligation to protect their right to life and to provide education.<sup>17</sup>

### Compulsory Education Legislation as the Final Solution

In the recent years, particularly after the seminal work of Weiner<sup>18</sup>, debate on compulsory education as the means of eliminating child labour and ensuring universal participation of children in schooling has gained momentum. Weiner in his study on the Indian situation, is unequivocal in recommending for implementation of compulsion. He considers that it is political will not poverty that constrains. One may pick holes in the details of the argument of Weiner, but cannot reject the basic point that India seems to be endlessly waiting for the poverty to disappear and pave the way for universal participation of children in primary schools on a voluntary basis. In fact, he presents compelling data on the fact that several countries have acted to universalize primary education at periods of relative poverty in their history of development.<sup>19</sup>

Weiner highlights the importance of moving from the framework of 'rights of the child' to that of 'duties of the state and the parents.' He writes, "The shift from rights to duties is a profound one in the history of the relationship between children and the state. "Rights" implies access and choice. Education is free and widely available. Parents are free to choose or not to choose to send their children to school. The notion of duty denies parents the right to choose. Parents are told by the state that no matter how great is their need for the labour or income of their children they must nonetheless relinquish their child to school for part of the day. The notion of duty also applies to the state. The state has a duty to make education obligatory, and in turn the central authority imposes this duty on local authorities as well as on parents and guardians of children."

But, not all observers agree with Weiner. Jean Dreze and Amartya Sen, while emphasizing the value of legislative measures, point out that compulsory education on its own is obviously not an adequate programme of public action for the promotion of basic education. It can be an important part of such a programme, but the more exacting issue

<sup>17</sup> R.Govinda, 'Educational Provision and National goals in South Asia: A Review of Policy and Performance', Paper presented at the IDS-JNU Conference on "Needs vs, Rights: Social Policy from a Child-Centred Perspective" New Delhi, India July 28-30, 1999.

<sup>18</sup> Myron Weiner, *The Child and the State in India: Child Labour and Education Policy in Comparative Perspective*, Princeton University Press, Princeton, 1991.

<sup>19</sup> R.Govinda, Op cit.

is the need for a substantial improvement of the schooling system. Making it legally compulsory for children to attend schools that cannot receive them would not be a great gift.<sup>20</sup> Colclough and Lewin point out that legislation on compulsory education is wide spread around the world, typically stipulating both the minimum duration of school attendance in years, and the ages during which it should occur. 85 per cent of developing countries have enacted laws which make schooling compulsory; on average they require attendance for about eight years. The question arises, therefore, as to whether there is any relationship between the non-enactment of legislation and the incidence of low enrolment ratios caused by low demand for schooling. In Africa, there is actually some evidence of an inverse relationship between the incidence of compulsory schooling legislation and the value of the GER. Thus, across developing countries, the existence of compulsory schooling regulations often seems to have little impact upon the proportion of children actually enrolled. The evidence from the industrialized countries suggests that compulsory schooling regulations do promote continued high levels of enrolment once places for all children are genuinely available. But where the coverage of school systems remains partial, such regulations are probably of little help.<sup>21</sup>

### Globalisation and EFA

No discussion of EFA would be complete without examining its relationship with the fast changing economic scenario. There is a general sense of euphoria that the globalization and free market process will finally deliver the poor from their misery and therefore significantly improve their access to basic education. How well-founded is this? In reality, the global market place has been bountiful for a small minority with capital and skills. The 200 richest people in the world, for instance, more than doubled their net worth between 1994 and 1998, to more than \$1 trillion. Meanwhile, disparities continue to grow. In 1960, the income gap between the richest fifth of the world's population and the poorest fifth was 30 to 1; in 1997 it was 74 to 1.<sup>22</sup> If inequalities keep increasing how can it portend better educational opportunities for the poor? As noted earlier, inequalities would further exacerbate the educational problems of the poor unless economic liberalization measures are closely accompanied by full scale social development action in favour of the poor.

While globalization of the economy is apparently enhancing the economic growth prospects of the developing world, it seems to be leading the countries to a state of 'rich country - poor government' syndrome. Structural adjustment and other fiscal measures have forced many countries to indulge in cost-cutting actions invariably reducing their budgets for social sectors. This has resulted in two distinct trends that directly place the goal of providing 'quality education for all' at jeopardy. The first trend is that governments in the South are increasingly looking for cheaper and often substandard alternatives to provide primary education to the poor. One can see the emergence of a

<sup>20</sup> Jean Dreze and Amartya Sen "Basic Education as a Political Issue" *Journal of Educational Planning and Administration*, Vol. IX No. 1, January 1995. pp. 1-26

<sup>21</sup> Christopher Colclough and Keith M. Lewin *Education for All Children: Strategies for Primary Schooling in the South*. Clarendon Press, Oxford, 1993.

<sup>22</sup> *The State of the World's Children 2000*, UNICEF, New York, 2000. (p. 23)

wide variety of institutional arrangements - satellite schools, community schools, part schools, para teacher schools and so on, all targeted only at the poor, reminiscent of the little schools for the poor and colleges for the rich that existed a couple of centuries ago in Europe. It is a sad commentary that these efforts are being promoted with full support from and under the supervision of international donor agencies. The Dakar Declaration emphasizes 'quality education for all' wholeheartedly endorsed by all the member states and the international agencies. But can this purpose be served by openly promoting such inherently iniquitous structures?

The second trend is no less serious. Wide spread adoption of free market orientation to the economy in the recent past has ushered in a sense of déjà vu that privatization will solve the problem of basic education also. To some extent, at least in some of the countries, this is influenced by the explicit and implicit conditionalities placed by international funding agencies. One need not shun private initiative in provision of basic education facilities. But this has to be done with great care and caution where inadequate provision and inequitable distribution of educational facilities is still a serious problem. While in-country regional disparities are significant and incorporation of marginalised groups into the education is still a problem allowing market forces to operate is likely to jeopardize the interests of the poor by creating a hierarchy of classes within the education system.<sup>23</sup> This becomes even more serious when governments begin to make conscious efforts to freeze expansion of basic educational facilities and wait for the private sector to take over. As summarized by Colclough and Lewin "... our analysis of fee-generating schemes to support school expenditures suggests that it would be unsound to place more emphasis on these until there are mechanisms to ensure that schools which cannot or do not generate income in this way are not unduly disadvantaged as a result. The schools with the greatest needs to improve their physical and educational quality are those with the least capacity to raise such additional resources. They are also the schools, which tend to have the least favourable staffing ratios and working conditions. A commitment to schooling for all requires positive discrimination in favour of the most deprived schools."<sup>24</sup>

### Does the Rights Perspective Really Help Advance the Cause of EFA?

Within the framework of human rights 'rights of the child' occupy a unique position. "Of the great ideas that have transformed the world, none is as revolutionary as the idea that children have rights and interests independent of those of their parents."<sup>25</sup> The critical question is: 'Can 'human rights' become the overarching framework for provision of basic education for all in any country?' 'Rights provisions' are unlikely to provide a comprehensive explanatory or operational framework just as economic instrumentality of education fails to fully explain. This is so for several interlinked factors.

<sup>23</sup> R.Govinda, Op cit.

<sup>24</sup> Colclough and Lewin, Op cit.

<sup>25</sup> Myron Weiner "Compulsory Education and Child Labour" Extract from a presentation made at Rajiv Gandhi Institute for Contemporary Studies, New Delhi, January 8, 1994. In *Nationwide Debate on Vital Issues of Education: Background Papers*, Ministry of Human Resource Development, Government of India, New Delhi, 1995.

First, advocates of expanded rights argue and act in an absolutist sense when it comes to rights. According to them rights are not to be compromised or pursued only half way. They argue that language of rights is meant to be applied universally and does not admit of exceptions.<sup>26</sup> Such absolutist positions are not likely to help with regard to educational provisions. This is clearly evident from the discussions presented on the ineffectiveness of Compulsory Education Laws and cultural factors that influence school participation and child activity patterns.

Secondly, unlike violation of other civil rights, violation of Child Rights cannot be settled without institutional mediation – school and family are both important stake holders in any such legal tangle. State cannot stay out of it either. State is not just a *protector of the right but also a provider* of facilitating conditions. What if the state does not fulfill its responsibility? Can we compel the child to attend the school which does not meet his or her 'basic learning needs'? Who determines the appropriateness? Legislative measures can only deal with residual and recurrent issues. But they cannot operate as the basic framework for ensuring education for all. Recent Indian experience illustrates this point well. The Supreme Court interpreting the Constitutional provisions declared in 1993 that basic education is a fundamental right of every citizen violation of which is justiciable in a court of law. This led to enthusiastic debates among the intellectuals as well as government officials on its consequence. Sadly, very little has changed for the government as well as the civil society leadership, who continue their work just as before. Basic education of the poor prods along as before.

Thirdly, exclusive emphasis on the rights framework makes the discourse essentially political taking away the social-moral dimension which has significantly helped the progress of education for centuries across the world. Consequently, it marginalises other stakeholders anchoring the whole issue on governmental action. Enforcement of the rights framework which implies even forcible implementation of compulsion clauses and child labour prohibition laws, tends to pit one section of society against another thus losing any sense of common purpose and shared feelings for the children. This is not likely to promote implementation of any social policy, and in particular basic education programmes that touch the life of every individual family.

Lastly, it should be recognised that 'freedom to choose' and 'right to access' are inseparable. The rights framework assumes two basic components: an ambiance of freedom and existence of choices. Choice option, therefore, is an assumption underlying any discourse on rights. How valid is such an assumption? Viewed from this angle, to choose schooling or an alternative or deciding not to examine the choice options is not just a personal-social exercise; it is quintessentially an economic one. But such freedom will defeat the very purpose. After all, the child invariably is a passive actor.

### **Conclusion: The Way Ahead**

In conclusion it may be stated that the solution lies in enhanced social mobilization and more focused advocacy. This has to be coupled with transparency of action by national

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<sup>26</sup> Ronald J. Terchek Op cit.

governments as well as international agencies. Historical evidence shows that what brought about universal basic education in the developed world were not legal measures but a persistent social movement viewing universal basic education as an integral component of establishing a democratic social polity. The movement was not propelled by the findings of cost-benefit analysis or estimates of value addition to the human capital through years of schooling as the modern day economists and international agencies attempt to fine tune the inputs and duration of schooling in the developing world. What is needed is a revival of the 'human face' of the education endeavour and an emphasis on social processes that will lead to a transformation of the socio-economic conditions in the poorer countries. We can rush people by force to go to school but we cannot rush them to change their attitudes and values which have their own rhythm of evolution and change. Enduring transformation in the way people think and the governments act can be brought only through a broad based social philosophy, not through economic inducements, nor through legal enforcements.<sup>27</sup>

Protection of child rights and promotion of their well being is too precious to be left only to the governments or to the families. Nor is there any place for mutual denouncements by protagonists of 'needs' and 'rights' perspectives. The cause would be served better without such a controversy. Rather, it demands genuine partnership among all concerned on a long term basis. As shown by the implementation of the Convention of Child Rights, the success of any effort to improve the well-being and opportunities of children must rest not only on sound principles, but also on the realization that respect for basic rights is a long-term social project, involving a profound understanding of the constraints and capacities of specific countries. Local circumstances often raise complex cultural, economic, social and political barriers to immediate, durable and effective relief. The aim should be to involve partners at all levels - from local actors and NGOs to ministries and eminent moral authorities - and bring them to the realization that there is convergence of interest between agents of civil society and public institutions in seeing children universally protected against hunger, disease and exploitation, and in identifying them as both the most vulnerable members in the human family and the most precious resource for the future.<sup>28</sup>

Finally, to quote Amartya Sen, space does not have to be artificially created in the human mind for the idea of justice or fairness – through moral bombardment or ethical

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<sup>27</sup> Weiner also endorses this view when he says that it was theologians, with their vision of god-fearing, law abiding, moral youth: educators with their vision of schools transmitting the Enlightenment Values of secularism, rationalism, cosmopolitanism, individualism; and revolutionaries, with their romantic vision of social transformation, who provided the driving force behind the idea of compulsory mass education. Theologies and ideologies were the critical determinants. The contemporary view put forth by international agencies and by economists and demographers that mass education is needed to increase productivity, reduce fertility, and improve public health - all by now well-proven propositions - did not play a role in the early movement by the governments to make education compulsory. (Myron Weiner, 'Compulsory Education and Child Labour'. Extract from a presentation made at Rajiv Gandhi Institute for Contemporary Studies, January 8, 1994)

<sup>28</sup> Javier Pérez de Cuellar et al. *Our Creative Diversity: Report of the World Commission on Culture and Development*, UNESCO, Paris, 1996 (p. 155)

haranguing. That space already exists, and it is a question of making systematic, cogent and effective use of the general concerns that people do have.<sup>29</sup>

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<sup>29</sup> Amartya Sen, *Development as Freedom*, Oxford University Press, New Delhi, 1999. p. 262