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**The American University in Cairo**

**School of Global Affairs and Public Policy**

**REALIZING THE RIGHT TO EDUCATION IN EGYPT:  
AN ASSESSMENT OF PRIMARY EDUCATION  
IN RELATION TO INTERNATIONAL STANDARDS**

**A Thesis Submitted to the**

**Department of Law**

**in partial fulfillment of the requirements for the degree of  
Master of Arts in International Human Rights Law**

**By**

**June 2012**

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The American University in Cairo  
School of Global Affairs and Public Policy  
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REALIZING THE RIGHT TO EDUCATION IN EGYPT:  
AN ASSESSMENT OF PRIMARY EDUCATION  
IN RELATION TO INTERNATIONAL STANDARDS

Supervised by Professor Hani Sayed

ABSTRACT

The right to education in international human rights law is contained in number of international treaties. The most comprehensive coverage of the right is found within the International Covenant on Economic, Social and Cultural Rights (ICESCR) under articles 13 and 14. The primary level of education is an essential and integral phase in the development of a child, without the right to education children are unable to realize other rights. This research assesses the functionality of the Egyptian primary education system and its compliance with the international human rights standards of education, specifically the utilizing the 4-A schematic. The indicators included in the 4-A system are defined and analyzed in accordance to the primary level of education. A brief modern history of the Egyptian education system is provided in order to understand current trends. The issues facing the Ministry of Education – are centralization, aid for education and social and economic gaps – and their analysis provides greater insight into the compliance of the state. The final section of this research measures and analyzes the Egyptian system with the international standards in direct correlation to the human rights indicators that comprise the 4-A schematic. There are pockets of *de facto* discrimination, mostly social-economic that exists within the Egyptian primary education system and by international standards these facets of discrimination should take the highest priority for reform for the Ministry of Education. Other elements detracting from the provision of the right to education includes the quality of education in Egypt and equality. Stronger educational policies that are sharply focused, with targets for implementation being set; comprehensive legislation; and greater levels of awareness and civic engagement are needed in order to protect the right to education at the primary education level.

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## I. INTRODUCTION

The importance of an education is paramount in Egypt, an integral and fundamental element of society, so much so that a basic education has been a right for every citizen since the constitution of 1923<sup>1</sup> before any international treaties documented it as a human right. Former Minister of Education Taha Husayn described education as being as integral to life, “like ‘water and air, the right of every citizen.’”<sup>2</sup> Education in Egypt, as with other states, seeks to create a system that empowers its citizens and meets the needs of the country in doing so. However, there are a multitude of factors that can and do enhance or detract from the ability of a state to adequately and effectively educate its population. With a rapidly increasing population, it is becoming ever more important and vital for the government of Egypt to deal with the expanding costs of providing an adequate and relevant education for its citizens.

Education is a tool that when adequately implemented can equip the bearer with the ability to advance their life in a number of ways. The importance of education has direct and profound implications for the development and success of an individual, communities and, on a wider-scale, the state. The way in which a state structures its education system is an indicator that helps to gauge how healthy its social, economic and development initiatives are. The right to education and its implementation is embedded in international legal doctrine as an essential element of human rights that must be ensured by states. Further, guaranteeing the right of education within the primary level requires that it be free and compulsory and meet a number of standards in order for the right to be realized at the highest level.

The researcher has focused upon the primary level of education because it is widely perceived to be an essential and integral phase in the development of a child, and without the proper foundations being established at this stage, the child will undoubtedly suffer greatly in their academic and developmental future. Secondly, the right to education as stipulated in international legal treaties stresses the importance of this right as being vital to realizing other rights. There is a nexus between other rights encapsulated

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<sup>1</sup> Fatma H. Sayed, *TRANSFORMING EDUCATION IN EGYPT: WESTERN INFLUENCE AND DOMESTIC FOREIGN POLICY REFORM*, 27 (American University of Cairo Press: Cairo) 2006.

<sup>2</sup> *Id.*, at 27

in the International Covenant on Economic, Social and Cultural Rights (ICESCR), most of which are directly connected to this primary right.

This research argues that the current structure and functionality of the Egyptian primary education system fails to completely comply with international legal human rights standards of education. While Egypt adheres to and accepts that education is a right, there are a number of flaws and defects that have corrosive effects on the provision of the right to quality education to all Egyptian children. The presence of these defects distracts from critical issues surrounding the actual right to education. In order to meet all the standards of the right, a comprehensive review and reform of sectors in the country should be undertaken to ensure that enjoyment of a quality and relevant education is extended to all Egyptian children.

Part I provides an introductory assessment of the topic of the Egyptian education system and its importance in relation to the right to education the remainder of this research will be structured in such as follows. Part II explores the foundations of the right to education in the context of international human right law, with a specific emphasis on the International Covenant on Economic, Social and Cultural Rights (ICESCR). This section also introduces the international standards for education (4-A Schematic) and human rights indicators. Part III analyzes the primary education system in Egypt, which includes a brief historical overview of the roots of the modern system, a description of the structure of the current system, and a discussion of a number of pertinent issues facing the Ministry of Education. Part VI measures and analyzes Egyptian compliance with the international standards in direct correlation to the human rights indicators that comprise the 4-A Schematic. Finally, Part V concludes with an assessment as to whether or not the Egyptian primary education system adheres to the international legal requirements pertaining to the right to education. In the cases of the indicators where it has not reached compliance, what is missing and which areas need improvement are discussed, to help ensure that the Government of Egypt meets the international standards that ensure that the right to education for all primary-age school children is met.



## II. THE RIGHT TO EDUCATION LEGAL FRAMEWORK

The development on the discourse of the right to education has evolved in the international context through a number of international treaties. The right first appears in the Universal Declaration of Human Rights (UDHR). Article 26 (1) (2) establishes the right to education as a human right, thus introducing a recommended standard for States. The right to education is outlined in a number of international documents. The Universal Declaration of Human Rights (UNHR) declares that education is a human right.<sup>3 4</sup> Article 26(1) states, “everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory...”<sup>5</sup>

The UNESCO Convention Against Discrimination in Education (CADE)<sup>6</sup> reiterates the right to education as stipulated in the UDHR, and stresses the “assert[ion] [of] the principle of non-discrimination and proclaims that every person has the right to education.”<sup>7</sup> The Convention of the Rights of the Child in Article 28 affirms like principles and that “State Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity...”<sup>8</sup>

### A. ICESCR – Framing the Right

The International Covenant on Economic, Social and Cultural Rights<sup>9</sup> in Articles 13 and 14 of the ICESCR cover the right to education and what this requires state parties to abide by. Article 13 states “the State Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full

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<sup>3</sup> Klaus Hüfner, *The Human Rights Approach to Education in International Organizations*, 46:1, EURO. J. EDU. 119 117 – 126 (2011).

<sup>4</sup> Adopted by the United Nations General Assembly on 10 December 1948 with states voting 48:0, with eight abstentions.

<sup>5</sup> Universal Declaration of Human Rights, Article 26 (1) Fully states, “Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.” Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810 at 71 (1948).

<sup>6</sup> UNESCO Convention against Discrimination in Education (1960) Adopted on 14 December 1960 by the General Conference of UNESCO, entered into force on 22 May 1962. As of 31 December 2005, 91 States have adhered to the Convention. [taken from UNESCO Right to Education: Comparative Analysis CADE and ICESCR] 9.

<sup>7</sup> See Hüfner, *supra* note 3, 121.

<sup>8</sup> Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3. Article 28, para. 1 hereinafter referred to as CRC.

<sup>9</sup> International Covenant on Economic, Social and Cultural Rights, *adopted* 16 Dec. 1966, G.A. Res. 2200 (XXI), U.N. GAOR, 21<sup>st</sup> Sess., U.N. Doc. A/6316 (1966), 993 U.N.T.S.3 (*entered into force* 3 Jan. 1976).

development of the human personality []." <sup>10</sup> Furthermore, the ICESCR stipulates in Articles 2(2) and 3 that state parties are to "ensure all rights under the ICESCR, including the right to education, equally and without discrimination." <sup>11</sup> Whereas Article 14 stipulates the necessity of a State Party to establish compulsory and free primary education, <sup>12</sup> it also asserts the principle of progressive realization for other levels of education, thus creating a hierarchy of education with the utmost importance being delegated to the establishment of primary education. "Economic, social, and cultural rights require active intervention on the part of governments and cannot be realized without such intervention." <sup>13</sup>

In establishing the legal framework, this research primarily focuses on the right to free and compulsory primary education as stated in Articles 13 and 14 of the ICESCR. Although there are numerous international treaties that cover the right, Article 13 offers the most in depth and wide ranging language in the context of international human rights law. <sup>14</sup> It is also the longest stipulation of the Covenant and "covers this right most comprehensively." <sup>15</sup> Article 13 further contains the language that requires primary education to be free and compulsory. Article 14 then establishes the relative discourse of primary education in relation to states' obligations to ensure that the right is met.

Recognizing the right to education follows an evolutionary process of development that has led to a number of changes in how this right is conferred as a legal obligation upon states and not 'just' a right of individuals. The framing of international human rights has provided a definition for the ends and means of education. <sup>16</sup> Whereas,

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<sup>10</sup> *Id.* Article 13.

<sup>11</sup> Sital Kalantri, Jocelyn E. Getgen and Steven Arrigg Koh, *Enhancing Enforcement of Economic, Social and Cultural Rights Using Indicators: A Focus on the Right to Education in the ICESCR*, 32 HUMAN RIGHTS QUARTERLY 253, 268 (2010). Article 2(2) .

<sup>12</sup> International Covenant on Economic, Social and Cultural Rights, *adopted* 16 Dec. 1966, G.A. Res. 2200 (XXI), U.N. GAOR, 21<sup>st</sup> Sess., U.N. Doc. A/6316 (1966), 993 U.N.T.S.3 (*entered into force* 3 Jan. 1976). Article 14.

<sup>13</sup> Philip Alston and Gerard Quinn, *The Nature and Scope of States' Parties' Obligations under the International Covenant on Economic, Social and Cultural Rights*, 9:2, HUMAN RIGHTS QUARTERLY 159, 156 – 229 (1987).

<sup>14</sup> Pierrick Devidal, Trading Away Human Rights? The GATS and the right to education: A Legal Perspective 2:2, J. CRITICAL EDUCATIONAL POLICY STUDIES, 6, 1 -27 (2004) Accessed at <http://www.jceps.com/?pagesID=article&articleID=28> also contained in the General Comment No. 13 on the Right to Education, Committee on Economic, Social and Cultural Rights, 21<sup>st</sup> Sess., U.N. Doc. E/C.12/1999/10(1999), at para. 2.

<sup>15</sup> Hüfner, *supra* note 3, at 121.

<sup>16</sup> KATARINA TOMAŠEVSKI, EDUCATION DENIED: COSTS AND REMEDIES 1 (2003).

“altering political choices by bestowing legal rights upon those actors who have the least access to decision-making, such as children”<sup>17</sup> hopefully guarantees their right to education. Fons Coomans comments on the use of language by stating that, “the drafting history of the Covenant in general and of Article 13...show[s] that the use of the term ‘to recognize’ is closely linked to the idea of progressive realization.”<sup>18</sup> The use of the word ‘recognize’ denotes stronger legal significance<sup>19</sup> and “triggers the application of general state obligations under Article 2(1).”<sup>20</sup> “Recognition meant first and foremost that States should accept the obligation to do all in their power to achieve certain clearly defined aims, without, however undertaking to attain them in a specified period.”<sup>21</sup>

### **1. Article 13 – The Right to Education**

The goal of Article 13 – particularly paragraph 2 – is to outline the progression of the education system of each state party: “...[T]o the present Covenant recognize that, with a view to achieving the full realization of this right: (a) Primary education shall be compulsory and available free to all.”<sup>22</sup> It makes it clear that the first and most pressing concern of states should be to establish *compulsory and free* primary education, which are the “two distinctive features” embedded in Article 13 (2)(a)<sup>23</sup> in realizing the right to education.

The General Comments on Article 13 and specific legal obligations provides that “[t]hey [states] are also obliged to establish and maintain a transparent and effective system which monitors whether or not education is, in fact, directed to the educational objective set out in article 13 (1).”<sup>24</sup> In relation to Article 13(2), states are also required to adhere to the 4-A system<sup>25</sup>, which includes:

[R]espect of the availability of education by not closing private schools; [...] fulfill[] (facilitate) the acceptability of education by taking positive measures to ensure that education is culturally appropriate [...]; fulfill[] (provide) the adaptability of education by designing and providing resources for curricula[...]; and fulfill[]

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<sup>17</sup> Katarina Tomaševski, *Free and Compulsory Education for All Children: The Gap Between Promise and Performance*, Right to Education Primers No. 2., 10 (2001).

<sup>18</sup> Fons Coomans, *Clarifying the Core Elements of the Right to Education*, 18, SIM SPECIAL. Page 3(1995).

<sup>19</sup> *Id.* at 3.

<sup>20</sup> Alston and Quinn, *supra* note 13 at, 185.

<sup>21</sup> Coomans *supra* note 18 at, 4.

<sup>22</sup> ICESCR, Article 13 (2) (a).

<sup>23</sup> General Comment No. 13, *supra* note 9 par. 10.

<sup>24</sup> General Comment No. 13 at par. 49 *see supra* note 9.

<sup>25</sup> Availability, accessibility, acceptability and adaptability.

(provide) the availability of education by actively developing a system of schools, including building classrooms, delivering programs[], providing teaching materials, training teachers and paying them domestically competitive salaries.<sup>26</sup>

## 2. Article 14 – Primary Education

The text of Article 14 of the Convention leaves little to no space for various interpretations with regards to primary education. It is in this text where the emphasis on the importance of establishing free and compulsory primary education is promoted as vital in its implementation in a timely and precise manner:

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years.<sup>27</sup>

Article 14 is quite specific in establishing the hierarchy of education. Elevating primary education with “priority of implementation”<sup>28</sup> “reflect[s] the fundamental importance of primary education for the development of young people and underscores the need for the justiciability of this right.”<sup>29</sup> Whereas other forms of education are subject to a clause of progressive realization, primary education is not. The Committee on Economic, Social and Cultural Rights assert that Articles 13(2) and 14 are to be understood respective of one another and not separate: “when read together [these articles] require state parties to ‘prioritize the introduction of compulsory, free primary education.’”<sup>30</sup>

As indicated in the General Comments on Article 14, if a state is allowed to be inconsistent due to economic burdens and evade their duties, the probability that other human rights have the potential for violation is likely.<sup>31</sup> “[T]he work of the Committee

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<sup>26</sup> General Comment No. 13 at par. 49 *see supra* note 9.

<sup>27</sup> International Covenant on Economic, Social and Cultural Rights, *adopted* 16 Dec. 1966, G.A. Res. 2200 (XXI), U.N. GAOR, 21<sup>st</sup> Sess., U.N. Doc. A/6316 (1966), 993 U.N.T.S.3 (*entered into force* 3 Jan. 1976).

<sup>28</sup> Coomans *supra* at note 18 at, 12.

<sup>29</sup> *Id.* at 12.

<sup>30</sup> Kalantry, *supra* note 11 at, 269.

<sup>31</sup> General Comment 11, paragraph 4.

has shown that the lack of educational opportunities for children often reinforces their subjection to various other human rights violations.”<sup>32</sup>

## **B. Primary Education in the International Human Rights Legal Context**

The human rights-based approach towards determining what education is – especially primary education – has gone through two periods of development. First, the term Universal Primary Education (UPE) was coined in the 1960s and remained dominant until the 1990s when Education for All (EFA) was introduced. The plan was that primary education at the universal level was to be achieved by the early 1980s with basic education for all being realized by the year 2000.<sup>33</sup> The 1990s saw a renewed commitment towards meeting the goals of education and an initiative to bolster global support. Through a partnership of international organizations, such as UNESCO, UNICEF, the World Bank and UNDP and ministers of education, donors, international and local NGOs gathered in 1990 in Jomtien, Thailand for the World Conference on Education for All.<sup>34</sup> The outcome of this conference was “considered to be the education policymaking throughout the world during the 1990s.”<sup>35</sup> While the initiative and the goals established through the Jomtien Declaration were ambitious, the reality was that the immediate future saw “business-as-usual on the ‘development and education’ front.”<sup>36</sup> UN and developmental agencies failed to prioritize the right to education, which led to a slower pace in reaching UPE.<sup>37</sup>

The Dakar Framework for Action sought to renew the elements of the Jomtien Declaration where the advancement of education was concerned. In the conference, states sought to make good on their goals through “commit[ing] the world community to achieving education for ‘every citizen in every society.’”<sup>38</sup> The culmination occurred when six regional conferences of Education for All (EFA) met to solidify the techniques

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<sup>32</sup> General Comment 11, paragraph 4.

<sup>33</sup> Katarina Tomaševski, Economic, Social and Cultural Rights. E/CN.4/1999/49 18 January 1999. 6 “Preliminary Report of the Special Rapporteur on the right to education, Ms. Katarina Tomaševski, submitted in accordance with Commission on Human Rights resolution 1998/33, at 6.

<sup>34</sup> Sayed, *supra* note 1 at, 14.

<sup>35</sup> *Id.* at 15.

<sup>36</sup> Philip Jones, *The Impossible Dream: Education and the MDGs*, 36 HRVD. INT’L. RVW., 34 – 38 (2008).

<sup>37</sup> *Id.* at 36.

<sup>38</sup> UNESCO ED/-2000/WS/27 “The Dakar Framework for Action”, Foreword at 3.

necessary to ensure that education was realized for all the citizens and to determine what tools and resources would be needed in order to meet the objectives. “The Dakar Framework for Action states that the ‘heart of EFA lies at [the] country level’. It also affirms that ‘no countries seriously committed to education for all will be thwarted in their achievement of this goal by a lack of resources’.”<sup>39</sup> It was further recommended that states should submit national action plans by 2002 with the hopes of achieving Education for All by 2015.<sup>40</sup> While the language seems to be ambitious and very goal oriented, the reality is that lack of resources has and continues to be a major impediment to states’ meeting the established objectives.

### **1. What is Education?**

The discourse on establishing the right to education has diverged on a major question: what is education? How can education be defined from the human rights perspective in such a way that does not detract from the attainment and achievement of other related rights? Examination of the international legal sources on defining and articulating the right to education reveals that there is no specific definition or explanation on what composite of techniques, sources or perspectives create the larger foundation of education. Some would blame this deficiency on the eagerness of the international community to focus on education as an end goal. As McMillan noted, “[t]he second Millennium Development Goal (MDG) illustrates this push, urging for the fulfillment of education for all primary school-aged children by the target year, 2015;”<sup>41</sup> however, this target has consistently been missed. Inclusive of the debate on universality when related to human rights and their implementation and achievement, is that “the international community seemingly assumes the definition, as reflected in the diverse range of actors calling for ‘universal primary education’ (UPE) or ‘education for all’ (EFA), cultures and religions differ between countries and across border, as, too, does the very concept of education.”<sup>42</sup> Another critique offered as to why there has yet to be a solid definition on education relates to the Commission’s inability to deal with the

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<sup>39</sup> *Id.* at 3.

<sup>40</sup> *Id.* at 3.

<sup>41</sup> Leah K. McMillan, *What’s in a Right? Two Variations for Interpreting the right to education*, INT’L. REV. EDU. Vol. 56, 534, 531 – 545 (2010).

<sup>42</sup> *Id.* at 534.

implication of violations of the right. “The Commission has not defined education as a human right because this would imply that this right can be violated and, then, violations ought to be exposed and opposed. Rather, its resolutions have followed a more-and-better approach – more schools or literacy courses.”<sup>43</sup> Regardless of conformity, the foundations of education bear strong emphasis on paths central in development initiatives.

A general consensus exists within the international texts [treaty bodies] regarding the requirements of primary education. The World Declaration on Education for All offers the definition of what a primary education entails: “[t]he main delivery system for the basic education of children outside the family is primary schooling. Primary education must be universal, ensure that the basic learning needs of all children are satisfied, and take into account the culture, needs and opportunities of the community.”<sup>44</sup> Paragraph 9 of the General Comments No. 13 then defines basic learning needs as listed in Article 1 of the World Declaration: “these needs comprise both essential learning tools (such as literacy, oral expression, numeracy, and problem solving) and the basic learning content (such as knowledge, skills, values, and attitudes) required by human beings to be able to survive...”<sup>45</sup> The international texts fail to reach or attempts to define what education is, but the importance of a primary education is nonetheless stressed as the supreme element in the wider context of the right. Perhaps this ambiguity is intentional, so as not to relegate education into one specific classification.

Former Special Rapporteur on the Right to Education, Katarina Tomaševski stated that her mandate in reporting to the Commission<sup>46</sup> required her to first define education, which was both an easy and difficult task. She found that the inclusion of the right to education in a number of international human rights treaties, “supported by national constitutions and ample jurisprudence, made things easy.”<sup>47</sup> The difficult part of defining education lay in the multifaceted nature of the right to education, whereas it is not simply limited to the international human rights perspective when establishing a legal

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<sup>43</sup> Katarina Tomaševski, *Has the Right to Education a Future Within the United Nations? A Behind-the-Scenes Account by the Special Rapporteur on the Right to Education 1998 – 2004*, HUM. RTS. L. RVW. Vol. 5:2, 215, 205 – 237.

<sup>44</sup> General Comment No. 13, *supra* note 9, par. 9.

<sup>45</sup> World Declaration of Education for All, article 1(par. 1) 1990.

<sup>46</sup> The Commission on Economic, Social and Cultural Rights.

<sup>47</sup> See Tomaševski *supra* note 43, at 224.

framework.<sup>48</sup> “The right to education represents [] an interface between civil and political and economic, social and cultural rights.”<sup>49</sup> So while champions of human rights would advocate that the right of education has the deepest roots in international human treaties, the reality is that education is subject to a government’s willingness and or ability to finance it.<sup>50</sup> Furthermore, the definition of education is burdened because “most countries have moved away from definitions of the right to education in older human rights treaties, especially from a guarantee that all education should be provided free of charge.”<sup>51</sup>

What becomes clear after examining the discourse on what education actually entails is this: education is not definable. That is, the basic elements and foundations are immutable. However, the techniques and attitudes will always differ due to a myriad of factors, such as culture, resources and religious beliefs. In the context of the right to education, the international treaties take a widespread and calculated approach towards classifying education but remain ostensibly vague and ambiguous. Defining education proves counterintuitive to achieving the right since there will almost always be two notions on how it is delineated. First is the process of education, which international documents cover. And second is the substance of education. Establishing a system with a degree of guidelines is not inclusive of what is actually taught in the classroom. It then becomes clear that the intention of the international community is simply to ensure that the basic guidelines are met, without the aforementioned elements.<sup>52</sup>

## **2. What It Means to Have Free and Compulsory Primary Education**

Free primary education is incumbent upon duty-bearers, insofar that it is the responsibility of the state to create a system of equity that provides the same public education to all.<sup>53</sup> In establishing the task of providing free primary education, there was no question of it being of no cost. However, during the drafting process the United Kingdom suggested that the term “free” should be written in a way that connects it to a

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<sup>48</sup> Tomaševski, *supra* note 43, at 224.

<sup>49</sup> Tomaševski *supra* note 43 at, 224 citing Katarina Tomaševski, 11 January 201 E/CN4/2001/52, Annual Report 2001.

<sup>50</sup> *Id.* at 207.

<sup>51</sup> *Id.* at 207.

<sup>52</sup> See subsection on indicators and also this makes reference to free, compulsory and non-discriminatory.

<sup>53</sup> Kate Halvorsen, *Notes on the Realization of the Human Right to Education*, 12, HUMAN RTS. Q., 341, 350 (1990).



“country’s resources, since countries’ resources varied to such a great extent. This was not accepted on the grounds that it would legitimate the neglect of the implementation of the right if one could refer to scarcity of resources.”<sup>54</sup>

The core content of the right to education requires the features of being compulsory and free for all. These two elements are not subject to progressive realization and their provision is essential towards ensuring immediate implementation.<sup>55</sup> International law refrained from setting an age for compulsory education, leaving it to the discretion of the state to legislate standards. However, simply passing laws or incorporating the right to primary education in a national constitution, “rendering education *de jure* compulsory is not alone sufficient to guarantee effective enjoyment of the right to the education.”<sup>56</sup> Policies on education should be structured in such a way that the “*genuine* right to all children to compulsory primary education by making primary education free of charge.”<sup>57</sup> Maija Mustanieme-Lassko maintains that compulsory and free primary education can only be as such when “it is truly available *free of charge* on a non-discriminatory basis to all.”<sup>58</sup> The universality of free and compulsory education should not be guided by the “principles of ability to pay and the willingness to pay should not figure in designing free and compulsory education.”<sup>59</sup> Otherwise, education would remain subject to economic discrimination.

The vocabulary used to describe and classify primary education as being free follows the rationale that education is in fact a human right and access to it should not be based on the ability to afford education.<sup>60</sup> Access to education should not be hindered because of the inability to pay for it. It therefore becomes an obligation of the state to meet the right to education, “the human rights obligation of government to adequately fund education exists so that children would not have to pay for their schooling or remain

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<sup>54</sup> Halvorsen, *supra* note 53 at, 351.

<sup>55</sup> See Kalantry, *supra* note 11, at 269 -70.

<sup>56</sup> Alessandra Lundstrom Sarelin, *The Right to Education From a Developing Country Perspective*, 6, Kios Thematic Reports 2006 (Finland). Available at [http://www.kios.fi/english/publications\\_and\\_reports/](http://www.kios.fi/english/publications_and_reports/)

<sup>57</sup> *Id.*, 6, Author citing Committee on the Rights of the Child, Statement on the Economic Exploitation of Children, CRC./C/20, 25 October 1993, Annex VI.

<sup>58</sup> *Id.* at 7.

<sup>59</sup> Jandhyala B.G. Tilak, *Free and Compulsory Education: Legislative Intervention*, ECON. & POL. WKLY. 39, 618, 618 (2004).

<sup>60</sup> E/CN.4/2004/45 ESCR Special Rapporteur Report on the Right to Education, Katarina Tomaševski, 2004, 6 para. 8

deprived of it when they cannot afford the cost.”<sup>61</sup> But in the realist scheme of things, ultimately nothing can be free. It appears that what Special Rapporteur Tomaševski was highlighting is that education should not ride on the whims and follies of financial markets. If left solely to the human rights debate, funding education would be a non-issue. However, the reality is that market economic issues do and always will play a major factor in how the right is perceived, received and distributed.

Theoretically, primary education should be free. However, even if the government is able to provide education without charge it “cannot be free-of-cost in theory or in practice.”<sup>62</sup> There will always be charges associated with education, including transportation, meals, uniforms and supplies. However, it is the “requirement upon governments to make primary education free [which] implies that governments should eliminate financial obstacles in order to enable all children – no matter how poor – to complete primary schooling.”<sup>63</sup> Furthermore, primary school should be free for children since they have no means to pay for it, but as Tomaševski notes, “this does not imply that education is free for parents, community, society or the state because schools and teachers’ salaries have to be financed.”<sup>64</sup> The issues then remain, how do governments fund such initiatives? Is discrimination, financially at least, to always remain a point of contention and consternation?

### **3. Who has the Right?**

The right to primary education generally refers to children. In determining who receives primary education, the general age for entry into primary school is commonly agreed to be the ages of 6 or 7 among most states.<sup>65</sup> However, the disunity among states in adhering to a definitive agreement on who can be considered a minor or adult plays a major role on indicators relating to education, as well as to other rights. Since the task of setting the compulsory limits on education falls to states, they determine the length of the right. The discussion on limits and age is inextricably linked to the determination of the legal minimum age for employment. The ILO requires states to set a minimum age that

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<sup>61</sup> *Id.* at 6.

<sup>62</sup> Tomaševski, Right to Education Primers, No. 2 *supra* note 17, at 20.

<sup>63</sup> *Id.* at 20.

<sup>64</sup> *Id.* at 20.

<sup>65</sup> Tomaševski, at *supra* note 40, at 6.

“prohibits employment which prejudices children’s school attendance”<sup>66</sup> Quite often it is the children who must work who most likely to urgently require free and compulsory education.

There are four key actors involved in the right to education: “the government as the provider and or/funder of public schooling, the child as the bearer of the right to education and of the duty to comply with compulsory-education requirements, the child’s parents who are the first educators, and professional educators, namely teachers.”<sup>67</sup> Children, who are the main recipients of education (in this case primary education), are not independent parties capable of making decisions for themselves so the parents act on their behalf as intermediaries between meeting their rights and the state, which provides the education system. The parents are [should be] afforded the opportunity of selecting the type of schooling that their children receive in adherence with their personal beliefs but within limitation,<sup>68</sup> a position that speaks to personal freedoms in deciding how their children shall be educated. In the same instance, the state has an obligation to provide education, which confers on it a number of powers and control in order to prevent “allowing anybody [from] set[ting] up an institution, call[ing] it a ‘school’, carry out a program[sic] called ‘education’, and issue pieces of papers called ‘diplomas’, [which] constitutes a dereliction of government responsibility.”<sup>69</sup> What is important to remember, irrelevant of the divisions among the actors involved in the right to education, is that the primary focus and right-holder to be protected is the child.

### **C. International Standards for Primary Education – 4-A Schematic**

The 4-A scheme assists in creating a set of standards that allows states to gauge their effectiveness in implementing the right to free and compulsory education. It is not feasible to assume that every state will be able to provide an education system that is

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<sup>66</sup> KATARINA TOMAŠEVSKI, *EDUCATION DENIED: COSTS AND REMEDIES* 24 (2003).

<sup>67</sup> *Id.* at 55.

<sup>68</sup> As previously mentioned and included in the ICESCR, Article 13(3), which states that “The State Parties to the present Covenant undertake to have respect for the liberty of parents, and when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.” Guarantees of parental freedom of choice in education is further encapsulated in the following international legal documents: The Universal Declaration (1948), UNESCO Convention Against Discrimination (CERD) (1960), International Covenant on Civil and Political Rights (1966), Convention on the Rights of the Child (1989).

<sup>69</sup> TOMAŠEVSKI, *supra* note 66, at 56.

equal to that provided by every other state. So while “the exact application of compulsory and free education is subject to the conditions and the development”<sup>70</sup> of a State, there are minimum standards that must be guaranteed. Adopting the design first introduced by Katarina Tomaševski, The Committee on Economic, Social and Cultural Rights (ESCR) in cooperation with UNESCO issued “General Comment 13 on the right to education [...] enounc[ing] four essential elements of the right to education: availability, accessibility, acceptability and adaptability”<sup>71</sup>

### **1. Availability**

The first element of availability refers to the creation of facilities and or infrastructures where school can occur, with the requirement that they function with a degree of quality; this also denotes that schools must be available in rural areas.<sup>72</sup> This element is structured in such a way where the responsibilities of governments fall under the auspices of civil and political rights and social and economic rights. The former set of rights falls under availability because governments are required to permit the creation of education institutions by non-state actors and the latter rights because the right requires government to “establish them, or fund them, or use a combinations of these and other means so as to ensure that education is available.”<sup>73</sup> States are further responsible for “taking special measure to ensure equal access to education to girls and disadvantaged children” from all areas.<sup>74</sup>

The discourse on availability is dominated by the topic of investment in creating education structures. The foundation for ensuring that primary education is met is establishing a network of schools or infrastructures where *all* children can realize their right. International human rights law indicates that the State “is not the only investor [but it is obliged] to be the investor of last resort so as to ensure that primary schools are

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<sup>70</sup> Sarelín, *supra* note 56, at 7.

<sup>71</sup> General Comment No. 13 (1999), Plans of Action for Primary Education, Committee on Economic, Social and Cultural Rights, UN Doc. E/C.12/1999/4, para. 7; Preliminary Report of the Special Rapporteur on the Right to Education, Katarina Tomaševski, E/CN.4/1999/49, paras. 51 – 56 [Hereinafter known as the 4-A System of the 4-A Schematic]

<sup>72</sup> Right to Education: A Comparative Analysis of CADE and ICESCR, 11

<sup>73</sup> Katarina Tomaševski, Right to Education Primers No. 3, *Human Rights Obligations: Making Education Available, Accessible, Acceptable and Adaptable*, Swedish International Development Cooperation Agency, Sida (2001) at 13.

<sup>74</sup> Sarelín, *supra* note 56, citing ACRWC, Articles 8 and 11(3).

available for all school-age children.”<sup>75</sup> The costs associated with providing said infrastructures are often high, but the pay-off and benefit manifests over time. Other costs associated with availability include but are not limited to the reoccurring costs associated with school maintenance and teachers’ salaries.<sup>76</sup>

Availability further requires that in meeting the minimum standards of providing adequate structures, they must include sanitation facilities for males and females, safe drinking water, well-trained teachers receiving competitive salaries and teaching materials.<sup>77</sup> In meeting these minimum standards, governments must also ensure that there are “a sufficient number of schools so as to avoid excessive class sizes that decrease the quality of education.”<sup>78</sup> Furthermore, States must meet the requirement of the element of availability by adhering to the following: “1) respecting the availability of education by not closing private schools and 2) fulfill the availability of education by actively developing schools systems by building schools, developing programs and teaching materials, and adequately training and compensating teachers.”<sup>79</sup>

## **2. Accessibility**

Accessibility includes three parts that must be met, first education must be provided to all without discrimination, especially the most disadvantaged groups.<sup>80</sup> As previously mentioned, non-discrimination is not subject to progressive realization and must be secured and implemented immediately.<sup>81</sup> The second part is physical access, insofar that the ability to access education is not hindered by the inability to reach said structures. This remains particularly relevant to the children who live in rural areas and vulnerable members of society, such as indigenous and ethnic minorities.<sup>82</sup> Third and finally, is economic accessibility, where attending primary school should not be

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<sup>75</sup> E/CN.4/1999/49, page 18 ¶51.

<sup>76</sup> Preliminary Report of the Special Rapporteur on the Right to Education, Katarina Tomaševski, E/CN.4/1999/49, ¶52 [Hereinafter referred to as Preliminary Report 1999].

<sup>77</sup> General Comment 13 on the right to education (Article 13 of the Covenant), adopted by the Committee on Economic, Social and Cultural Rights at its twenty-first session in 1999. E/C. 12/1999/10, 2 December 1999 (¶.1).

<sup>78</sup> See Kalantry, *supra* note 11 page 275, Authors citing ICESCR, arts. 13(2)(a)(b)

<sup>79</sup> General Comment No. 13, *supra* note 71, at ¶50. As cited by Kalantry, *supra* note 11, at 275.

<sup>80</sup> The CESCR obligates states to ensure that girls are allowed to attend school, *see* General Comment No.13, *supra* note 71, at ¶ 50.

<sup>81</sup> *Preliminary Report of the Special Rapporteur on the Right to Education*, Katarina Tomaševski, *supra* note 76, ¶ 57.

<sup>82</sup> *See Preliminary Report of the Special Rapporteur on the Right to Education*, *supra* note 76, at ¶ 58. And Kalantry, *supra* note 11, at 277.

prevented because of the inability to pay for primary education, which is the responsibility of the states to provide free and compulsory at the primary level. This includes additional fees associated with primary education that would otherwise render attendance impossible if the child is unable to afford said fees. “Financial barriers to access to primary education result in the lack of access to school for poor children and thus retrogression rather than progressive realization of the right to education.”<sup>83</sup>

### **3. Acceptability**

Acceptability covers the form and substance of education in quality, relevance, and appropriateness.<sup>84</sup> Also included in this frame are curricula and teaching methods, which must meet the objectives required in Article 13(1) where minimum standards are set and subject to approval of the State. Essential to the duty of providing the right to education is the task of setting the standards of education, which ensures that availability and accessibility are met. While the State is the regulator of education it also remains incumbent upon them to ensure that the minimum standards for schools are continuously developed so that “education is acceptable both the parents and to children.”<sup>85</sup>

The Committee recognizes that parental freedom is an element of acceptability, to the extent that religious and moral convictions are respected in the way that a child is educated and has been “affirmed in all general human rights treaties and is continuously subjected to litigation.”<sup>86</sup> In respecting parental freedom, the State still has the responsibility to ensure that some minimum standards are met in the parent’s provision of education, even outside of the direct control of publicly provided primary education. This component of availability also applies to the content of curricula and methodologies, which can and have been points of contentions for certain groups.<sup>87</sup>

### **4. Adaptability**

The fourth and final part of the 4-A scheme requires that education be flexible in nature in order to adapt to the changing needs of the students in relation to their

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<sup>83</sup> *Report of the Special Rapporteur on the Right to Education*, Katarina Tomaševski, E/CN.4/2000/6, para. 54.

<sup>84</sup> *Preliminary Report of the Special Rapporteur on the Right to Education*, Katarina Tomaševski, *supra* note 76, ¶ 62.

<sup>85</sup> *Id.* at ¶ 62.

<sup>86</sup> *Id.* at ¶ 63.

<sup>87</sup> *Id.* at ¶ 63.

communities and societies.<sup>88</sup> International human rights law advocates that the relevance of education should meet the needs of the child, giving the best possible opportunity for the child to advance and assimilate into society. This element is governed in accordance with and under the scope of the Convention on the Rights of the Child, whereas it requires in the enjoyment of the right to education, the best interest of the child are given prominence.<sup>89</sup>

An adaptable education is predicated on the notion that education needs to grow with the child. Education does not occur in a vacuum, therefore it is important that is constantly reevaluated and updated so as to provide the recipients of the right with the necessary knowledge that prepares them to become balanced and well-rounded adults. Advocates for the right to education have noted that failure to promote an education system that consistently regenerates curricula based on the needs of the student body is likely to have high dropout rates for vulnerable groups of students.<sup>90</sup> Essential to the discourse on adaptability is the ability of governments, educators and parents to strike a balance that exposes children to their local and global communities. Including human rights education will (and does) assist in the dissemination of practices that reject discriminatory practices. As the International Commission on Education for the Twenty First Century posits, education should first and foremost be founded on “learning to live together by developing an understanding of others and their history, traditions and spiritual values”.<sup>91</sup>

## **D. Duties of the State in Providing Free and Compulsory Primary Education**

### **1. Positive and Negative Duties of the State**

The right to education as covered in the Covenant creates a state obligation. Economic, social and cultural rights are considered to be positive rights in the context of international human rights law. Whereas these rights require that the State provide a

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<sup>88</sup> *Preliminary Report of the Special Rapporteur on the Right to Education*, Katarina Tomaševski, *supra* note 76, at ¶ 70.

<sup>89</sup> *See* Right to Education Primer No. 3, *supra* note 73, at 31.

<sup>90</sup> Special Rapporteur Katarina Tomaševski notes that working children are often at a great disadvantage in countries where ‘intolerable child labor’ impedes a child’s enjoyment of the right to education. *See* Kalantry, *supra* note 11, at 279.

<sup>91</sup> UNESCO, *Learning: The Treasure Within: Report to UNESCO of the International Commission on Education for the Twenty-First Century*, 22, (UNESCO Publishing: Paris) 1996. As cited by Tomaševski in the *Preliminary Report of the Special Rapporteur on the Right to Education*, Katarina Tomaševski, *supra* note 76, at ¶ 72.

service, or take action in order to ensure that the right is met. “A positive right confers action on the part of the duty holder [...] [T]he realization of human rights requires positive action to lift [...] constraints.”<sup>92</sup> Economic, social and cultural rights cannot be realized without the active participation of States and their action ensures that the right to education can be met. Enjoying the right to education requires that “realization of the right [...] demands an effort on the part of the state to make education available and accessible. It implies positive state obligation.”<sup>93</sup>

A typology regarding the states’ duties “to respect, protect, and fulfill human rights”<sup>94</sup> has been referred to as the ‘structure-process-outcome framework’<sup>95</sup> Sital Kalantry et. al, argue that within the frameworks of human rights and the ECSR that a negative obligation is created with regard to the right of education. “[W]ith regard to the [...] framework [...] a negative obligation to *respect* the right to education is to refrain from interfering in parents’ decision making as to which school they send their child. The protection of the right to education, in contrast, requires positive obligations because the state must act.”<sup>96</sup> Stephen P. Marks elucidates this typology by introducing the obligations approach, which applies to both ESCR and CPR rights. These obligations are based on types of duties: 1) the duty to respect; 2) the duty to protect; 3) the duty to fulfill; 4) the duty to facilitate and 5) the duty to provide.<sup>97</sup> Rather than simply plugging the right to education into the ‘respect-protect-fulfill’ framework, it is essential to look at the right in the context of all duties, whereas refraining and or fulfilling certain duties are included in the right to education.<sup>98</sup> “[T]here are sufficient crossovers among positive and

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<sup>92</sup> Stephen P. Marks, *The Past and Future of the Separation of Human Rights into Categories*, 24 Md. J/ Int’l. 222, 209 -243, (2009).

<sup>93</sup> Coomans, *supra* note 18, at 10.

<sup>94</sup> Kalantry, *supra* note 11, at 283 [author citing ASBJØRN EIDA, RIGHT TO ADEQUATE FOOD AS A HUMAN RIGHT, HUMAN RIGHTS STUDY SERIES No. 1, U.N. Sales No. E.89.XIV.2(1989) who pioneered the use of the respect, protect, fulfill typology in relation to economic, social and cultural rights.]

<sup>95</sup> Kalantry, *supra* note 11, at 283.

<sup>96</sup> *Id.* at 283.

<sup>97</sup> Marks, *supra* note 92, at 223.

<sup>98</sup> Marks provides the comparison of the right to health to the types of duties, wherein “health as a human right implies (a) duties on state agents not to discriminate in access to health services, (b) regulation over private health providers to meet various exigencies of this right, as well as (c) prevention and promotion campaigns, and (d) a state duty to provide certain services not met by the private sector or required in circumstances of severe deprivation or epidemic.” See Marks, *supra* note 92, at 223.



negative rights for this distinction not to justify the claim that there is a difference in nature between the two groups.”<sup>99</sup>

States’ obligations in implementing the rights outlined in Articles 13 and 14 are explicit in the language, rather than having to be inferred. “This provision is framed in mandatory, explicit terms, leaving the State little or no escape.”<sup>100</sup> Theoretically, the right to education is a universal right that is granted to everyone regardless of “age, language, social or ethnic origin or other status.”<sup>101</sup> Whether or not this is the case the language of the Covenant then lays out the responsibility of states in ensuring the realization of this right.<sup>102</sup> Katrien Beeckman maintains “[i]nternational human rights law lays an immediate obligation upon States to monitor national realization [] of human rights.”<sup>103</sup>

There is a general understanding that implementation is subject to the availability of resources and their allocation in order to adhere to the above requirements. “In line with its clear and unequivocal obligation under Article 14, every State party is under a duty to present to the Committee a plan of action [...] This obligation needs to be scrupulously observed...”<sup>104</sup> The importance in presenting an unfaltering stance attempts to confer this duty and obligation upon States’ Parties so that education in the initial phases does not suffer as a result of inconsistencies.

## **2. Non-Discrimination**

Excluding any group of children from education, whether intentional or due to some sort of oversight, constitutes state discriminatory practices. Discrimination remains a flagrant form of a human rights violation. As is the case with most human rights, states have a duty of non-discrimination when providing education to its population. Article 13 indicates that progressive realization is not applicable where non-discrimination is concerned. In addition to the ICESCR commentary on the topic, there is the UNESCO Convention against Discrimination in Education, indicating the profound effects that discrimination introduces in the field of education.

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<sup>99</sup> *Id.* at 224.

<sup>100</sup> Coomans, *supra* note 18, at 11.

<sup>101</sup> *Id.* at 18.

<sup>102</sup> *Id.* at 18.

<sup>103</sup> Katrien Beeckman, *Measuring the Implementation of the Right to Education: Educational versus Human Rights Indicators*, 12 INT’L J. CHILD. RTS., 71, 72 (2004).

<sup>104</sup> ICESCR General Comment No. 11, *supra* note 71, at ¶ 3.

Article 1 of the Convention against Discrimination in Education states that the term discrimination “includes any distinction, exclusion, limitation or preference which, being based on race, color, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education.”<sup>105</sup> Article 3 on obligations stipulates the steps that a state should take “in order to eliminate and prevent discrimination.”<sup>106</sup> Subsections in Article 3 further describe any and all actions states should undertake or refrain from.<sup>107</sup> Article 4 refers to state policy and requires states parties to the Convention to promote a policy that “promotes equality of opportunity and of treatment in the matter of education and in particular [...] to make primary education free and compulsory.”<sup>108</sup>

Fundamental to the adoption and ratification of the Covenant states are obligated to “ensure all rights, [...] including the right to education, equally and without discrimination.”<sup>109</sup> Accepting the right to education confers a set of responsibilities upon signatory states to provide said right without discrimination. The importance of primary education is such that it should be provided to all children without discrimination. In the discourse and establishment of the right to education, the overarching theme is equally providing the right. Education (the right to) cannot be guaranteed if the recipients are subject to discrimination. “The principle of non-discrimination is the corollary of the principle of equality.”<sup>110</sup> In establishing a system of education that follows the guidelines indicated in the Covenant, “[t]he strategy developed must provide a system of fellowship

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<sup>105</sup> UNESCO Convention against Discrimination in Education 14 December 1960, entry into force 22 May 1962. Hereinafter referred to as Convention against Discrimination in Education Article 1, ¶ 1.

<sup>106</sup> Convention against Discrimination in Education, art. 3.

<sup>107</sup> (a) To abrogate any statutory provisions and any administrative instructions and to discontinue any administrative practices which involve discrimination in education; (b) To ensure, by legislation where necessary, that there is no discrimination in the admission of pupils to educational institutions; (c) Not to allow any differences of treatment by the public authorities between nationals, except on the basis of merit or need, in the matter of school fees and the grant of scholarships or other forms of assistance to pupils and necessary permits and facilities for the pursuit of studies in foreign countries; (d) Not to allow, in any form of assistance granted by the public authorities to educational institutions, any restrictions or preference based solely on the ground that pupils belong to a particular group; (e) To give foreign national resident within their territory the same access to education as that given to their own nationals. *See* Convention against Discrimination in Education, art. 3

<sup>108</sup> Convention against Discrimination in Education, art. 4

<sup>109</sup> Kalantry, *supra* note 11, at 268.

<sup>110</sup> Committee on Economic, Social and Cultural Rights, General Comment No. 16, par. 10, *supra* note 71.

that reduce[s] the chances of *de facto* discrimination against disadvantaged groups...<sup>111</sup>

While there are some rights that take time to be realized and implemented, the element of discrimination is a factor that is “subject to neither progressive realization nor the availability of resources; it applies fully and immediately to all aspects of education and encompasses all internationally prohibited grounds of discrimination.”<sup>112</sup> Discrimination can be related to socio-economic factors as well. In providing free and compulsory primary education, this should include all policies towards education. For example, “[s]harp disparities in spending policies, resulting in different situations for persons living in different parts of a country may constitute discrimination under the ICESCR.”<sup>113</sup>

The Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights maintains that states have an obligation, as indicated in Article 2 (2) to prevent discrimination by way of omission, whereas “regulations and practices (including acts of omission as well as commission) affecting the enjoyment of economic, social and cultural rights” must be eradicated from practice.<sup>114</sup> State parties also bear responsibility to prevent discrimination from being practiced by private individuals and bodies “in any field of public life”.<sup>115</sup>

As previously mentioned, the economic constraints that impede or hinder a state’s ability to provide free and compulsory education are not legitimate excuses for failing to do so. The Commission on Economic, Social, and Cultural Rights does not falter on its persistence in the matter.<sup>116</sup> In examining the report from Zaire, “the Committee made it clear that charging fees for primary education is contrary to Article 13(2)(a) and [] a State Party cannot justify such a measure by referring to severe economic circumstances.”<sup>117</sup> Regardless of economic woes or prosperity, once a State ratified the Covenant they are

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<sup>111</sup> Pierrick Devidal, Trading Away Human Rights? The GATS and the right to education: A Legal Perspective 2:2, J. CRITICAL EDU. POLY. STD., 7, 1 -27 (2004) Accessed at <<http://www.jceps.com/?pagesID=article&articleID=28>>

<sup>112</sup> ICESCR General Comment No. 13, par. 31.

<sup>113</sup> See Sarelin, *supra* note 56, at 6.

<sup>114</sup> *Limburg Principles on the Implementation of the International Economic, Social and Cultural Rights*, 127, 122 -135 HUM. RTS. Q., Vol. 9 (2) at ¶ 37.

<sup>115</sup> *Id.* at 127 ¶ 40.

<sup>116</sup> See Coomans, *supra* note 18, at 4.

<sup>117</sup> *Id.* at 4 as cited in UN Doc. E/C.12/1988/SR.19, paragraph 10; see also E/C.12/1988/SR.17, paragraphs 27, 40, 41 and 48.

bound to adhere to provisions of Article 13(2)(a).<sup>118</sup> “If, due to lack of resources, a State is not able to ensure the right of access to all of its eligible citizens, which would result in *de facto* discrimination, it has a duty to end that situation as quickly as possible.”<sup>119</sup>

### 3. Progressive Realization

Implementing a right is subject to the capacity or lack of the capacity of the state to act. As previously mentioned, free and compulsory education is not subject to progressive realization and in respect of the Covenant, States have two years following the signing of the Covenant to establish a system if none existed prior too.<sup>120</sup> In order to determine if a state is responsible for the violation of the right to education, the nature of the state obligation must be made clear. There are three types of obligations: 1) one that requires immediate realization; 2) one that constitutes a minimum core obligation; or 3) one that is subject to progressive realization.<sup>121</sup> State duty to provide free and compulsory education and all its qualitative standards fall under obligations requiring immediate realization and constitutes minimum core obligations. The duties of the state in meeting the right to free and compulsory education follow the line that obligations that must be immediately meet and obligations that constitute the minimum core.

The obligations that must be immediately realized (and that are directly related to primary education) are as follows:

- (1) States must ensure non-discrimination and equality in all forms of education;
- (2) States must provide primary education that is available, accessible, acceptable, and adaptable to all;
- (3) States must ensure that primary education is compulsory and free of charge to all, or states must “formulate a plan and seek international assistance to fulfill this obligation as speedily as possible;”<sup>122</sup>

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<sup>118</sup> *Id.* at 4.

<sup>119</sup> Coomans, *supra* note 18, at 11.

<sup>120</sup> In her addendum report on education in Colombia, Special Rapporteur on the right to education, Katarina Tomaševski noted that “Governments are thus obliged to ensure with immediate effect that primary education is compulsory and available free of charge to everyone, or to formulate a plan and seek international assistance to fulfill this obligation as speedily as possible.” *The Right to Education, report Submitted by the Special Rapporteur, Katarina Tomaševski, Addendum, Mission to Colombia*, para. 23, U.N. ESCOR, Comm’n on Hum. Rts., 60<sup>th</sup> Sess., U.N. Doc E/CN.4/2004/45/Add.2 (2004). [hereinafter *Tomaševski 2004 Colombia Report*].

<sup>121</sup> Kalantry, *supra* note 11, at 293.

<sup>122</sup> Tomaševski, *2004 Colombia Report, supra* note 120, at ¶23.

- (4) States must “take steps” that are “deliberate, concrete and targeted toward full realization” of rights.<sup>123</sup>

The obligations that constitute the minimum core requirement of state duties are as follows:

- (1) States must ensure the right of access to public educational institutions and programs on a non-discriminatory basis;
- (2) States must recognize the right to education as set forth in Article 13(1) of the ICESCR;
- (3) States must provide free and compulsory primary education for all in accordance with Article 13(2)(a);
- (4) States must provide free choice of education subject to “minimum educational standards” as contemplated by Articles 13(3) & (4).<sup>124</sup>

#### **E. Monitoring the Right – Defining Indicators**

In outlining the standards on primary education a synthesis between human rights indicators and education indicators must be established so that they depict a broader picture. In the debate on standards on the right to education, it is often recommended to utilize human rights indicators since they differ from traditional development indicators, “in that the former aim to measure the extent to which States fulfill their human rights obligations, while the latter evaluate basic human needs against development goals.”<sup>125</sup> When measuring the implementation of the right to education it is not sufficient to simply utilize educational indicators as they “generally prioritize [sic] the quantitative aspects of education...to the detriment of qualitative dimensions.”<sup>126</sup> It is incumbent upon states party to ensure that the right to education is being met in respect of the obligations of the state.<sup>127</sup> It does not benefit states to adhere to unattainable standards when implementing

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<sup>123</sup> Kalantry, *supra* note 11, at 294.

<sup>124</sup> *Id.* at 294. Excluded from the obligations constituting the minimum core of was “States must adopt and implement a national education strategy that includes the provision of secondary, higher and fundamental education.”

<sup>125</sup> Guithier de Beco, Peter Hyll-Larsen and Maria Ron Balsera, *The Right to Education: Human Rights Indicators and the Right to Education of Roma Children in Slovakia*, UNESCO EFA 2010 Report, 1 (2009). Available at; <http://unesdoc.unesco.org/images/0018/001866/186604e.pdf>

<sup>126</sup> Beeckman, *supra* note 103, at 71. Author discusses the insufficiency of educational indicators alone.

<sup>127</sup> *Id.* at 71.

primary education, especially when the access to essential resources is limited or non-existent.

One of the ways in which attainable standards can be kept in the forefront of states' education policies is through the use of human rights indicators. The existing debate that permeates the use of indicators suggests that the singular use of education indicators fails to adequately and effectively gauge the right. Education indicators offer meager attempts at rectifying the underlying issues that permeate access to the right, whereas human rights indicators have been specifically formulated and constructed to match the 4-Framework established by Tomaševski. The critique against education indicators is that they serve as an aid to development rather than towards accountability. "States have shown themselves more willing to contribute to applying such indicators, because they consider that these indicators do not aim to criticize them. In contrast, human rights indicators have as purpose to hold duty-bearers accountable for their human rights obligations."<sup>128</sup> In short, education indicators fail to hold states accountable for their duties in providing the right to education.

Conceptualizing and developing a framework on how to measure and quantify the right to education requires that a standard be created. Establishing a set of standards that are applicable to states party to the Covenant ensures that governments are pursuing similar goals that address the inefficiencies in their provision of education. Human rights indicators on education have been established through the 4-A scheme previously introduced and conceptualized by Katarina Tomaševski. These indicators serve as the core minimum requirements that need to be implemented in order to ensure the systematic and basic standards of education.<sup>129</sup> A 2006 UN Report on Indicators asserts that "structural indicators reflect the ratification/adoption of legal instruments and existence of basic institutional mechanisms deemed necessary for facilitating realization of the human right concerned."<sup>130</sup>

The Right to Education Project, which promotes the mobilization and legal accountability of states has published a concept paper in which the right to education

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<sup>128</sup> Right to Education Project, *Right to Education Indicators Based on 4 A Framework Concept Paper*, 6, available at: <http://www.right-to-education.org> [Hereinafter referred to as Right to Education Indicators].

<sup>129</sup> Beeckman, *supra* note 103, at 77.

<sup>130</sup> Kalantry, *supra* note 11, at 281.

indicators based on the 4-A Framework are outlined as a map for ensuring basic standards of education. The report stresses the importance of using indicators but in such a manner where the indicators remain first and foremost adherent to international human rights law. As such, there is strong emphasis that the indicators reflect these laws, “it is therefore essential that the right to education indicators be rights-based indicators.”<sup>131</sup> Reasoning for use the 4-A framework for the foundation of creating these indicators is based on its in-depth and comprehensive nature. The report provides that there are three advantages in using this system. First, any indicators are closely linked to international human rights law, which “appears to be the best way to classify state obligations relating to the right of education.”<sup>132</sup> Second, the framework bridges disciplinary gaps, which are important in the context of development. Third and finally is that the 4-A system is inclusive of both qualitative and quantitative aspects of the right to education, “measuring not only the right to education but also rights *in* education and rights *through* education.”<sup>133</sup>

The four elements that comprise the 4-A system have previously been described in such a way that defines the responsibilities of states in providing education to its populace. However, in this section it is integral and vital to the analysis of the Egyptian primary education system to detail the various indicators used in each of the four sections. To simply define availability, accessibility, acceptability and adaptability would fail to definitively outline and categorize the individual components that form and support the framework for education. The Right to Education Project established a methodology to determine sets of indicators relevant to each of the four sections. In accessing primary education in is necessary to note that not all of the indicators will be used since some of them do not directly (or indirectly) apply to this specific level of education. Establishing indicators was done so in a three-step process.<sup>134</sup> First, the standards outlined in the 4-A system were translated into measurable units from “human

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<sup>131</sup> See Right to Education Indicators *supra* note 128 at 8.

<sup>132</sup> *Id.* at 11.

<sup>133</sup> *Id.* at 11 also available in de Beco, Gauthier, et al, see *supra* note 125, at 2.

<sup>134</sup> The three-step process is as follows: The first step required the grouping of the human rights standards into each category. Second, the structure was made into a chart that listed the right to education. Third and finally, information was readily available to describe the process in a User’s Guide. Relevant to this section are the indicators created and outlined in the first and second steps. See Right to Education Indicators *supra* note 128, at 19.

rights concepts.’<sup>135</sup> The way in which human rights treaties circumscribe the right to education has created a contentious situation for application in the literal sense. The difficulty of applying was (is) rooted in the ability to transfer meanings from treaties into tangible indicators while maintaining the intended meanings. “Some human rights concepts are difficult measurable, at least in the way they are framed in international and regional human rights treaties. The translation process [...] require[s] that the indicators [...] use the concrete and understandable sense of these human rights concepts.’<sup>136</sup> In the second step, the Project created a chart listing the indicators, but included an additional section to the 4-A’s, which is titled ‘governance framework’, which remains relevant to this section. For the purposes of this research, the governance framework is not an indicator per se, but will be used in the section discussing decentralization and governance.

**Table 1 4A Indicators for the Right to Education**

	Indicators
Availability <sup>137</sup>	Primary education Fundamental education Closing Schools School infrastructure Working conditions of teachers
Accessibility	Physical obstacles Economic obstacles Administrative obstacles Gender obstacles Socio-cultural obstacles Out-of-school children
Acceptability	Skills Tolerance Qualification of teachers Gender Discipline Religion Language
Adaptability	Child labor Minorities Disabled

<sup>135</sup> *Id.* at 19.

<sup>136</sup> *Id.* at at 19 -20.

<sup>137</sup> For the purpose of this research only the indicators relevant to primary education in Egypt are listed in the draft. For a list of all the education indicators according the Right to Education Project, please see *supra* note 128. Governance framework is not part of the 4-A system, but the indicators remain relevant to this research.



Governance Framework	Normative framework Educational policy Plan of action Recourses Monitoring Budget International assistance and cooperation
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Realizing the right to education and achieving universal primary education is an arduous task at best. Meeting these goals is especially pressing in the current context of the human rights debate and with the deadline for the Millennium Development Goals so closely looming; a mere four years away.<sup>138</sup> The previous section covered the issues of defining what education actually is and its importance to the rights debate. The inability to do define what education is leads to widening gaps in the quality of education, which suffers as a consequence to the race towards meeting EFA and MDGs goals. Phillip Jones conveys that:

We like to celebrate the enrollment of an additional million children in primary schooling, but conveniently forget the tens and even hundreds of millions who are emerging at the other end with appalling levels of educational attainment and whose dispositions for learning and skills development later in life have been severely compromised.<sup>139</sup>

Effectively setting the standards for primary educations requires that the indicators in the respective sections of the 4-A schematic be understood and appropriately applied. It is one thing to list the indicators but another and more important task to define and analyze the relevance of these indicators in determining if primary education is being adequately delivered in Egypt. As previously mentioned, the Right to Education Project has undertaken the initiative to outline and define in detail the right to education indicators relative to the various levels of education. Furthermore, a comprehensive assessment of the indicators defines whether or not the indicator(s) in a particular section fall under the categories of discrimination, participation and or accountability and there various source(s) in international and regional treaties. The charts below list the

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<sup>138</sup> The Millennium Development Goal for primary education states the following in Goal 2: Target 3: Ensure that, by 2015, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling. UN Millennium Development Goals, *available at* [www.un.org/millenniumgoals/](http://www.un.org/millenniumgoals/) [hereinafter MDGs].

<sup>139</sup> Jones, *supra* note 36, at 37.

indicators relevant to each section of the 4-A system and those applicable to the primary level of education in Egypt.

**Table 2 Right to Education Indicators: Availability<sup>140</sup>**

<b>Indicator</b>	<b>Categorical Indicators</b>
Primary Education (9)	(1) Net Enrollment Ratio (NER) (2) Gross Enrollment Ratio (NER) (3) % Survival Grade to 5 (4) Gross Primary Completion Ratio (5) Repetition Rates (6) Drop-out Rates (7) Transition rate from primary to secondary school (8) Pupil/teacher ratio (9) Pupil/trained teacher ratio
Fundamental Education (1)	(1) Gross Enrolment Ratio
Closing Schools (3)	(1) % of Schools Closed (provisionary or permanently) (2) Reasons for closure: National Security, Public Order, other (?) (3) If schools have been closed because a lack of resources
School Infrastructure (3)	(1) % of School buildings reported in good shape <sup>141</sup> (2) % of Schools with library, computer facilities and information technology (3) % of Schools providing individual support to children with (learning, behavioral or social) difficulties
Working Conditions of Teachers (14)	(1) Total number of teachers employed/Total number of the population (2) Do teachers enjoy: labor rights, trade union rights and social security rights (3) Average salary/national living wage (4) Does social security include benefits for sickness injury, invalidity, old age, other? (5)% of Teachers with good health, % of Teachers with access to affordable healthcare, including essential drugs, % of teachers with advanced HIV infection with access to ARV drugs (6) % of Teachers members of trade unions; % teachers members of professional or representative academic bodies (7) Do teachers enjoy academic freedom? Has there been repression against teachers? Have teacher/professors criticizing government been: removed from office, imprisoned, reported missing and or reported dead (8) % of time spent by teachers on administrative issues

<sup>140</sup> Right to Education Project, Indicators Presented Under 5 Main Categories, information on Right to Education Indicators available at: <http://www.right-to-education.org/node/860>.

<sup>141</sup> This indicator further describes good shape as having an “adequate number of well-appointed classrooms (sufficient blackboards, tables, desks, chairs and spaces per class), an adequate number of sanitation facilities, access to adequate clean drinking water, electricity, ventilation and light, first exits and first-aid kit, medical assistance, canteens, recreational facilities, sufficient recreation ground, other.” As indicated by the Right to Education Project, available at <http://www.right-to-education.org/node/964>.

	<p>(9) % of teachers working in unsafe conditions  (10) % of teaching assistants/total number of teachers  (11) % of teachers absent  (12) % of teachers attrition  (13) Reason for teacher absenteeism or attrition:  material conditions, administrative collapses, health etc.</p>
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**Table 3 Right to Education Indicators: Accessibility**

<b>Indicator</b>	<b>Categorical Indicators</b>
Physical Obstacles (4)	<p>(1) % of population for which school-house distance is &lt;1km, &gt;1km, &lt;5km, &gt;5km  (2) Is access to school safe  (3) Is transportation provided, what is its cost  (4) % of population enrolled in distance education programs</p>
Economic Obstacles (5)	<p>(1) Tuition fees for primary education  (2) Indirect costs for primary education: textbooks, teaching materials, uniforms, coaching classes, compulsory parental contributions (in money or by providing services), other payments necessary to effectively access education  (3) % Household expenditure on primary education  (4) Are subsidies for primary education available for low-income groups? Are free meals provided at primary school? Are free health care services provided at primary school?  (5) % Child-headed households</p>
Administrative Obstacles (1) <sup>142</sup>	<p>(1) Do children have to present a birth certificate to enroll in schools?</p>
Gender Obstacles (6)	<p>(1) % Schools only for girls  (2) Do families rely on girls for their subsistence? Are there campaigns to convince parents to send their girls to school? Are there measures to provide support to girls of low-income families?  (3) Is the state taking steps to identify girls currently not in education, to encourage their school attendance and to reduce their dropout rates? Are there programs [sic] for women to continue their education?  (4) What is the legal minimum age for marriage? Is it the same as the maximum age of completion of compulsory education?  (5) Are there forced marriages below this minimum age in reality?  (6) % Female/male teachers</p>
Socio-cultural Obstacles (4)	<p>(1) % Children receiving education in their own language  (2) % Schools which provide for specific accommodation for religious groups; % Schools which take into account dietary requirements relating to religion?  (3) Does the State take measures taken to combat hatred or racism at school?  (4) Are there campaigns to inform parents about the</p>

<sup>142</sup> This indicator typical covers the rights of refugee, migrant and displaced children and families, however for the purposes of this research, only one indicator will be used in this section.

	importance of their children being educated?
Out-of-School Children (4)	<p>(1) Is the state taking steps to identify out-of-school children, to encourage school attendance and to reduce dropout rates?</p> <p>(2) Are schools (through parent-teacher associations and/or pupils or in association with the government) endeavoring to reach out-of-school children in the communities where they live in order to encourage their school attendance?</p> <p>(3) Are parents given assistance to enroll their children? Are enrolment formalities reduced to the minimum? Can parents enroll their children by oral consent?</p> <p>(4) Are steps taken to ensure that previously out-of-school children remain in school? Are there measures taken to adapt education to their situation to prevent further dropouts?</p>

**Table 4 Right to Education Indicators: Acceptability**

Indicator	Categorical Indicators
Skills (6)	<p>(1) Literacy Rate</p> <p>(2) Numerical Skills</p> <p>(3) Problem Solving</p> <p>(4) Expression (Written and Oral)</p> <p>(5) Are there minimum educational standards applicable to all schools?<sup>143</sup></p> <p>(6) Does education aim to develop critical thinking?<sup>144</sup> Does it enable them to make balanced decisions, resolve conflicts in a non-violent matter and to develop a healthy life-style? Does it encourage children to freely express their views?</p>
Tolerance (3)	<p>(1) Does education promote: respect for other nations, racial, ethnic or religious groups and indigenous peoples, non-violence, the environment, other?</p> <p>(2) Are textbooks accurate, neutral and fair? Do they speak in good terms of minority groups living in the state? Do they speak in good terms of other states? In case of past conflicts, do textbooks present enemy groups or states only in bad terms and the group or state to which children belong only in good terms?</p> <p>(3) Is human rights education included in school curricula? Are human rights standards taught in a child-friendly way? Is information on the provisions of CRC disseminated in particular? Is there an effort to embed human rights values with all school activities? Are children taught that they are all equal? Are schools helping children to increase their capacity to enjoy human rights?</p>
Qualification of Teachers (6)	<p>(1) What are the qualification requirements for teachers: &lt;1 year higher education &gt;1 and 3 years higher</p>

<sup>143</sup> In addition to this requirement, the follow categories contain questions within the parameters of participation and accountability. Participation: Can parents, children and community leaders contribute to defining school curricula? Can children make a choice between different options? Accountability: Is there a monitoring body controlling whether minimum educational standards are met? Is there an accreditation system? % Schools outside the formal regulatory system?

<sup>144</sup> Participation: Is the learning process participatory?

	<p>education &lt;, &gt; 3 years higher education</p> <p>(2) % Teachers meeting qualification requirements in reality<sup>145</sup></p> <p>(3) % Teachers having a good command of the language in which they teach<sup>146</sup></p> <p>(4) What skills does the training aim to improve (besides knowledge of the subject to be taught)? Does it include: pedagogical skills, ability to resolve conflicts, respect for the child's dignity, human rights education, gender equality, other?</p> <p>(5) Do teachers have access to continual professional development throughout their career? Is training compulsory and free? Are measures taken to permit training during service? Does training take place through: training groups, conferences, other? Is it adapted to the teachers' needs? How many days per year does it take place?<sup>147</sup></p> <p>(6) Are there incentives to encourage well-trained teachers to teach in schools or areas where educational outcomes are traditionally lower?</p>
Gender (4)	<p>(1) Are measures taken to promote gender equality in education?<sup>148</sup></p> <p>(2) Are girls and boys given the same opportunity to speak in and outside classes? Do girls generally receive lower marks than boys?</p> <p>(3) What is the proportion of pictures of men/women in textbooks? Is the representation of both sexes unbiased? Are household activities not only confined to women and important positions not only occupied by men? Are females portrayed as inferior and males as superior in textbooks? Are girls encouraged to take more vocational and less technical courses than boys? Are there campaigns to combat stereotypes?<sup>149</sup></p> <p>(4) Do children often experience violence and sexual harassment at school? Are there campaigns to combat abuses against children? Are steps taken to rehabilitate abused children<sup>150</sup></p>
Discipline (2)	<p>(1) Are girls commonly expelled from schools because of pregnancy? Are there special programs to help girls to continue their education after pregnancy?<sup>151</sup></p> <p>(2) Is corporal punishment common practice? Are other similar kinds of punishment taking place: bullying, public humiliation, other? Are teachers trained to respect children's dignity?<sup>152</sup></p>
Religion (5)	<p>(1) % Denominational schools</p> <p>(2) % Denominational schools per religion group/ %</p>

<sup>145</sup> Accountability: Is there a monitoring body controlling whether teachers meet qualification requirements?

<sup>146</sup> Accountability: Is there a monitoring body controlling whether teachers have a good command of the language in which they teach?

<sup>147</sup> Participation: Does training aim to help teachers to help children to participate in the learning process?

<sup>148</sup> Accountability: Is there a monitoring body controlling whether schools respect gender equality? Is there a complaint mechanism for gender discrimination?

<sup>149</sup> Accountability: Is there a monitoring body controlling whether textbooks include stereotypes?

<sup>150</sup> Accountability: Can abused children complain before an independent body?

<sup>151</sup> Accountability: Can girls expelled because of pregnancy complain before an independent body?

<sup>152</sup> Accountability: Is corporal punishment punished by law? Are children given the opportunity to be heard when they are sanctioned? Can they appeal against disciplinary sanctions or expulsion before an independent body?

	<p>population belonging to the religious group</p> <p>(3) Does religious instruction means: instruction in a particular religion or instruction of the general history of religions and ethics (with a possible focus on that particular religion)?</p> <p>(4) Are exemptions granted from religious instruction? Is there a choice between different religious (including moral) classes?<sup>153</sup></p> <p>(5) Do prayers or readings take place during or outside classes? Can people be exempted from attending schools on important religious days?</p>
Language (4)	<p>(1) % Schools where children are taught in the official language(s); % Population speaking the official language(s)</p> <p>(2) % Schools where children are taught in both the official language(s) and minority languages; % Schools where children are taught only in the minority languages</p> <p>(3) % Schools where children are taught the minority languages</p> <p>(4) % Population speaking the minority languages; Do they belong to the minorities traditionally? Is there a sufficient demand to be taught in or be taught the minority languages?</p>

**Table 5 Right to Education Indicators: Adaptability**

<b>Indicator</b>	<b>Categorical Indicators</b>
Child Labor (6)	<p>(1) What is the legal minimum age of employment? Is it the same as the maximum age of completion of compulsory education?</p> <p>(2) % Children under minimum legal age of employment working in practice<sup>154</sup></p> <p>(3) Have measures been taken to combat child labor? Are these measures addressed to parents, employers, other?</p> <p>(4) Do families rely on their children for their subsistence?</p> <p>(5) Are there special measures to include child laborers in education and find solutions for them and their families? Do schools in rural areas adapt their schedules during harvest seasons?</p> <p>(6) Are non-formal forms of schooling available for child laborers?<sup>155</sup></p>
Minorities (9)	<p>(1) % Minority schools<sup>156</sup></p> <p>(2) % Minority schools per minority group/% Population belonging to the minority group</p> <p>(3) % Teachers belonging to minority groups</p>

<sup>153</sup> Participation: Can parents decide which religious (including moral) classes their children attend? Do children have a say in the choice of their religious instruction? Accountability: Is there a monitoring body controlling whether schools respect religious freedom? Does it control whether religious classes practice indoctrination? Is there a complaint mechanism for such practices?

<sup>154</sup> Accountability: Is there a monitoring body inspecting child labor?

<sup>155</sup> Accountability: Is there a monitoring body controlling whether minimum educational standards are met and that education conforms with human rights standards in non-formal schools? Is there an accreditation system? % Non-formal schools outside the formal regulatory system?

<sup>156</sup> Accountability: Is there a monitoring body controlling whether minimum educational standards are met and whether education conforms with human rights standards in minority schools? Is there an accreditation system? % Minority schools outside the formal regulatory system?

	<p>(4) % Teachers (not belonging to minority groups) trained in minority culture or languages</p> <p>(5) % Educational expenditure allocated to minority schools/Population belonging to minority groups</p> <p>(6) Can minority schools apply for financial support from the state?<sup>157</sup></p> <p>(7) Are school programs sufficiently adapted to the needs of minorities? Is education given in the language of the minority concerned? Do schools provide for specific accommodation for religious groups? Do school programs take into account the cultural particularities of indigenous people?</p> <p>(8) Is the state taking steps to encourage the identification of children belonging to minority groups not currently in education, to encourage their school attendance and to reduce their drop-out rates?</p> <p>(9) Are there mobile schools for children of nomads?</p>
Persons with Disabilities (11)	<p>(1) Children with disabilities enrolled in mainstream schools (by disability)</p> <p>(2) Are reasonable accommodation measures available for children with disabilities in mainstream schools?</p> <p>(3) % Teachers in mainstream schools trained in: Braille/sign language, other formats of communication/Total number of teachers</p> <p>(4) Do teachers in mainstream schools receive special support? Do their working conditions (e.g. number of hours, teacher/pupil ratio) allow them to help children with disabilities to integrate into classes? (indicator proposed by Bill)<sup>158</sup></p> <p>(5) % children with disabilities enrolled in special schools (by disability)</p> <p>(6) Are strict conditions set for sending children to special schools?</p> <p>(7) Tuition fees for special school<sup>159</sup></p> <p>(8) Indirect costs for special schooling: special teaching material, coaching classes, extra teachers, other</p> <p>(9) % Household expenditure on special education</p> <p>(10) Are subsidies available for parents of children with disabilities?</p> <p>(11) Is educational and vocational information and guidance given to children with disabilities?</p>

<sup>157</sup> Participation: Can parents, children and community leaders belonging to minorities contribute to ensuring that education takes their needs taken into account?

<sup>158</sup> Accountability: Is a monitoring body controlling whether schools meet the conditions for sending children to special schools? Can parents and children complain about decisions to send their children to these schools before an independent body?

<sup>159</sup> Accountability: Does the monitoring body control whether minimum educational standards are met and that education conforms with human rights standards in special schools? Is there an accreditation system?  
% Special schools outside the formal regulatory system?

### III. Primary Education in Egypt

Education at the primary level establishes the basis of learning habits and practices that students carry with them throughout their academic and working lifetimes. As such an integral phase it is important to understand how compliance with international standards on the right to education at this level are met. In order to understand the complexity of the Egyptian education system a brief history of the modern system must be identified, most of which is simultaneously detailed through Egyptian law. The historical context will help to explain current national trends in providing the right and will also help to answer a number of chronic concerns. Some of the issues covered in the section will assist in answering the following questions: (1) what are the issues that stifle progress in the education system in Egypt? (2) Has the country been compliant in meeting the requirements of the right to education from an international legal perspective? In order to effectively assess the compliance of the Egyptian educational system, in particular with the provision of primary education, to the standards of international human rights law, this next section will briefly examine the foundations of the current education system and how it has evolved to its current form.

Egypt's education system is the largest<sup>160</sup> in the Middle East and North Africa<sup>161</sup> region and with a population of 82,999,393<sup>162</sup> it is also one of the largest education systems in the world. The current education system is comprised of around 43,000 schools, 1.6 million employees (which includes teachers, administration and other staff), and over 16 million students within the various levels of education from the primary to higher level.<sup>163</sup> With such a vast education system, providing quality basic education under the best of circumstances can prove a rather cumbersome task. The Government of Egypt, since the mid-1970s has undertaken the task of reforming the education system. In recent years the Ministry of Education has visibly and with the assistance of exuberant

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<sup>160</sup> EGYPT: EDUCATION SYSTEM AND POLICY HANDBOOK: VOLUME 1 STRATEGIC INFORMATION AND IMPORTANT REFORMS, 82, (International Business Publications: Washington D.C.) 2009. [Hereinafter referred to as Egypt Education Handbook].

<sup>161</sup> Hereinafter referred to as MENA.

<sup>162</sup> World Bank 2009 Indicator, available at <http://data.worldbank.org/country/egypt-arab-republic>.

<sup>163</sup> Heba Handoussa, Situation Analysis: Key Development Challenges Facing Egypt, 64 (2010). Available at: < [http://www.undp.org.eg/Portals/0/Homepage%20Art/2010\\_Sit%20Analysis\\_KDCFE\\_English.pdf](http://www.undp.org.eg/Portals/0/Homepage%20Art/2010_Sit%20Analysis_KDCFE_English.pdf)>



amounts of foreign aid, especially from the United States, the World Bank, and the EU, among many others, implemented major steps towards the “improve[ment] [of] the status of education and its quality in order to reach the Education for All goals and the MDGs by 2015.”<sup>164</sup>

Concern is the first step towards addressing any problem, the realities that face educational reform are not limited to the ability of funds or resources. In the last years of the presidency of Gamal Abdel Nasser, the country faced an unprecedented increase in population. “[T]he population explosion was the most obvious factor undermining Egypt’s ability to provide adequate elementary and preparatory education.”<sup>165</sup> The census of 1966 showed that there was an increase of 2.54 percent growth rate, which was one of the highest in the world.<sup>166</sup> The subject matter of basic education and reform has been on the policy docket of the Government of Egypt since 1981 and continues to the present day. With the historic signing of the Camp David Accords, a peace agreement between Egypt and Israel, brokered under the U.S. – Carter presidential administration, the government has since received historical amounts of aid towards military, social and economic development. United States foreign policy has vested interests in the GOE, which has had major benefits but has, as is common with all foreign aid, come with stipulations and recommendations on how funds should be directed and distributed. The same holds true for education.

Egypt, until recently, has played host to a number of foreign occupying forces. These foreign forces, in many areas, have left significant marks on the socialization of modern day Egypt. This socialization process has had long-standing effects on multiple aspects of life, ranging from what is socially acceptable and what denotes superiority in a country entrenched in labels regarding the class stratification. The current reality in Egypt is that “class and social inequality still remain dominant factors in defining everyday social interaction.”<sup>167</sup> And much of what happens in Egypt dictates the temperament that education takes in the MENA region, whereas “Egyptian education is the past and present

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<sup>164</sup> Handoussa, *supra* note 163, at 64.

<sup>165</sup> JUDITH COCHRAN, EDUCATION ROOTS OF POLITICAL CRISIS IN EGYPT, 76 (Lexington: Plymouth) 2008.

<sup>166</sup> *Id.* at 76.

<sup>167</sup> MONA ABAZA, THE CHANGING CONSUMER CULTURES OF MODERN EGYPT: CAIRO’S URBAN RESHAPING 166 (American University in Cairo Press, Cairo) 2006.

architect of economic and social behavior in the Middle East and throughout the Muslim World.”<sup>168</sup>

### **A. Evolution of Primary Education in Egypt – Historical Overview**

Before the formal systemization of education in the 1800s, there existed a network of education that was directed by the religious authorities. “Prior to the nineteenth century, the *ulama*<sup>169</sup> and Coptic clergy controlled [...] traditional education [and the most] important institutes were theological seminaries.”<sup>170</sup> The curriculums were basic reading (of Arabic) and arithmetic was covered with a primary focus of memorization of the Qur'an or Bible.<sup>171</sup> A dynamic of Egypt and its education policies that cannot be ignored are the religious schools or *katatib*, which constituted the primary basis of education before the establishment of a modern or westernized system of secular education.

#### **1. Revolution Road Towards Independence: Post-Britain and Nasser's Egypt**

The end of World War I saw the dismantling of the Ottoman Empire and the division of states and territories under its control. Egypt came in direct contact with Great Britain, who had already established their imperialist presence in the country. It was not until 1919 that Saad Zagloul, former Minister of Education, led a countrywide revolt against the British and their presence in the country and effect on not only education but also all elements relating to Egyptian welfare and development. As of 1922 the British forfeited independence, but remained as visible and influential characters in Egyptian affairs. From 1922, “the British no longer tried to control Egypt's education or other internal policies, but many British officials, teachers and military personnel remained.”<sup>172</sup> The reality of the situation at this time was that the British still had influence in the state and the seeds for a dichotomous system of education had already been sown. There were however, popular uprising movements, such as those led by Zagloul and Hoda Sharaawi. The signing of the Anglo-Egyptian Treaty of 1936 removed British troops from Egypt,

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<sup>168</sup> Sayed, *supra* note 11, at 24 as cited from Judith Cochran, EDUCATION IN EGYPT (Croom Helm: Kent), 1986.

<sup>169</sup> Muslim religious leaders.

<sup>170</sup> EGYPT EDUCATION HANDBOOK, *supra* note 160, at 28.

<sup>171</sup> *Id.* at 28.

<sup>172</sup> COCHRAN, *supra* note 165, at 50.

except from the Suez Canal, but even this “did not bring about the complete independence that the nationalists had been demanding since 1919.”<sup>173</sup>

The atmosphere of Egypt in the wake of the nationalistic movement was charged. Developing this newly emancipated country required a massive overhaul of public policy, especially education. The needs were great indeed. The first major hurdle in relation to basic education and development was the rate of illiteracy among the population. Second was the need to train secular leaders.<sup>174</sup> The sentiment that permeated the education sector in the time of nationalization was that education needed to be molded to fit the needs of the Egyptian people and not the will of the foreigner occupiers, who for so long had used education as a tool for separation. “Prior to the 1952 revolution, educational issues resulted from Egypt’s cumbersome, disunited educational system reflecting the political, economic and social conditions of the country.”<sup>175</sup>

During the time of nationalization, Egypt was still not a completely independent state. The head of state at the time was the British backed Turkish khedive or king, who had “little effect upon the government.”<sup>176</sup> In creating a foundation for Egyptian education, the 1923 Constitution made primary education free and compulsory for all children, ages 6 to 12.<sup>177</sup> It was during this time that the government adopted an extremely ambitious program ensuring compulsory schools. This program called for the launch of model compulsory schools in the 27 governorates of Egypt “that terminated at the fourth-grade level.”<sup>178</sup> While the Minister of Education, Taha Hussein, “made elementary schools free and compulsory, by 1930, only 18% of the primary population was estimated to be enrolled in elementary or primary schools, although others attended private, often foreign, schools, and [...] Islamic *Quttab*s[.]”<sup>179</sup> Later, the government found it prudent to use existing schools, which were still considered compulsory but the problem that persisted was that “in the academic year 1925-26, 762 [...] schools remained, although they lacked qualified teachers, adequate facilities and unified

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<sup>173</sup> COCHRAN, *supra* note 165, at 51.

<sup>174</sup> *Id.* at 52.

<sup>175</sup> *Id.* at 67.

<sup>176</sup> *Id.* at 65.

<sup>177</sup> *Id.* at 53.

<sup>178</sup> *Id.* at 53.

<sup>179</sup> Eleanore Hargreaves, *Assessment in Egypt*, *Assessments in Education: Principles, Policy & Practice* 8:2, 249, 247 – 260 (2001).

syllabus.”<sup>180</sup> And by 1937, the government realized that these schools needed much attention and change but that it would fall to their lot to provide the funds for such improvements, “and the compulsory education scheme was abandoned.”<sup>181</sup>

The situation of the education system in Egypt at the time remained undefined, with the lack of fiduciary support and materials relegated to the budget on education; there were limits as to what could be achieved. “Lack of financial resources further limited Egypt’s ability to provide free accessible education.”<sup>182</sup> Finally, the government realized that they needed to create a unified education structure that offered a semblance of organization. “Each primary, elementary and secondary educational system was administered by random, adjunct or separate units, which limited education reform.”<sup>183</sup> It was in this atmosphere of nationalizing that all the types of schools at the various levels<sup>184</sup> were to become standardized through the administration of examinations. There still existed a conflict between the secular education and the religious education systems, with the latter remaining under the tutelage of the religious leaders and Al-Azhar University, “the question remained as to which competencies and skills Egyptians needed. The result was that curriculum fluctuated with political policy.”<sup>185</sup>

## **2. Nasser’s Egypt: Socialism and the Education System Reform**

The Free Officer’s Movement, led by General Mohamed Naguib brought Egypt its newfound independence from all foreign forces. The ousting of the British-controlled ‘royal family’ led the way to independence in 1952.<sup>186</sup> The Egyptian army took control over the state, removing King Farouk and his cabinet.<sup>187</sup> As noted during this time, Naguib was the “first Egyptian ruler in two thousand years [and] he demonstrated

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<sup>180</sup> See COCHRAN, *supra* note 165, at 52. Also citing MOHAMED HARBY, EDUCATION IN UNITED ARAB REPUBLIC IN THE TWENTIETH CENTURY. 21 (Cairo: General Organization for Government Printing) 1960.

<sup>181</sup> *Id.* at 53.

<sup>182</sup> *Id.* at 53.

<sup>183</sup> *Id.* at 59.

<sup>184</sup> Refers to the primary, elementary, secondary, foreign language schools and university levels of education.

<sup>185</sup> COCHRAN, *supra* note 165, at 64.

<sup>186</sup> The Free Officer’s Movement (under Naguib) forced King Farouk to abdicate the throne and vacate Egypt.

<sup>187</sup> *Id.* at 67.

concern for the masses.”<sup>188</sup> During this time there were major reforms made by way of laws through which the accumulated and massive wealth of the elites was distributed among the poor.<sup>189</sup> Education was the tool, especially at the primary level, where the new military government could “disseminate the ideals of socialism, Arabism and nationalism”<sup>190</sup> to the masses.

It was under the leadership of Colonel Gamal Abdel Nasser that Egypt truly prospered in terms of national aspirations. He implemented a system of socialization that intended to propel Egypt forward in the new era following the breakdown of colonialism (imperialism), through adopting a “populist-socialist-single party system.”<sup>191</sup> While a member of the 1952 Free Officer’s Movement, he achieved far more in terms of meeting the demands of the Egyptian public than Naguib could.<sup>192</sup> “In education, as in other areas of state policy, the major change came, not with the 1952 coup, but in the following years. This was the real Egyptian revolution, guided not by Naguib, but by Gamal Abdel Nasser.”<sup>193</sup> It was in October 1954 that the public realized that Nasser had in fact become the leader of Egypt.<sup>194</sup> It was in this environment that the British agreed to fully withdraw their troops by 18 June 1956. And in the year of 1956 Nasser nationalized the Suez Canal, which resulted in the tripartite invasion by Britain, France and Israel.<sup>195</sup> His action and the failure of the latter to regain control of the canal made him a successful leader in Egypt and in the Arab world.

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<sup>188</sup> *Id.* at 67

<sup>189</sup> Agrarian Law of September 1952 confiscated land and gave it to peasant farmers in lots of two to five feddans (1 feddan = 1.038 acres), thus giving the right to own land to all Egyptians. See COCHRAN, *supra* note 165, at 57.

<sup>190</sup> Hargreaves *supra* note 179 at 249

<sup>191</sup> Nadine Mourad Sika, EDUCATIONAL REFORM IN EGYPTIAN PRIMARY SCHOOLS SINCE THE 1990S: A STUDY OF THE POLITICAL VALUES AND BEHAVIOR OF SIXTH GRADE STUDENTS, 37, (The Edwin Mellen Press: New York 2010) as cited by Maye Kasse, EGYPTIAN POLITICS: THE DYNAMICS OF AUTHORITARIAN RULE, 1 (Lynne Rienner Pub. 2004).

<sup>192</sup> In the period prior to the establishment of the Arab Republic of Egypt, Mohamed Naguib served as leader of the Free Officer’s Movement that spearheaded the removal of King Farouk. In the subsequent years, Col. Gamal Abdel Nasser strengthened his position against Naguib in order to remove him from office, mostly through the clashes between the Muslim Brotherhood and linking Naguib to the Brotherhood amidst the time of trials before the newly established “Peoples’ Court” that tried cases of treasons. It was on these grounds that Naguib was removed from office and placed under house arrest that Nasser assumed the position of president in 1954.

<sup>193</sup> See Cochran, *supra* note 165, at 68.

<sup>194</sup> *Id.* at 68.

<sup>195</sup> *Id.* at 70.

The primary education system at this time was reformed through legislation in 1953, which resulted in the abolishment of the previous elementary system.<sup>196</sup> “Education of the masses expanded in 1953 when a new primary school system was legislated, abolishing the former elementary school system. [T]he new primary school was supposed to eradicate illiteracy and was free and compulsory for boys and girls from 6 to 12. In 1952, one million pupils were enrolled in primary schools. A decade later found over three million students in the same schools. Unfortunately, the buildings and facilities had not increased or been improved at the same rates.”<sup>197</sup> Law 210/1953 stipulated that education at the preparatory level be combined at the primary and elementary levels to make school compulsory for children ages 6 to 12.<sup>198</sup> Primary education thus became a universal right for Egyptians and in 1953 “came solely under government control and the curriculum became standardized.”<sup>199</sup> So while education, in theory, was a right available to everyone, “the limited space available placed practical constraints on that right.”<sup>200</sup> Fatma Sayed further critiques the ideology behind free education, whereas “such a policy was not feasible in practice, considering the country’s very limited economic resources.”<sup>201</sup>

Under Nasser, the presence of anything with links to foreigners or foreign influence was subject to being taken over or altogether removed from the country, particularly in the time following the nationalization of the Suez Canal. This was especially true in the case of education and private-foreign schools. Prior to the tripartite invasion of the Suez Canal, the number of students enrolled in foreign language schools was 97,000 students and following the invasion the number dropped 17,000.<sup>202</sup> Primary schools were unified when foreign schools were abolished in 1956, with the exception of the Armenian and Vatican schools.<sup>203</sup>

Private schools, which were dominated by foreigners, suffered a major setback subsequent to the Suez invasion of 1956. The 300

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<sup>196</sup> *Id.* at 68.

<sup>197</sup> See COCHRAN, *supra* note 165, at 68. Author citing AMIR BOKTOR, THE DEVELOPMENT AND EXPANSION OF EDUCATION IN THE UNITED ARAB REPUBLIC, 204 (American University in Cairo Press) 1963.

<sup>198</sup> Vatikoitis, *supra* note [xx] at 421.

<sup>199</sup> See Sika, *supra* note 191, at 39.

<sup>200</sup> *Supra* Cochran, note 165, at 68.

<sup>201</sup> See Sayed, *supra* note 1, at 27.

<sup>202</sup> Cochran, note 165, at 70.

<sup>203</sup> See Hargreaves, *supra* note 179, at 249.

foreign schools were either nationalized or put under strict government control in the fifties. The small number of private schools run and owned by Egyptians were not nationalized, though official ideology created an adverse climate for them.<sup>204</sup>

The aversion towards the foreign influence in Egypt was two-fold and the basis of such resentment was well founded in Nasser's Egypt. "Nasser's emphasis on nationalism was, in the first place, a reaction to Western influence and, at the same time, an expression of genuine faith in the potential of the Arab people."<sup>205</sup> To further the unification process in Egypt, Arabic was made the most important subject in the curriculum. "The Arabic language was more important than any other subject on national exams. [...] Education in Arabic [...] became [a] tool[] to nationalize the country."<sup>206</sup>

One of the issues facing education in the period of independence was the increase of the population and government expenditure, with the latter failing to adequately meet the former. As Iliya Harik notes, "allocation increments for education lagged behind student population growth. [...] [G]overnment expenditure on education fell way short of the rate of expansion of student enrolments[sic]."<sup>207</sup> In 1951 the Ministry of Education budget was 40.2 million EGP LE<sup>208</sup> "after thirteen years it had increased to 96.5 million [EGP LE]. Though inflation was low at the time, the increment was still small."<sup>209</sup> The newly established education system that espoused "national pride and aspirations to achieve equality with advanced nations"<sup>210</sup> was still faced with economic, resource and quality limitations. It was in the spirit of meeting the needs of all Egyptians, unlike previous rulers and occupying forces that propelled the role of education as an essential part in the socialist and nationalist machine that Nasser envisioned. Through the newly reformed primary education system endeavored to provide equal opportunities to all Egyptians.

The reality of the newly independent Egypt was that it was subject to the military thinking that dominated the *modus operandi* of Nasser. In almost all sections of the

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<sup>204</sup> ILIYA HARIK, *ECONOMIC POLICY REFORM IN EGYPT*, 134, (The American University in Cairo Press: Cairo) 1997.

<sup>205</sup> See COCHRAN, *supra* note 165, at 74.

<sup>206</sup> *Id.* at 69.

<sup>207</sup> HARIK, *supra* note 204, at 135.

<sup>208</sup> EGP LE: Egyptian Pound.

<sup>209</sup> See HARIK, *supra* note 204, at 135.

<sup>210</sup> *Id.* at 133.

government there were elements of military influence and this was true in education as well. Gamal Abdel Nasser being educated under the British military schools used his educational experiences as a model to unite and structure the schools.<sup>211</sup> In the creation of a uniform curriculum, Nasser's administration attempted to address the "instructional character of education in the country...to the more acute socio-economic problems and urgent needs of the country,"<sup>212</sup> with the military as a tool to promote patriotism.<sup>213</sup> As Judith Cochran states, "Egypt had been in a constant state of war from 1948 to 1970, [which] destroyed the economy, the education and the stability of the country."<sup>214</sup> Sayed's position furthers this statement by relating the political turbulence from the 1930s until the mid-1970s, "with education rece[iving] inadequate human and capital allocations that did not allow it to perform its proper developmental role during those five decades."<sup>215</sup>

So while the ultimate goals of the Pan-Arab socialist movement introduced by Nasser attempted to correct the deficiencies that faced the nation in terms of education,<sup>216</sup> the end result was that the military campaigns overshadowed and impaired the newly established system. This problem coupled with the task of providing education to an entire population meant serious and significant contribution of resources towards developing the education system. But in the case where resources were few and far between, it placed a burden on the reform and the result was that the quality of education was greatly reduced. Educational reforms during Nasser's time were credible but still failed to adequately match the developing needs of the country.<sup>217</sup> As Harik asserts, the nationalization of Egypt had destructive results on education and equal opportunities; "[t]he Revolution had to cope with the last vestiges of colonialism, its policies inadvertently contributed to the diminution of the right to an education."<sup>218</sup> As a result of the nationalizing of private institutions and the subsequent conquest of foreign schools,

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<sup>211</sup> COCHRAN, *supra* note 165, at 69.

<sup>212</sup> Vatikoitis, *supra* note, [xx] at 421.

<sup>213</sup> Cochran, *supra* note 165, at 74.

<sup>214</sup> *Id.* at 74 -75.

<sup>215</sup> SAYED, *supra* note 1, at 27.

<sup>216</sup> The rates of illiteracy, universal education and development.

<sup>217</sup> COCHRAN, *supra* note 165, at 65.

<sup>218</sup> HARIK, *supra* note 204, at 153.



the quality of education suffered significantly in favor of the government's socialist tendencies.<sup>219</sup>

### **3. *Infitah*: Reintroduction of Foreign Influence on Anwar El Sadat 1970 - 1981**

Anwar El-Sadat assumed the presidency of Egypt following the sudden death of Gamal Abdel Nasser. An original member of the Free Officer's Movement that ushered in the independence of the nation, Sadat was acclimated to the principles that motivated Nasser. In 1970 the country was in utter chaos. It became almost immediately clear that Sadat was intent on adopting a new method of governance in terms of development that strayed away from the socialist inclinations of his predecessor. He did, however, keep the same vestiges of power that Nasser established, "ensur[ing] that the president holds all power over all state institutions and society."<sup>220</sup> His vastly differing opinions and conceptions about Egypt led to a "program of radical economic change,"<sup>221</sup> which meant significant changes towards the previously established education system.

Sadat welcomed economic reform through what is referred to as the *Infitah* or Open Door Policy. As previously mentioned, Nasser's preference and propensity for nationalism bankrupted various sectors of the Egyptian state, with education suffering abysmally. "The economic devastation brought about by Nasser's[sic] political idealism had the effect of turning his nationalistic ideals on their heads. Sadat now concentrated more openly on economics, [acknowledging] that [...] social and political aim were depend[ent] on these." The objective of this economic reform was to attract foreign investment and enlarge the private sector.<sup>222</sup> It was in this atmosphere that the foreign and private companies were welcomed back into the country. What this meant for the education system was the re-establishment of private and foreign schools. As Judith Cochran asserts, history once again was to repeat itself under Sadat, with the "[r]ich

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<sup>219</sup> See HARIK, *supra* note 204, at 153.

<sup>220</sup> See SIKI, *supra* note 191, at 39.

<sup>221</sup> Fawziah Abdel Rahman Qadir, *Marginalization of Cairo Egypt: Understanding Social and Economic Discriminatory Practices in Cairo Society* (May 17, 2010) (unpublished research paper, American University in Cairo) (on file with author). Author citing Philip Marfleet, *State and Society*, Egypt: Moment of Change 20 (Rabab El-Mahdi and Philip Marfleet, eds. The American University in Cairo Press 2009).

<sup>222</sup> *Id.* at 20.

foreigners [coming] in to control the country.”<sup>223</sup> It was with the reintroduction of foreign presence that the dichotomous relationships between classes in Egypt returned, only this time with much greater reaction from the masses. The wealthy Egyptians were once more prone to adopting the lifestyle and culture of the rich foreigners, while the poor Egyptians “sought comfort in religious fundamentalism.”<sup>224</sup>

Education during the Sadat’s presidency reflected the reintegration of foreigners and new economic practices, thus reinstating the cultural divide and mixed economy.<sup>225</sup> The private schools signified that the level of education that one could receive would potentially provide for greater social mobility, with greater opportunities than those attainable through public schools. In order to depict the divide of the education system during this time education has been broken up into two categories; “a private, often foreign one providing quality education for the elite to prepare them for leading positions in the country, and a poor quality public education for the masses.”<sup>226</sup> For the majority of Egyptians who could not afford, or in the rare case, unwilling to be educated in these foreign-private school their only option was to attend the largely overcrowded public, government schools. “The foreign private schools once again became the means of attaining higher economic and social status.”<sup>227</sup>

At this time, the number of primary and secondary schools increased, between 1952 and 1976, expenditures on school construction increased to 1,000 percent but their quality decreased as the government failed to match budgetary needs with student enrollment levels.<sup>228</sup> During the Sadat period, the education budget lagged to the degree that in certain years it fell below the rate of inflation.<sup>229</sup> The 1979 education budget was 407 million EGP LE, an annual increase of 18.3 percent from 1975 when the budget was 235 million EGP LE. An annual increase of 18.3 percent when inflation bordered around

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<sup>223</sup> COCHRAN, *supra* note 165, at 78.

<sup>224</sup> *Id.* at 78. Cochran also notes that in opposition to the lifestyle being emulated and adopted by the wealthy Egyptians, the masses, most of who were impoverished became more religious in both practice and outward appearance. For example, the number of veiled women increased in the larger cities of Cairo and Alexandria.

<sup>225</sup> Hargreaves, *supra* note 179, at 251.

<sup>226</sup> Sayed, *supra* note 1, at 26.

<sup>227</sup> Cochran, *supra* note 165 at, 78.

<sup>228</sup> EGYPT: EDUCATION HANDBOOK, *supra* note 160, at 29.

<sup>229</sup> HARIK, *supra* note 204, at 135.

20 percent failed to adequately match expenditure of previous years.<sup>230</sup> The lack of funding created further strain on the quality of education, particularly at the primary level. The condition of schools were failing and overcrowding of the facilities further compromised their already suffering infrastructures. “Some buildings not, originally intended as schools, had to be used, and they lacked resources [...] [B]oth primary and secondary schools [underwent] concerted efforts to implement compulsory education, with a myriad of problems resulting from this effort.”<sup>231</sup> The resulting norm that was established to combat over-crowded schools was that sessions at the primary and secondary levels was held in shifts, sometimes two to three a day.<sup>232</sup>

The top-down affects of the new economic policies, centralized government, population surge, and rates of inflation led to the inevitable pitfalls of the education system, many of which set the foundations for the problems that persist in the modern system. First, the salaries of teachers in government schools were subject to standardized government wages, which contributed to the demise of quality education. In real terms, teacher’s salaries averaged 50 EGP LE (\$2.60) to 60 EGP LE (\$3.20) per month, these salaries failed to “attract quality teachers or motivate them to spend time on class preparation.”<sup>233</sup> It was in this atmosphere that teachers began to supplement poor salaries through second jobs or private tutoring of their students. “Some teachers were accused of providing unclear or incomplete classroom instruction in order to ensure a student’s need of tutoring to succeed on exams.”<sup>234</sup> The second issue was the accelerated growth of private tutoring. Teacher’s salaries and private tutoring go hand in hand and further divide the society and create long-term effects. The wealthier a student’s family was the better access they had to more prestigious teachers, the opposite was true for student less fortunate. The end result is that students do not compete on an even playing ground.

To portray the severity of the financial burdens placed on primary education during this period, in 1980 National Council<sup>235</sup> released a report on primary education that indicated the following:

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<sup>230</sup> *Id.* at, 35.

<sup>231</sup> Cochran, *supra* note 165, at 80.

<sup>232</sup> Harik, *supra* note 204, at 137.

<sup>233</sup> Cochran, *supra* note 165, at 81.

<sup>234</sup> *Id.* at, 80.

<sup>235</sup> Served as an advisory board to the president of Egypt. See COCHRAN, *supra* note 165, at 9.

- (1) The yearly cost per student was 28.8 EGP LE (1 EGP LE = 1 USD), 20.5 EGP LE went towards wages, while 9 EGP LE was allocated towards the student.
- (2) An average of 10,000 specialized teachers, nominally without adequate educational training, failed to meet the “grave shortage of classroom teachers.”
- (3) Only 48.8 of teachers were trained and certified to teach, with the remainder being uncertified.
- (4) Of the 846 class periods required only 648 were actually taught.
- (5) Out of the 8,027 primary school buildings, only 4,453, or 56 percent were suitable for educational purposes. 907 (11 percent) needed to be demolished, while 2,667 buildings used for primary education needed basic repairs.
- (6) 1,093 (24 percent) of primary schools needed bathrooms, 560 needed access to potable water and 4,837 (60 percent) needed electricity.
- (7) 1,970 school operated only in the afternoon and 1,972 schools operated in double shifts.
- (8) Student failures in the second and fourth grades constituted 15 percent in each grade. Total primary school drop out rates were 20 percent. The calculated costs of loss and wastage of failures and dropouts were tabulated at 27 million EGP LE per year.<sup>236</sup>

It was in this context that primary education was relegated to the backburner of the Open Door Policy agenda and as a direct result, this vital and integral period of development for Egypt’s children suffered.

Shifts in the paradigm and functionality of the government under Sadat resulted in large waves of discontent. The economic policies paired with an increasingly oppressive government resulted in widened gaps in the social-economic levels in the country. Growing resentment towards the biased and disproportionate affects of the *Infitah* peaked and Sadat’s targeted suppression of religious fervor that was growing as a result, prompted estranged members of the Muslim Brother to essentially take matters into their own hands. Thus leading to his assassination on October 1981.

#### **4. New Age of Education: Mubarak Administration 1981 – 2011**

Hosni Mubarak then assumed the presidency upon Sadat’s assassination. In this arena of turmoil, the state was in disarray both politically and economically. Mubarak ensured that he maintained the same amount of control over the government through the Constitutional amendments made in 1971.<sup>237</sup> Egypt’s economic crisis was faced with surging rates of unemployment and the way in which the government had been established under Nasser failed to leave room for the growth of the population and their needs. The main areas that needed to be addressed in order to put Egypt on the right track towards development were embodied in what Mubarak indicated in a 1989 speech. These

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<sup>236</sup> *Id.* at 79.

<sup>237</sup> SIKA, *supra* note 191, at 40.

national priorities were: economic improvement, strengthening democracy, and achieving educational reform.<sup>238</sup>

Mubarak focused on a course of liberalization to jumpstart the economy. In order to facilitate this process, “education, especially primary education, was seen as a means both of achieving economic improvement and strengthening democracy.”<sup>239</sup> Following the Ministry of Education comprehensive report on education, entitled “Developing and Innovating Education in Egypt – Policy, Plans and Implementation Programs”, a national action plan was sanctioned by the National Democratic Party Congress, approved by the Ministerial Committee on Services and by the Executive Cabinet on 2 November 1980 in a joint session.<sup>240</sup> Legislation passed law 139/1981 which gave this plan the archetype under which it could operate. The initial plan began in 1981 and was to last for five years. “It was agreed to implement educational reform as a multi-targeted, multi-dimensional strategy. All goals were to be achieved via several major and minor programs, which jointly aimed to meet the principles of the new educational policy.”<sup>241</sup> Law 139 also established and defined the structure of pre-university education, making the nine-year basic and compulsory.

In addition to defining the structure that education (at the pre-university level) was going to take, Law 139 also sought to decentralize the control that the government had over education. Under the two previous presidential administrations the level of bureaucracy and swelling population failed to be reeled under control, thus contributing to a heavily centralized Ministry of Education. Presumptions on how to disseminate decentralization depended upon “deepening the roots of democracy,”<sup>242</sup> which meant placing more responsibility upon governorates, who were “responsible for implementing and monitoring the Ministry strategies [...] managing schools ... in context of the National Educational Plan and relevant allocated resources; and capitalize on community

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<sup>238</sup> Hargreaves, *supra* note 179, at 51.

<sup>239</sup> *Id.* at 251.

<sup>240</sup> Cochran, *supra* note 165, at 94.

<sup>241</sup> *Id.* at 95.

<sup>242</sup> Mark Ginsburg, Nagwa Megahed, Mohamed El-Meski, and Nobuyuki Tanaka, *Reforming Educational Governance and Management in Egypt: National and International Actors Dynamics*, 7 EDUC. POL’Y ANALYSIS ARCHIVES, 1, 35 (2010). 7, author citing JUDITH COCHRAN, EDUCATION IN EGYPT, 78 (London: Croom Helm 1986).

input [...] that would support the education process.”<sup>243</sup> Another element of the law attempted to stimulate self-reliance and governance from the ground-up focusing on a more democratic Egypt. The goals of the government were not purely an independent thought as Ginsburg et al. suggest, the law was promulgated in the shadow of a World Bank publication calling for the reduction of government involvement in education.<sup>244</sup>

## **B. The Current Primary Education System**

Gauging the right to education requires that a country’s system of education be analyzed. But how is the analysis to be conducted, what basis for comparison or model should primary education be matched against? Section II indicated the human rights indicators that would be used to assess the primary education system in Egypt. The standard of assessment for measuring compliance adheres to the 4-A framework and indicators relevant to primary education and human rights, with an additional assessment of governance framework. The permanent indicators and requirements of the right will be cross analyzed with information and resources concerning the Egyptian system in order to effectively measure compliance with international legal standards.

The Mubarak administration has given significant attention towards the reform of the education system in accordance with international trends in education, national initiatives and “commitments to international conventions and declarations.”<sup>245</sup> A great accomplishment of the Egyptian education system is that education, by law, is free at all levels. Alternatively, the system is extremely centralized and subject to bureaucracy, thus limiting internal development.

The structure of the education system is comprised of three levels: basic education level, which includes students from the ages of 4 years to 14 years (two years of kindergarten, primary school for six years and preparatory school for three years). The secondary stage of education is generally for three years and includes students ages 15 - 17, followed by the tertiary level.<sup>246</sup> It was with the legislation of Education Law 223/1988 that established that education at the pre-university level be a total of eleven

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<sup>243</sup> Ginsburg, *supra* note 242, at 7. Authors citing United Nations Education Science and Cultural Organization (UNESCO). *Decentralization of Education in Egypt. Country Report at the UNESCO seminar on EFA implementation: Teacher and Resource Management in the Context of Decentralization* Hyderabad, India 2006.

<sup>244</sup> *Id.* at 7.

<sup>245</sup> UNESCO, *Decentralizing Education in Egypt*, *supra* note 243, at 9.

<sup>246</sup> EGYPT: EDUCATION HANDBOOK, *supra* note 160, at 87.

years.<sup>247</sup> There are then three types of schools that students have the option of enrolling in: government run and funded schools or public schools, privately run and privately funded schools, and Al Azhar, which provides Islamic religious instruction in addition to the standard curriculum established by the MOE.<sup>248</sup>

The 1971 Constitution of Egypt established education as a right of all citizens, wherein Articles 18, 20 and 21 declare education to be a basic right that provides equal opportunities to all citizens. Article 18 of the Constitution further established that basic education is compulsory. Education Law 23/1999 articulated that the extended compulsory education was to be nine years, and “concerning primary education, the law states that each governor has the right to distribute all children at the primary education level according to the availability of public schools in each governorate.”<sup>249</sup>

Law 139/1981 dictates the responsibilities of the Ministry of Education and defines the tasks to include planning, follow up, evaluation, development and provision of educational materials, in addition to creating standards and minimum qualifications of teachers.<sup>250</sup> The responsibilities of the MOE at the primary level<sup>251</sup> also includes the following:

- Developing curriculum
- Determining national evaluation criteria
- Developing plans for reform
- Deciding budgets for educational directorates
- Determining salaries and incentives for teachers and administrators
- Deciding on training needs and programs and others<sup>252</sup>

The MOE is further supported by the National Center of Curricula Developments, the National Center for Education Research and the National Center for Examinations and Educational Evaluations. These centers are separate from the education structure but fall

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<sup>247</sup> Sika, *supra* note 191, at 42.

<sup>248</sup> UNESCO, *Decentralizing Education in Egypt*, *supra* note 243, at 11.

<sup>249</sup> Sika, *supra* note 191, at 42.

<sup>250</sup> Mona El Baradei and Leila El Baradei, *Needs Assessment of the Education Sector in Egypt*, 13, 2004. Available at <[http://www.zef.de/fileadmin/webfiles/downloads/projects/el-mikawy/egypt\\_final\\_en.pdf](http://www.zef.de/fileadmin/webfiles/downloads/projects/el-mikawy/egypt_final_en.pdf)>

<sup>251</sup> This also includes the responsibilities of the MOE in the preparatory and secondary levels as well.

<sup>252</sup> See El Baradei, *supra* note 250, at 13. As cited in Fayez Mourad Mina, *Education in Egypt: The Reality and the Future Up to 2020*, (Cairo, Third World Forum, 2001) and UNESCO, *The Political and Legal Context of Basic Education in Egypt. Egypt: Report: Part I: Main Indicators for Education for All*, 2004 available at <[http://www2.unesco.org/wef/countryreports/Egypt/rapport\\_1.htm](http://www2.unesco.org/wef/countryreports/Egypt/rapport_1.htm)>.

under direct control of the Minister of Education, and “each of these specialized agencies tackle a specific educational problem of issue.”<sup>253</sup>

### C. Issues Facing the Ministry of Education

Persistent and often endemic problems of the Egyptian education system are based on the centralization of the government, deterioration in the quality of education,<sup>254</sup> a long standing dependency on foreign aid and loans to fund education reform, and education policies that consistently fail to address the ever-widening social and economic gaps. Theoretically, education should be available to all Egyptians free of charge and serve as an equalizing element of the society. “By the late sixties the claim that education in Egypt was free of charge and provided equal opportunity for everyone in the school-age bracket had already become a myth.”<sup>255</sup> Although the government provides free education at all levels, there is an unavoidable dichotomy between the types of education attained at the public school level. Part of the reason is the wealth gap that permeates the education system. “According to the World Bank, there are great differences in educational attainment of the rich and the poor.”<sup>256</sup> In conjunction with the aforementioned woes, providing primary education remains a large task.

George M. Ingram has indicated that the research and development of describing the essential elements of quality education in the international sense are based upon “strong political commitment, adequate resources, supportive and involved parents and community, trained teachers and systems to support and them, healthy students...”<sup>257</sup> and when matching these requirements with World Bank benchmarks there is a standard created. But do these benchmarks and standard include a human rights-based approach? A 2002 World Bank report indicated these benchmarks based upon “an assessment of

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<sup>253</sup> El Baradei, *supra* note 250, at 14.

<sup>254</sup> Harik, *supra* note 204, at 137.

<sup>255</sup> See Harik, *supra* note 204, at 137. As cited in footnote “in a speech made in December 1968, Nasser complained about the decline of educational levels and mentioned the widespread resort to private lessons. See al Minufi “al ta’lim,” 173-74 [Kamaal al Minufi *Al Ta’lim fi al Khitabb al Siyasi al Misri* [Education in the political literature of Egypt] *Siyasat al Ta’lim al Jaami’i fi Misr* [University Education Policy in Egypt, Amani Qindil, ed. (Cairo: Cairo University, Markaz al Buhuth wa al Dirasaat al Siyaasiyah) 1991.

<sup>256</sup> EGYPT: EDUCATION HANDBOOK, *supra* note 160, at 87.

<sup>257</sup> George M. Ingram, *What Is It, and Who Decides? Briefing Paper for a Policy Maker* in *International Perspectives on the Goals of Universal Basic and Secondary Education*, 246, 249 (Joel E. Cohen and Martin B. Malin eds.,) 2010.



characteristics of developing countries with well-performing education systems” and are described as follows:

- Average teacher salary: 3.5 times per capita GNP
- Pupil/teacher ration: 40:1
- Non-teacher salary proportion of recurrent spending: 33 percent
- Average repetition rate: 10 percent
- Education spending as a proportion of government budget: 14 to 19%
- Primary education proportion of education spending: 50 percent<sup>258</sup>

However, to simply use the World Bank indicators on what substantiates a well-performing educational system would fail to include the human rights system encapsulated in the 4-A system. The World Bank offers a pro-market approach to education and how it can advance education for the sake of economic development, rather than for the primary objective of fulfilling a human right. In a roundtable discussion on education and economic development titled, “Quality Education: The Gateway to Employability”<sup>259</sup>, the Minister of Investment Mahmoud Mohieldin and the World Bank endeavored to identify how the GOE could “improve the quality of education so that it contributes more effectively to the country’s future economic development.”<sup>260</sup>

Assessing the progress of the Egyptian system in relation to the 4-A system and the previously mentioned indicators will allow for a clear and descriptive image of education at the primary level to be created. In doing so, the actions of the GOE will be measured against a combination of international and domestic standards.

What appears true in terms of education is that policy and financing are not the only determining factors in Egypt’s endeavors to fulfilling their duty. The use of indicators in gauging assessment portrays a more in depth analysis of reform initiatives.

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<sup>258</sup> *Id.* at 249. Also cited in *Education for Dynamic Economies: action Plan to Accelerate Progress Towards Education for All (EFA)* World Bank 2002.

<sup>259</sup> The Luxor Education Roundtable, March 19 – 20, 2010.

<sup>260</sup> Shamshad Akhtar, *Quality of Education: The Gateway to Employability*, MENA KNOWLEDGE AND LEARNING QUICK NOTES, 3 (March 2010), 1. Available at [http://www.google.com.eg/url?sa=t&rct=j&q=quality%20of%20education%20the%20gateway%20to%20employability&source=web&cd=1&ved=0CCAQFjAA&url=http%3A%2F%2Fwww-wds.worldbank.org%2Fexternal%2Fdefault%2FWDSCContentServer%2FWDSP%2FIB%2F2010%2F04%2F14%2F000333038\\_20100414003419%2FRendered%2FPDF%2F540140BRI0MNA0QN220Box345635B01PUBLIC1.pdf&ei=ggYG7WQMovqOdfD9dYI&usg=AFQjCNHug\\_H8Gy3bM\\_svpq1ZYPNiIO4pkQ&sig2=Az75hs--e9dNhqm0o0nipQ](http://www.google.com.eg/url?sa=t&rct=j&q=quality%20of%20education%20the%20gateway%20to%20employability&source=web&cd=1&ved=0CCAQFjAA&url=http%3A%2F%2Fwww-wds.worldbank.org%2Fexternal%2Fdefault%2FWDSCContentServer%2FWDSP%2FIB%2F2010%2F04%2F14%2F000333038_20100414003419%2FRendered%2FPDF%2F540140BRI0MNA0QN220Box345635B01PUBLIC1.pdf&ei=ggYG7WQMovqOdfD9dYI&usg=AFQjCNHug_H8Gy3bM_svpq1ZYPNiIO4pkQ&sig2=Az75hs--e9dNhqm0o0nipQ)

Section one mentioned the importance of utilizing such indicators is that they counter aggregate data that fails to adequately measure a state's achievement in terms of educational reform. The UNESCO Human Development Report for Egypt (2008) has asserted that

The education indicators demonstrate the need for a renewed focus on education reform to develop this vital social service sector. An increase in public expenditure both as a percentage of total expenditures and as a percentage of GDP would help to reduce classroom density and increase enrollment at all educational levels and would address the challenges of this sector.<sup>261</sup>

It is in the context that the Development Report has indeed missed a crucial element of addressing the issues facing Egypt in its provision of education. Simply using education indicators, as previously mentioned, fails to address the core problems. In a UNESCO publication on trends in education, Michael Bruneforth and Albert Motivans warn that a growing education infrastructure for the sake of development needs to be carefully monitored.<sup>262</sup> “[R]apid growth can overcome existing infrastructures and negatively affect the quality of learning outcomes. The goal is not to expand student numbers but to develop more efficient, effective and equitable systems.”<sup>263</sup> Matching these concerns to the needs of the population is essential.

Ahmed Fathy Sorour identified the ailments that the Egyptian education system has and continues to suffer from. As former minister of education his assessment of the system portrays a serious deficit in the implementation of reform, allocation of resources, and decision-making power that remains intrinsic to the failure to steadily address these issues. Sorour identifies some of the following as major hurdles: “(1) the absence of a clear philosophy and national framework; (2) the lack of adaptation to societal and market needs; (3) inadequacy of curricula and a low level of teacher preparation, especially concerning primary school-teacher; (4) Drawbacks in fulfilling the constitutional right of all children to have access to basic education covering grades 1 to 9; (5) Shortages in school building; (6) the inadequacy of many existing buildings and in

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<sup>261</sup> UNESCO, 2008 Egypt Human Development Report at 34.

<sup>262</sup> Michael Bruneforth and Albert Motivans, *Trends in Education in Participation and Outputs*, 12, EDUCATION TRENDS IN PERSPECTIVE – AN ANALYSIS OF THE WORLD EDUCATION INDICATORS, (UNESCO-UIS.OECD, 2005).

<sup>263</sup> *Id.* at 12.

equipment; and (7) Large numbers of illiterate people as a result of dropouts and low level of basic educational performance.”<sup>264</sup> Minister Sorour made his assessment over ten years ago but many of the diagnosed problems permeate and persist to this day. Therefore it remains prudent to offer a more in-depth and up to date assessment and analysis of the problems and what implications they bear.

## 1. Centralization

We will take further steps to expand access to basic education and upgrade its quality. These include, but are not limited to, the development of technical education and vocational training centers, promotion of Public- Private Partnerships, and involvement of the civil society in the educational sector. We will also enlarge the scope of decentralization in managing the educational process at governorate-level and beyond; and we believe that we are taking the right way towards goal attainment. – Mohamed Hosni Mubarak<sup>265</sup>

Egypt has long and deep roots of centralization in its history; this includes all levels of governance, not only the education sector. According to the National Strategic Plan for Pre-University Education Reform in Egypt, it was indicated that “the current government is committed to instituting a high level of decentralization of services; in fact the education sector may serve as a pilot for decentralization of other government sectors.”<sup>266</sup> However, one of the major trends in education since the EFA initiatives were introduced has leaned towards decentralization, which seeks to place more control on the local and community levels “for the purpose of increasing the efficiency and local relevance of what is taught.”<sup>267</sup> The implementation of this trend remains inoperable without proper steps towards decentralization, at the more central level. Further benefits associated with decentralization is that it creates and fosters a more democratic system,

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<sup>264</sup> Ahmed Fathy Sorour, *Egypt: A Strategy for Educational Reform*, PROSPECTS, 638, 637 – 644 (1997).

<sup>265</sup> Statement of former president, Mohamed Hosni Mubarak at the promulgation of the Teacher’s Cadre Law 21 June 2007, this law was a modification of the Law on Education Law 139/1981. *See supra* note 126, at 3.

<sup>266</sup> National Strategic Plan for Pre-University Education Reform in Egypt 2007/08 – 2011/12 at 24 . Available at

<http://planipolis.iiep.unesco.org/upload/Egypt/Egypt%20National%20Strategic%20Plan%20for%20Education%20in%20Egypt%20Towards%20a%20Paradigm%20Shift.pdf> [Hereinafter referred to as NSP 2007/08 – 2011/12].

<sup>267</sup> Fernando Reimers, *Educating for Global Competency* in *International Perspectives on the Goals of Universal Basic and Secondary Education*, 183, 194 (Joel E. Cohen and Martin B. Malin, eds., 2010).

where power is reduced at the national level and transferred more to the local levels, which “ensure[s] a high[er] degree of community participation in decision making.”<sup>268</sup>

Realizing the necessity for decentralization, either from a perspective that it was a domestic need to stimulate development or to match international trends, the Mubarak administration deemed it practical to implement a campaign for decentralization. The development manifested in the form of legislation. The 1981 Education Law was reflective of historical endeavors towards decentralization,<sup>269</sup> where “the division of responsibilities between the central MOE and the governorates [were espoused], while also clarifying the overarching authority of the center.”<sup>270</sup> During the periods from the 1980s and the 1990s, laws were decreed and legislated but their success in fostering decentralization were symbolic at best, and the MOE’s actions were seen as reinforcing a centralized system.<sup>271</sup> The initial strategy of Law 139 was to create a system of decentralization but not from the top-level completely, more so to delegate more responsibilities to the respective ministries. Law 233/1988, is the revised version of the Law 139/1981, which further stressed the concept of decentralization reiterating the specific duties and responsibilities of the MOE and local governorates in spreading the mission and objectives of the GOE. Law 139 has been the anchor law for education since it was promulgated in 1981, however, there have been a number of amendments made to the

At the regional level, Governorates are responsible for “implementing and monitoring the Ministry strategies, in addition to managing schools within their governorate in context of the National Education Plan and relevant allocated resources.”<sup>272</sup> Local Administration Law 43/1979, article 27 also stated that the governor is responsible “for administering all activities related to the public sector within his governorate. This would include all activities associated with all sectors, law and

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<sup>268</sup> Egypt Human Development Report 2008, UNDP, page 14 available at [http://planipolis.iiep.unesco.org/upload/Egypt/Egypt\\_nhdr\\_en2008.pdf](http://planipolis.iiep.unesco.org/upload/Egypt/Egypt_nhdr_en2008.pdf)

<sup>269</sup> Ali Ibrahim and Russanne Hozayin, *Historical Periods of Decentralization in Modern Egyptian Education: 1883 -1979* Cairo: Education Reform Program (2006). Ibrahim and Hozayin note that there are specific periods where decentralization efforts were made. The first period was under the British in 1883 through the process of Provisional Councils (PC).

<sup>270</sup> Ginsburg, *supra* note 242, 35.

<sup>271</sup> *Id.* at 36.

<sup>272</sup> UNESCO, *Decentralizing Education in Egypt*, *supra* note 243, at 12.

regulations associated with various ministries.”<sup>273</sup> Thus placing further responsibility upon the governors in regional administration of education. Suggestions from the World Bank on how Egypt could better manage education stated that Egypt needed to “devolve decision-making to the school with participation of key stakeholders...Some reforms aimed at decentralizing management and involving local stakeholders have been initiated, but substantial work remain to be done...The current, rather rigid central planning process ...[discourages] creativity and innovations.”<sup>274</sup>

The success of such decentralization initiatives was minimal at best. An assessment of administration and supervision from Aguirre International asserted that the “[a]dminstration and supervision of MOE schools is hierarchal....The budget is administered centrally [...] At present very few decisions are made at the school level. The school receives no budget other than a small allotment for maintenance and apportion of the children’s school fees.”<sup>275</sup> In 2002, the National Democratic party (NDP) issued the “Education Reform Policy” statement that sought to widen community participation as an element of reforming the education system and linking the public and private sectors in creating changes from a ground up level. The NDP further noted:

Decentralization will allow the responsible ministries the opportunity and time for strategic planning, supervision, and inspection of service providers rather than the indulgence in solving daily problems. Ministries will have the opportunity to lay out evaluation standards on the basis of management or the final outcome of the educational process, and to allocate budgets on the basis of new criteria in which competition among governorates is an effective factor. The objective of efficiency...this direction also [reflects] the philosophy that the school is the main call of the education process and ...will enable a larger base of participation...of municipal leadership ...[and] the local community.<sup>276</sup>

It was not until a 2008 initiative to further facilitate decentralization was carried out in the governorates of Fayoum, Ismailia and Luxor through pilot project programs that were based upon “enrollment, poverty, and stage of education as drivers”<sup>277</sup> that real efforts towards decentralization were visible. The schools were set up to receive direct

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<sup>273</sup> *Id.* at 13.

<sup>274</sup> Ginsburg et al, *supra* note 242, at 24. As directly citing World Bank, *Arab Republic of Egypt: Education Sector Review: Progress and Priorities for the Future*, 47 -48 (Cairo, World Bank Human Development Group, Middle East and North Africa Region, 2002).

<sup>275</sup> *Id.* at 24. Author citing Aguirre International, *Quality Basic Education for All: Strategy Proposal* 13(Washington, DC: Aguirre International, 2002).

<sup>276</sup> *Id.* at 24. As cited from National Democratic Party (NDP, Egypt), *Education Reform Policy* 11(Cairo, 2002).

<sup>277</sup> EGYPT HANDBOOK OF EDUCATION, *supra* note 160, at 88.

funding and monitoring mechanisms and project manuals were agreed upon. As of 2009 the pilot programs schools began receiving direct funding. The result of which was that schools were allowed to spend and allocate resources based on their specific needs and priorities, which increased the “seriousness of school-based planning [through] means to finance such plans.”<sup>278</sup> It was in this context that the program further revealed that “the funding formula...precipitated an increase in community donations,”<sup>279</sup> displaying a level of community involvement seldom seen prior to such projects. The success found with such pilot projects has prompted more funding towards other initiatives.

Much of the discussion surrounding decentralization is closely related to the allocation of resources and funds and as Ginsburg, et al assert, the financial resource capacity and political will.<sup>280</sup> The authors maintain that decentralization cannot be successful if there is a lack of the two elements, whereas “greater resources enhance and reflect greater political will to undertake reforms.”<sup>281</sup> Moreover, the history of decentralization among central government agencies has been rather slow since much of the political will “was in part influenced by limitations of resources.”<sup>282</sup> It was in the context of significant financial challenges that the Mubarak administration faced with the growing education system that encouraged “experiment[s] with laws and pilot project[s] towards decentralization responsibilities (if not authority) and increase[ed] community participation.”<sup>283</sup> It therefore becomes essential to understand the financial and political motivations that surround the right to education in Egypt.

## **B. The Aid Dependency Conundrum**

Agendas for development always play an integral role in a state’s policy planning and objectives. With the different conceptualizations that exist surrounding development, there have been various changes in how Egypt structures its education goals. Has the GOE, more specifically the MOE become dependent upon foreign aid and donor programs to meet the expanding needs of its educational system?

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<sup>278</sup> *Id.* at 88.

<sup>279</sup> *Id.* at 88.

<sup>280</sup> Ginsburg, *supra* note 242, at 37.

<sup>281</sup> *Id.* at 37.

<sup>282</sup> *Id.* at 38.

<sup>283</sup> *Id.* at 38.

Following Sadat's historic signing of the Camp David Accords, Egypt became the recipient of unprecedented amounts of foreign aid, of which a portion was relegated towards educational reform. However, much of the contributions were not visible in relation to education reform.<sup>284</sup> In the donor period 1974 – 1980, the Sadat administration received \$400 million in United States funds, but “USAID purposefully maintained a low profile [remaining cognizant of] political concerns regarding vulnerability prevented [...] American contributions from being visible.”<sup>285</sup> Contingent to the receipt of these funds, there was a council created between Egyptian and American government in order to implement the allocation of the funds towards particular education projects. Much of these projects related to development of curriculum, textbooks and improving the quality of education. However by the 1981 educational legislation, much of the pilot projects had no place in envisioned plans for the reorganized primary and secondary levels of education. “Each of the projects was supposedly decided by a joint committee of American and Egyptian government officials, yet the projects funded were scattered in emphasis and not closely related to Ministry of Education or Supreme Council of Universities’ goals.”<sup>286</sup>

Exuberant amounts of foreign aid – 3 billion US dollars from 1990 -2002 alone – were responsible for 60 percent of achievements in basic education from 1990 to 2002 and were made possible from such funds.<sup>287</sup> In attempts to improve and accelerate education, the GOE placed education at the top of its agenda for development and with the 1990 Education for All Conference and Dakar Framework in 2000; Egypt was very active in their participation towards reforming education, which was at the top of the domestic agenda as well as the goals of the international community. Egypt's participation in the two conferences has “served as [the] catalyst of ideas and actions for

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<sup>284</sup> COCHRAN, *supra* note 165, at 116. Author states, “The influx of Western, and specifically American, money from 1974 – 1980 did not make any significant or even noticeable educational improvements in Egypt.”

<sup>285</sup> *Id.* at 116.

<sup>286</sup> *Id.* at 119.

<sup>287</sup> *Id.* at 97.

educational reform, including undertaking reforms in governance and management to improve educational quality.”<sup>288</sup>

In the late 1980s early 1990s<sup>289</sup>, the GOE was faced with a declining economic infrastructure, which threatened all aspects of the country. Egypt was suffering from high inflation rates, high external debts, large unemployment levels and deficits. It was in this atmosphere that the GOE enrolled in the Economic Reform and Structural Adjustment Program [sic] (ERSAP).<sup>290</sup> The ERSAP program was a joint venture supported by the World Bank, International Monetary Fund (IMF), African Development Bank (ADB) and other donors. The program, which lasted from 1991/92 -1992/93 had the goals of restoring stabilization to the unbalance economy; this included the “modification of social politics to minimize[sic] the adverse effects of economic reform on the poor and vulnerable groups”<sup>291</sup> as well as an overhaul to reduce inflation and facilitate economic growth.<sup>292</sup> Considered an overall success in returning normalcy, there were still a number of sectors that needed attention. One of these sectors was education.

Educational reform in Egypt was at the top of the agenda following the 1990 Education For All (EFA) Jomiten conference. The pledge of the international community to meet the demands of providing free basic education prompted donors’ pledges. It was in this atmosphere that multilateral and bilateral donors aligned their funding agendas with developing states to set the programs in place.<sup>293</sup> The newly implemented agreements on the structural adjustment programs and other funding programs were welcomed in Egypt. Fatma H. Sayed depicts what the education system looked like during the early 1990s when these programs began:

[The] running costs, such as salaries, represents around 94 percent of the MOE budget, leaving the MOE with little to invest

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<sup>288</sup> John Giles, *The Power of Persistence: Education System Reform and Aid Effectiveness*, 59 USAID, 2010. Available at < [http://www.equip123.net/docs/E2-Power\\_of\\_Persistence.pdf](http://www.equip123.net/docs/E2-Power_of_Persistence.pdf)> [Hereinafter referred to as USAID Power of Persistence].

<sup>289</sup> Refers to 1986 – 1990.

<sup>290</sup> African Development Bank Group. EGYPT ECONOMIC REFORM AND STRUCTURAL ADJUSTMENT PROGRAMME: PROJECT PERFORMANCE EVALUATION REPORT (PPER, 1, (May 2000) available at <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Evaluation-Reports/05092259-EN-EGYPT-ECONOMIC-REFORM-AND-SAP.PDF>.

<sup>291</sup> *Id.*

<sup>292</sup> *Id.*

<sup>293</sup> Sayed, *supra* note 1, at 104-5.



in educational facilities. So innovation and reforms are feasible only if the MOE relies on foreign funding.<sup>294</sup>

The Mubarak administration further asserted that the plans for educational reform could not achieve “significant progress without substantial foreign investment.”<sup>295</sup>

With an increase in funding for education, both from domestic and foreign sides, the dialogue continues regarding the appropriation of these funds. MOE budget increases have facilitated a number of positive changes, however the core issues plaguing reform remain. It is in this context that success in relative in considering that decentralization and out of date educational policies remain. Simply linking an increase in spending in the Ministry of Education does not indicate outright success. Magda Qanil, head of the Egyptian Center for Economic Studies (ECES) stated “spending more money without prioritizing [sic] educational goals will not result in any improvement.”<sup>296</sup> This assessment adds to the multi-faceted argument that the problems that plague the education system are not relative nor or they related to resources, they are imbedded in misguided and inefficient practices and ineffective expenditure.<sup>297</sup> Examples of ineffective practices relates to the failure to allocate public spending towards areas where it is most needed and presents the risk that the stratification between the classes with further widen, with the “poor and the middle class will fall[ing] behind in education, setting the stage for a future society that is more segmented and with higher income inequality.”<sup>298</sup> “Diminished public funding has led to ‘the exclusion of poorer students from education and partial return to education patterns that perpetuate social inequalities.”<sup>299</sup> Another issue is that the budget for education has the tendency to be

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<sup>294</sup> *Id.* at 105.

<sup>295</sup> Ginsburg, *supra* note 242, at 18. Discussing the initial years of Hosni Mubarak’s presidency and education reform.

<sup>296</sup> *Egyptian Education Needs Reform, Not Just Spending: Experts*, Al Ahram 12 June 2011. “The contribution of education expenditures to GDP in Egypt is one of the lowest in the MENA region; the figure was 5.7 percent in both Saudi Arabia and Morocco in 2008.”

<sup>297</sup> *Making Egyptian Education Spending More Effective: Egypt Public Expenditure Review July 2005* Policy Note 2 Social and Economic Development Group Middle East and North Africa Region The World Bank 2005 available at: <http://www.mof.gov.eg/MOFGallerySource/English/policy-notes/Making%20Egyptian%20Education%20Spending%20More%20Effective%20-%20July%202005.pdf> page 1

<sup>298</sup> Nancy Birdsall and Lesley O’Connell, *Putting Education to Work in Egypt* Carnegie Paper No. 5 (1999). Available at: <http://www.carnegieendowment.org/publications/?fa=view&id=685>.

<sup>299</sup> Tomaševski, *supra* note [xx] at 86 author citing UN Doc. E.85.IV.2 “1985 Report on the World Social Situation,” 34.

extremely “rigid, confusing, and not transparent, with excessive variability between the planned and actual budgets”<sup>300</sup> as well as remaining highly centralized, despite decentralization efforts.

### **C. Education Policies – Addressing Social and Economic Gaps**

UNESCO indicates that there are five integral dimensions of quality education in the human rights context, but most important to this section is Egypt’s implementation of good policies and the ability to create an appropriate legislative framework.<sup>301</sup> Education policies are created, financed and implemented in such a way where it is pulled in multiple directions; policies are set by the parliament education committee, the finances are controlled by the ministry of finance and then implemented by the MOE. This process confirms the low levels of transparency and centralization. However, the core purposes of policies exist to establish a framework for publicizing rules and regulations. A key problem with this is that policies are not always widely understood by those whom are directly affected; “successful efforts to promote, implement, and enforce good policies have involved teachers and students broadly in setting and respecting them.”<sup>302</sup> Egypt has indicated that this is a direction that the education system should follow in hopes of providing efficient and effective reform. Identifying the issues and weaknesses that exist within the Egyptian system sets the foundation for being able to understand the direction that educational policy reforms should follow.

In her 2004 assessment of the education system in Egypt, Mona El Baradei has asserted that the mitigating factors affecting the MOE and GOE in their endeavors to meet the needs of the population are compounded social and economic divides, further compounded by past problems and current issues.<sup>303</sup> The weaknesses that characterize the

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<sup>300</sup> Making Egyptian Spending More Effective, *supra* note 297, at 4.

<sup>301</sup> Mary Joy Pigozzi, *Quality Education: A UNESCO Perspective* in *International Perspectives on the Goals of Universal Basic and Secondary Education*, 236, 243 (Joel E. Cohen and Martin B. Malin, eds., 2010). The five dimension of quality education at the system level from a rights perspective are: (1) managerial and administrative structure and process; (2) implementation of good policies; (3) appropriate legislative framework; (4) resources; and (5) measurement of learning outcomes.

<sup>302</sup> *Id.* at 242.

<sup>303</sup> Mona El Baradei and Leila El Baradei, *supra* note 250, at 31. Authors refer to the weakness of the education system based on the Strengths, Weaknesses, Opportunities and Threat (SWOT) system of analysis.

current system are grouped according to category.<sup>304</sup> First, financial problems, which included a shortage of financial resource, not enough physical facilities, inefficient use of resources and allocation, as well as the misallocation of resources. The second category of weaknesses outlines issues of quality, which details the low quality of the system as a whole, emphasis on rules and regulation rather than effectiveness, low reading, writing and arithmetic comprehensions, low teacher qualification, private tutoring as well as high levels of repetition and drop out and class densities. Third, are issues related to accessing the system, which includes illiteracy rates, enrollment gaps, gender, income and regional disparities. The fourth and final category of weaknesses is based on management issues, which is primarily based upon the lack of a democratic and engaged system, lack of scientific and rational decision-making processes, as well as the lack of effective systems for evaluation.<sup>305</sup>

The core strength of the MOE is its laws stipulating free and compulsory education. With education being mentioned as a basic right in two constitutional articles<sup>306</sup> there is no question of education being provided. However, the weaknesses and inefficiencies that exist often detract from the crux of the legislation. In the National Strategic Plan for Pre-University Education Reform in Egypt, the MOE outlines its goals for meeting the various issues that affect the system at the policy level. The Plan indicates that there are three-overlapping areas that remain at the helm of reform: access, quality and system management.<sup>307</sup> Within these areas, the MOE has focused upon the following areas for the 2007/2008 – 2011/2012 school years, first, is the area of quality of education; second is the use of new techniques to provide quality education; and third is

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<sup>304</sup> The categories include a number of weaknesses; some are relevant in the context of primary education, while the others relate to secondary and higher education in the fields of labor market matching. The latter are not include.

<sup>305</sup> *Id.* at 31 – 35.

<sup>306</sup> Articles 18 and 20 specifically mention the right to education, with the former covering basic and compulsory education and the latter of education at all levels (in state institutions) remaining free. THE CONSTITUTION OF THE ARAB REPUBLIC OF EGYPT, Amendments Ratified 22 May 1980, available at <<http://www.sis.gov.eg>>. Article 18: Education is a right undertaken by the state and it is compulsory at the primary stage. The state attempts to extend compulsion to the other stages and it supervise all levels of education. It undertakes the independence of universities and scientific research centers. This is turn will link education to the production sector and society's needs. Article 20: Education in all the state institutions is free at all its different levels.

<sup>307</sup> The National Strategic Plan for Pre-University Education Reform in Egypt 2007/08 -2011/2012, *supra* note 266, at 73.

the equal distribution of education across all social and economic spectrums in the country.<sup>308</sup>

Current social and economic issues that face the Egyptian primary school aged children and their families falls along the lines of affordability, vulnerability and access.

Addressing these problems requires education policies that seek to actively reduce and all together eradicate such issues. Many of the current educational policies fail to address the varying needs of all regions in the country. The centralization of education does not equally suffice at the countrywide level. Referring back to section on decentralization, when more authority is delegated at the local level, education is more effective in meeting the needs for individual districts. As Qandil suggests, “Egypt needs an educational plan with objectives changing from one locality to another, so it can meet specific needs of different geographic areas. If elected bodies are accountable for specific objectives we will definitely see an improvement in educational output.”<sup>309</sup>

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<sup>308</sup> *Id.* 73.

<sup>309</sup> Al Ahram, *supra* note 296.

## **IV. Measuring Egypt's Compliance**

### **A. The Egyptian System and the 4-A Indicators**

*In an effort to effectively and most accurately assess the public primary education level in Egypt, the indicators outlined and established in the first section of this research will be utilized in detail. The indicators will remain divided into the sections of their respective branches and will include as many indicators as there is information available. Where information is not available or there are no resources, these indicators will remain null. Once the respective branches have been defined an assessment of Egypt's position will be necessary in answering the question as to whether or not GOE meets the international standards in providing the right.*

While Egypt has been rather successful in implementing universal primary education, there are still a number of impediments that cannot and should not be overlooked when analyzing the fulfillment of the right to education. According to a UNESCO report on Education Trends and Indicators, overall enrollment rates grew significantly from 1995 – 2003, especially at the primary levels, but “universal participation in compulsory education, up to age 13, has not been reached.”<sup>310</sup> Establishing the indicators in relation to the 4-A systems provides a gauge that comprehensively measures the GOE/MOE compliance with the international standards of providing the right. Katrien Beeckman asserts that the “analysis starts from the question as to what an education system would look like, and what its content would be, if the right to education were fully implemented.”<sup>311</sup> This process facilitates States’ ability to understand and meet “their concomitant obligations, as well as the concrete steps which ought to be undertaken in order to execute them properly.”<sup>312</sup>

#### **1. Availability – Fundamentals of Education**

Based upon the indicators outlined in detail in section I, availability is comprised of five sections of indicators. These sections include (1) primary education; (2) fundamental education; (3) closing schools; (4) school infrastructure and (5) working conditions of teachers.<sup>313</sup> The indicators within the respective sections of availability display the current trends in Egypt and within the MOE at the primary school level.

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<sup>310</sup> UNESCO, *Education Trends in Perspective – Analysis of the World Education Indicators*, supra note 262, at 118.

<sup>311</sup> Beeckman, supra note 169, at 75.

<sup>312</sup> *Id.* at 75.

<sup>313</sup> Refer to Table 2 Right to Education Indicators: Availability.

## Primary Education and Fundamental Education

Indicators in this section provide the information on a statistical level that includes enrollment rates, survival to higher grades, repetition rates, teacher – pupil ratios and repetition rates. It is important to note that there have not been enough recent publications that simply look at government schools; however, in Egypt a majority of students are enrolled in government-run schools. There are three types of primary schools in Egypt: public schools, subsidized private schools, and unsubsidized private schools. However, for all intents and purposes public and subsidized primary schools are the same. As of 2009, the percentage of enrollment in the private institutions was listed at 8% of total enrollment at the primary level.<sup>314</sup>

Net enrollment ratios (NER) in Egypt have shown an increase from the late 1990s up until 2006. NER for the school year ending in 1999 was at a total of 94%, with males consisting of 97% and females 90%. NER for the school year ending in 2006 depicted an increase with a total of 96%, with males consisting of 98% and females 94%. Gross Enrollment Ratios (GER) represents the percentages of children in school and is the number of children at a specific level of education, “regardless of age expressed as a percentage of the population in the theoretical age group for that level of education.”<sup>315</sup> GER in Egypt at the primary level in 1999 was approximately 8 million pupils, 47% of which were female. As of 2006, the number grew by almost 1.9 million reaching almost 9.9 million pupils, 48% of which were female.<sup>316</sup>

Survival, repetition and drop out rates are all ways in which the MOE can monitor the progress of education. In the first instance, repetition and survival rates require close monitoring since they are usually the first step indicating that dropouts are the next step for failing students. A high level of smooth progression to the next grade level is indicative of a healthy education system. The alternative being that high repetition and low survival rates depict a negative aspect within the system. Close monitoring of these

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<sup>314</sup> Education For All, OVERCOMING INEQUALITY: WHY GOVERNANCE MATTERS, 300, (UNESCO Publishing: Oxford University Press) 2009. Also available at , <http://unesdoc.unesco.org/images/0017/001776/177683e.pdf>. [Hereinafter referred to as EFA Global Monitoring Report 2009].

<sup>315</sup> UNESCO, Institute for Statistics, accessed at [http://stats.uis.unesco.org/Unesco/tableviewer/document.aspx?ReportId=121&IF\\_Language=eng&BR\\_Country=8850](http://stats.uis.unesco.org/Unesco/tableviewer/document.aspx?ReportId=121&IF_Language=eng&BR_Country=8850).

<sup>316</sup> EFA Global Monitoring Report 2009, *supra* note 314, at 300 – 301.

statistics can offer key opportunities for policy makers in the MOE to correct the issues of quality and efficiency. “Grade repetition is costly and a source of inefficiency and inequity.”<sup>317</sup> In 1999 the percentage of pupils that survived to grade 5 was 99% total and both male and female students was 99%. According to UNESCO, the number of students that survived to grade 5 at the end of the 2004 school year was 94.5% total, 98.3% of which were male students and 99% of which were female students.<sup>318</sup> There were no statistics available in this category for the 2006 school year. Grade repetition rates were provided for the 2006 school year and indicated, beginning with grade 2, that a 1.8 percentage of students repeated this grade; grade 3 had 2.5 percent of students repeating; grade 4 had an 4.1 percent rate; grade 5 a 3.9 percent rate; and grade 6 a 6.8 percent. The over repeaters in all primary school grades represented a 3.1 percentage, with 3.9 percent of those students being males and 2.2 percent being females.<sup>319</sup> These statistic show that there is a gradual increase in the percentage of primary school students that repeat grades in the later phases of primary school.

Drop out rates at the primary school level are typically related to socio-economic factors. Many of these factors are covered under the accessibility indicator but remain relevant throughout the discussion. In the branch of availability, dropout rates are generally a result of poverty. In a study conducted by El Daw Suliman and Safaa El-Kogali it was found that the dropout rates for boys tend to be higher than that of girls; indicating that once girls are enrolled in school they most likely remain enrolled. The poorer a family is, the higher the chance of dropping out of school. Utilizing the data of the 2000 Egyptian Demographic and Health Survey (EDHS), Suliman and El-Kogali found that the relation to household wealth and drop out rates there tends to be a “positive association with school attendance and a negative association with non-attendance and dropout.”<sup>320</sup>

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<sup>317</sup> *Id.* at 68.

<sup>318</sup> UNESCO Institute for Statistics, Data Centre, <http://stats.uis.unesco.org/unesco/ReportFolders/ReportFolders.aspx>, January 2008. Available at [http://www.childinfo.org/files/MENA\\_Egypt.pdf](http://www.childinfo.org/files/MENA_Egypt.pdf)

<sup>319</sup> *Id.* at 309 -310. There were no statistics provided for grade 1.

<sup>320</sup> El. Daw A. Suliman and Safaa E. El-Kogali, *Why Are the Children Out of School?* “Factors Affecting Children’s Education in Egypt”, 11, Paper presented for the Economic Research Forum 9<sup>th</sup> Annual Conference (October 2002). Available at <http://www.mafhoum.com/press4/135S24.pdf>

**Table 6 Drop out Rates of Children 6 -15, by gender and wealth, Egypt 2000<sup>321</sup>**

**Male Students**

Poorest 20%	2 <sup>nd</sup> 20%	3 <sup>rd</sup> 20%	4 <sup>th</sup> 20%	Richest 20%	Total
7.3	6.9	4.8	2.1	0.7	5.2

**Female Students**

Poorest 20%	2 <sup>nd</sup> 20%	3 <sup>rd</sup> 20%	4 <sup>th</sup> 20%	Richest 20%	Total
5.3	4.5	3.9	1.7	1.0	3.8

According to the 2006 Population and Establishment Census conducted by CAPMAS, the number of children not enrolled in basic education, which accounted for children in both urban and rural areas through the measurement of the percentages of dropouts and those not enrolled were as contained in Table 7.

**Table 7 Children Not Enrolled in Basic Education, Dropout Rates and Not Enrolled, 2006**

	Urban	Rural	Total
Dropouts %	391,563	493,213	884,776
	4.5%	4.0%	4.2%
Not Enrolled %	827,321	1,345,027	2,172,348
	9.5%	11.1%	10.4%
Total %	1,218,884	1,838,240	3,057,124
	14.0%	15.1%	14.7%

Source: Population and Establishments Census, CAPMAS<sup>322</sup>

The transition rates of children from primary school to secondary school was reflected in the EFA statistics provided for the school year ending in 2005, which noted that a total 86% students transitioned to secondary school; males constituted 83% and females 89% of the students.<sup>323</sup>

Teacher to student ratios in primary school in Egypt reflect relatively low class sizes at first glance. However, the difference is that enrollment levels tend to be higher in

<sup>321</sup> *Id.* at 11.

<sup>322</sup> See UNESCO, 2008 Egypt Human Development Report at 35, Table 2.4 Children Not in Basic Education.

<sup>323</sup> See EFA Global Monitoring Report 2009, *supra* note 314, at 316 – 317.



urban areas as opposed to rural areas. In 2000, the average class size at the primary level was 42, a decline from the 1990 number of 44 per class.<sup>324</sup> UNESCO notes, “Despite a low pupil-teacher ratio, the average class size in Egypt [in primary education]... is one of the highest ratios among WEI countries... [due in large part] to the low numbers of hours that teachers teach.”<sup>325</sup> Taking this into consideration, the classes in urban areas tend to be more overcrowded but the overall national averages for the school year ending in 1999 was 1:23; the school year ending in 2006 saw an increase to 1:27.<sup>326</sup>

Availability has been previously described as the government’s obligation to provide adequate facilities that are available to students with buildings, materials, trained teachers receiving adequate salaries and if possible, facilities such as libraries, computer labs and information technology.<sup>327</sup> Providing available resources for students and teachers in the context of the right to education is essential to fulfilling the right. The Ministry of Education has made significant and impressive reforms in this direction. However, there are many hurdles that have yet to be resolved. As a result the problems continue to hinder the full realization of the right to education. Some of these problems include insufficient school buildings, overcrowded classrooms and inadequate teacher training and salaries.

### **Schools – Availability and Infrastructure**

The MOE has indicated that there is still a demand for adequate infrastructure for schools and the construction of new schools. In the urban context, schools are often overcrowded and forced to hold sessions in two to three shifts throughout the day. “School buildings have been in short supply, while school population has been expanding rapidly. In some city schools, a classroom may include as many as 110 students, especially in certain quarters of Cairo.”<sup>328</sup> The National Strategic Plan for Pre-University Reform in Egypt (NSP) (2007/2008 – 2011/2012) established a plan to increase the quality of education required financial support in upwards of 25 billion EGP LE in addition to the state budget. Part of this plan included the building of more schools and

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<sup>324</sup> Public Administration Research and Consultation Center PARC (2002). *Reporting on the Millennium Development Goals at the Country Level: Egypt*. August. Also cited by Handoussa, *supra* note 163, at 36.

<sup>325</sup> Motivans, *supra* note 262, at 119.

<sup>326</sup> EFA Global Monitoring Report 2009, *supra* note 314, at 349.

<sup>327</sup> ICECSR, *supra* note 9, General Comment 13 on the right to education.

<sup>328</sup> Harik, *supra* note 204, at 142.

classrooms. The target calls for the construction of 70,509 classrooms, costing 8.7 billion EGP LE at the rate of 14,100 classrooms per years. Unfortunately the NSP has been unable to reach this target because the financial contributions are only enough for the construction of 8,000 classes and all levels of pre-university education<sup>329</sup> Due to the lack of classrooms and schools, teaching hours are shortened to accommodate large volumes of students. In order to compensate school is held in numerous shifts throughout the day.<sup>330</sup> The academic year is also significantly shorter than it should be, whereas the curriculum should cover eight months, it is normally only six months long due to frequent breaks and “a prolonged examination study break.”<sup>331</sup>

The MOE identified key goals in meeting the need for better school infrastructure and availability. In the NSP the need for more classrooms and schools is addressed, but other goals call for the decentralization of building and maintenance of schools and the use of new designs to meet the needs of the various environments throughout the country.<sup>332</sup> The numbers projected for classrooms over a 12-year period beginning in the 2005/2006 – 2016/2017 school years that need to be constructed total 18,722, with a per year average of 3,700 primary school classrooms.<sup>333</sup> (National Strategic Plan 2007/2008 - 2011/2012, page 124 – 125) It is also been recognized that there is a need for greater community involvement and provision of resources to facilitate more efficient and effective construction of primary schools.<sup>334</sup> (*Ibid* at 124-125)

### **Working Conditions of Teachers**

As Katarina Tomaševski noted, teachers are one of the four key actors involved in the right to education. And while it is the primary responsibility of the teacher to provide quality and efficient instruction to pupils it cannot be successfully accomplished without the necessary training, resources and compensation. If there is an absence of these elements then the likelihood that the quality of education will suffer is an inevitable

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<sup>329</sup> Handoussa, *supra* note 163, at 70.

<sup>331</sup> Harik, *supra* note 204, at 142.

<sup>332</sup> See NSP 2007/08 -2011/12 *supra* note 266, at 124 -125.

<sup>333</sup>

certainty.<sup>335</sup> According to the International Labor Organization (ILO), core international labor standards, teacher's salaries should be based "on a calculated average teacher's salary of 3.5 times GDP per capita."<sup>336</sup> Teachers in Egypt, in particular at the primary level, are some of the lowest paid and under trained government employees. The country has suffered from a significant shortage of teachers for a number of fundamental reasons. First, the MOE has long allowed for the employment of primary teachers with less than a tertiary education.<sup>337</sup> Second, the MOE recruits teachers from fields other than education, with no formal preparation in pedagogy.<sup>338</sup> In a study conducted by the World Bank, it was found that in the school year ending in 1998 there were 25,000 teachers hired, 13,000 teachers – a little more than half – had no formal training.<sup>339</sup>

## 2. Accessibility – Obstacles of Education

Accessibility, which is related to admission to educational programs, is comprised of six groups of indicators. These indicators are groups as follows: (1) physical obstacles; (2) economic obstacles; (3) administrative obstacles; (4) gender obstacles; (5) socio-cultural obstacles; and (6) Out-of-school children. A review of these indicators will assist in assessing the efforts of the MOE and GOE in insuring that all children have entry into the system without discrimination. The provision of the right requires the state to meet the three dimensions of accessibility: non-discrimination, physical accessibility and economic accessibility.

A review of the 1971 Egyptian Constitution asserts that education is a right of every citizen. Education is stipulated to be free and a public provision to citizens; however, private schools are subject to tuition and fees making enrollment into those schools subject to economic positions. Concern regarding Egypt's ability towards meeting the requirements of accessibility lay in the juxtaposition of the elements of non-

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<sup>335</sup> TOMAŠEVSKI, *supra* note 16, at 155.

<sup>336</sup> Katarina Tomasevski, UN doc. E/CN.4/2003/9, 15, CESCR. Author makes reference to the World Bank's Fast Track Initiative in accordance to the international labor standards of the ILO.

<sup>337</sup> Handoussa, *supra* note 163, at 68. This tendency has been rectified as a result of a 1985 establishment of the Basic Education Faculties, however the process is still phasing out these unqualified teachers and should be completed within a few years.

<sup>338</sup> *Id.* at 68.

<sup>339</sup> *Id.* at 68. Author is citing a World Bank Report. *Arab Republic of Egypt Education Sector Review: Progress and Priorities for the Future*, Vol. 1, October 2002.

discrimination and economic accessibility. To further explain, the phenomenon of costs associated with private tutoring and various fees linked to education need to be examined.

### **Physical Obstacles**

Having schools available for pupils is the first step in providing the right; however, if it is difficult for children to physically reach schools in a reasonable amount of time and under safe conditions then it not meeting a major characteristic of the right. According to the Right to Education project, the categorical indicators for physical accessibility include the school-to-house distance, safe access, transportation provision and distance education programs. Unfortunately, research on the subject of physical obstacles is not readily available in Egypt. It would be an important contribution towards understanding physical obstacles if there were information that examined transportation within the various governorates of Egypt. In a report by Iqbal and Riad, the authors refer to the long distances which primary school children must travel to get to their school and how this impedes enrollment, predominately that of girls.<sup>340</sup> What little information that is available on reducing the distance to schools revolved around the proposed construction of schools in the “poorest and most rural Governorates in Upper Egypt.”<sup>341</sup> These new schools were to be constructed in locations no greater than 1,000 meters walking distance for primary schools.<sup>342</sup>

### **Economic Obstacles**

There tends to be great number economic obstacles for children and their families when it comes to accessing government-run primary education. While it has been stipulated in the Egyptian constitution that education is provided at no cost. However, the indirect costs attached to primary education in Egypt are at the top of the education discussion. The indirect costs for primary education often includes the cost of textbooks,

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<sup>340</sup> Adel Azer and T. Ishak. “*Al-mohamashon bayn al-fi’at al-donya fi al-kowa al-‘amela*” (*The Marginalized Among the Lower Strata of the Labor Force*), 58 National Center for Social and Criminological Research, Cairo (1987). Authors citing Farrukh Iqbal and Nagwa Riad, *Increasing Girls’ Enrollment in the Arab Republic of Egypt: A Case Study*, (2004) World Bank, Social and Economic Development Department, Middle East and North Africa Region.

<sup>341</sup> Farrukh Iqbal and Nagwa Riad, *Increasing Girls’ Enrollment in the Arab Republic of Egypt: A Case Study*, 10, (2004) World Bank, Social and Economic Development Department, Middle East and North Africa Region.

<sup>342</sup> *Id.* at 10.

teaching materials, uniforms and other monetary obligations to ensure access. The greatest costs for families are rooted in private tutoring, private group tuition, use charges and the high cost of school supplies.<sup>343</sup> Azer, et al. asserts that the financial burdens incurred are not properly understood or addressed by the MOE and GOE, nor are the “ramifications on the education of poor children”<sup>344</sup> in this context. The effect of these familial obligations has been shown to have a direct link to the higher dropout rates of poorer children. A study on poor families in Egypt found that those with an “annual income of 6000LE or less spend at least 10 percent of their income, if not more, on the education of their children in primary [school].”<sup>345</sup>

The Government of Egypt has been relatively unsuccessful in its ability to eradicate the practice of private tutoring; the government has failed to offer an adequate solution to make it obsolete. Private tutoring has officially been made an illegal practice by the MOE, but further efforts, such as “changing examination styles, reforming curricula, and ...officially reprimanding and punishing teachers [...] have failed to curtail the phenomena.”<sup>346</sup> Often teachers are forced to find other means of income in order to compensate abysmally low pay rates. Harik refers to private tutoring as an ‘undeclared economy’ in which a “parallel system of private education on which millions are spent.”<sup>347</sup> Private lessons are nominally the reason in which students are able to pass exams, not classroom instruction.<sup>348</sup>

Costs associated with education remains an issue for most households. After rent and food, tutoring is the third-largest family investment.<sup>349</sup> A Household survey on Education 2005/2006 indicated that the annual expenditure on children in primary school was 357 EGP LE. “[E]xpenditure on private tutoring represents a large proportion of what families spend on their children, reaching up to 41% of the total family expenditure for primary school children.”<sup>350</sup>

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<sup>343</sup> Adel Azer, Sohair Mehanna, Mulki al-Sharmani, and Essam Ali, CHILD PROTECTION IN EGYPT: POLICY GAPS, 55, (American Univeristy in Cairo, Cairo), 2010.

<sup>344</sup> *Id.* at 55

<sup>345</sup> *Id.* at 55. Authors are citing Nader Fergany, SURVEY OF ACCESS TO PRIMARY EDUCATION AND ACQUISITION OF BASIC LITERACY SKILLS IN THREE GOVERNORATES OF EGYPT, 1994, Cairo.

<sup>346</sup> Sayed, *supra* note 1, at 73.

<sup>347</sup> Harik, *supra* note 204, at 139.

<sup>348</sup> Cochran, *supra* note 165, at 174.

<sup>349</sup> *Id.* at 174.

<sup>350</sup> Handoussa, *supra* note 163, at 69.

Educational reform was propagated as a way in which to reduce student reliance upon private tutoring “by emphasizing the use of technology in teaching the common core courses.”<sup>351</sup> However, it is the previously mentioned reliance upon the exam systems that makes private tutoring “essential for students’ achievement.”<sup>352</sup> Nagwa M. Megahed asserts that the reliance upon private tutoring as a means for success creates a socio-economic bias in education, “since families are not in equal positions to pay the tutoring fees.”<sup>353</sup> Private tutoring accounts for the most vital educational fee for poor and non-poor families.<sup>354</sup> The better-off families have the ability to pay for “quality private tutoring ... mak[ing] up for the poor quality of teaching in school.”<sup>355</sup> As of 2005, 61-70% of Egyptian students rely upon private tutoring<sup>356</sup> but lower income families are less likely to be able to afford private lesson.<sup>357</sup>

It is through the process of private tutoring that economic accessibility is placed on a sliding scale. Failure of the MOE and GOE to provide a comprehensive solution against the elements that create the need for private tutoring furthers socio-economic barriers, inadvertently leading to forms of economic discrimination. The correlation between adequate training, materials and competitive compensation for educators is largely dependent upon satisfactory efforts to address the aforementioned concerns.<sup>358</sup>

### **Gender Obstacles**

The level of progress taken in Egypt towards ensuring female enrollment in basic education has seen great improvement in the area of girls’ access. Much of the gender bias in education in Egypt can be attributed to cultural misunderstanding as related to the importance of educating girls. It has been noted in several studies and in the literature on

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<sup>351</sup> Nagwa M. Megahed, *Voices of Teachers in Academic and Vocational Secondary Schools in Egypt: Perceived Consequences of Educational Reform for Quality and Equity* 144, Education and Social Inequality in the Global Culture (J. Zajda et al, eds. Springer 2008).

<sup>352</sup> *Id.* at 144.

<sup>353</sup> *Id.* at 144-45.

<sup>354</sup> Handoussa, *supra* note 163, at, 36.

<sup>355</sup> Sayed, *supra* note 1, at 68.

<sup>356</sup> Egypt Education Handbook, *supra* note 160, at 92.

<sup>357</sup> Megahed, *supra* note 351, at 145.

<sup>358</sup> Sayed, *supra* note, 1 at 73. “Qualifying and training school teachers may raise the quality of teaching, but poor remuneration and professional motivation pushes them to seek other jobs, especially after they have improved their qualifications and boosted their market value. Raising teacher salaries is needed to increase their professional motivation and prevent the most qualified ones from leaving the formal educational system in search of a means of decent subsistence.”

access to education in Egypt, that there is still a great level of vulnerability for girls that come from very poor families.<sup>359</sup> Typically the low enrollment rates for girls are regional, with a majority in “poor and culturally conservative areas of Upper Egypt.”<sup>360</sup>

Research on girls’ education and gender gaps in Egypt has show that there are a number of cultural, social and economic impediments towards the right to education. As previously mentioned these obstacles persist in the poorer, rural and more conservative areas of Egypt and based upon the lack of schools, low quality and distance. The obstacles were categorized as practical and cultural. The practical hindrances include, but are not limited too the following: limited schools within easy walking distance, no lavatories, the presence of male teachers and the use of corporal punishment.<sup>361</sup> The cultural hindrances include, but are not limited too: fathers’ desires for their daughters’ early marriage, domestic responsibilities, the possibility of wage-earning jobs for girls, and parents’ low educational achievement.<sup>362</sup>

The indicators that fall under this specific category evaluate the conditions and available resources for girls facing some or all of the aforementioned obstacles in receiving the right to education. First, the percentage of primary schools that is for girls only, which are not readily available in relation to traditional primary schools. The second indicator in this category asks the question as to whether or not families rely upon girls for their subsistence and if there are campaigns and or programs encouraging school enrollment for girls. This is also includes the provision of financial support for low-income families. There are a number of children in Egypt who have never been enrolled in school because they make up a portion of the workforce. UNICEF states “boys and girls between the ages of 6 and 11 make up about one quarter of children who work [...] many of these children work in the informal sector”<sup>363</sup> and do not fall under the scope of employment law.<sup>364</sup> There are existing campaigns that have and continue to encourage

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<sup>359</sup> Ray Langsten and Tahra Hassan. *Education Transitions in Egypt: The Effects of Gender and Wealth*, 2, Social Research Center American University in Cairo, 2008.

<sup>360</sup> Iqbal and Riad, *supra* note 341, at 1.

<sup>361</sup> *Id.* at 2. Corporal punishment will be covered under the indicator of acceptability under the category of discipline.

<sup>362</sup> *Id.* at 2.

<sup>363</sup> UNICEF Egypt, *The Children – Primary School Years*, available at [http://www.unicef.org/egypt/children\\_152.html](http://www.unicef.org/egypt/children_152.html)

<sup>364</sup> Child labor laws and rights are covered in more detail under the indicator of adaptability.

parents and communities to education their girls. The EEP has created programs that target the poor areas throughout the country, especially in Upper Egypt. The campaigns calls for greater parent awareness and demand for girls' education, as well as partnerships with parent-teacher associations (PTAs), and also includes "subsidies for disadvantaged children,"<sup>365</sup> which provides school uniforms and supplies for their families. The success of the EEP initiative resulted in over 665 community awareness and outreach campaigns between the years of 1999 – 2003 and targeting 15 governorates, 429 villages and 1,732 hamlets.<sup>366</sup>

The third indicator under gender obstacles seeks to determine what steps the state is taking to identify girls currently not enrolled in school, encourage school attendance and reduce dropout rates. As previously mentioned, the GOE established the EEP, which was a state effort with the support of the World Bank and European Union has identified that circumstances where improvement is needed based on a number of surveys of girls and their families. It has been proven than girls are more likely to dropout if there are overcrowded schools with multiple shifts and poor quality, Alternatively, they are less likely to drop out when schools are better equipped; teachers are better trained and when they can participate in extracurricular activities.<sup>367</sup> A continuing education program called 'second chance schooling', which was established under the Education Enhancement Program (EEP), is for girls who were unable to complete their primary education or are those who have become too old to enroll in primary schools.<sup>368</sup>

The third and fourth indicators examine the minimum legal age for marriage and how it relates to the attainment of education for girls. In Egypt the current legal minimum age for marriage is 18 years women, which has recently been changed from 16 years old.<sup>369</sup> The maximum age for the completion of compulsory education, which is 14 or up until the completion of preparatory school but if girls are never enrolled in school and are married early, these minimums do not directly apply to them. The reality of the situation is that in the previously mentioned poor, rural and ultra conservative areas of Egypt,

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<sup>365</sup> Iqbal and Riad, *supra* note 341, at 10.

<sup>366</sup> *Id.* at 3.

<sup>367</sup> *Id.* at 3.

<sup>368</sup> *Id.* at 10.

<sup>369</sup> United Nations Population Fund, Overview, available at <http://egypt.unfpa.org/english/Staticpage/ff960a59-e5ca-4383-ae44-65b3efc7f536/Youth.aspx>



predominately Upper Egypt and parts of the Delta, marriage at early ages can occur. For the purposes of disseminating information on why early marriages adversely affect girls, USAID in association with various nation-wide partners has embarked on a community awareness campaign to reduce the practice of early marriage. This project focuses more upon women's health and the dangers associated with early marriage through television and radio campaigns, as well as community outreach and the training of religious leaders.<sup>370</sup>

Finally, in primary education and gender obstacles, a major issue for some families is the presence of male teachers providing academic instruction to their daughters. The statistics on female primary school teachers in Egypt has shown an increase in the past years. In the school years ending in 1991 and 1999, 52% of all primary school teachers were female and as of 2006, there was a 4% increase, with 56% of all primary school teachers being female. Studies have shown that the presence of female teachers can help encourage girls' enrollment in schools, as well as providing role models to young girls.<sup>371</sup> However, the trend in the distribution of these teachers tends to be concentrated, whereas "female teachers tend to be clustered in urban schools"<sup>372</sup> and male teachers are more available in rural areas.

### **Socio-Cultural Obstacles**

The socio-cultural obstacles tackle the issues related to indigenous peoples, religious groups and racism. The official language in Egypt is Arabic, and while there are some indigenous minority groups such as the Berbers, Bedouins and Nubians, they tend to all speak Arabic, some with varying dialects and with the exception of the Nubians who speak a language call *Roton* and the Berbers who speak their own language as well. According to Egyptian law, "writing in Nubian languages is forbidden"<sup>373</sup> So schooling in any other language for children in Egypt (at the government level) is not an option and private schools tend to teach in English, French or German.

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<sup>370</sup> USAID. Issue Brief: Preventing Child Marriage: Protecting Girls' Health, 2, December 2009. Available at [http://www.usaid.gov/our\\_work/global\\_health/pop/news/issue\\_briefs/prev\\_child\\_marriage.pdf](http://www.usaid.gov/our_work/global_health/pop/news/issue_briefs/prev_child_marriage.pdf)

<sup>371</sup> See EFA Global Monitoring Report 2009, *supra* note 314, at 107.

<sup>372</sup> *Id.* at 107.

<sup>373</sup> Center for Human Rights (CHR). Country Report of the Research Project by the ILO and the ACHPR on the Constitutional and Legislative Protection of The Rights of Indigenous Peoples: Egypt, 22, 2009. Available at [http://www.chr.up.ac.za/chr\\_old/indigenous/country\\_reports/Country\\_reports\\_Egypt.pdf](http://www.chr.up.ac.za/chr_old/indigenous/country_reports/Country_reports_Egypt.pdf)

State efforts towards combating hatred and racism at school are virtually nonexistent. Egypt plays host to a number of Sub-Saharan refugees and migrants, especially in urban centers such as Cairo. According to a study conducted by the United Nations High Council for Refugees (UNHCR), the level of racism and xenophobia that refugees and asylum seekers face in the country is not readily acknowledged or combatted by the state. But since there is no system to monitor and or collect data at the state level there is no way in which to identify the crime level of racial-based or motivated crimes.<sup>374</sup>

### **Out-of-School Children**

Out-of-school children in Egypt are typically those children who cannot afford the high costs associated with education. As previously mentioned, families with lower incomes or the extremely poor can scarcely afford the fees that come with public school education, hence a major reason for out-of-school children. Dropout rates tend to be higher among impoverished families. The NSP called for the expansion of programs to target these out-of-school children, “The Ministry aims to provide equal and varied educational opportunities for girls as well as for all children especially for those who have dropped out of education or who have never been enrolled.”<sup>375</sup> The call for community-based education programs is vital to combating this phenomenon. There are two particular programs aimed at combating this problem: the Community School Initiative and the One Classroom School initiative.<sup>376</sup>

The Community School Initiative was established in 1992 through a joint partnership with the MOE and UNICEF in an effort to combat deteriorating and sub-par education in Upper Egypt during the 1980s and 1990s.<sup>377</sup> The core components of the project include community participation, developmental activities in and around the school, community partnerships, adequate facilities, *free*<sup>378</sup> education, flexible school

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<sup>374</sup> Human Rights First, *Combating Xenophobic and Bias-Motivated Violence*, 17, 2011, available at [http://www.humanrightsfirst.org/wpcontent/uploads/pdf/UNHCR\\_Blueprint.pdf](http://www.humanrightsfirst.org/wpcontent/uploads/pdf/UNHCR_Blueprint.pdf)

<sup>375</sup> NSP 2007/08 – 2011/12, *supra* note 266, at 89.

<sup>376</sup> UNESCO Decentralization of Education, *supra* note 243, at 21.

<sup>377</sup> Malak Zaalouk, *THE PEDAGOGY OF EMPOWERMENT: COMMUNITY SCHOOLS AS A SOCIAL MOVEMENT IN EGYPT*, 34, (The American University in Cairo Press, Cairo) 2006.

<sup>378</sup> Emphasis is placed on free in the case of Community Schools because the ‘modest’ fees often associated with traditional public schools, such as uniforms, tutoring, etc. are hidden costs. Zaalouk asserts, “what is even more critical than the mere physical existence of the school is the fact that education is truly free. The

hours, multi-ability and multi-grade teaching as well as formal recognition.<sup>379</sup> These types of schools are essential in attracting communities where out-of-school children are pervasive because it offers a communal approach that benefits the whole rather than the part.

### **3. Acceptability – Relevance and Substance of Education**

Acceptability addresses the relevance of education in terms of substance, quality, methodology and curricula. In meeting the need of the society, the government should provide relevant education towards the development of the right to education. The section includes seven categories: (1) skills; (2) tolerance; (3) qualification of teachers; (4) gender; (5) discipline; (6) religion and (7) language. Egypt is faced with a number of issues when meeting this need.

A large segment of acceptability focuses on the relevance of education that students receive and how it prepares them to think critically and analyze. EFA reported that the problem that faces a large portion of primary students in the developing world is that they are unable to master basic skills after extensive years in school, let alone think independently or critically analyze problems with ease or success.<sup>380</sup>

Review of the current curriculum, which is determined and transmitted by the Ministry of Education, has found that that content does not address the needs of the student. Teachers, often minimally trained and faced with a lack of resources, do not teach based on the needs of the student, but “rather in accordance with national directives on curriculum and lesson planning, [further] reinforcing mechanistic teaching and rote learning.”<sup>381</sup> There is a void of teacher-student interaction, which has negative effects on effective learning, corroborated by the previously mentioned ailments such as intentionally and deliberately “avoiding proper instruction in the classroom to create a need for [private lessons].”<sup>382</sup>

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poor families are willing and prepared to make one-time investments in the provision of school space...[but] not prepared to carry the burden of regular running and/or hidden costs.” *Id.* at 38.

<sup>379</sup> *Id.* at 34 -40.

<sup>380</sup> EFA, Global Monitoring Report 2009, *supra* note 314, at 109.

<sup>381</sup> El Baradei, *supra* note 250, at 36.

<sup>382</sup> Harik, *supra* note 204, at 140.

## Skills

This category addresses the capabilities of primary school children in the fields of literacy rates, numerical skills, problem solving and written and oral expression. The existing literature on the skills and quality of public primary education represents a consensus that the standard is very low. With a staggering amount of Egyptian children enrolled in public schools, 90 percent, it is a major area for reform.<sup>383</sup> The aforementioned issues associated with availability are often linked to other indicators, especially in quality of education.

Experts in the field of education have affirmed the difficulty in measuring the quality within education. While there are numerous indicators to determine statistical data related to education, such as enrollment rates, drop out rates, etc., there is no gauge for determining what constitutes a quality education. Furthermore, there is no international consensus on how to measuring advancement in the field of quality.<sup>384</sup> Relevance and quality of education in the developing world often suffers the most. The EFA 2009 monitoring report asserts “recent progress in quantitative indicators of school participation has distracted attention from the glaring need to improve education quality at the same time.”<sup>385</sup> A pervasive problem is that students move forward in their education without ever fully being able to grasp literacy and numeracy skills.<sup>386</sup>

In Egypt, the system of standardized testing is used to measure comprehension in the subjects of language and mathematics. In a study conducted by the MOE in 2006, 10,000 fourth grade students were assessed in Arabic, mathematics and science. Based on this assessment, the MOE found that within each of the subjects, only “one-quarter to one-fifth of students demonstrated an ability to answer questions involving critical thinking and problem solving.”<sup>387</sup> In 2004/05 the Central Authority for Inspection (CAI) administered national standardized tests in numeracy and literacy and the result was that 30% of primary-level students “had not mastered reading and writing skills according to the Egyptian National Education Standards.”<sup>388</sup>

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<sup>383</sup> Azer, et al., at *supra* note 343 at, 55.

<sup>384</sup> EFA Global Monitoring Report 2009, *supra* note 314, at 108.

<sup>385</sup> *Id.* at 108.

<sup>386</sup> *Id.* at 108.

<sup>387</sup> *Id.* at 109. Referring to the MOE 2006.

<sup>388</sup> NSP 2007/08 – 2011/12, *supra* note 266, at 251.

The MOE has acknowledged that there is a deteriorating level of skills among students. This breakdown comes as a result of a number of factors. Azer, et al. offer the following explanation: “[t]he school environment has become a repelling place to students because the learning process is greatly diminished [...] [and] poorly trained and unmotivated teachers [coupled with] teaching methods that discourage the participation of children in the learning process”<sup>389</sup> Students remain in a suspended state with regards to development; education is often viewed as a means to an end rather than an opportunity to obtain knowledge to enhance life skills. Interviews with some teachers revealed a bleak perspective on education in relation to basic skills and curriculum. Whereas some academic teachers “believed the reform [of the education system] would not promote educational equality unless the curriculum content and assessment method are redesigned in order to develop student creativity, critical thinking, and problem solving.”<sup>390</sup> The education system in its current form is still relatively barren and characterized by rote learning at all levels of education.<sup>391</sup> Finally, the overarching focus on rules and regulations, robs students of quality learning, “which in itself represents a significant factor impeding acquisition of basic skills.”<sup>392</sup>

The curriculum in its current state focuses on MOE ideals and elements of patriotism. The Curriculum Center for Instructional Materials Development (CCIMD) develops and distributes all student texts, workbooks, and teacher guides. The texts at the primary level are generally of low quality, both in content and quality of materials. “They contain too much material and very few exercises and questions... [and often unappealing to students].”<sup>393</sup> The density of the curriculum forces the teacher to repeat theories and promote methods of memorization from the student. As a direct result “the continuation of tendencies toward memorization of the textbook [persist] and a disinterest in chang[ing] or improv[ing] teaching methods that [do] not directly help prepare for the exam”<sup>394</sup> are discouraged. As a way to supplement poor texts, there is a system of unofficial materials used by private tutors. The MOE has made the use of unofficial text

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<sup>389</sup> Azer, et al., *supra* note 343, at 56.

<sup>390</sup> Megahed, *supra* note 351, at 149.

<sup>391</sup> *Id.* at 149. Discusses the interviews of teachers who worked in both academic schools and commercial schools who found the state of the education system to be in disrepair.

<sup>392</sup> El Baradei, *supra* note 250, at 36.

<sup>393</sup> Harik, *supra* note 204, at 143.

<sup>394</sup> Cochran, *supra* note 165, at 73.

illegal, but as is the case with private tutoring, it becomes an extra cost to buy the books written by their instructors, which are often more helpful than official textbooks.<sup>395</sup>

## **Tolerance**

The MOE has a tight control on what information is disseminated to students. MOE through the Center for Curriculum and Instructional Materials Development (CCIMD), which is responsible for the development and production of primary textbooks, has stated that their current goals in facilitating reform are to meet the following goals: the development of critical thinking and problem solving capabilities; the promotion of democracy, tolerance and environmental awareness; as well as advancement of technology skills.<sup>396</sup> However, much of the curriculum is not up to par with current calls for reform, with the same practices of quantity versus quality, limited diversity and out-of-date explanations for scientific and technological developments.<sup>397</sup>

In a 1994 study conducted by Kamal el Menoufi and Aley Eddin Hilal, it was found that the national curriculum is void of independent socialization, whereas students are programmed to depend on the government.<sup>398</sup> The curriculum teaches students to, without question, “Obey all sorts of authorities, and presents the image of women as inferior to men.”<sup>399</sup> Further analysis of the curriculum in Egypt reveals that “school in the Arab world alienates students from their environment, mainly through giving students ideas and values which are not consistent with reality...[I]n turn creat[ing] a mindset incompatible with the real world.”<sup>400</sup>

Inconsistent with the international standards on the right to education and a dismal aspect of the education system is that “school[s] hampers social learning, and presents an unbalanced view of Egypt’s political history, glossing over the errors of the rulers. It furthermore promotes the belief that the benefit of the ruling regime and the elite is the

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<sup>395</sup> Harik, *supra* note 204, at 144.

<sup>396</sup> NSP 2007/08 – 2011/12, *supra* note 266, at 43.

<sup>397</sup> *Id.* at 44.

<sup>398</sup> Sika, *supra* note 191, at 34. As citing Kamal El Menoufi and Aley Eddin Hilal, eds., *Al-ta'lim wa al-tanshe'a al-siyassiyya fy misr [Education and Political Socialization in Egypt]*, (Cairo: Cairo University, 1994).

<sup>399</sup> *Id.* at 34.

<sup>400</sup> *Id.*, at 34 -35. Citing Abd al-Kadir Khalifa, *Dawr al-ta'lim fiy taghyiyib al-wa'y al-siyassiy: dirassat hala [The Role of Education in Absenting Political Knowledge: A Case Study]* 203 – 252 Mustakbal al-tarbiyya al-'arabiyya 26 (2002).

same as that of the general public.”<sup>401</sup> Students are programmed to accept their positions within the society, which almost always fall within the wealth gap.<sup>402</sup> Educators also reinforce the status quo, whereas teachers in a study conducted by Nagwa Megahed believed that the structure of the education system was established in such a way that “insures that inequalities in students’ socio-economic background are reproduced as disparities in educational ... attainment.”<sup>403</sup> It is then no wonder as to why students and families are made to believe that no matter how motivated the pupil is, “family socio-economic status [is] the primary determiner of a student’s success.”<sup>404</sup> Corroborating this view is what Abd al-Kadir Khalifa refers to the system “prepar[ing] its citizens to accept the status quo and continue being part of an unfair social structure.”<sup>405</sup>

### **Qualification of Teachers**

The students considered the weakest from college graduating classes “*are sent to teacher training schools to train to take charge of educating Egypt’s children.*”<sup>406</sup>

In recognition of the failing efforts towards teacher training and qualification, it has been outlined that the teacher profession is often considered a contemptuous position of last resort. The cycle of education from the basic level to the university level bases the success of students is primarily and heavily reliant upon national exams, which eventually places them in “the various faculties of the state universities.”<sup>407</sup> Harik refers to this as the downgrading of schoolteachers at the very beginning preparation, further noting that most elementary teachers are not in fact university graduates but hold certificates from teaching institutes.<sup>408</sup> It is important to note that this situation has been addressed by the MOE and GOE, with the established of faculties of basic education, teachers without formal certification are being replaced and removed from the system.

The qualification of teachers at the primary level in Egypt has been shown to be one of the lowest in comparison to all the other levels. The MOE has indicated that there

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<sup>401</sup> *Id.* at 34 -35.

<sup>402</sup> Egypt Human Development Report 2010 at 44 referring to the socio-economic influence determining the success of students in obtaining education success and employment).

<sup>403</sup> Megahed, *supra* note 351, at 150.

<sup>404</sup> *Id.* at 150.

<sup>405</sup> Abd el-Kadir Khalifa as cited by Sika at *supra* note 191.

<sup>406</sup> Harik, *supra* note 204, at 143. (Italicized for emphasis)

<sup>407</sup> *A Slow Learning Curve*, 3 *Economist* 396 (17 July 2010). Available at <http://www.economist.com/node/16564142>.

<sup>408</sup> Harik, *supra* note 204, at 143.

is a shortage of teaching professionals with proper training. The teacher shortage at the primary level was estimated to be 70,899 teachers in the subjects of Arabic, English and Math.<sup>409</sup> In an effort to alleviate the shortage, the MOE has contracted temporary teachers from other faculties that education, often those with no experience. It has been estimated that more than 15 percent of teachers have no formal training in education and or teaching.<sup>410</sup>

The MOE developed a system to encourage teacher training and based on the 2007 Teacher's Cadre Law. During the period of 2005 -2007, which called for extreme and necessary reforms in education, the GOE and MOE has done more in the way of increasing incentives and qualifications of teachers. The Teacher's Special Cadre Decree 155/2007 amended Education Law 139/1981 in an effort to provide incentives based on merit, quality and performance. This law also established a professional academy for teacher training.<sup>411</sup> Under this law, teachers are eligible for five promotion levels: Teacher, Senior Teacher, Senior Teacher A, Expert Teacher, and Master Teacher. Teachers are required to develop their skills on a continuous basis and order to qualify they must take a placement test. The test was the first of its kind for educators and was administered for the first time in August 2008 to over 800,000 teachers.<sup>412</sup>

## **Gender**

Gender disparities begin with basic rights; “disparities at the entry point to formal education run counter to the principles of human rights.”<sup>413</sup> Gender gaps in education can serve as an indicator as to how equality will evolve, not only in education, but also throughout the society. The MOE has taken commendable efforts to ensure that all children, especially girls as a vulnerable group, received education. As previously mentioned, this includes community campaigns to stress the importance to parents. However, there have been instances of gender inequality in primary education, which would appear latent, but nonetheless suggest bias.

In addressing gender equality in schools, a look at the curriculum and the depiction of male/female interactions and or scenarios gives an idea of how roles of the

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<sup>409</sup> NSP 2007/08 – 2011/12, *supra* note 266, at 250.

<sup>410</sup> *Id.* at 250.

<sup>411</sup> Handoussa, *supra* note 163, at 69.

<sup>412</sup> *Id.* at 69.

<sup>413</sup> EFA Global Monitoring Report 2009, *supra* note 314, at 98.



sexes are perceived and dispersed. In her review of equity in the primary public school system, Nadine Mourad Sika found that the concept of equality was present 64 times or 44% of the curriculum. It appears 33 times (23%) in a positive context and 31 (21%) times in a negative context. The research indicated that the images of males and females at the primary level are depicted in a biased manner, favoring males. Males were represented much more than females and that many of the lessons portray males only or with a greater collection of males.<sup>414</sup> It is not until the higher levels of primary education<sup>415</sup> that the concepts of antidiscrimination, justice and the rights of women against harassment.<sup>416</sup> In two examples of higher primary grade stories, there are undertones of inequality, with the main characters being males and the female characters are represented as frail and weak.<sup>417</sup>

Finally, in this subsection, the issue of violence and sexual harassment against children is used to determine if protection exists by way of combatting child abuse. Violence against children at school is an occurrence that is covered in greater detail in the following subsection on discipline. Child abuse does occur in Egypt and the laws to protect the child are not specific in terms of violence. According to the Egyptian Penal Law, violent crimes are punishable based upon the level of harm inflicted, however, there are no specific law geared towards violence against children. A number of studies have explicated that child abuse in Egypt is a large problem at both school and at home.<sup>418</sup>

Sexual exploitation and abuse against minors are heavily and highly punishable offenses in Egypt. However, as is the case in many countries, developed or undeveloped, there is a stigma associated with the reporting of these crimes. The data collection in Egypt is insufficient. In 2001 the Ministry of the Interior indicated that sexual abuse

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<sup>414</sup> Sika, *supra* note 191, at 83.

<sup>415</sup> Grades 4 -6.

<sup>416</sup> *Id.* at 84.

<sup>417</sup> *Id.* at 85. Author refers to two stories: “*Mughamarat fia’maq al-bihar*” (Adventures in the Depth of the Sea) and “*Aly Mubarak*”. The latter refers to social mobility in a rags-to-riches manner, but “makes it clear that this can be the fate of only [] very few.”

<sup>418</sup> Azer, et al. at *supra* note 343, at 45. Authors refer to the studies conducted by O.M. Adel Baqi, et al., “*Risk Factors and Concurrent Psychiatric Morbidity of ‘Child Abuse’ in an Egyptian Sample*,” AIN SHAMS MED. J. (1993); A. E. Abdel Rahman, “*Retrospective and Prospective Study of Child Abuse Cases*”, MA Thesis, Ain Shams University (1994); H.M. Shara, “*Assessment of Child Abuse among Students of Selected Primary Governmental School in Cairo*”, MA Thesis, Cairo University, (1999); and R.M. Youssef and H.Y. Atta, “*Child Abuse and Neglect: Its Perception by Those Who Work with the Children*”, 4:2, E. MDTRN. HEALTH J., 276-92 (1998).

cases of minors totaled 102, 46 against males and 56 against females.<sup>419</sup> These limited figures make it difficult to measure the cases of sexual abuse at school.

### **Discipline**

Violence in schools has been officially prohibited according to the MOE, under Decree No. 591 of 1998. However, the practice is still relatively widespread. In a sample study of 800 Egyptian schools of children aged 10 -17, it was indicated that humiliation by way of beating is implemented as a form of humiliation.<sup>420</sup> In a UNICEF study, it was found that children that fall below the poverty line and in more informal areas<sup>421</sup> of the country have a greater likelihood to experience abuse. It was further reported that of children living in these informal areas, 91% were reported to have experience corporal punishment at school. 70% of children experienced verbal humiliation at school.<sup>422</sup> In the school setting, “beating is inflicted on different parts of the child’s body and face. The children indicated that they felt humiliated in from of their classmates.”<sup>423</sup> There is also a practice where teachers have in some instances used violence to coerce students to take private tutoring lessons.<sup>424</sup>

### **Religion**

Religious education in Egypt primary falls under the scope of Al Azhar School System, which is the highest Islamic institute in Egypt. Children are educated in religious and non-religious subject, but the main emphasis remains on religion. The Al Azhar school system is not related to the MOE and has a completely separate curriculum and goes from the primary through the higher education level. All admitted students are Muslim and the schools are located nation-wide with a concentration in rural and conservative areas.<sup>425</sup> As of the 2005/06 school year there were 3,090 Al Azhar primary

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<sup>419</sup> *Id.*, at 48.

<sup>420</sup> Azer, et al., *supra* note 343, at 47. Authors refer to Y. Wahib and M. Samuel, *Violence among Children – As Experienced by Egyptian Children*, Unpublished paper present in a consultation organized by Saved the Children, UK, March 2006.

<sup>421</sup> Squatter settlements or *aish'wayats* are prevalent in urban areas such as Cairo and Alexandria.

<sup>422</sup> UNICEF, Child Protection in Egypt, available at: <http://www.unicef.org/egypt/protection.html>

<sup>423</sup> Azer, et al., *supra* note 343, at 47.

<sup>424</sup> *Id.* at 47. Authors are referring to the National Council for Childhood and Motherhood (NCCC), *The National Plan for the Elimination of Violence against Children*” Cairo, (2006).

<sup>425</sup> Egypt: Education Handbook, *supra* note 160, at 90.

schools, or 15.8% of primary schools with a total of 1,010,302 pupils, or 10.3% of the primary school population.<sup>426</sup>

## **Language**

As previously mentioned, the issue of language in Egypt and primary education is limited. With Arabic being the official language and the only legal permitted language to be taught in school, there is not an opportunity for minority schools to teach other languages. While the Berbers and Nubians have their own languages, their children are instructed in Arabic. Furthermore, the population of Bedouins, Berbers and Nubians in Egypt amounts to approximately 1 percent of the total population. Various studies have shown the impact of language on learning and what is referred to as ‘home language’ is linked to student success. These studies have shown that when a different language is spoken in the child’s home in comparison to the language that they learn in, students tend to have lower scores.<sup>427</sup> “In most studies the impact of language remained after adjusting for factors such as poverty, location and other home background indicators.”<sup>428</sup> In the case of Egypt and its indigenous populations, it would be interesting and essential in the literature on education and acceptability if a study were conducted in this area. There is not a sufficient enough demand from indigenous groups to be taught in languages other than Arabic.

## **4. Adaptability – Molding to the Needs of the Child**

The final element of the 4-A system focuses on the adaptability of education to three specific groups; (1) child labor; (2) minorities; and (3) persons with disabilities. This category requires that education should be flexible in order to meet the constantly changing needs of students in relation to their communities. The complexity of Egyptian society includes the prevalence of child labor, which is one of the largest areas where education has to be tailored to meet the needs of these students and their families.

### **Child Labor**

Indicators within this section seek to answer issues of legality concerning working children. Child labor is a reality for many families throughout the country in both urban and agricultural areas. Egyptian labor law regulates child employment and typically

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<sup>426</sup> NSP 2007/08 – 2011/12, *supra* note 266, at 33.

<sup>427</sup> EFA Global Monitoring Report 2009, *supra* note 314, at 114.

<sup>428</sup> *Id.* at 114.

prohibits the employment of children under the age of 14 years.<sup>429</sup> However, rural areas during seasonal work, governors are allowed to reduce the working age from 14 to 12 years old.<sup>430</sup> Children under 14 and up should only be allowed to work a maximum of 6 hours per day with a mandatory hour break.<sup>431</sup> However, there are a number of children that are excluded from the protection of labor laws. These groups are: (1) children employed in domestic service; (2) family members of the employer if supported is provided; and (3) children working solely in agriculture. This represents an area for marginalization and exploitation. These children are subject to *de facto* exclusion, which is tantamount to discrimination. These children are typically “deprived of basic rights such as education, [...] protection, and were exploited economically.”<sup>432</sup>

The National Council for Childhood and Motherhood (NCCM) conducted a survey in 2001 that sought to gather information on working children in both urban and rural areas of the country. It was estimated that there were approximately 2.78 million working children between the ages of 6 and 14, or 21% of the total number of children in this age range.<sup>433</sup> This survey further categorized the characteristics of working children and stated that children at the primary level (6 – 11 years), represented a high percentage of working children, 41.1% males, 46.4% females, totaling 42.5%). The educational status of these children indicated that 45% of working children completed primary education. And those still attending school were able to work and continue their studies, 81.5% total (83.9% male and 75.2% females).<sup>434</sup>

In an effort to meet the needs of working children, primarily in the agriculture sector, the MOE has implement flexible school shifts. However there needs to be a system that appeals to the rights of working children that remain out of school, particularly those employed in domestic service.

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<sup>429</sup> Labor Law Act No. 12/2003.

<sup>430</sup> Azer, et al., *supra* note 343, at 23.

<sup>431</sup> *Id.* at 23.

<sup>432</sup> *Id.* at 24. Authors citing Adel Azer and T. Ishak. “*Al-mohamashon bayn al-fi’at al-donya fi al-kowa al-‘amela*” (*The Marginalized Among the Lower Strata of the Labor Force*), National Center for Social and Criminological Research, Cairo (1987).

<sup>433</sup> *Id.* at 25. Also see National Council for Childhood and Motherhood (NCCM), “*The National Survey of Child Work in Egypt*” Cairo, 2004.

<sup>434</sup> *Id.* at 26 -27.

## Persons with Disabilities

The legal rights for children with disabilities are affirmed under Child Law 12/1996, which stipulates that the GOE is responsible for meeting their needs, which includes education. However, as is the case with child protection in the category of violence, there is no comprehensive mechanism or system that monitors the needs of disabled children. The EFA Dakar Goals emphasized that under the right to education there is no differentiation between able-bodied and disabled children; it applies to children.<sup>435</sup> But the unfortunate reality for disabled children is that they remain highly marginalized and the least likely to enjoy enrollment. The literature and research on participation indicates that these children have lower rates of school participation, due in great part to physical obstacles, trained teachers and negative attitudes towards the group.<sup>436</sup>

Current statistical information available on disabled children at the primary level in Egypt indicates that services are very limited. According to the National Strategic Plan (NSP), the current system only serves 36,808 children (1.8% of those with special needs). A 2002 UNICEF study indicated that only 5 percent of the 600,000 school-aged disabled children are enrolled in special education programs.<sup>437</sup> There are approximately 468 schools for mentally retarded children; 88 schools for blind and low vision children; 232 schools for hearing impaired children; and 23 classes for children with health conditions requiring hospitalization.<sup>438</sup> The MOE has also indicated that most special education classrooms are concentrated within urban areas, thus excluding a portion of population from receiving adequate access to special education services.<sup>439</sup>

A further challenge to providing the education to special-needs students is the lack of specially trained teachers and that “the practice of recruiting special education teachers from primary teachers who received a mere one year of training in special education weakened the caliber of the teachers in the field.”<sup>440</sup> The MOE and GOE has

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<sup>435</sup> EFA Global Monitoring Report 2009, *supra* note 314, at 82.

<sup>436</sup> *Id.* at 82. EFA refers to the Dutch Coalition on Disability and Development, *All Equal, All Different. Inclusive Education: A DCDD Publication about Education for All*, 2006.

<sup>437</sup> Azer, et al., *supra* note 343, at 52. Also available at UNICEF, “*The Situation of Childhood and Motherhood in Egypt: A Rights-based Analysis*”, 2002.

<sup>438</sup> NSP 2007/08 – 2011/12, *supra* note 266, at 322.

<sup>439</sup> *Id.* at 32.

<sup>440</sup> Azer, et al., *supra* note 343, at 52.

acknowledge the deficiency in this branch of education and in attempts to improve the education services is continuing with the following programs: (1) full inclusion of some children in mainstream school pilot projects; (2) partial inclusion of special-needs children into some classes within general education schools; (3) integrated classes for special education units within mainstream schools; and (4) special education schools.<sup>441</sup>

## **B. Analysis of the Ministry of Education Compliance**

[The] quality of education remains a major challenge [for Egypt]. There remains the need for reform in order to move from a system with over-concentration on memorizing content, passive pedagogies and inadequate facilities and equipment, to a system where students are active participants in the learning process, with access to good teachers, suitable learning materials for knowledge, life skills and social capabilities.<sup>442</sup>

The Ministry of Education and the Government of Egypt have taken important and necessary steps in ensuring that the right to education at the primary level is met. Despite these efforts, there remain some areas that continue to threaten the realization of this right. Based on the indicators of the 4-A system and the assessment of the MOE there are elements of the system that need immediate reform in order to adhere to the international standards on providing the right.

- *Discriminatory Practices* – Analysis of the Egyptian primary education system shows that there are pockets of discrimination, albeit indirect, that impede full provision of the right. Discriminatory practices are largely related to social and economic practices. Often the most marginalized within Egyptian society, such as those living in poverty and disabled children, are the most affected by these elements. The pervasiveness of private tutoring has created a major obstacle for the families cannot afford the service, thus leading to dropouts.
- *Quality of Education* – the low quality of education in Egypt bears a direct connection to the roots of centralization, where the MOE disseminates all of the academic information. This cyclical process, which systemizes memorization over critical thinking and analysis is taught to the children who

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<sup>441</sup> NSP 2007/08 -2011/12, *supra* note 266, at 323.

<sup>442</sup> Handoussa, *supra* note 163, at 66.

eventually become the teachers and continue the same teaching-learning process. Efforts of the MOE to reform quality of education in the past 5 years are commendable, but require greater attention and investment.

- *Equality* – the increase of equitable academic initiatives is required in order to provide an education that is the same to all children throughout the country. Regional location should not indicate whether or not a better academic experience is received, the MOE should take greater efforts to distribute resources and qualified teachers throughout all areas of the country.

## **V. Conclusion**

The primary level of education, which remains an integral and important developing phase in the lives of recipients, is where socio-economic and civil political futures are ultimately determined. Taking into account that the way the education system is structured with a heavy reliance upon testing, if a child lacks the basic and essential skills necessary to propel them to the next level of education, the difficulties that they will undoubtedly face as future participants within society are haunting. Without access to a quality education, in conjunction with systemic failures at the government level, the right to education will continue to suffer.

### **Availability**

Availability in Egypt is challenged by a number of weaknesses. First, in the category of primary education, the issues of grade repetition, dropout rates and transition to preparatory school require immediate attention. The causal link between poverty and dropout rates cannot be ignored because the wider the gap becomes, the more detrimental it will be for this marginalized group of children. As previously mentioned, examining the educational and social-economic policies that hinder or cause a child to have to repeat, drop out or fail to make the transition need effective reform. Second, the availability of schools in good quality needs to occur at a more expeditious rate.

### **Accessibility**

In the category of accessibility there are a number of areas of concern, especially economic obstacles and out-of-school children. There is an inherent discrimination that prevails, first, in relation to economic obstacles, with private tutoring being the most

troubling phenomenon. Whereas students essentially pay for what should be a right offered to them without cost, in the form of private tutoring. Although the GOE is not directly responsible for the excessive costs of private tutoring, the indirect inability to ensure that teachers are not engaging in the practice has proven fruitless. Furthermore, out-of-school children are further disenfranchised when there are inadequate facilities and institutions that fail to take the needs of the community into consideration when providing the right. Finally, the failure of the GOE and MOE to disseminate practices of tolerance and non-discrimination against its refugee and asylum populations shows a level of discrimination that prevails throughout the psyche of the society. The first step in combatting this practice is to recognize that it exists and educate the masses – namely through the MOE – in an effort to reduce its occurrence.

#### Acceptability

In the context of acceptability of education, the Ministry of Education is in need of massive reform to ensure the right to education is synonymous with the right to *quality* and relevant education. This includes a follow through on reform efforts to increase teacher qualifications, gender equality, tolerance and respect for children. One of the most disturbing aspects of acceptability in primary education in Egypt is the prevalence of corporal punishment against students. In respecting the rights of the child as indicated in the Convention on the Rights of the Child, Egypt needs a system of child protection that ensures that all children are safe from various forms of abuse. Many of the indicators included in this branch of the 4-A system cannot be achieved without the other.

#### Adaptability

The need for special mechanism that safeguards the right to education and its adaptation to the most marginalized of the society is essential. The government has an obligation to include all children in the educational attainment. Whether this means implementing more effective systems for monitoring child labor in relation to school attendance or reform of legislation. In the case of disabled children, they represent one of, if not the most marginalized group of children in Egypt. Guaranteeing and protecting their right to education is multidimensional, requiring not only adaptability, but availability, accessibility and acceptability as well. First, the need for better trained and



qualified teachers and facilities is necessary if education is to be provided without discrimination. Second, is the need for a protection and monitoring mechanism within the MOE. Third and finally, is the need for government campaigns that seek to reduce the stigma and negative attitudes towards these children and their care.

The failures of the Egyptian primary education system are in four specific categories, all of which converge around centralization. First, the financial problems of the GOE and MOE are not based upon unavailable funds. ERSAP programs in the late 1980s, early 1990s help to eliminate the financial burdens facing the education sector in Egypt. These reforms in unison with over 3 billion US dollars between the years of 1990-2002 also help to achieve more than half of the basic education reforms accomplished during this time. It is due to the poor management and inefficient allocation of these funds and resources within the Ministry of Education, which then negatively affects the availability of resources needed within the primary education system, such as facilities. Second, the low quality of education fails to appeal to both students and teachers, which is exacerbated by the inundation of under-trained and under qualified teachers. The strictly controlled curriculum and its dissemination from one main source, the government, potentially outsourcing some development to external publishers, further affect low quality. The third issue is related to the absence of an effective monitoring and evaluation system. This includes constant development in all of the four branches of indicators; without such a system, there are a number of occurrences that continue to go unnoticed and untreated by the MOE. Fourth and finally, the system is characterized by a weak managerial and administrative system.

Incorporating the above mentioned categories assists in comprehending why elements such as discrimination, equity and quality of education are the greatest sources of non-compliance to international standards. The most pressing issue of non-compliance that requires immediate attention is the discriminatory practices, which in Egypt exists heavily on the socio-economic scale. Stronger education policies that seek to erase these practices, such as private tutoring, are essential and imperative. Furthermore, establishing methods to monitor and protect the rights and activates of highly marginalized groups in Egypt will help ensure that discrimination – direct or indirect – is controlled, if not eradicated. The discrepancies in the right to primary education cannot and should not be

overlooked. A duty towards the children of Egypt in meeting international minimum standards of education is exactly that, the absolute minimum. And Egypt should aim to adequately and effectively meet these standards. Properly meeting these standards requires a wide-scale and holistic approach to reform, which further requires that the over-arching strategic goals are set and their outcomes are executed. In order to meet all the needs and address the inefficiencies within the public primary system, a collaborative effort between GOE, MOE, non-governmental organizations and civilians needs to take all issues into account in order to realistically and affectively provide reform.

Basic minimum international standards are not subject to selection and they should be implemented completely, wholly and with short-term and long-term goals being put into place to ensure that minimum standards are given a high priority by the government, with a specific deadline for meeting them established and monitored. It is clear that resources, especially financial, are not the root cause for education shortcomings, it is predominately ineffective and inefficient practices that have their foundations in centralization. However, Egypt's positive steps in reforming education should be acknowledged, whereas the National Strategic Plan for Education and the Pre-University Level brought many of the failures to the forefront, it represented a change in previous policy trends. Recognizing and offering solutions to the issues impeding full implementation and compliance with the Strategic Plan for reform of education is the first and very important step. Stronger educational policies that are sharply focused, with targets for implementation being set; comprehensive legislation; and greater levels of awareness and civic engagement are needed in order to protect the right to education at the primary education level. Furthermore and perhaps most essential and relevant is that the right to education indicators – both compliant and non-compliant – need to be publicized by the government, private, and NGOs in order to accelerate educational reform and the fulfillment of education rights in Egypt.

## Summary of Findings

Indicator	Results
Availability	<ul style="list-style-type: none"> <li>- Net Enrollment rate (NER) have shown a continual increase since the 1990s. Current statistics indicate that there is a 96% NER.</li> <li>- Gross Enrollment Rates (GER) have also increased to 9.9 million children, 48% of which were females</li> <li>- There has been a gradual increase in repetition rates among older primary students, overall consisting of 3.1% of students.</li> <li>- Drop out rates are higher among poorer and rural students.</li> <li>- Children not enrolled in school is relatively higher in rural areas</li> <li>- Continued demand for more schools and classrooms;</li> <li>- Due to lack of schools, teaching hours are shortened to accommodate multiple shifts throughout the day.</li> <li>- Overcrowded classrooms in urban areas; average class size is 42; teacher to student ratio is relatively high 1:27</li> </ul>
Accessibility	<ul style="list-style-type: none"> <li>- Long distance to schools in rural areas impedes the enrollment of girls. There is a plan to construct schools no greater than 1,000 m walking distance.</li> <li>- Economic obstacles such as high indirect charges from private tutoring and other costs remains a burden to most families.</li> <li>- Private tutoring continues without any foreseeable eradication; teachers supplement their low incomes by charging students, in many cases they avoid complete in-class instruction to encourage their services.</li> <li>- High level of vulnerability for girls that girl from poor families and rural areas.</li> <li>- Girls' education still faced with hurdles: limited schools within walking distances, no bathrooms, males teachers and the use of corporal punishment.</li> <li>- EEP programs create target girls and poor families in Upper Egypt to address gender obstacles and create awareness.</li> <li>- Need for more qualified female teachers in rural areas, to encourage enrollment and survival to higher grades.</li> <li>- No programs to combat hatred and racism in schools</li> <li>- Out of school children are mainly a result of extreme poverty and the inability to afford the costs associated with free and compulsory education.</li> <li>- The Community School Initiative addresses primary school in Upper Egypt and focuses upon the needs of the community and stresses <i>free</i> education.</li> </ul>
Acceptability	<ul style="list-style-type: none"> <li>- Skill levels and quality of public education is very low.</li> <li>- A majority of primary students are unable to successfully demonstrate the ability to answer questions requiring critical thinking and problem solving.</li> <li>- 30% of primary school students are unable to meet the National Standards for reading and writing</li> <li>- Centralized curriculum system does not facilitate development; CCIMD responsible for all student/teacher materials, which are generally of low quality.</li> <li>- Excessive memorization and use of the ROTE methodology</li> <li>- Curriculum does not encourage analytical thinking and</li> </ul>

presents unrealistic world views; texts often portray women as inferior to men

- Students are encouraged to accept their social and economic positions without the likelihood of advancement
- Teacher shortage, 70,899 needed for Arabic, English and Mathematics.
- 2007 Teachers Cadre Law established incentives for teachers based on quality, merit and performance. Includes five promotion levels and placement test.
- The use of violence in schools is officially illegal (Decree No. 591 of 1998)
- Corporal punishment and violence against children in schools is still a wide spread practice. Children falling under the poverty line and residing in informal areas are subject to high levels of corporal punishment.

#### Adaptability

- There are no comprehensive monitoring mechanisms for child labor and the enforcement of Egyptian child labor laws
- Children excluded from labor laws are (1) domestic servants; (2) children working for a family member; (3) children working only in agriculture
- Children aged 6 -11 represent a 42.5% of all working children
- 81.5% of working children are able to work and continue their studies
- No comprehensive monitoring mechanism for children with disabilities
- Child Law 12.1996 affirms that the GOE is responsible for meeting the needs (includes education) of all children with special needs
- Disabled children highly marginalized, very limited education/social services
- Only 1.8% of children with special needs (36,808 children) are serviced by the MOE
- Need for more schools for disabled persons; trained teachers and programs for children with special needs/disabilities.

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