

Applying Right to Education Indicators to the post-2015 Education Agenda

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About the Right to Education Project

The Right to Education Project (RTE) promotes mobilisation and accountability on the right to education and builds bridges between the disciplines of human rights, education and development. We generate and share research and implementation tools to empower education actors to advocate for the right to education. We also facilitate capacities development on the right to education.

RTE is a collaborative supported by ActionAid International, Amnesty International, the Global Campaign for Education, Save the Children and Human Rights Watch. These partner organisations make up RTE's Steering Committee, which serves as a governance body. RTE is hosted by ActionAid International.

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Table of Acronyms

CEDAW	Convention on the Elimination of All forms of Discrimination against Women
CESCR	Committee on Economic, Social and Cultural Rights
CESR	Center For Economic and Social Rights
CRC	Committee on the Rights of the Child
DPI/NGO	Department of Public Information – Non-Governmental Organisations
ECCE	Early Childhood Care and Education
EFA	Education for All
EFA SC	Education for All Steering Committee
EFA GMR	Education for All Global Monitoring Report
GNP	Gross National Product
ILO	International Labour Organisation
MDGs	Millennium Development Goals
OHCHR	Office of the High Commissioner on Human Rights
OWG	Open Working Group
OWG MOI	Open Working Group - Means of Implementation
TAG	Technical Advisory Group of the EFA Steering Committee
TVE	Technical and Vocational Education
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organisation
WCECCE	World Conference on Early Childhood Care and Education

Summary

The Education for All (EFA) Goals¹ and the education-related Millennium Development Goals (MDGs)² will expire in late 2015. In recent years, the international community has been discussing a new development agenda for post-2015 with the aim of eradicating poverty³ and ensuring sustainable development worldwide. Within these discussions, the fundamental role of education has been reaffirmed,⁴ with emphasis on the need to reach the marginalised groups that have been left behind and to ensure an education of good quality for all. In 2014, a new education goal and targets were proposed in the Muscat Agreement adopted at the Global Education for All Meeting⁵ and in the Proposal of the Open Working Group on Sustainable Development Goals.⁶

This paper is the Right to Education Project's contribution to the on-going discussions to refine the formulation of the education goal and targets and to identify related indicators to measure progress towards them.⁷ This paper will argue that there is a need to introduce a human rights perspective to the post-2015 agenda and furthermore that right to education indicators can give a fuller account of the progress made by States towards achieving the post-2015 goals. Education is more than a goal to achieve; it is a human right that has been legally recognised by States in numerous human rights treaties.⁸ The right to education creates obligations for duty-bearers (primarily States) and allows right-holders to hold duty-bearers to account for violations. Human rights indicators measure both the enjoyment of the right to education by right-holders and the extent to which States fulfil their obligations.

¹ In April 2000, the international community adopted six internationally agreed education goals aim to meet the learning needs of all children, youth and adults by 2015. See UNESCO's website for more details:

<http://www.unesco.org/new/en/education/themes/leading-the-international-agenda/education-for-all/efa-goals/>

² In September 2000, the UN General Assembly adopted the United Nation Millennium Declaration, which set eight Millennium Development Goals to end world poverty by 2015. Goals 2 relate to education: -"Achieve universal primary education". See the United Nations' website for more details: <http://www.un.org/millenniumgoals/education.shtml>

³ 1 billion people continue to live in extreme poverty and inequality and social exclusion are widening within most countries. See Sustainable Development Solution Network, A Global Initiative for the United Nations: <http://unsdsn.org/about-us/vision-and-organization/>

⁴ For an overview of the discussions at UN level, see Kishore Singh (2013), *Report of the UN Special Rapporteur on the Right to Education on post 2015*, A/68/294, United Nations General Assembly, available at: http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/UNSR_Post_2015_2013.pdf

⁵ UNESCO (2014), *2014 Global Education for All Meeting Final Statement, Muscat Agreement*, UNESCO, ED-14/EFA/ME/3, available at: <http://www.uis.unesco.org/Education/Documents/muscat-agreement-2014.pdf>

⁶ Open Working Group of the General Assembly on Sustainable Development Goals (2014), *Open Working Group Proposal for Sustainable Development Goals*, A/68/970, available at: <http://sustainabledevelopment.un.org/focussdgs.html>

⁷ In November 2014, the Post-2015 Education Indicators Technical Advisory Group of the EFA Steering Committee published a note "*Towards indicators for a post-2015 education framework*", which proposed indicators for each target listed in the Muscat Agreement (see <http://www.uis.unesco.org/Education/Documents/towards-indicators-for-post-2015-education-framework-nov2014.pdf>) and had opened an online consultation from 17 November 2014 to 30 January 2015 to receive feedback on the proposed set of indicators (see: <http://www.right-to-education.org/news/uis-launches-consultation-proposed-post-2015-global-education-indicators>)

⁸ International Covenant on Economic, Social and Cultural Rights (Articles 13 and 14); Convention on the Rights to the Child (Articles 28 and 29); Convention on the Elimination of all Forms of Discrimination against Women (Article 10); Convention on the Elimination of all Forms of Racial Discrimination (Articles 5 and 7); Convention on the Rights of Persons with Disabilities (Article 24); Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (Articles 12.4, 30, 43 and 45); Convention relating to the Status of Refugee (Article 22); International Covenant on Civil and Political Rights (Article 18); UNESCO Convention against Discrimination in Education. See the Right to Education Website for more details: <http://www.right-to-education.org/page/international-law>

Before proposing specific indicators to measure the post-2015 education goal and targets (VI), this paper underlines the importance of linking the post-2015 education agenda to the right to education (II), and demonstrates how the post-2015 education goal and targets are linked to the content of the right to education (III) and extant State obligations (IV). This paper then reflects on the added value and limitations of applying right to education indicators (V).

The importance of linking the post-2015 education agenda to the right to education

The importance of putting human rights at the heart of the post-2015 development agenda has been emphasised in on-going discussions⁹ and affirmed officially in international declarations.¹⁰ More specifically, the Muscat Agreement recognised the centrality of the right to education in the post-2015 education agenda. Beyond its intrinsic link with development,¹¹ linking the right to education to the post-2015 education agenda is essential to overcoming the weaknesses and limitations of the current MDG and EFA Goals, which are: a lack of accountability, persistent educational inequalities and a narrow conception of the right to education.

Linking the proposed post-2015 education goal and related targets to the content of the right to education

The education goals and related-targets of both the Muscat Agreement and the Open Working Group Proposal on Sustainable Development Goals can – and should - be linked to the right to education as defined in international law. Certainly, the goals and targets, which States will politically commit to should not undermine their existing legal commitments to realise the right to education.¹² For each target, the paper provides the links to the human rights framework, indicating the relevant treaties and specific provisions, including their interpretation. This will be particularly important in choosing indicators to apply to the goals and targets in the new agenda.

⁹ See for instance: Center For Economic and Social Rights (CESR) (2013), *A Matter of Justice, Securing human rights in the post-2015 sustainable development agenda*, Center For Economic and Social Rights, available at:

<http://www.cesr.org/downloads/matter.of.justice.pdf>; Post-2015 Human Rights Caucus (2014), *The post-2015 agenda won't deliver without human rights at the core - Reflections from co-conveners of the Post-2015 Human Rights Caucus, September 2014*, CESR and Association For Women's Rights in Development (awid), available at:

<http://www.cesr.org/article.php?id=1648>; Radhika Balakrishnan and Ignacio Saiz (2014), *Transforming the development agenda requires more, not less, attention to human rights*, open Global Rights blog, available at:

<https://www.opendemocracy.net/openglobalrights-blog/radhika-balakrishnan-and-ignacio-saiz/transforming-development-agenda-requires>; Luke Holland (2014), *Human Rights 'non-negotiable' on post-2015 agenda says global society*, CESR blog, available at: <http://cesr.org/article.php?id=1640>; Ellen Dorsey, Mayra Gomez, Bret Thiele, and Paul Nelson (2010), *Falling Short of Our Goals: Transforming the Millennium Development Goals into Millennium Development Rights*, Quarterly of Human Rights, Vol. 28/4, 2010, 516-522, 2010, available at: <http://209.240.139.114/wp-content/uploads/2012/02/NQHR-MDR-article.pdf>

¹⁰ See UN General Assembly (2012), *The Future We Want*, Resolution adopted on 27 July 2012, A/RES/66/288, available at: <http://sustainabledevelopment.un.org/futurewewant.html>

¹¹ See for instance Kishore Singh (2013), *Report of the UN Special Rapporteur on the Right to Education on Post-2015*, A/68/294, UN General Assembly, paragraph 31, available at: http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/UNSR_Post_2015_2013.pdf

¹² The Synthesis report of the Secretary-General on the post-2015 sustainable development agenda clearly states: "The agenda should also call for full consistency with current political commitments and existing obligations under international law". See UN General Assembly (2014), *The road to dignity by 2030: ending poverty, transforming all lives and protecting the planet - Synthesis report of the Secretary-General on the post-2015 sustainable development agenda*, A/69/700, UN General Assembly, paragraph 60, available at: http://www.un.org/ga/search/view_doc.asp?symbol=A/69/700&Lang=E

Linking the proposed post-2015 education goal and related targets to States' obligations

The obligations States accept when ratifying a treaty that guarantees the right to education are of different types. In order to make links between the post-2015 education goals and targets and States' obligations, it is essential to understand these differences. The paper reminds the distinction between the obligations to respect, protect and fulfil, the immediate and progressive obligations and the specific obligations as regards the financing of education.

Applying right to education indicators to the post-2015 education agenda

Measuring progress, both under the development agenda and human rights framework is essential in identifying issues and adopting concrete measures to solve them. The indicators we will choose to monitor progress are important because they will significantly influence States' policies for the coming years, for this reasons we should include clear right to education indicators in the final list of indicators.

While traditional development indicators evaluate education as a basic human need to be checked against development goals, right to education indicators aim to measure the extent to which individuals (rights-holders) enjoy their right and States (duty-bearers) fulfil their legal human rights obligations.¹³

Human rights indicators can be categorised in three types: structural, process and outcome.¹⁴ While outcome indicators measure the enjoyment of the right to education, structural and process indicators measure the compliance of States with their obligations. All three types of indicators are important in monitoring progress towards the realisation of the right to education. However, most of the indicators suggested by the Post-2015 Education Indicators Technical Advisory Group of the EFA Steering Committee¹⁵ are outcome indicators. The inclusion of process and structural indicators to complement the proposed outcome indicators will give a fuller account of the actual progress made by States in achieving the post-2015 education goals. Moreover, structural and process indicators can help to measure difficult concepts – such as the quality of education, and to

¹³ Right to Education Project (2010), *Beyond Statistics: Measuring education as a human right, A Consultative workshop on indicators for the right to education – Background Paper*, Right to Education Project, available at: http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/RTE_Beyond_Statistics_Background_Paper_2010.pdf. See also Gauthier de Beco (2008), *Human Rights Indicators for assessing State Compliance with International Human Rights*, 77 *Nordic J. Int'l L.* 23, 24, available at: http://www.researchgate.net/publication/233696908_Human_Rights_Indicators_for_Assessing_State_Compliance_with_International_Human_Rights

¹⁴ See for instance Office of the High Commissioner on Human Rights (OHCHR)(2012), *Human Rights Indicators: A Guide to Measurement and Implementation*, HR/PUB/12/5, OHCHR, available at: <http://www.ohchr.org/EN/Issues/Indicators/Pages/documents.aspx>; The *Opera Framework* used another typology referring to “outcomes” and “policy efforts”. See CESR (2012), *The Opera Framework – Assessing compliance with the obligation to fulfil economic, social and cultural rights*, CESR, available at: <http://cesr.org/downloads/the.opera.framework.pdf>

¹⁵ Post-2015 Education Indicators Technical Advisory Group of the EFA Steering Committee (November 2014), *Towards indicators for a post-2015 education framework*, UNESCO, available at: <http://www.uis.unesco.org/Education/Documents/towards-indicators-for-post-2015-education-framework-nov2014.pdf>

monitor global targets when national targets differ from country to country – such as specific measures to be adopted to target marginalised groups.

In addition, in order to measure the equity and inclusive dimensions of the education targets from a human rights perspective - linked to the human rights principles of equality and non-discrimination, we need to have disaggregated data by prohibited grounds of discrimination, such as sex, disability, ethnicity, religion, language, social or regional affiliation.¹⁶ This means that all outcome indicators measuring the enjoyment of the right to education, should be broken down by grounds of discrimination. As marginalised groups vary from one country to another, disaggregated data should be adapted to the national context. This is why there are objections to using data disaggregated by grounds of discrimination to measure global targets because the data will not be comparable cross-nationally (e.g. racial, ethnic and religious minorities).¹⁷ However, disaggregated data by sex, disability and income/wealth of deciles¹⁸ can be compared globally.

Finally, it is important to underline that human rights indicators contribute to better accountability as they can support claims regarding violations of the right to education.¹⁹

Requirements for applying right to education indicators to the post-2015 education agenda

As noted, right to education indicators are best applied at national level. To use them in the post-2015 education agenda, we must ensure they are globally comparable and that data is available. This means that the number of right to education indicators that can be used to measure progress towards the global education targets is limited. This is an issue because it only reveals part of a country's educational picture.²⁰ For instance, indicators on numeracy and literacy skills – which are easier to measure globally – are not enough to measure progress towards quality education from a human rights perspective which includes wider learning outcomes. Here, it is important to remember that “exclusive focus on ‘measurable’ targets distorts agenda, and can divert policy

¹⁶ List suggested by the OHCHR in OHCHR (2012), *Human Rights Indicators: A Guide to Measurement and Implementation*, HR/PUB/12/5, OHCHR, p. 39, available at: <http://www.ohchr.org/EN/Issues/Indicators/Pages/documents.aspx>; see also UN General Assembly (2014), *Synthesis report of the Secretary-General on the post-2015 sustainable development agenda*, paragraph 46.

¹⁷ Margaret Satterthwaite (2012), *Background Note on MDGs, Non-Discrimination and Indicators in Water and Sanitation*, WHO/UNICEF, p. 30, available at: http://www.wssinfo.org/fileadmin/user_upload/resources/END-Background-Paper_1.pdf

¹⁸ Thomas Piketty points out that deciles are much more sensitive and useful. See for instance: Thomas Piketty (2014), *The Structure of inequality: labor income*, Lecture in Master PPD & APE, Paris School of Economics, Academic year 2013-2014, available at: <http://piketty.pse.ens.fr/files/PikettyEcolneg2013Lecture5.pdf>

¹⁹ See Kishore Singh (2013), *Report of the UN Special Rapporteur on the Right to Education – Justiciability of the right to education*, A/HRC/23/35, UN General Assembly, paragraph 72, available at: http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/UNSR_Justiciability_Right_to_Education_2012.pdf

²⁰ Katrien Beecman (2004), *Measuring the implementation of the right to education: educational versus human rights indicators*, *The International Journal of Children's Rights*, 12: 71-84, p. 73: http://www.researchgate.net/publication/249570461_Measuring_the_implementation_of_the_right_to_education_educational_versus_human_rights_indicators

attention from pressing human rights and human development concerns, which require legal, political and institutional changes that are not well suited to quantifiable measurement.”²¹

Conscious of these restrictions we have proposed specific right to education indicators to measure the post-2015 education targets as proposed.

Specific suggestions to apply right to education indicators to the post-2015 education agenda

For each target²², we propose applying right to education indicators measuring both the enjoyment of the right and States’ compliance with their obligations. When possible²³ we have suggested at least one outcome indicator and one structural or process indicator referring to the core content of the right to education and to States’ obligations linked to the specific target. We have chosen indicators that can be compared globally.

Please find below a summary table of our proposed indicators. For each target, we have indicated what can be measured from a human rights perspective, suggested right to education indicators to be applied, indicated the available data and provided some comments, including on the challenges there may be in measuring such a target from a human rights perspective. For these details, see part VI.

²¹ Sakiko FukudaParr and Alicia Ely Yamin (2013), *The power of number: A Critical Review of MDG Targets for Human Development and Human Rights - Overview*, Harvard School of Public Health, Harvard University Center for Health & Human Rights and the New School, p.7: <http://fxb.harvard.edu/wp-content/uploads/sites/5/2013/09/Overview-power-of-numbers.pdf>

²² For this exercise, we have followed the structure adopted by the Post-2015 Education Indicators Technical Advisory Group of the EFA Steering Committee (The TAG) in its document of reference: *Towards indicators for a post-2015 education framework*, *supra* note 7.

²³ For some targets, it is difficult to measure the enjoyment of the right to education cross-nationally so we have only suggested structural or process indicators.

Summary Table

Targets	Suggested indicators ²⁴	
	Outcome	Structural / process
Early childhood		
<p>EFA SC Target 1: By 2030, at least x% of girls and boys are ready for primary school through participation in quality early childhood care and education, including at least one year of free and compulsory pre-primary education, with particular attention to gender equality and the most marginalized.</p> <p>OWG Target 4.2: By 2030, ensure that all girls and boys have access to quality early childhood development, care and pre-primary education so that they are ready for primary education</p>	<ul style="list-style-type: none"> Percentage of children attending at least one year of pre-primary education disaggregated by sex, disability, rural/urban, wealth quintiles (outcome indicator) Percentage of teachers in pre-primary education who are trained (process indicator) 	<p>Countries with a legal framework guaranteeing the rights of children to early childhood care and education, including one year of free and compulsory pre-primary education (structural indicator)</p>
Primary and secondary		
<p>EFA SC Target 2: By 2030, all girls and boys complete free and compulsory quality basic education of at least 9 years and achieve relevant learning outcomes, with particular attention to gender equality and the most marginalized.</p> <p>OWG Target 4.1: By 2030, ensure that all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and effective learning outcomes.</p>	<ul style="list-style-type: none"> Percentage of children enrolled in primary education disaggregated by sex, disability, rural/urban, income/wealth deciles (outcome indicator) Percentage of children that complete primary education disaggregated by sex, disability, rural/urban, income/wealth deciles (outcome indicator) Percentage of children that enrolled in secondary education disaggregated by sex, disability, rural/urban, income/wealth deciles (outcome indicator) Percentage of children that complete secondary education disaggregated by sex, disability, rural/urban, income/wealth deciles (outcome indicator) Number of out-of-school children disaggregated by sex, disability, rural/urban, income/wealth deciles (outcome indicator) 	<ul style="list-style-type: none"> Countries with a legal framework guaranteeing 9 years of free and compulsory basic education, or having a detailed plan in place that sets forth a specific timeline for fulfilment of the right to free primary education – with indication of the number of countries having such plan (structural indicator) Countries with a legal framework setting a minimum age for entering employment no less than the age at which compulsory education ends and no lower than fifteen (structural indicator) Countries with a legal framework setting minimum education standards (structural indicator)
Skills		
<p>EFA SC Target 4: By 2030, at least x% of youth and y% of adults have the</p>	<ul style="list-style-type: none"> Upper secondary education net enrolment rate disaggregated by sex, 	<ul style="list-style-type: none"> Countries with education policies providing grants at upper secondary

²⁴ A cross-cutting indicator could apply to all targets: the number of countries that have ratified international treaties guaranteeing the right to education showing the will of States to reach the goal committing to international human rights law and mechanisms.

<p><i>knowledge and skills for decent work and life through technical and vocational, upper secondary and tertiary education and training, with particular attention to gender equality and the most marginalised.</i></p> <p>OWG Target 4.3: <i>By 2030, ensure equal access for all women and men to affordable quality technical, vocational and tertiary education, including university</i></p> <p>OWG target 4.4: <i>By 2030, increase by x% the number of youth and adult who have relevant skills, including technical and vocational skills, for employment, decent jobs and entrepreneurship</i></p>	<p>disability, rural/urban, income/wealth deciles (outcome indicator)</p> <ul style="list-style-type: none"> • Tertiary education net enrolment rate disaggregated by sex, disability, rural/urban, income/wealth deciles (outcome indicator) • Percentage of young and adults receiving vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training, disaggregated by sex, disability, rural/urban, income/wealth deciles (outcome indicator) 	<p>and tertiary education, including technical and vocational education, for students from low income families (structural indicator)</p> <ul style="list-style-type: none"> • Countries with legal framework for technical and vocational education and training, including provisions to guarantee non-discrimination (structural indicators)
Equity		
<p>EFA SC Target 1,2 and 4: <i>... with particular attention to gender equality and the most marginalised</i></p> <p>EFA SC Target 3: <i>...with particular attention to girls and women and the most marginalised</i></p> <p>OWG Target 4.5: <i>By 2030, eliminate gender disparities in education and ensure equal access to all levels of education and vocational training for the vulnerable including persons with disabilities, indigenous peoples and children in vulnerable situations.</i></p>	<p>Outcome indicators for relevant target disaggregated by sex, disability, rural/urban, income/wealth deciles</p>	<ul style="list-style-type: none"> • Countries that collect credible and comprehensive disaggregated data by prohibited grounds of discrimination related to the enjoyment of the right to education (process indicator) • Countries with laws and policies (that are implemented / resourced²⁵) to ensure the enjoyment of the right to education of marginalised groups without discrimination and with equal opportunities (structural indicator)
Literacy and numeracy		
<p>EFA SC Target 3: <i>By 2030, all youth and at least x% of adults reach a proficiency level in literacy and numeracy sufficient to fully participate in society, with particular attention to girls and women and the most marginalized.</i></p> <p>OWG Target 4.6: <i>By 2030, all youth and at least x% of adults, both men and women, achieve literacy and numeracy.</i></p>	<ul style="list-style-type: none"> • Youth/adult literacy rate on a 3 or 5 point spectrum (e.g. no literacy / low / functional / good / excellent) disaggregated by sex, disability, rural/urban, income/ wealth deciles (outcome indicators) • Percentage of women and men participating in literacy programmes (outcome indicators). 	<ul style="list-style-type: none"> • Countries with legal or policy framework guaranteeing fundamental education or promoting literacy programmes (structural indicator) • Countries with assessment systems that accurately track progress on literacy and numeracy, alongside a broad range of other learning outcomes (process indicator).
Global citizenship and sustainability		
<p>EFA SC Target 5: <i>By 2030, all learners acquire knowledge, skills, values and attitudes to establish sustainable and</i></p>		<ul style="list-style-type: none"> • Countries with curriculum aiming at teaching knowledge, skills, values and attitudes to establish sustainable and

²⁵ This is very important but may be difficult to measure globally.

<p><i>peaceful societies, including through global citizenship education and education for sustainable development.</i></p> <p>OWG Target 4.7: <i>By 2030, ensure all learners acquire knowledge and skills needed to promote sustainable development, including among others through education for sustainable development and sustainable lifestyles, human rights, gender equality, promotion of culture of peace and non violence, global citizenship, and appreciation of cultural diversity and of culture’s contribution to sustainable development</i></p>		<p>peaceful societies, including through global citizenship education and education for sustainable development (process indicator)</p> <ul style="list-style-type: none"> • Countries with national assessment systems that include tracking of representative qualitative data on the outcomes of education on citizenship and sustainable development (process indicator)
Means of implementation: school environment		
<p>OWG MOI Target 4.a: <i>Build and upgrade education facilities that are child, disability and gender sensitive and provide safe, non-violent, inclusive and effective learning environment for all</i></p>		<ul style="list-style-type: none"> • Countries with legal framework banning corporal punishment in school (structural indicator) • Countries where there are mechanisms in place to complain for violence received in schools (structural indicator) • Countries with legal framework defining the minimum norms and standards for a safe and non-violent environment (structural indicator)
Means of implementation: teachers		
<p>EFA SC Target 6: <i>By 2030, all governments ensure that all learners are taught by qualified, professionally-trained, motivated and well-supported teachers.</i></p> <p>OWG MOI Target 4.c: <i>By 2030, increase by x% the supply of qualified teachers, including through international cooperation for teacher training in developing countries, especially Least Development Countries (LDCs) and Small Island Developing States (SIDS)</i></p>		<ul style="list-style-type: none"> • Countries with legal framework regulating the status of teachers (structural indicator) • Percentage of teachers qualified according to national standards (by level) (process indicator) • Percentage of teachers trained according to national standards (by level) (process indicator)
Means of implementation: finance		
<p>EFA SC Target 7: <i>By 2030, all countries allocate at least 4-6% of their Gross Domestic Product (GDP) or at least 15-20% of their public expenditure to education, prioritizing groups most in need; and strengthen financial cooperation for education, prioritizing countries most in need.</i></p>		<ul style="list-style-type: none"> • Countries allocated at least 4-6% of the GDP to education • Countries allocated at least 15-20% of their public expenditure to education

I. Introduction

The Education for All (EFA) Goals²⁶ and the education-related Millennium Development Goals (MDGs)²⁷ will expire in late 2015. As we all know, they will not be reached. According to the last EFA Global Monitoring Report,²⁸ in 2011, 57 million children²⁹ and 69 million adolescents were out-of-school. Around half of young children did not have access to pre-primary education. 774 million adults, of whom almost two-thirds were women, were illiterate. Only 60% of countries had achieved gender parity at the primary level and 38% at the secondary level. Currently, around 250 million children are not learning basic skills, even though half of them have spent at least four years in school. In around a third of countries, more than a quarter of primary school teachers are not trained according to national standards. Today, access to education for the most marginalised groups and quality of education are of key concern.

In recent years, the international community has been discussing a new development agenda for post-2015 with the aim of eradicating poverty³⁰ and ensuring sustainable development worldwide. Within these discussions, the fundamental role of education has been reaffirmed³¹, with emphasis on the need to reach all groups that have been left behind and to ensure good quality education for all.

In July 2014, the Open Working Group for Sustainable Development Goals (OWG)³² published its proposed goals³³ for the post-2015 agenda, which includes a goal on education, formulated as follows: “Ensure inclusive and equitable quality education and promote life-long learning opportunities for all.” Two months previously, the Global Education for All Meeting adopted the Muscat Agreement,³⁴ supporting the Joint Proposal of the EFA Steering Committee³⁵ on Education

²⁶ In April 2000, the international community adopted six internationally agreed education goals aim to meet the learning needs of all children, youth and adults by 2015. See UNESCO’s website for more details:

<http://www.unesco.org/new/en/education/themes/leading-the-international-agenda/education-for-all/efa-goals/>

²⁷ In September 2000, the UN General Assembly adopted the United Nation Millennium Declaration, which set eight Millennium Development Goals to end world poverty by 2015. Goals 2 relate to education: -“Achieve universal primary education”. See the United Nations’ website for more details: <http://www.un.org/millenniumgoals/education.shtml>

²⁸ UNESCO (2014), *EFA Global Monitoring Report 2013/4, Teaching and Learning Quality for All*, UNESCO, Paris, available at: <http://unesdoc.unesco.org/images/0022/002256/225660e.pdf>

²⁹ 58 million in 2012, according to the most recent data of the UNESCO Institute for Statistics (UIS). See UIS (July 2014), *Progress in getting all children to school stalls but some countries show the way forward*, Policy Paper 14/ Fact sheet 28, UIS, available at: <http://www.uis.unesco.org/Education/Documents/fs-28-out-of-school-children-en.pdf>

³⁰ 1 billion people continue to live in extreme poverty and inequality and social exclusion are widening within most countries. See Sustainable Development Solution Network, A Global Initiative for the United Nations: <http://unsdsn.org/about-us/vision-and-organization/>

³¹ For an overview of the discussions at UN level, see Kishore Singh (2013), *Report of the UN Special Rapporteur on the Right to Education on post 2015*, A/68/294, United Nations General Assembly, available at: http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/UNSR_Post_2015_2013.pdf

³² The Open Working Group was established by the United Nations General Assembly to develop a set of sustainable development goals for the post-2015 agenda. See the United Nations’ website for more details: <http://sustainabledevelopment.un.org>

³³ Open Working Group of the General Assembly on Sustainable Development Goals (2014), *Open Working Group Proposal for Sustainable Development Goals*, A/68/970, available at: <http://sustainabledevelopment.un.org/focussdgs.html>

³⁴ UNESCO (2014), *2014 Global Education for All Meeting Final Statement, Muscat Agreement*, UNESCO, ED-14/EFA/ME/3, available at: <http://www.uis.unesco.org/Education/Documents/muscat-agreement-2014.pdf>

³⁵ The EFA Steering Committee is a representative body of key education stakeholders convened by UNESCO, which is composed of Member States representing all six regional groups of UNESCO, the E-9 initiative, and the host country of the World Education Forum 2015; the five EFA Convening agencies (the United Nations Educational, Scientific and

Post-2015,³⁶ which proposed an overarching goal: “Ensure equitable and inclusive quality education and lifelong learning for all by 2030”. Both proposals are aligned and have similar targets³⁷ to achieve the education goal.

Now the discussions focus on refining the formulation of the goal and targets and on identifying related indicators to measure progress towards them. The Sustainable Development Solutions Network (SDSN),³⁸ a global initiative of the United Nations, has proposed indicators and a monitoring framework for the Sustainable Development Goals,³⁹ aligned with the Open Working Group proposal on Sustainable Development Goals. Also, within the UN System Task Team on the Post-2015 UN Development Agenda⁴⁰, there is a specific working group on monitoring and indicators, which has published a report entitled: “Statistics and indicators for the post-2015 development agenda”.⁴¹ In parallel, a Technical Advisory Group for post-2015 indicators was established to provide technical guidance to the Education for All Steering Committee.⁴² In July 2014, this Group published a note: “Towards indicators for a post-2015 education framework”⁴³ which proposed indicators for each target listed in the Muscat Agreement, reviewed in November 2014.⁴⁴

Cultural Organisation, the United Nations Children’s Fund, the United Nations Development Programme, the United Nations Population Fund and the World Bank); the Organisation for Economic Co-operation and Development ; the Global Partnership for Education, civil society, the teaching profession and the private sector. For more information, see: <http://www.unesco.org/new/en/education/themes/leading-the-international-agenda/education-for-all/coordination-mechanisms/efa-steering-committee/>

³⁶ EFA Steering Committee (2014), *Joint Proposal of the EFA Steering Committee on Education Post-2015*, UNESCO, ED-14/EFA/POST-2015/2 Rev., available at: <http://unesdoc.unesco.org/images/0022/002276/227658E.pdf>

³⁷ Though they are similar, they are not exactly the same. The Muscat Agreement for instance includes a target related to the financing of education while the Open Working Group proposal for Sustainable Development Goals does not include such target. In contrary, the Open Working Group proposal for Sustainable Development Goals includes a target on the number of scholarship while the Muscat Agreement does not include such specific target.

³⁸ The Sustainable Development Solutions Network (SDSN) mobilises scientific and technical expertise from academia, civil society, and the private sector in support of sustainable development problem solving at local, national and global scales. The SDNS was launched by UN Secretary-General Ban Ki-Moon in August 2012 and closely works with United Nations agencies and multilateral financing institutions. For more information, see: <http://unsdsn.org>

³⁹ Leadership Council of the Sustainable Development Solutions Network (2014), *Indicators and a monitoring framework for Sustainable Development Goals, Launching a data revolution for the SDGs - Revised working draft*, Sustainable Development Solutions Network, available at: <http://unsdsn.org/wp-content/uploads/2014/07/140724-Indicator-working-draft1.pdf>

⁴⁰ For more information on the UN System Task Team on the Post-2015 UN Development Agenda, see: http://www.un.org/en/development/desa/policy/untaskteam_undf/

⁴¹ UN System Task Team on the Post-2015 UN Development Agenda (2013), *Statistics and indicators for the post-2015 development agenda*, United Nations, available at: http://www.un.org/en/development/desa/policy/untaskteam_undf/UNTT_MonitoringReport.shtml

⁴² The Technical Advisory Group for post-2015 education indicators is composed of experts from the EFA Global Monitoring Report, the OECD, UNESCO Institute for Statistics, UNESCO, UNICEF and the World Bank. Its role is to provide feedback on the proposed post-2015 targets, to develop recommendations for indicators and to set out a measurement agenda that meets the demands of the new education and development frameworks. For more information, see: <http://www.uis.unesco.org/Education/Pages/group-launched-to-review-ed-indicators.aspx>

⁴³ Post-2015 Education Indicators Technical Advisory Group of the EFA Steering Committee (July 2014), *Towards indicators for a post-2015 education framework*, UNESCO, available at: <http://www.uis.unesco.org/Education/Documents/towards-indicators-for-post-2015-education-framework.pdf>

⁴⁴ Post-2015 Education Indicators Technical Advisory Group of the EFA Steering Committee (November 2014), *Towards indicators for a post-2015 education framework*, UNESCO, available at: <http://www.uis.unesco.org/Education/Documents/towards-indicators-for-post-2015-education-framework-nov2014.pdf>

Until the adoption of the post-2015 agenda next year, there will be on-going discussions to finalise the education goal, targets and related indicators.⁴⁵ The choices that will be made are important because they will determine the future policies and priorities for the next fifteen years, which will have a direct impact on the enjoyment of the right to education (both in terms of access and quality) of children and adults worldwide, particularly the most marginalised groups. The choice of indicators will have a particular impact because they will determine how progress in achieving the goals will be measured, which will inevitably focus the attention of States and the international community on particular education aspects of the right to education.

At this crucial time, it is essential to reaffirm the central role of human rights in the development agenda. Education is more than a goal to achieve; it is a human right, which has been formally and legally recognised by States in numerous human rights treaties.⁴⁶ This means that States have more than a political obligation to ensure equitable and inclusive quality education, and lifelong learning for all - they have the legal obligation to respect, protect and fulfil⁴⁷ the right to education, which encompasses all these dimensions.

Both the OWG Proposal and the Muscat Agreement have affirmed the importance of human rights and principles of international law in the development of the post-2015 agenda.⁴⁸ This agreement in principle has to be translated into concrete application. Putting the right to education at the heart of the post-2015 education agenda is essential to ensuring better accountability, and the various dimensions of this right – and related State obligations - should be reflected in the formulation of the final education targets and choice of indicators.

While the on-going discussions about the indicators to measure the post-2015 education goal and targets mainly focus on development-oriented outcome indicators, this paper proposes to take into account the human rights perspective and suggests also applying right to education indicators. “While traditional development indicators evaluate education as a basic human need to be checked against development goals, right to education indicators aim to measure the extent to which States fulfil their legal human rights obligations.”⁴⁹

⁴⁵ Note that the development of indicators could possibly go on into 2016. See Leadership Council of the Sustainable Development Solutions Network (2015), *Indicators and a monitoring framework for Sustainable Development Goals, Launching a data revolution for the SDGs - Revised working draft*, Sustainable Development Solutions Network, p. 16-18, available at: <http://unsdsn.org/wp-content/uploads/2015/01/150116-Indicators-and-a-Monitoring-Framework-for-SDGs-working-draft-for-consultation.pdf>

⁴⁶ International Covenant on Economic, Social and Cultural Rights (Articles 13 and 14); Convention on the Rights to the Child (Articles 28 and 29); Convention on the Elimination of all Forms of Discrimination against Women (Article 10); Convention on the Elimination of all Forms of Racial Discrimination (Articles 5 and 7); Convention on the Rights of Persons with Disabilities (Article 24); Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (Articles 12.4, 30, 43 and 45); Convention relating to the Status of Refugee (Article 22); International Covenant on Civil and Political Rights (Article 18); UNESCO Convention against Discrimination in Education. See the Right to Education Project Website for more details: <http://www.right-to-education.org/page/international-law>

⁴⁷ UN Committee on Economic, Social and Cultural Rights (CESCR) (1999), *General Comment 13: The Right to Education (Article 13)*, UN Economic and Social Council, E/C.12/1999/10, paragraphs 46-47, available at: http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/CESCR_General_Comment_13_en.pdf

⁴⁸ See UN General Assembly (2012), *The Future We Want*, Resolution adopted on 27 July 2012, A/RES/66/288, available at: <http://sustainabledevelopment.un.org/futurewewant.html> and the *Muscat Agreement*, *supra* note 34.

⁴⁹ Right to Education Project (2010), *Beyond Statistics: Measuring education as a human right, A Consultative workshop on indicators for the right to education – Background Paper*, Right to Education Project, p. 1, available at: http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/RTE_Beyond_Statistics_Background_Paper_2010.pdf

Before proposing specific indicators to measure the post-2015 education goal and targets (VI), this paper will underline the importance of linking the post-2015 education agenda to the right to education (II), and will demonstrate how the post-2015 education goal and targets are linked to the content of the right to education (III) and extant State obligations (IV). The paper will then reflect on the added value and limitations of applying right to education indicators (V).

II. The importance of linking the post-2015 education agenda to the right to education

A. The centrality of human rights in the post-2015 development agenda

As stressed by the UN Special Rapporteur on the Right to Education, Kishore Singh:

“The right to education must be emphasised in the post-2015 development agenda for many reasons. Education is a fundamental building block for human development and is invaluable for individual and social transformation. Education enables children to prepare for democratic citizenship and responsibilities of the future. Education is central to poverty eradication strategies and the achievement of global commitments for sustainable development. Growth in the human development index employed by the United Nations Development Programme (UNDP) is associated with growth in public spending on education: education is the best investment a country can make. Education is essential for the empowerment of women, making them agents of change and of social transformation. Education is crucial for conflict prevention, peace building and promoting solidarity. Education is an inalienable human right of every child, boys and girls alike. All development goals have educational dimensions⁵⁰ and the right to education provides indispensable leverage for development.”⁵¹

The importance of putting human rights at the heart of the post-2015 development agenda has been recognised in the on-going discussions⁵² and affirmed officially in international declarations.

⁵⁰ See UNESCO, EFA/GMR (2014), *Global Education First Initiative, Sustainable Development Begins with Education – How education contribute to the proposed post-2015 goals*, UNESCO, available at:

<http://unesdoc.unesco.org/images/0023/002305/230508e.pdf>

⁵¹ Kishore Singh (2013), *Report of the UN Special Rapporteur on the Right to Education on Post-2015*, *supra* note 31, paragraph 31; see as well the *Muscat Agreement*, *supra* note 8, paragraph 6; CESCR (1999), *General Comment 13*, *supra* note 21, paragraph 1 and High-Level Group on Education for All (EFA) (2011), *Jomtien Statement, Tenth Meeting of the High-Level Group on Education for All (EFA)*, ED-11/HLG-EFA/2, UNESCO, available at:

<http://unesdoc.unesco.org/images/0019/001919/191931e.pdf>

⁵² See for instance: Center For Economic and Social Rights (CESR) (2013), *A Matter of Justice, Securing human rights in the post-2015 sustainable development agenda*, Center For Economic and Social Rights, available at:

<http://www.cesr.org/downloads/matter.of.justice.pdf>; Post-2015 Human Rights Caucus (2014), *The post-2015 agenda won't deliver without human rights at the core - Reflections from co-conveners of the Post-2015 Human Rights Caucus, September 2014*, CESR and Association For Women's Rights in Development (awid), available at:

<http://www.cesr.org/article.php?id=1648>; Radhika Balakrishnan and Ignacio Saiz (2014), *Transforming the development agenda requires more, not less, attention to human rights*, open Global Rights blog, available at:

<https://www.opendemocracy.net/openglobalrights-blog/radhika-balakrishnan-and-ignacio-saiz/transforming-development-agenda-requires>; Luke Holland (2014), *Human Rights 'non-negotiable' on post-2015 agenda says global*

The OWG Proposal, referring to the Rio+20 outcome document, “The Future We Want”⁵³, emphasised “the need to be guided by the purposes and principles of the Charter of the United Nations, with full respect for international law and its principles.” It also reaffirmed “the importance of respect for all human rights” and “the importance of the Universal Declaration of Human Rights, as well as other international instruments relating to human rights and international law.”⁵⁴

More specifically, the Muscat Agreement recognised the centrality of the right to education in the post-2015 education agenda. It states: “education is a fundamental human right for every person”⁵⁵ and affirms: “the post-2015 education agenda should be right-based.”⁵⁶ A month after, at its June session, the Human Rights Council in its Resolution 26/17 highlighted “the need... to ensure that the right to education is central in the context of the post 2015 agenda.”⁵⁷

Indeed, linking the right to education to the post-2015 education agenda is essential to overcome the weaknesses and limitations of the current MDG and EFA Goals.

B. Focusing on the right to education helps to overcome the weaknesses and limitations of the current EFA / MDG Goals

1. Overcoming the lack of accountability

The lack of accountability mechanisms has been underlined as one of the main weaknesses of the current development agenda,⁵⁸ and has no doubt, in part, contributed to the failure to achieve the EFA and education-related MDG goals. States are only politically committed to achieving these goals and cannot be held legally accountable if they fail. In contrast, human rights create obligations for the duty-bearers, primarily the State, and remedies for the right-holders when their right to education has been violated. A legally protected human right, either in national or international law, means that right-holders can hold duty-bearers to account, through international judicial and quasi-judicial mechanisms.⁵⁹

society, CESR blog, available at: <http://cesr.org/article.php?id=1640>; Ellen Dorsey, Mayra Gomez, Bret Thiele, and Paul Nelson (2010), *Falling Short of Our Goals: Transforming the Millennium Development Goals into Millennium Development Rights*, Quarterly of Human Rights, Vol. 28/4, 2010, 516-522, 2010, available at: <http://209.240.139.114/wp-content/uploads/2012/02/NQHR-MDR-article.pdf>

⁵³ *The Future We Want*, *supra* note 48.

⁵⁴ *Open Working Group Proposal on Sustainable Development Goals*, *supra* note 33, paragraph 7.

⁵⁵ *Muscat Agreement*, *supra* note 34, paragraph 6.

⁵⁶ *Muscat Agreement*, *supra* note 34, paragraph 8.

⁵⁷ Human Rights Council (2014), *The right to education: follow-up to Human Rights Council resolution 8/4, A/HRC/26/L.28*, UN General Assembly, available at: http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/26/L.28

⁵⁸ See for instance, Ban Ki-moon (2010), *Unmet Commitments, Inadequate Resources, Lack of Accountability Hampering Achievement of Millennium Development Goals*, press release, SG/SM/12789-GA/10923-DEV/2791, United Nations, available at: <http://www.un.org/press/en/2010/sgsm12789.doc.htm> and United Nations (2010), *High-level Plenary Meeting on the Millennium Development Goals – Keeping the promise: a forward-looking review to promote an agreed action agenda to achieve the Millennium Development Goals by 2015 – Compilations of Partnership Events and Action Commitments*, Conference Room Paper, United Nations, available at: http://www.un.org/en/mdg/summit2010/pdf/HLPM%202010_CRP_Side%20events.pdf

⁵⁹ See the ‘justiciability’ page on the Right to Education Project website: <http://www.right-to-education.org/issue-page/justiciability>; see also Kishore Singh (2013), *Report of the UN Special Rapporteur on the Right to Education* –

Putting human rights, and particularly the right to education, at the heart of the post-2015 development agenda, will transform the previous model of development based on political and aspirational commitments into a new model where States fully assume their obligations under international human rights law.⁶⁰

Every country in the world⁶¹ has ratified at least one treaty that guarantees the right to education.⁶² In linking the post-2015 education agenda with their obligations related to the right to education, States would clearly show their will to achieve these goals, recognising the ‘beneficiaries’ of the education policies as ‘active right-holders’⁶³ able to hold them to account if responsibilities are not met.⁶⁴ In this way we can ensure that the education goal and related targets will not be illusory promises.

2. Overcoming persistent educational inequities and reaching the most marginalised

While significant progress in access to education has been made since the adoption of the EFA and education-related MDG, there are still “persistent educational inequities among and within countries.”⁶⁵ If there are still millions of children and adolescents out-of-school⁶⁶, this is largely because States have failed to reach the most marginalised groups.⁶⁷

Recognising this challenge, the Muscat Agreement affirms that the post-2015 education agenda should “reflect a perspective based on equity and inclusion, with particular attention to gender equality and to overcoming all forms of discrimination in and through education.”⁶⁸ The Open Working Group Proposal on Sustainable Development Goals also expresses the need “to ensure that no one is left behind.”⁶⁹ A month later, in August 2014, the participants of 65th Annual UN DPI/NGO Conference, representatives of non-governmental organisations from around the world also reaffirmed “that throughout the entire set of Sustainable Development Goals, no goal or target should be considered met until it is met for all groups that are affected, particularly the lowest quintiles of the national income distribution, ensuring that we leave no one behind,” urging

Justiciability of the right to education, A/HRC/23/35, UN General Assembly, available at: http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/UNSR_Justiciability_Right_to_Education_2012.pdf

⁶⁰ Ellen Dorsey, Mayra Gomez, Bret Thiele, and Paul Nelson (2010), *supra* note 52.

⁶¹ The new South Sudan State has not ratified any treaty yet but has committed to. See the Letter dated 31 October 2013 from the Permanent Representative of South Sudan to the United Nations addressed to the President of the General Assembly, A/68/565, available at: http://www.un.org/en/ga/search/view_doc.asp?symbol=A/68/565

⁶² See UNESCO Global Database on the Right to Education, available at: <http://www.unesco.org/new/en/education/themes/leading-the-international-agenda/right-to-education/database/>

⁶³ CESR (2013), *A Matter of Justice*, *supra* note 52, p. 3.

⁶⁴ On how human rights can reinforce accountability in the post-2015 agenda, see particularly CESR (2013), *A Matter of Justice*, *supra* note 52, p. 10-11.

⁶⁵ Kishore Singh (2013), *supra* note 32, paragraph 31.

⁶⁶ UNESCO (2014), *EFA Global Monitoring Report 2013/4, Teaching and Learning Quality for All*, *supra* note 3.

⁶⁷ Kevin Watkins (2013), *Leaving no-one behind: an equity agenda for the post-2015 goals*, Overseas Development Institute (ODI), available at: <http://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/8638.pdf>

⁶⁸ *Muscat Agreement*, *supra* note 34, paragraph 8.

⁶⁹ *Open Working Group Proposal on Sustainable Development Goals*, *supra* note 33, paragraph 17.

governments “to eliminate all discriminatory laws and practices and commit to implementing human rights instruments.”⁷⁰

Under international human rights law, States have the legal obligation to guarantee the right to education to everyone without discrimination. The education goal, formulated both in the Muscat Agreement and the Open Working Group Proposal, to “ensure *equitable* education and *inclusive* education and lifelong learning for all” is linked to the key human rights principles of non-discrimination and equality. These principles protect the right to education of everyone from direct and indirect discriminations and require the State to eliminate discriminatory laws or policies - and also to adopt special measures and affirmative action when needed.

Here it is important to draw attention to the dangers of the concept of *equity*, which is not a legal term. As Katarina Tomasevski⁷¹ pointed out, the term *equity* is used in education policies instead of *equality*, and has an uncertain meaning and is virtually impossible to translate into other languages.

International law only refers to *equality* and *non-discrimination*. “While equity may denote justice to many, it also carries with it the possibility of diluting the rights claims of those who suffer inequality as a result of discrimination. Furthermore, some understandings of the term *equity* have the potential to directly undermine human rights.”⁷² In her *Background Note on MDGs, Non-Discrimination and Indicators in Water and Sanitation*, Margaret Satterthwaite notes that while “making the instrumental argument that equity was good because it would advance development most of the time, the World Bank also cautioned that sometimes equity may be too expensive”, giving an example of financing better-quality schooling for those who have the least educated parents, and who attend the worst schools.”⁷³ She reminds us: “under human rights law, it is impermissible to subject human rights claim to a cost-benefit analysis.”⁷⁴

For the reasons explained above, and to ensure better accountability it would be preferable to include the term *equality* in the formulation of the education goal.⁷⁵

⁷⁰ Participants of the 65th Annual UN DPI/NGO Conference (2014), *Outcome Document Declaration of the 65th Annual UN DPI/NGO Conference*, held at the United Nations Headquarters in New York, from 27 to 29 August 2014, available at: <http://outreach.un.org/ngorelations/files/2014/08/DPINGOOOutcomeDoc-DeclarationFinal.pdf>

⁷¹ Katarina Tomasevski (2006), *Human Rights Obligations in Education, The 4-A Scheme*, in Educational equalization, Wolf Legal Publisher, p. 44, available at: https://books.google.co.ke/books?id=5yslAQAAIAAJ&q=Tomasevski+which+yardstick:+equity+or+equality%3F&dq=Tomasevski+which+yardstick:+equity+or+equality%3F&hl=en&sa=X&ei=5ijLVK7TDlu6UamWgeAI&redir_esc=y

⁷² Margaret Satterthwaite (2012), *Background Note on MDGs, Non-Discrimination and Indicators in Water and Sanitation*, WHO/UNICEF, p. 11, available at: http://www.wssinfo.org/fileadmin/user_upload/resources/END-Background-Paper_1.pdf

⁷³ Margaret Satterthwaite (2012), *supra* note 72, p. 11.

⁷⁴ Margaret Satterthwaite (2012), *supra* note 72, p. 11.

⁷⁵ The Synthesis report of the Secretary-General on the post-2015 sustainable development agenda clearly refers both to equity and equality stating. See UN General Assembly (2014), *The road to dignity by 2030: ending poverty, transforming all lives and protecting the planet - Synthesis report of the Secretary-General on the post-2015 sustainable development agenda*, A/69/700, UN General Assembly, paragraph 51, available at: http://www.un.org/ga/search/view_doc.asp?symbol=A/69/700&Lang=E

3. Overcoming the narrow conception of education

In setting the goal and priorities for the post-2015 education agenda, there is a risk of adopting a narrow conception of education.

The EFA Goals and education-related Millennium Development Goal led States to focus their attention on access to primary education, neglecting the other fundamental aspects of the right to education, such as quality and the other levels of education. Indeed, the education MDG only focuses on achieving universal primary education. The EFA framework has a broader spectrum covering the different levels of education from early childhood to lifelong learning, including quantitative and qualitative goals, but in practice, States have focused their attention on access to primary education and gender equality.

The right to education, as recognised in international treaties, encompasses a wider definition of education from early childhood to lifelong learning, and from access to quality. From a human rights perspective, the quality of education goes beyond acquiring literacy and numeracy skills. Education of good quality should contribute to develop the child's personality, talents and abilities to live a full and satisfying life within their society.⁷⁶

States' obligations related to the right to education go beyond the goal and targets set up as priorities for post-2015 agenda. In adopting policies towards the achievement of these goals and targets, it is fundamental to establish a link with these obligations and the definition of the right to education as developed in international human rights law.

III. Linking the proposed post-2015 education goal and related targets to the content of the right to education

The education goals and related-targets of both the Muscat Agreement and the Open Working Group Proposal on Sustainable Development Goals can – and should - be linked to the right to education as defined in international law. Certainly, the goals and targets, which States will politically commit to through the post-2015 agenda, should not undermine their existing legal commitments to realise the right to education.⁷⁷ This will be particularly important when choosing indicators to apply to the goals and targets in the new agenda.

⁷⁶ See Right to Education Project (2013), *Learning Outcomes Assessments: A Human Rights Perspective*, Right to Education Project, available at: http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/RTE_Learning_Outcomes_Assessments_HR_perspective_2013.pdf

⁷⁷ The Synthesis report of the Secretary-General on the post-2015 sustainable development agenda clearly states: "The agenda should also call for full consistency with current political commitments and existing obligations under international law". See UN General Assembly (2014), *Synthesis report of the Secretary-General on the post-2015 sustainable development agenda*, *supra* note 75, paragraph 60.

A. Early childhood care and education

The Muscat Agreement provides: “by 2030, at least x% of girls and boys are ready for primary school through participation in quality early childhood care and education, including at least one year of free and compulsory pre-primary education” (target 1). The formulation of the Open Working Group Proposal is slightly different: “by 2030 ensure that all girls and boys have access to quality early childhood development, care and pre-primary education so that they are ready for primary education” (target 4.2).

Pre-primary education does not constitute a right under international law⁷⁸ although the Convention on the Elimination of All forms of Discrimination against Women (CEDAW) mentions it in Article 10 which provides that equality between men and women in the field of education shall be ensured in pre-school. In General Comment 13, the Committee on Economic, Social and Cultural Rights (CESCR) emphasises that fundamental education is a right for all ages⁷⁹ but with the understanding that fundamental education corresponds to basic education⁸⁰, which excludes pre-school.⁸¹

In contrast, the entitlement to early childhood care has been recognised in international law. Article 25 of the Universal Declaration of Human Rights proclaims: “motherhood and childhood are entitled to special care and assistance.” In addition, Article 24 of the Convention on the Rights of the Child related to the right to health clearly makes a link to the right to education. To pursue the full implementation of the right to health, States are required to take appropriate measures, including ensuring that all segments of society have access to education.

Access to and participation in quality early childhood care and education (ECCE) is fundamental for the development of the child and this has an impact on his/her capacity to secure their right future schooling.⁸² This has been recognised by the international community, which politically commits to expand and improve comprehensive early childhood care and education within the EFA framework (Goal 1). In addition, the Moscow Framework for Action and Cooperation: Harnessing the Wealth of Nations, adopted in 2010 at the World Conference on ECCE, goes further proclaiming that ECCE is a right and an indispensable foundation of lifelong learning.⁸³ This framework declares that ECCE is part of the right to education and the main foundation for holistic human development.⁸⁴ Under the Action Agenda, governments are called to mobilise stronger commitment to ECCE, including through the development of legal frameworks and enforcement mechanisms that are conducive to

⁷⁸ UNESCO (2007), *Operational Definition of Basic Education – Expert Consultation on the Operational Definition of Basic Education, 17-18 December 2007, Conclusions*, ED-2009/WS/19, UNESCO, available at: <http://unesdoc.unesco.org/images/0018/001833/183370m.pdf>

⁷⁹ CESCR (1999), *General Comment 13*, *supra* note 47, paragraph 24.

⁸⁰ CESCR (1999), *General Comment 13*, *supra* note 47, paragraph 22.

⁸¹ UNESCO (2007), *Operational Definition of Basic Education*, *supra* note 78.

⁸² See for instance World Conference on Early Childhood Care and Education (WCECCE) (2010), *Moscow Framework for Action and Cooperation: Harnessing the Wealth of Nations*, UNESCO/WCECCE, paragraph 2, available at: <http://unesdoc.unesco.org/images/0018/001898/189882e.pdf>

⁸³ WCECCE (2010), *supra* note 82, paragraph 2.

⁸⁴ WCECCE (2010), *supra* note 82, paragraph 6.

the implementation of the rights of children to ECCE from birth.⁸⁵ It is worth noting that many States have already adopted such legislation. The Action Agenda also provides for quality ECCE.⁸⁶

The education targets related to ECCE go beyond international obligations and in the direction of the current global development of legal guarantees at national level.

B. Free and compulsory primary and secondary education

The Muscat Agreement provides: “by 2030, all girls and boys complete free and compulsory ... basic education of at least 9 years” (Target 2). The formulation of the Open Working Group Proposal is similar: “by 2030, ensure that all girls and boys complete free... primary and secondary education” (Target 4.1).

The Muscat Agreement uses the terminology ‘basic education’ while the Open Working Group Proposal refers to ‘primary and secondary education’. The concept of basic education did not exist when the Universal Declaration of Human Rights was proclaimed in 1948 and for that reason it is not used in the international instruments adopted later. It was promoted for the first time in the World Declaration on Education for All (Jomtien, 1990).⁸⁷ According to UNESCO, basic education consists of 9 years of formal education at two levels: 6 years of primary education and the first stage of secondary education, which last three years. It can be progressively extended to 12 years.⁸⁸

According to international human rights law, primary education shall be free and compulsory. Secondary education shall be made progressively free of charge.⁸⁹

Guaranteeing free and compulsory primary education is a core and immediate obligation⁹⁰ and financial difficulties States may face do not relieve them of their obligation. According to Article 14 of the International Covenant on Economic, Social and Cultural Rights, if a State is unable to secure free and compulsory primary education, it still has the immediate obligation, within two years, to work out and adopt a detailed plan of action for its progressive implementation, within a reasonable numbers of years, to be fixed in the plan.

General Comment 11 of the CESCR⁹¹ gives an interpretation of the two distinctive features of primary education: ‘free’ and ‘compulsory’.

⁸⁵ WCECCE (2010), *supra* note 82, paragraph 11.

⁸⁶ WCECCE (2010), *supra* note 82, paragraph 12 ii).

⁸⁷ Participants in the World Conference on Education for All, assembled in Jomtien, Thailand, from 5 to 9 March, 1990, *World Declaration on Education for All – Meeting basic Learning Needs*, UNESCO, available at: <http://www.unesco.org/education/wef/en-conf/Jomtien%20Declaration%20eng.shtm>

⁸⁸ UNESCO (2007), *Operational Definition of Basic Education*, *supra* note 78.

⁸⁹ International Covenant on Economic, Social and Cultural Rights (Article 13 and 14); Convention on the Rights of the Child (Article 28), Convention on the Elimination of All Forms of Discrimination against Women (Article 10); Convention on the Rights of Persons with Disabilities (Article 24) and UNESCO Convention against Discrimination in Education (Article 4). See Right to Education Project (2014), *International Instruments – Free and Compulsory Education*, Right to Education Project, available at: http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/RTE_International_Instruments_Free_and_Compulsory_2014_en.pdf

⁹⁰ See below page 31 for further explanations on the different types of States’ obligations.

⁹¹ CESCR (1999), *General Comment 11: Plans of action for primary education (article 14 of the International Covenant on Economic, Social and Cultural Rights)*, E/C.12/1999/4, UN Economic and Social Council, available at: http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/CESCR_General_Comment_11_en.pdf

- ‘Compulsory’ schooling means that neither parents, nor guardians, nor the State are entitled to treat as optional the decision as to whether the child should have access to primary education. Similarly, the prohibition of gender discrimination in access to education is further underlined by this requirement.⁹² To guarantee compulsory education, States are obliged to set a minimum age for entering employment no less than the age at which compulsory education ends and in any case shall be no lower than fifteen (fourteen for States that have insufficiently developed economies and educational systems).⁹³
- The right to ‘free’ primary education is unequivocal. The right is expressly formulated so as to ensure the availability of primary education without charge to the child, parents or guardians. Fees imposed by the government, the local authorities or the school, and other direct costs, constitute disincentives to the enjoyment of the right and may jeopardise its realisation. They are also often highly regressive in effect. Their elimination is a matter that must be addressed, requiring a plan of action. Indirect costs, such as compulsory levies on parents (sometimes portrayed as being voluntary, when in fact they are not), or the obligation to wear a relatively expensive uniform, can also fall into the same category. Other indirect costs may be permissible, subject to the Committee's examination on a case-by-case basis.⁹⁴ States should adopt special measures to alleviate the negative effects of indirect costs on children from poorer households. Such measures include the free provision of textbooks and school transport, as well as scholarships and other financial subsidies for financially disadvantaged children. To the extent that school uniforms are compulsory, they must be provided free of charge to children from poorer households. The free provision of midday meals is a best practice in providing incentives for parents to send their children to school.⁹⁵

The obligation to make secondary education progressively free of charge means that while States must prioritise the provision of free primary education, they also have an obligation to take concrete steps towards achieving free secondary education.⁹⁶

The education targets related to free and compulsory primary and secondary education are consistent with international human rights law guaranteeing the right to education and in fact go further, providing for compulsory and free secondary education for all girls and boys. This is where the development agenda complements international human rights law for aspects of the right to education – such as free secondary education – that are subject to progressive realisation.

⁹² CESCR (1999), *General Comment 11*, *supra* note 91, paragraph 6.

⁹³ ILO Convention No. 138, Article 2, available at:

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138

⁹⁴ CESCR (1999), *General Comment 11*, *supra* note 91, paragraph 7.

⁹⁵ UNESCO (2008), *The Right to Primary Education Free of Charge For All: ensuring compliance with international obligations*, UNESCO, p. 5-6, available at: <http://unesdoc.unesco.org/images/0015/001591/159168m.pdf>

⁹⁶ CESCR (1999), *General Comment 13*, *supra* note 47, paragraph 14.

C. Technical and vocational, upper secondary and tertiary education and training

The Muscat Agreement provides: “by 2030, at least x% of youth and y% of adults have the knowledge and skills for decent work and life through technical and vocational, upper secondary and tertiary education and training” (target 4). The formulation of the Open Working Group Proposal is slightly different: “by 2030, ensure equal access for women and men to affordable quality technical, vocational and tertiary education, including university” (target 4.3).

According to international law, States have the obligation to make secondary education, including technical and vocational education (TVE), generally available and accessible to all by every appropriate means, and in particular the progressive introduction of free education, which may require financial assistance.⁹⁷ In General Comment 13, the CESCR indicates that “every appropriate means” reinforces the point that States parties should adopt varied and innovative approaches to the delivery of secondary education in different social and cultural contexts.⁹⁸

Regarding TVE, the CESCR takes the view that it forms an integral element of all levels of education, including higher education.⁹⁹ Referring to the UNESCO Convention on Technical and Vocational Education and ILO Conventions, the CESCR considers that the right to TVE includes the following aspects:¹⁰⁰

(a) It enables students to acquire knowledge and skills which contribute to their personal development, self-reliance and employability and enhances the productivity of their families and communities, including the State party’s economic and social development;

(b) It takes account of the educational, cultural and social background of the population concerned; the skills, knowledge and levels of qualification needed in the various sectors of the economy; and occupational health, safety and welfare;

(c) It provides retraining for adults whose current knowledge and skills have become obsolete owing to technological, economic, employment, social or other changes;

(d) It consists of programmes which give students, especially those from developing countries, the opportunity to receive TVE in other States, with a view to the appropriate transfer and adaptation of technology;

(e) It consists, in the context of the Covenant’s non-discrimination and equality provisions, of programmes which promote the TVE of women, girls, out-of-school youth, unemployed youth, the children of migrant workers, refugees, persons with disabilities and other disadvantaged groups.

According to international law, States have the obligation to make higher education equally accessible to all on the basis of capacity, by every appropriate means, and in particular by the

⁹⁷ International Covenant on Economic, Social and Cultural Rights (Article 13.2), Convention on the Rights of the Child (Article 28) and UNESCO Convention against Discrimination in Education (Article 4).

⁹⁸ CESCR (1999), *General Comment 13*, *supra* note 47, paragraph 13.

⁹⁹ CESCR (1999), *General Comment 13*, *supra* note 47, paragraphs 15 and 16.

¹⁰⁰ CESCR (1999), *General Comment 13*, *supra* note 47, paragraph 16.

progressive introduction of free education.¹⁰¹ The ‘capacity’ of individuals should be assessed by reference to all their relevant expertise and experience.¹⁰²

The Convention on the Elimination of All Forms of Discrimination against Women stipulates that equality between men and women should be ensured in general, technical, professional and higher technical education, as well as in all types of vocational training.¹⁰³ The Convention on the Rights of Persons with Disabilities stipulates that States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, on an equal basis with others.¹⁰⁴

Regarding higher education, the CESCR notes that if higher education is to respond to the needs of students in different social and cultural settings, it must have flexible curricula and varied delivery systems, such as distance learning.¹⁰⁵

Here the international legal framework comprehensively highlights the States’ obligations linked to the targets related to technical and vocational, upper secondary and tertiary education and training. Beyond ensuring equal access for men and women (Target 4.3 of the OWG Proposal), this education target should aim to ensure equal access for all marginalised groups.

D. Adult education: literacy and lifelong learning

The Muscat Agreement provides: “by 2030, all youth and at least x% of adult education reach a proficiency level in literacy and numeracy sufficient to fully participate in society” (Target 3). The Open Working Group Proposal has a similar formulation: “by 2030 ensure that all youth and at least x% of adult, both men and women, achieve literacy and numeracy” (Target 4.6). It adds another target: “by 2030, increase the number of youth and adults who have relevant skills, including technical and vocational skills, for employment, decent job and entrepreneurship” (Target 4.4).

According to international law, States are obliged to encourage or intensify as far as possible the education of those persons who have not received or completed the whole period of their primary education.¹⁰⁶ The International Covenant on Economic, Social and Cultural Rights refers to the right to ‘fundamental education’, which corresponds to basic education.¹⁰⁷ According to the CESCR the right to fundamental education is not confined to those who have not received or completed the whole period of their primary education but extends to all those who have not yet satisfied their “basic learning needs” as understood by the World Declaration on Education for All (Jomtien, 1990).¹⁰⁸ Article 5 of the Declaration defines basic learning needs as “essential learning tools (such

¹⁰¹ International Covenant on Economic, Social and Cultural Rights (Article 13.2), Convention on the Rights of the Child (Article 28) and UNESCO Convention against Discrimination in Education (Article 4).

¹⁰² CESCR (1999), *General Comment 13*, *supra* note 47, paragraph 19.

¹⁰³ Convention on the Elimination of All Forms of Discrimination against Women (Article 10).

¹⁰⁴ Convention on the Rights of Persons with Disabilities (Article 24.5).

¹⁰⁵ CESCR (1999), *General Comment 13*, *supra* note 47, paragraph 18.

¹⁰⁶ International Covenant on Economic, Social and Cultural Rights (ICESCR) (Article 13.2.d) and UNESCO Convention against Discrimination in Education (Article 4.c). The ICESCR refers to “fundamental education” which corresponds to basic education.

¹⁰⁷ CESCR (1999), *General Comment 13*, *supra* note 47, paragraph 22. See also UNESCO (2007), *Operational Definition of Basic Education*, *supra* note 78, particularly paragraphs 4 and 21.

¹⁰⁸ CESCR (1999), *General Comment 13*, *supra* note 47, paragraph 23.

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, to develop their full capacities, to live and work in dignity, to participate fully in development, to improve the quality of their lives, to make informed decisions, and to continue learning”. It is also worth mentioning that UNESCO notes that “literacy is increasingly recognised as a right”.¹⁰⁹

The CESCR also emphasises that “enjoyment of the right to education is not limited by age or gender; it extends to children, youth and adults, including older persons. Fundamental education, therefore, is an integral component of adult education and life-long learning. Because fundamental education is a right of all groups, curricula and delivery systems must be devised which are suitable for students of all ages.”¹¹⁰

In addition, according to the Convention on the Elimination of All Forms of Discrimination against Women, States shall take appropriate measures to ensure, on a basis of equality of men and women, the same opportunities for access to programmes of continuing education, including adult and functional literacy programmes.¹¹¹ The Convention also recognises the right, for men and women, to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training.¹¹²

The Convention on the Rights of Persons with Disabilities stipulates that States parties shall ensure that persons with disabilities are able to access adult education and lifelong learning.¹¹³

Lastly, UNESCO has adopted the Recommendation on the Development of Adult Education (1976).¹¹⁴ The Recommendation is a non-binding instrument but has a great authority as it is intended to influence the development of national laws and practices.

Here again the international legal framework can highlight more comprehensively the States’ obligations linked to the targets related to literacy and lifelong learning.

E. Quality education

Both the Proposal of the Open Working Group and the Muscat Agreement refer to quality education. Some targets explicitly mention *quality* early childhood care and education,¹¹⁵ *quality* basic education,¹¹⁶ and *quality* technical, vocation and tertiary education¹¹⁷. Other targets on the

¹⁰⁹ UNESCO (2007), *Operational Definition of Basic Education*, *supra* note 78, paragraph 21.

¹¹⁰ CESCR (1999), *General Comment 13*, *supra* note 47, paragraph 24.

¹¹¹ Convention on the Elimination of All Forms of Discrimination against Women (Article 10).

¹¹² Convention on the Elimination of All Forms of Discrimination against Women (Article 11).

¹¹³ Convention on the Rights of Persons with disabilities (Article 24).

¹¹⁴ Note that this Convention is currently under revision. For more information, see UNESCO/UIIL, *Revising the 1976 Recommendation on the Development of Adult Education: Comments requested from Member States*, available at: <http://uil.unesco.org/home/news-target/revising-the-1976-recommendation-on-the-development-of-adult-education-comments-requested-from-member-states/7eb2828290143547e15df825cc38bd7b/>

¹¹⁵ Target 1 of the Muscat Agreement, formulated as “quality early childhood development, care and pre-primary education” in target 4.2 of the Proposal of the Open Working Group.

¹¹⁶ Target 2 of the Muscat Agreement, formulated as “quality primary and secondary education” in target 4.1 of the Proposal of the Open Working Group.

content of education and the status of teachers refer to quality education without using the exact term.

As regards the content of education, Target 5 of the Muscat Agreement provides: “by 2030, all learners acquire knowledge, skills, values and attitudes to establish sustainable and peaceful societies, including through global citizenship education and education for sustainable development.” Target 4.7 of the Proposal of the Open Working Group is a bit more developed and provides that “by 2030 ensure all learners acquire knowledge and skills needed to promote sustainable development and sustainable lifestyles, human rights, gender equality, promotion of cultural diversity and of culture’s contribution to sustainable development.”

As regards the status of teachers, Target 6 of the Muscat Agreement provides: “by 2030, all countries ensure that all learners are taught by qualified, professionally-trained, motivated and well-supported teachers.” Target 4.c of the Proposal of the Open Working Group sets a means of implementation and provides that “by 2030 increase by x% the supply of qualified teachers, including through international cooperation for teacher training in developing countries, especially LDCs and SIDS.”

The Proposal of the Open Working Group also provides a mean of implementation that refers to the learning environment. Target 4.a provides: “build and upgrade education facilities that are child, disability and gender sensitive and provide safe, non-violent, inclusive and effective learning environment for all.”

According to international law, the right to education is not only the right to access education but also the right to receive an education of good quality. Education must be not only ‘available’ and ‘accessible’ for all but also ‘acceptable’ and ‘adaptable’.¹¹⁸ Quality education is a **dynamic concept**. It evolves with time and is subject to social, economic and environmental conditions. However, international human rights law provides a general legal framework we can refer to.

UNESCO’s Convention against Discrimination in Education is the only treaty that explicitly mentions the term ‘quality’ education,¹¹⁹ but the main treaties that guarantee the right to education also refer to quality education when defining the **aims of education** - which impact on the **content** of education, **teaching and learning processes and materials**, the **learning environment** and **learning outcomes**.

- ***The aims of education go beyond acquiring numeracy and literacy skills***

According to Article 26 of the Universal Declaration of Human Rights: “**Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms.**” This has been reaffirmed and developed in the International Covenant on Economic, Social and Cultural Rights (Article 13.1) and the Convention on the Rights of the Child (Article 29.1), as interpreted by the Committee on the Rights of the Child in General Comment 1: The Aims of Education. Based on this international legal framework, students must

¹¹⁷ Target 4.3 of the Proposal of the Open Working Group.

¹¹⁸ See CESCR (1999), *General Comment 13*, *supra* note 47, paragraph 6.

¹¹⁹ See Articles 1.2, 2.a and 4.b

receive a quality education that enables the development of their personalities, talents and abilities, and to live a full and satisfying life within society. The aims of education **go far beyond acquiring numeracy and literacy skills**. Basic skills also include: "life skills such as the ability to make well-balanced decisions; to resolve conflicts in a responsibility, critical thinking, creative talents, and other abilities which give children the tools needed to pursue their options in life".

- *Curricula, teaching materials and teaching methods have to be acceptable*

Curricula, teaching material and teaching methods have to meet the aims of education as defined by international law. At primary and secondary level, education has to be "**child-centred, child-friendly and empowering**". It "must be provided in a way that respects the inherent dignity of the child and enables the child to express his or her view ... and to participate in school life".¹²⁰ Any stereotyped concept of the role of men and women has to be eliminated from textbooks and school programmes, and the teaching methods have to be adapted.¹²¹ Education has to be adapted to children with disabilities¹²² and to particular cultural contexts.¹²³

- *The learning environment has to be adequate, safe and non-violent*

There should be an appropriate number of classrooms, accessible to all, with adequate and separate sanitation facilities for girls and boys. Schools should protect from the elements.¹²⁴ **School discipline** has to be administered in a manner consistent with the child's human dignity¹²⁵ and education must promote non-violence in school.¹²⁶

- *The status of teachers has to be at the heart of education policies*

According to Article 13.2.e of the International Covenant on Economic, Social and Cultural Rights: "the material condition of teaching staff shall be continuously improved". In addition, according to General Comment 13 of the ICESCR and General Comment 1 of the CRC, schools should have a sufficient number of trained teachers, receiving good quality pre-service and in-service training with built-in components on gender sensitivity, non-discrimination, and human rights. All teachers should be paid domestically competitive salaries. The UNESCO-ILO Recommendation concerning the Status of Teachers provides a comprehensive normative framework on teachers' status, including their responsibilities, career advancement opportunities, security of tenure and conditions of service.

- *States have to guarantee equal quality education for all and adopt minimum educational standards*

¹²⁰ Committee on the Rights of the Child (CRC) (2001), *General Comment 1 – Article 29 (1): the Aims of Education*, CRC/GC/2001/1, United Nations, paragraph 8, available at: http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/CRC_General_Comment_1_en.pdf

¹²¹ Convention on the Elimination of Discrimination Against Women (Article 10).

¹²² Convention on the Rights of Persons with Disabilities (Article 24).

¹²³ African Charter on the Rights and Welfare of the Child (Article 11) and African Youth Charter (Article 13).

¹²⁴ CESCR (1999), *General Comment 13*, *supra* note 47, paragraph 6.a.

¹²⁵ Convention on the Rights of the Child (Article 28.2).

¹²⁶ CRC (2001), *General Comment 1*, *supra* note 120, paragraph 8.

According to international law, everyone has the right to receive an education of good quality. States have to “ensure that the standards of education are equivalent in all public educational institutions of the same level, and that the conditions relating to the quality of the education provided are also equivalent”.¹²⁷ In addition, States are obliged to adopt minimum educational standards to ensure that all schools, public and private, offer the same quality education.¹²⁸ Quality education has to be the same for boys and girls.¹²⁹

The definition of quality education from a human rights perspective is comprehensive and covers a wide range of aspects as highlighted above. It is fundamental to link the targets related to quality education to the human rights definition and ensure it is not narrowed through limited quantitative indicators.

F. Equality and non-discrimination

The overarching education Goal and Global Targets of both the Muscat Agreement and the Proposal of the Open Working Group are linked to the key human rights principles of equality and non-discrimination.

Both overarching goals refer to “equitable”¹³⁰ and “inclusive” education “for all”. The Muscat Agreement also emphasises that particular attention should be paid to “gender equality and the most marginalised” (Targets 1 to 4). The Proposal of the Open Working Group highlights equality between boys and girls (Targets 4.1 and 4.2) and men and women (Target 4.3). In addition, Target 4.5 provides: “by 2030, eliminate gender disparities in education and ensure equal access to all levels of education and vocational training for the vulnerable, including persons with disabilities, indigenous peoples, and children in vulnerable situations.”

As underlined by the UN Special Rapporteur on Water and Sanitation, “non-discrimination and equality are not only instrumentally important in the context of development; they are binding human rights principles reflected in international law.”¹³¹

These principles protect the right to education of everyone from direct and indirect discrimination and require the State to not only eliminate discriminatory laws and policies but also to adopt special measures and affirmative action when needed.¹³²

¹²⁷ UNESCO Convention against Discrimination in Education (Article 4.b).

¹²⁸ International Covenant on Economic, Social and Cultural Rights (Article 13), Convention on the Rights of the Child (Article 29.2) and UNESCO Convention against Discrimination in Education (Article 2).

¹²⁹ Convention on the Elimination of all Forms of Discrimination against Women (Article 10) and UNESCO Convention against Discrimination in Education (Article 2).

¹³⁰ On the use of ‘equity’ rather than ‘equality’, see part I.B.2, page 20.

¹³¹ Catarina de Albuquerque (2010), *Human rights obligations related to access to safe drinking water and sanitation – Report of the Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation to the General Assembly*, A/65/254, UN General Assembly, paragraph 36, available at:

<http://www.ohchr.org/Documents/Issues/Water/MDGReportA6524.pdf>

¹³² For detailed information on the international legal framework and states obligations, see Kishore Singh (2011), *Report of the UN Special Rapporteur on the Right to Education - The promotion of equality of opportunity in education*, A/HRC/17/29, 2011, section IV, page 8, available at: http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/UNSR_Equality_of_Opportunity_2010.pdf

For each target related to the principles of equality and non-discrimination, it will be important in practice to take into account all marginalised groups – which vary from country to country – and not only focus on gender equality. By doing this, a human rights perspective can help redress one of the main failings of the previous education development agenda – the failure of States to reach the most marginalised groups.

IV. Linking the proposed post-2015 education goal and related targets to States' obligations

The obligations States accept when ratifying a treaty that guarantees the right to education are of different types. In order to make links between the post-2015 education goals and targets and States' obligations, it is essential to understand these differences.

A. Obligations to respect, protect and fulfil

The **obligation to respect** means the State has to refrain from interfering with the enjoyment of the right to education. For instance, the State has to respect the liberty of parents to ensure the religious and moral education of their children in conformity with their own convictions. In practice, this means for instance that the State should allow exemption from particular classes such as religious classes.

The **obligation to protect** means the State has to prevent others from interfering with the enjoyment of the right to education usually through regulations and legal guarantees. For instance, the State has to forbid corporal punishment in schools. It also has to set a minimum age for entering employment no less than the age at which compulsory education ends.

The **obligation to fulfil** means the State has to adopt appropriate measures towards the full realisation of the right to education. The State has to adopt laws and policies to ensure that everyone can fully enjoy the right to education as defined by international law. For instance, the State has to develop a system of schools at all levels and adopt measures to ensure that out-of-school children receive an education.

Most of education targets in the Muscat Agreement and the Proposal of the Open Working Group are linked to the States' obligation to **fulfil** the right to education. Some are also linked to the obligation to **protect** the right to education. For instance, the target related to free and compulsory primary and secondary education is linked to both States' obligation to protect (e.g., set a minimum age for entering employment no less than the age at which compulsory education ends) and to fulfil (e.g., take concrete steps towards achieving free secondary education).

B. Immediate and progressive obligations

Recognising that the full realisation of the right to education – as with other economic, social and cultural rights - can be hampered by a lack of resources and can only be achieved over a period of time, particularly for countries with fewer resources, international law distinguishes between immediate and progressive States' obligations.

The introduction of free secondary and higher education, for instance, is a progressive obligation the State has to comply with once it has sufficient resources. The concept of progressive realisation means that a State would be in compliance with international treaties even if it were not guaranteeing 100 per cent of the people within its jurisdiction the full enjoyment of the right to education¹³³ – as long as it was taking concrete steps towards that goal.

However, even when States' resources are very limited, they have immediate obligations to implement some aspects of right to education such as prohibiting discrimination in access to and in education and ensuring free and compulsory primary education for all.¹³⁴

States also have the immediate obligation to take appropriate steps towards realising the right to education **to the maximum of its available resources**. This means for instance that they have to continuously improve the quality of education. A lack of resources cannot justify inaction or indefinite postponement of measures to implement the right to education. States must demonstrate they are making every effort to improve the enjoyment of the right to education, even when resources are scarce.¹³⁵

In addition, States have the immediate obligation not to adopt retrogressive measures.¹³⁶ This means they should not take backwards steps or adopt measures that will repeal existing guarantees of the right to education. For example, introducing school fees in secondary education when it had formerly been free of charge would constitute a retrogressive measure.

C. Obligations relating to the financing of education

The implementation of the right to education requires funding and States are obliged to use the maximum of their available resources to ensure its full enjoyment for everyone. To this end, States should ensure that a sufficient proportion of the national budget is allocated to education and that the money is **used effectively and equitably to guarantee education for all and redress inequalities**.

¹³³ Sital Kalentry, Jocelyn Getgen, Steven A. Koh (2009), *Measuring State Compliance with the Right to Education Using Indicators: a Case Study of Colombia's Obligations Under the ICESCR*, Cornell Law Faculty Working Papers, p. 5, available at: http://scholarship.law.cornell.edu/clsops_papers/52/

¹³⁴ See CESCR (1999), *General Comment 13*, *supra* note 47, paragraph 43.

¹³⁵ CESCR (1990), *General Comment 3: The nature of States parties' obligations (art. 2, para. 1, of the Covenant)*, E/1991/2, UN Economic and Social Council, paragraphs 10-11, available at: <http://www.refworld.org/docid/4538838e10.html>

¹³⁶ CESCR (1999), *General Comment 13*, *supra* note 47, paragraph 45.

There are no international legally binding obligations as regards the share of the national budget to allocate to education. However Declarations, such as the 2011 Jomtien Statement,¹³⁷ recognise that **States should spend at least 6% of their Gross National Product (GNP) and/or at least 20% of their national budgets on education** in order to achieve quality education for all. The Muscat Agreement is less demanding as Target 7 provides: “by 2030, all countries allocate at least 4-6% of their GDP or at least 15-20% of their public expenditure to education...” However, it emphasises that groups most in need should be prioritised and that financial cooperation for education should be strengthened, prioritising countries most in need.

The post-2015 education agenda sets up a goal and targets to be achieved in the future, by 2030, which could be linked to States’ progressive obligations as described above. However, some targets – particularly Target 1 related to free and compulsory education and the ones focusing on gender equality and the most marginalised (Targets 1 to 4) – are linked to immediate obligations that cannot be postponed to some point in the future.

Here, it is important to be reminded of the distinction between the enjoyment of the right to education by individuals and States’ obligations to ensure this enjoyment. In practice, the enjoyment of the right to education is not always fulfilled - as shown for instance by the data on school enrolment. This could be due to the State’s failure to comply with its obligations, but it is not always the case. Sometimes, other factors, such as strong cultural customs hinder the full enjoyment of the right to education.

As developed in part I, linking the post-2015 education agenda to the right to education is fundamental to ensuring that States’ obligations are not undermined and to guarantee greater accountability and social justice. Therefore, it is essential to translate the right to education framework into the formulation of the education targets as well as into the indicators chosen to measure the progress towards these targets. Indeed, it will be fundamental that States’ actions towards the education goal and targets are consistent with their human rights obligations. ***For this reason, we suggest explicitly integrating right to education indicators in order to ensure that the post-2015 education targets are linked to extant States’ obligations.***

V. Applying right to education indicators to the post-2015 education agenda

Measuring progress, both under the development agenda and human rights framework is essential in helping to improve the life of everyone by identifying the remaining issues and adopting concrete measures to solve them. The indicators we choose to monitor progress are important because they will significantly influence States’ policies in the coming years. If we want to link the post-2015 education agenda to the right to education, we should include clear right to education indicators in the final list of indicators.

¹³⁷ High-Level Group on EFA (2011), *Jomtien Statement*, *supra* note 51.

A. Right to education indicators versus education development indicators

While traditional development indicators evaluate education as a basic human need to be checked against development goals, right to education indicators aim to measure the extent to which individuals (rights-holders) enjoy their right and States (duty-bearers) fulfil their legal human rights obligations.¹³⁸ Right to education indicators reflect “the norms, principles and values underpinning human rights in general and the right to education particularly”.¹³⁹ They “reveal the human rights weakness of national education systems so as to allow for a correction of public policy and practice that meets human rights obligations.”¹⁴⁰

In addition, “development indicators may tend to regard marginalised groups as recipients of aid, rather than as rights holders per se. In contrast, indicators based on education as a human right place these groups and the key principle of non-discrimination at the core of the approach. In so doing, they make these groups and violations of their rights more visible, thus creating the conditions for a culture of accountability whereby such groups are enabled and allowed to question State performance.”¹⁴¹

B. Measuring both the enjoyment of the right to education and States’ obligations: structural and process indicators in addition to outcome indicators

Human rights indicators can be categorised in three types: structural, process and outcome.¹⁴² While outcome indicators measure the enjoyment of the right to education, **structural and process indicators measure the compliance of States with their obligations**. More specifically, “while structural indicators answer the question of whether or not laws that comply with international treaty obligations exist on the book at domestic level, process indicators answer the question of what mechanisms the State has put in place to implement its existing laws towards the realisation of the right”.¹⁴³ In other words, both structural and process indicators “measure the quality and extent of the State efforts to implement rights by measuring the scope, coverage, and content of

¹³⁸ Right to Education Project (2010), *Beyond Statistics: Measuring education as a human right, A Consultative workshop on indicators for the right to education – Background Paper*, supra note 49. See also Gauthier de Beco (2008), *Human Rights Indicators for assessing State Compliance with International Human Rights*, 77 Nordic J. Int’l L.23, 24: http://www.researchgate.net/publication/233696908_Human_Rights_Indicators_for_Assessing_State_Compliance_with_International_Human_Rights

¹³⁹ Katrien Beeckman (2004), *Measuring the implementation of the right to education: educational versus human rights indicators*, The International Journal of Children’s Rights, 12: 71-84, p. 71: http://www.researchgate.net/publication/249570461_Measuring_the_implementation_of_the_right_to_education_educational_versus_human_rights_indicators

¹⁴⁰ Katrien Beeckman (2004), supra note 139, p.71.

¹⁴¹ Right to Education Project (2010), *Beyond Statistics: Measuring education as a human right, A Consultative workshop on indicators for the right to education – Background Paper*, supra note 49.

¹⁴² See for instance Office of the High Commissioner on Human Rights (OHCHR)(2012), *Human Rights Indicators: A Guide to Measurement and Implementation*, HR/PUB/12/5, OHCHR, available at:

<http://www.ohchr.org/EN/Issues/Indicators/Pages/documents.aspx>; The Opera Framework used another typology referring to “outcomes” and “policy efforts”. See CESR (2012), *The Opera Framework – Assessing compliance with the obligation to fulfil economic, social and cultural rights*, CESR, available at:

<http://cesr.org/downloads/the.opera.framework.pdf>

¹⁴³ Sital Kalentry, Jocelyn Getgen, Steven A. Koh (2009), supra note 133, p. 282.

strategies, plans, programmes or policies, or other specific activities or interventions designed to accomplish the goals necessary for the realisation of the right”.¹⁴⁴ Also, Gauthier de Beco explains: “process indicators focus on the actual efforts of States, outcome indicators focus on the results of these efforts”¹⁴⁵, they “measure the reality on the ground”.¹⁴⁶

All three types of indicators are important in monitoring progress towards the realisation of the right to education. However, most of the indicators suggested by the Post-2015 Education Indicators Technical Advisory Group of the EFA Steering Committee¹⁴⁷ are outcome indicators. The inclusion of process and structural indicators to complement the proposed outcome indicators will give a fuller account of the actual progress made by States in achieving the post-2015 education goals.

1. Process and structural indicators tell us about States’ efforts to comply with their human rights obligations

When measuring progress towards the post-2015 education goal and targets from a human rights perspective, it is not sufficient to know, for instance, how many children are enrolled in primary education (outcome indicator). It is also important to know if the State has adopted and is enforcing laws and policies that guarantee free and compulsory primary education (structural and process indicators). Outcome indicators are important in measuring progress towards the realisation of the right to education. However, States’ efforts to comply with their obligations are essential to ensure the realisation of the right to education, and structural and process indicators can measure these efforts.

2. Structural and process indicators can help us measure difficult concepts

Structural and process indicators may help to measure difficult concepts such as the quality of education. As noted, the quality of education is a dynamic concept that evolves with time and which is subject to social, economic and environmental conditions making it difficult to define through common global indicators. Moreover, some aspects of quality of education – such as life skills (e.g., capacity to take well-balanced decisions) are difficult to measure. This explains why outcome indicators tend to focus excessively on easily measurable aspects, such as literacy and numeracy skills. The post-2015 Education Indicators Technical Advisory group of the EFA Steering Committee suggests a process indicator (pupil / teacher ratio) but we could also have indicators that look at the adoption of laws, policies and minimum standards on quality education or the existence of a national curriculum and assessment system that values diverse learning outcomes.

¹⁴⁴ Inter American Commission on Human Rights (2008), *Guidelines for Preparation of Progress Indicators in the Area of Economic, Social and Cultural Rights*, OEA/Ser.L/V/II.132, Inter American Commission on Human Rights, available at: <http://www.cidh.org/pdf%20files/Guidelines%20final.pdf>

¹⁴⁵ See also Gauthier de Beco (2008), *Human Rights Indicators for assessing State Compliance with International Human Rights*, *supra* note 138, p. 44 and

¹⁴⁶ Sital Kalentry, Jocelyn Getgen, Steven A. Koh (2009), *supra* note 133, p. 282.

¹⁴⁷ Post-2015 Education Indicators Technical Advisory Group of the EFA Steering Committee (November 2014), *Towards indicators for a post-2015 education framework*, *supra* note 44.

3. Structural and process indicators may help to monitor global targets

Structural and process indicators can also help to monitor global targets when national targets differ from country to country. For instance, marginalised groups exist in just about every country and States have to take specific measures to reach them according to their specific national context. To measure progress towards the full enjoyment of the right to education of these marginalised groups, national disaggregated outcome indicators will be relevant. However, such indicators would be difficult to determine at the global level. Here, process and structural indicators could help by focusing on the laws and policies adopted to reach the most marginalised groups.¹⁴⁸ Also, the collection of disaggregated data at national level could indicate the will of the State to recognise the existence of marginalised groups and to improve the enjoyment of their right to education.

C. Measuring equity, equality and non-discrimination in education: the need for disaggregated data

To measure the equity and inclusive dimensions of the education targets - linked to the human rights principles of equality and non-discrimination we need to have disaggregated data by prohibited grounds of discrimination, such as sex, disability, ethnicity, religion, language, social or regional affiliation.¹⁴⁹ Indeed, “if the right to education of every child is to be achieved [and the education goal and targets reached], it is indispensable to have appropriate information on those who are excluded” as “from a human rights perspective, it is simply unacceptable to focus on those already in at the expense of those out”.¹⁵⁰ “The fundamental human rights principle of non-discrimination compels us to identify those suffering discrimination and disadvantage in an educational context”¹⁵¹ in order to adopt the appropriate measure to address the issue. “As entitlements for each and every individual, human rights demand us to go beyond statistical averages and stop taking satisfaction with progress in averages if the poor are marginalised are left behind.”¹⁵²

Concretely, all the outcome indicators, measuring the enjoyment of the right to education, should be broken down by grounds of discrimination. The formulation of the education targets in the Muscat Agreement - referring to “gender equality”¹⁵³ – and in the OWG’s proposal - referring to “equality between boys and girls”¹⁵⁴ and “men and women”¹⁵⁵ - explicitly call for disaggregated data by sex. But they also called for disaggregated data on other grounds not explicitly mentioned,

¹⁴⁸ For instance, a structural indicator could be: countries with policies and measures (that are implemented and resourced) to ensure the enjoyment of the right to education of marginalised groups without discrimination and with equal opportunities.

¹⁴⁹ List suggested by the Office of the High Commissioner on Human Rights (OHCHR) in OHCHR (2012), *Human Rights Indicators: A Guide to Measurement and Implementation*, *supra* note 142, p. 39. See also UN General Assembly (2014), *Synthesis report of the Secretary-General on the post-2015 sustainable development agenda*, paragraph 46.

¹⁵⁰ Katrien Beeckman (2004), *supra* note 139, p. 74.

¹⁵¹ Katrien Beeckman (2004), *supra* note 139, p. 75.

¹⁵² Katrien Beeckman (2004), *supra* note 139, p. 79.

¹⁵³ Targets 1 to 4.

¹⁵⁴ Targets 4.1 and 4.2

¹⁵⁵ Target 4.3.

the Muscat Agreement referring only to “the most marginalised groups”¹⁵⁶ while the proposal of the Open Working Group refers to “the vulnerable, including persons with disabilities, indigenous peoples, and children in vulnerable situation”¹⁵⁷.

However, as highlighted by Margaret Satterthwaite, “disaggregation by ground of discrimination will not be enough. Human rights law reminds us that discrimination may not always be observable through tools that capture differences along obvious axes of discrimination such as race, gender or disabilities. Sometimes hidden and multiple forms of discrimination can be observable when data are made available along fault lines in economic disadvantage. Data presented quintiles are especially helpful in this connection, and the most attention should go to those at the bottom.”¹⁵⁸

Disaggregated data is needed to measure treaty compliance¹⁵⁹ and some treaties clearly provide for disaggregated data such as Article 31 of the Convention on the Rights of Persons with Disabilities. The existence or lack of such disaggregated data at national level is an indicator of the will of the State to reach the marginalised groups and could be used to measure progress towards the education goal and targets. However, the collection of such data can be very complex and costly and States with limited resources may not be able to commit.

It is important to note that marginalised groups vary from one country to another and so disaggregated data should be adapted to the national context. This is why there are objections in using data disaggregated by grounds of discrimination to measure global targets because some of them are not comparable cross-nationally (e.g. racial, ethnic and religious minorities).¹⁶⁰ However, disaggregated data by sex, disability and income/wealth of deciles¹⁶¹ can be compared globally.

Also, it should be highlighted that the process of collecting such data can be challenging and must be done sensitively, in full compliance with human rights principles. Experts have reported “the very act of gathering and reporting on ethnic and racial data is itself discriminatory since it violates privacy norms and tends to reify culturally constructed categories”.¹⁶² Actually “it is considered unlawful in some countries to collect information based on race or ethnicity.”¹⁶³

D. Human rights indicators contribute to better accountability

As underlined in part I¹⁶⁴ human rights allow for remedies for the rights-holders when there are violations, holding the duty-bearers accountable. The UN Special Rapporteur on the right to education has emphasised that human rights indicators can support claims regarding violations of the right to education. He notes: “for claims based on systemic or collective discrimination,

¹⁵⁶ Targets 1 to 4.

¹⁵⁷ Target 4.5.

¹⁵⁸ Margaret Satterthwaite (2012), *supra* note 72, p. 18.

¹⁵⁹ Sital Kalentry, Jocelyn Getgen, Steven A. Koh (2009), *supra* note 133, p.47.

¹⁶⁰ See Margaret Satterthwaite (2012), *supra* note 72, p. 30.

¹⁶¹ Thomas Piketty points out that deciles are much more sensitive and useful. See for instance: Thomas Piketty (2014), *The Structure of inequality: labor income*, Lecture in Master PPD & APE, Paris School of Economics, Academic year 2013-2014, available at: <http://piketty.pse.ens.fr/files/PikettyEcolneg2013Lecture5.pdf>

¹⁶² See Margaret Satterthwaite (2012), *supra* note 72, p. 30.

¹⁶³ See Margaret Satterthwaite (2012), *supra* note 72, p. 30.

¹⁶⁴ See page 18.

indicators can show the inequality among groups, for example, dropout rates between girls and boys, indicating gender discrimination in education.¹⁶⁵

“Structural, process as well as outcome indicators are useful to determine what type of violation has occurred, and can enhance the justiciability of the right to education by providing evidence to judicial and quasi-judicial bodies of instances where States have violated their obligations in respect of education rights.”¹⁶⁶

E. Limitations of the focus on global comparability / quantitative data

Right to education indicators are relevant to measure the progress towards the realisation of the right to education but they may have some limitations in measuring progresses towards global targets.

1. Right to education indicators are more relevant when they apply at national level

Right to education indicators aim to measure both the enjoyment of the right to education (outcome indicators) and a State’s compliance with its related obligations (process and structural indicators) and may often be most relevant when they apply at national level rather than for global comparability. It has been emphasised that “indicators should be specifically tailored to the particular context and circumstances of the State party in question”.¹⁶⁷ “Applying a context-specific approach is superior to applying a universal approach when assessing human rights treaty compliance because it leads to a selection of indicators that is likely to be most appropriate for the situation of each particular State and most relevant to the treaty provisions in question.”¹⁶⁸

Katarina Tomasevski also noted: “applying the same standard of performance to all countries as if all has identical infrastructures, institutions and resources is not only unfair... but also disregards one of the main targets of international cooperation in the area of human rights, namely to promote human rights”.¹⁶⁹

In this context, universal indicators may be more suitable for measuring the degree of enjoyment of the right to education across countries rather than measuring States’ efforts to comply with their obligations.¹⁷⁰

¹⁶⁵ Kishore Singh (2013), *Report of the UN Special Rapporteur on the Right to Education – Justiciability of the right to education*, *supra* note 59, paragraph 72.

¹⁶⁶ Kishore Singh (2013), *supra* note 59, paragraph 73.

¹⁶⁷ Sital Kalentry, Jocelyn Getgen, Steven A. Koh (2009), *supra* note 133, p. 37.

¹⁶⁸ Sital Kalentry, Jocelyn Getgen, Steven A. Koh (2009), *supra* note 133, p. 43.

¹⁶⁹ Katarina Tomasevski (2001), *Indicators*, in Economic, Social and Cultural Rights: A textbook 532 in Asbjørn Eide, Catarina Krause and Allan Rosas eds., Brill Academic Publishers, available at: <http://web.abo.fi/instut/imr/publications/books/9041116133.htm>

¹⁷⁰ See Sital Kalentry, Jocelyn Getgen, Steven A. Koh (2009), *supra* note 133, p. 42.

2. Human rights indicators require qualitative data

“Educational indicators generally prioritise the quantitative aspects of education, such as access and participation, to the detriment of qualitative dimensions. The right to education, in contrast, stresses both dimensions equally.”¹⁷¹

Quantitative data is not sufficient to efficiently monitor progress towards the achievement of education targets. For instance, “factors influencing learning achievement, and hence educational quality, cannot be identified through a quantitative indicator. Additional substantive research relying on other evaluation mechanisms, such as school and household surveys or questionnaires, case and field studies, or project reports prepared for ministries or donors, will here be indispensable.”¹⁷²

Qualitative data is difficult to compare cross-nationally, so “unfortunately it is still widespread practice to define accomplishment in education in terms of increased numbers of children enrolled in school”¹⁷³ which is easier to measure. In addition, “some qualitative educational components, human rights principles and values may not simply (or not adequately) be expressible in purely numerical terms.”¹⁷⁴

This explains why indicators to measure progress towards an education agenda are mainly quantitative. However, qualitative data provided by legislative provisions and national educational plans, surveys or case studies are indispensable for effective monitoring of the right to education

F. Requirements for applying right to education indicators to the post-2015 education agenda

As noted, right to education indicators are best applied at national level. To use them in the post-2015 education agenda, we must ensure they are globally comparable and available. This means that the number of right to education indicators that could be used to measure progress towards the global education targets is limited.

The Post-2015 Education Indicators Technical Advisory Group of the EFA Steering Committee itself recognises that “many indicators related to education outcomes [linked to the right to quality education], such as skills for work, might vary based on the country, cultural context or other factors” which poses “challenges for global tracking, as the most effective measures may not be the same in all places”.¹⁷⁵

¹⁷¹ Katrien Beeckman (2004), *supra* note 139, p. 72.

¹⁷² Katrien Beeckman (2004), *supra* note 139, p. 74.

¹⁷³ Katrien Beeckman (2004), *supra* note 139, p. 73.

¹⁷⁴ Katrien Beeckman (2004), *supra* note 139, p. 71.

¹⁷⁵ Post-2015 Education Indicators Technical Advisory Group of the EFA Steering Committee (November 2014), *Towards indicators for a post-2015 education framework*, *supra* note 44, p. 6.

The limitation of number of indicators can be an issue because it only reveals part of a country's educational picture.¹⁷⁶ For instance, as already emphasised, indicators on numeracy and literacy skills – easier to measure globally – are not enough to measure progress towards quality education from a human rights perspective which includes wider learning outcomes.

It is important to remember that “exclusive focus on ‘measurable’ targets distorts agenda, and can divert policy attention from pressing human rights and human development concerns, which require legal, political and institutional changes that are not well suited to quantifiable measurement.”¹⁷⁷ In addition, “Indicators stop short at explaining the reason behind the figures, knowledge of which is indispensable if educational or human rights problems are to be successful tackled.”¹⁷⁸

Conscious of these restrictions, and taking into account the standards required for the indicators for post-2015 to “ensure technical strength, feasibility, frequency of reporting, cross-national comparability and availability over time”¹⁷⁹, we would like to suggest specific right to education indicators to measure the post-2015 education targets as proposed.

VI. Specific suggestions to apply right to education indicators to the post-2015 education agenda

The Right to Education Project, among others¹⁸⁰, has been developing a set of right to education indicators rooted in international law.¹⁸¹ Based on its expertise it would like to propose right to education indicators to be applied to the post-2015 education agenda.

For each target, we suggest applying right to education indicators measuring both the enjoyment of the right and States' compliance with their obligations. A number of right to education indicators could be proposed for each target but as the current focus of discussions is on reducing the number of indicators overall we have prioritised a small selection of indicators. When possible¹⁸² we have suggested at least one outcome indicator and one structural or process indicator referring to the core content of the right to education and to States' obligations linked to the specific target. We

¹⁷⁶ Katrien Beeckman (2004), *supra* note 139, p. 73.

¹⁷⁷ Sakiko FukudaParr and Alicia Ely Yamin (2013), *The power of number: A Critical Review of MDG Targets for Human Development and Human Rights - Overview*, Harvard School of Public Health, Harvard University Center for Health & Human Rights and the New School, p.7, available at: <http://fxb.harvard.edu/wp-content/uploads/sites/5/2013/09/Overview-power-of-numbers.pdf>

¹⁷⁸ Katrien Beeckman (2004), *supra* note 139, p. 73.

¹⁷⁹ Post-2015 Education Indicators Technical Advisory Group of the EFA Steering Committee (November 2014), *Towards indicators for a post-2015 education framework*, *supra* note 44, p. 1.

¹⁸⁰ See UNESCO (2014), *The Right to Education – Law and Policies Review guidelines*, ED-2014/WS/18, UNESCO, available at: <http://unesdoc.unesco.org/images/0022/002284/228491e.pdf>; Audrey Chapman (2007), *Development of Indicators for Economic, Social and Cultural Rights: The Rights to Education, Participation in Cultural Life and Access to the Benefits of Science*, in HUMAN RIGHTS IN EDUCATION, SCIENCE AND CULTURE: LEGAL DEVELOPMENTS AND CHALLENGES, UNESCO, p. 111.

¹⁸¹ See the Right to Education Project Website: <http://www.right-to-education.org/page/monitoring-guide>

¹⁸² For some targets, it is difficult to measure the enjoyment of the right to education cross-nationally so we have only suggested structural or process indicators.

have chosen indicators that can be compared globally. We are conscious that this limited number of indicators prevents us from fully and efficiently monitoring the right to education.

Here, we would again like to reiterate that the prioritisation of indicators is important but must be done carefully because what is selected may have an influence on the orientation of future education policies.

For this exercise, we have followed the structure adopted by the Post-2015 Education Indicators Technical Advisory Group of the EFA Steering Committee (The TAG) in its reference document: *Towards indicators for a post-2015 education framework*. For each target, we have indicated what can be measured from a human rights perspective, suggested right to education indicators to be applied, indicated the available data and provided some comments, including on the challenges there may be in measuring such a target from a human rights perspective.

A. Early childhood

EFA SC Target 1: *By 2030, at least x% of girls and boys are ready for primary school through participation in quality early childhood care and education, including at least one year of free and compulsory pre-primary education, with particular attention to gender equality and the most marginalized.*

OWG Target 4.2: *By 2030, ensure that all girls and boys have access to quality early childhood development, care and pre-primary education so that they are ready for primary education*

1. What could be measured from a right to education perspective

- As developed in part I, pre-primary education does not constitute a right under international law. However, the *Moscow Framework for Action and Cooperation: Harnessing the Wealth of Nations* calls for the development of legal frameworks and enforcement mechanisms that are conducive to the implementation of the rights of children to early childhood care and education from birth. The States' obligation to adopt such a legal framework could be measured.
- Also equality between men and women in pre-primary education¹⁸³ should be measured according to Article 10 of the Convention for the Elimination of all Forms of Discrimination against Women. The enjoyment of pre-primary education by marginalised groups should be also measured.

2. Suggested right to education indicators

- Countries with a legal framework guaranteeing the rights of children to early childhood

¹⁸³ Equality in access to, in and through education.

care and education, including one year of free and compulsory pre-primary education (structural indicator)

- Percentage of teachers in pre-primary education who are trained (process indicator)
- Percentage of children attending at least one year of pre-primary education disaggregated by¹⁸⁴ sex, disability, rural/urban, income/wealth deciles¹⁸⁵ (outcome indicator)

3. Available data

States have to report regularly on the implementation of the right to education to UNESCO and to UN treaties bodies. As such they could be requested to use these to report on the existence / status of a national legal framework guaranteeing the right to early childhood care and education, including one year of free and compulsory pre-primary education. UNESCO Database on the Right to Education¹⁸⁶ provides available education laws, including laws and provisions related to early childhood care and education.

UNESCO Institute for Education (UIS) provides data on enrolment in pre-primary education, disaggregated by sex and on the percentage of teachers in pre-primary education.

4. Comments

There is no international legal obligation to adopt a legal framework guaranteeing the right of children to early childhood care and education, or an obligation to provide one year of free and compulsory pre-primary education.

There is only disaggregated data by sex. Other disaggregated data by other prohibited grounds of discrimination would be needed. The availability or not of such disaggregated data could be an indicator.

The existence of a legal framework is not enough to guarantee the full implementation in practice but allows for remedies through legal or quasi-judicial mechanisms when there are violations.

B. Primary and secondary education

EFA SC Target 2: *By 2030, all girls and boys complete free and compulsory quality basic education of at least 9 years and achieve relevant learning outcomes, with particular attention to gender*

¹⁸⁴ On the choice of disaggregated data, see *supra* Part IV. C: *Measuring equity, equality and non-discrimination in education : the need for disaggregated data*, p. 36.

¹⁸⁵ Thomas Piketty points out that deciles are much more sensitive and useful. See for instance: Thomas Piketty (2014), *supra note 161*.

¹⁸⁶ UNESCO Global Database on the Right to Education, available at:

<http://www.unesco.org/new/en/education/themes/leading-the-international-agenda/right-to-education/database/>

equality and the most marginalized.

OWG Target 4.1: *By 2030, ensure that all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and effective learning outcomes.*

1. What could be measured from a right to education perspective

- The enjoyment of free primary and secondary education of good quality without discrimination
- States' effort to comply with their obligation to provide free and compulsory primary education, or to ensure that a detailed plan is in place within two years of ratification of the treaty that set forth a specific timeline for fulfilment of the right as quickly as possible.
- States' effort to comply with their obligation to progressively provide free secondary education
- States' effort to comply with their obligation to guarantee primary and secondary education of good quality

2. Suggested right to education indicators

- Percentage of children enrolled in education disaggregated by sex, disability, rural/urban, income/wealth deciles (outcome indicator)
- Percentage of children that complete primary education disaggregated by sex, disability, rural/urban, income/wealth deciles (outcome indicator)
- Percentage of children enrolled in secondary education disaggregated by sex, disability, rural/urban, income/wealth deciles (outcome indicator)
- Percentage of children that complete secondary education disaggregated by sex, disability, rural/urban, income/wealth deciles (outcome indicator)
- Number of out-of-school children disaggregated by sex, disability, rural/urban, income/wealth deciles (outcome indicator)
- Countries with a legal framework guaranteeing 9 years of free and compulsory basic education
- Countries with a legal framework setting a minimum age for entering employment no less than the age at which compulsory education ends and no lower than fifteen (structural indicator)
- Countries with a legal framework setting minimum education standards (structural indicator)

3. Available data

- UIS provides the data for the outcome indicators, disaggregated by sex.
- States have to report regularly on the implementation of the right to education to UNESCO

and to UN treaties bodies¹⁸⁷, and are requested to report about the legal framework guaranteeing the right to free and compulsory education. UNESCO Database on the Right to Education provides available education laws, including laws, policies and provisions related to primary and secondary education.

4. Comments

It is most difficult to measure the enjoyment of quality education, particularly cross-nationally as it requires qualitative data. The TAG suggests pupil teacher ratio and the percentage of children who achieve minimum proficiency standards in reading and mathematics, which is very reductive. A wider structural or process indicator that addresses the breadth of learning is particularly important in this area.

The existence of a legal framework is not enough to guarantee the full implementation in practice but allows for remedies through legal or quasi-judicial mechanisms when there are violations.

C. Skills

EFA SC Target 4: *By 2030, at least x% of youth and y% of adults have the knowledge and skills for decent work and life through technical and vocational, upper secondary and tertiary education and training, with particular attention to gender equality and the most marginalised.*

OWG Target 4.3: *By 2030, ensure equal access for all women and men to affordable quality technical, vocational and tertiary education, including university*

OWG target 4.4: *By 2030, increase by x% the number of youth and adults who have relevant skills, including technical and vocational skills, for employment, decent jobs and entrepreneurship*

1. What could be measured from a human rights perspective

- The enjoyment of the right to upper secondary education and tertiary education without discrimination
- The enjoyment of the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training
- States' effort to comply with their obligation to take steps to ensure progressively free secondary and tertiary education, including technical and vocational education
- States' effort to comply with their obligation to ensure marginalised groups have access to secondary and tertiary education, including technical and vocational education

¹⁸⁷ Particularly to the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child.

2. Suggested right to education indicators

- Upper secondary education net enrolment rate disaggregated by sex, disability, rural/urban, income/wealth deciles (outcome indicator)
- Tertiary education net enrolment rate disaggregated by sex, disability, rural/urban, income/wealth deciles (outcome indicator)
- Percentage of young and adults receiving vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training, disaggregated by sex, disability, rural/urban, income/wealth deciles (outcome indicator)
- Countries with education policies providing grants at upper secondary and tertiary education, including technical and vocational education, for students from low income families (structural indicator)
- Countries with legal framework for technical and vocational education and training, including provisions to guarantee non-discrimination (structural indicators)

3. Available data

- UIS provides data for most of the outcomes indicators (disaggregated by sex)¹⁸⁸
- States have to report regularly on the implementation of the right to education to UNESCO and to UN treaties bodies, they are requested to inform about the measures taken to introduce free secondary and higher education as well as to implement technical and vocational education and training. UNESCO Database on the Right to Education provides available education laws and policies, which can inform about the existence of grants and legal framework for technical and vocational education and training.

4. Comments

Technical and vocational education is a type of education within secondary and tertiary education and there can be blurred boundaries in reporting. The growth or decrease of enrolment rate in this type of education cannot inform about the level of enjoyment.

The existence of a legal framework is not enough to guarantee the full implementation in practice but allows for remedies through legal or quasi-judicial mechanisms when there are violations.

D. Equity

EFA SC Target 1,2 and 4: ... with particular attention to gender equality and the most marginalised
EFA SC Target 3: ...with particular attention to girls and women and the most marginalised

¹⁸⁸ Excepted for the percentage of young and adults receiving vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training.

OWG Target 4.5: *By 2030, eliminate gender disparities in education and ensure equal access to all levels of education and vocational training for the vulnerable including persons with disabilities, indigenous peoples and children in vulnerable situations.*

1. What could be measured from a human rights perspective

- The enjoyment of the right to education without discrimination and with equal opportunities
- States' effort to comply with their obligation to ensure the right to education of everyone without discrimination and with equal opportunities (States' obligations to identify marginalised groups deprived of the right to education and to take the appropriate measures to guarantee address it)

2. Suggested right to education indicators

- Countries that collect credible and comprehensive disaggregated data by prohibited grounds of discrimination related to the enjoyment of the right to education (process indicator)
- Outcome indicators¹⁸⁹ for relevant target disaggregated by sex, disability, rural/urban, wealth/income deciles
- Countries with law and policies (that are implemented / resourced¹⁹⁰) to ensure the enjoyment of the right to education of marginalised groups without discrimination and with equal opportunities (structural indicator)

3. Available data

- UIS provides data for most outcome indicators, disaggregated by sex
- There may not be available data regarding countries collecting disaggregated data but States could be requested to provide such information, notably when reporting to UNESCO or to UN treaty bodies
- States have to report regularly on the implementation of the right to education to UNESCO and to UN treaties bodies and are requested to inform about the measures taken to ensure the enjoyment of the right to education of marginalised groups without discrimination and with equal opportunities. UNESCO Database on the Right to Education provides available education laws and policies, which can inform about the existence of such measures towards marginalised groups

4. Challenges/comments

Disaggregated data should be collected nationally according to the specific context. However

¹⁸⁹ See the suggestions made for the other targets.

¹⁹⁰ This is very important but may be difficult to measure globally.

disaggregated data on the ground of sex, disability, rural/urban and wealth quintiles should be globally comparable.

The existence of a legal framework is not enough to guarantee the full implementation in practice but allows for remedies through legal or quasi-judicial mechanisms when there are violations.

E. Literacy and numeracy

***EFA SC Target 3:** By 2030, all youth and at least x% of adults reach a proficiency level in literacy and numeracy sufficient to fully participate in society, with particular attention to girls and women and the most marginalized.*

***OWG Target 4.6:** By 2030, all youth and at least x% of adults, both men and women, achieve literacy and numeracy*

1. What could be measured from a human rights perspective

- The enjoyment of the right to fundamental education without discrimination
- States' effort to comply with their obligation to encourage or intensify literacy programmes on a basis of equality of men and women

2. Suggested right to education indicators

- Youth/adult literacy rate on a 3 or 5 point spectrum (e.g. no literacy / low / functional / good / excellent) disaggregated by sex, disability, rural/urban, wealth/income deciles (outcome indicators)
- Percentage of women and men participating in literacy programmes (outcome indicators)
- Countries with legal or policy framework guaranteeing fundamental education or promoting literacy programmes (structural indicator)
- Countries with assessment systems that accurately track progress on literacy and numeracy, alongside a broad range of other learning outcomes (process indicator).

3. Available data

- UIS provides youth/adult literacy rate disaggregated by sex
- States have to report regularly on the implementation of the right to education to UNESCO and to UN treaties bodies and are requested to inform about the measures taken to encourage or intensify literacy programmes. UNESCO Database on the Right to Education provides available education laws and policies, including laws and policies promoting fundamental education and literacy programmes.

4. Comments

Percentage of women and men participating in literacy programmes may not be available globally but it would be a good indicator.

F. Global citizenship and sustainability

EFA SC Target 5: *By 2030, all learners acquire knowledge, skills, values and attitudes to establish sustainable and peaceful societies, including through global citizenship education and education for sustainable development.*

OWG Target 4.7: *By 2030, ensure all learners acquire knowledge and skills needed to promote sustainable development, including among others through education for sustainable development and sustainable lifestyles, human rights, gender equality, promotion of culture of peace and non violence, global citizenship, and appreciation of cultural diversity and of culture's contribution to sustainable development*

1. What could be measured from a human rights perspective

- The enjoyment of the right to quality education - through the acquisition of knowledge, skills, values and attitudes to establish sustainable and peaceful societies, including through global citizenship education and education for sustainable development.
- States' efforts to comply with their obligation to ensure quality education – through the development of a curriculum aiming at teaching knowledge, skills, values and attitudes to establish sustainable and peaceful societies, including through global citizenship education and education for sustainable development.

2. Suggested right to education indicators

The enjoyment of the right to quality education is difficult to measure, particularly cross-nationally, this is the reason why we suggest to measure States' obligations using structural or process indicators. We suggest:

- Countries with curriculum aiming at teaching knowledge, skills, values and attitudes to establish sustainable and peaceful societies, including through global citizenship education and education for sustainable development (process indicator)
- Countries with national assessment systems that include tracking of representative qualitative data on the outcomes of education on citizenship and sustainable development (process indicator)

3. Available data

States have to report regularly to UNESCO on the implementation of the Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms and are requested to provide such information.¹⁹¹

4. Comments

The existence of such curriculum is not sufficient to guarantee in practice the acquisition of such knowledge, skills and values but it is a good indicator of the will of the State to achieve this target.

G. Means of implementation: school environment

OWG MOI Target 4.a: *Build and upgrade education facilities that are child, disability and gender sensitive and provide safe, non-violent, inclusive and effective learning environment for all*

1. What could be measured from a human rights perspective

- The enjoyment of the right to education in a safe and non-violent environment which is child, disability and gender sensitive
- States' efforts to comply with their obligation to ensure that education is delivered in a safe and non-violent environment which is child, disability and gender sensitive

2. Suggested right to education indicators

The enjoyment of the right to education in a safe and non-violent environment which is child, disability and gender sensitive may be difficult to measure cross-nationally, this is the reason why we suggest to measure States' obligations using structural or process indicators. We suggest:

- Countries with legal framework banning corporal punishment in school (structural indicator)
- Countries where there are mechanisms in place to complain for violence received in schools (structural indicator)
- Countries with legal framework defining the minimum norms and standards for a safe and non-violent environment (structural indicator)

¹⁹¹ See UNESCO (2012), *The Fifth Consultation of the implementation of the Recommendation concerning Education for International Understanding, Cooperation and Peace and Education relating to Human Rights and Fundamental Freedom (1974)*, CL/3997, UNESCO, available at: <http://unesdoc.unesco.org/images/0021/002174/217411e.pdf>

3. Available data

States have to report regularly on the implementation of the right to education to UNESCO and to UN treaties bodies, and could be requested to provide such information. UNESCO Database on the Right to Education provides available education laws, which could also provide such information.

4. Comments

The minimum norms and standards for a safe and non-violent environment would vary from country to country, so the cross-national comparison would not be accurate.

The existence of a legal framework is not enough to guarantee the full implementation in practice but allows for remedies through legal or quasi-judicial mechanisms when there are violations.

H. Means of implementation: scholarships

OWG MOI Target 4.b: *By 2020, expand by x% globally the number of scholarships for developing countries in particular Least Developed Countries (LDCs), Small Island Developing States (SIDS) and African countries to enrol in higher education, including vocational training, information and communication technology (ICT), technical, engineering and scientific programmes in developed countries and other developing countries*

This proposal is not appropriate from a human rights perspective because international human rights law does not include reference to such scholarships, so we would not suggest any indicators.

I. Means of implementation: teachers

EFA SC Target 6: *By 2030, all governments ensure that all learners are taught by qualified, professionally-trained, motivated and well-supported teachers.*

OWG MOI Target 4.c: *By 2030, increase by x% the supply of qualified teachers, including through international cooperation for teacher training in developing countries, especially Least Development Countries (LDCs) and Small Island Developing States (SIDS)*

1. What could be measured from a human rights perspective

States' efforts to comply with their obligation to guarantee the right to quality education ensuring teachers are well qualified, professionally trained, motivated and well supported.

2. Suggested right to education indicators

- Countries with legal framework regulating the status of teachers (structural indicator)

- Percentage of teachers qualified according to national standards (by level and category) (process indicator)
- Percentage of teachers trained according to national standards (by level and category) (process indicator)

3. Available data

- States have to report regularly on the implementation of the right to education to UNESCO and are requested to inform about the laws and policies that regulate the status of teachers.¹⁹²
- According to the TAG process indicators are available¹⁹³

4. Comments

The existence of a legal framework is not enough to guarantee the full implementation in practice but allows for remedies through legal or quasi-judicial mechanisms when there are violations.

J. Means of implementation: finance

EFA SC Target 7: By 2030, all countries allocate at least 4-6% of their Gross Domestic Product (GDP) or at least 15-20% of their public expenditure to education, prioritizing groups most in need; and strengthen financial cooperation for education, prioritizing countries most in need.

1. What could be measured from a human rights perspective

- States' efforts to comply with their obligations to use the maximum of their available resources to ensure the full enjoyment of the right to education.
- States' efforts to comply with their obligation related to international assistance and cooperation

2. Suggested right to education indicators

- Countries allocated at least 4-6% of the GNP to education
- Countries allocated at least 15-20% of their public expenditure to education
- Total Official Development Assistance (ODA) to education
- Total ODA to basic education

¹⁹² UNESCO (2011), *Revised draft guidelines for the preparation of reports by Member States on the application of the 1960 Convention and Recommendation against Discrimination in Education*, Document 186 EX/45, UNESCO, available at: <http://unesdoc.unesco.org/images/0019/001924/192435e.pdf>

¹⁹³ Post-2015 Education Indicators Technical Advisory Group of the EFA Steering Committee (November 2014), *Towards indicators for a post-2015 education framework*, *supra* note 44.

- Percentage of total ODA to education in low-income countries
- Percentage of total ODA to basic education in low-income countries

3. Available data

According to the TAG, these data are available.

4. Comments

The groups more in need will vary from country to another country and the share of the budget allocated to such groups will vary from country to country depending of the specific context.

K. Cross cutting indicators

The number of countries that have ratified international treaties guaranteeing the right to education could be an indicator showing the will of States to reach the goal committing to international human rights law and mechanisms.

L. Summary table

Targets	What to measure from a human rights perspective	Suggested indicators ¹⁹⁴		Available data	Comments
		Outcome	Structural or process		
Early childhood					
<p>EFA SC Target 1: <i>By 2030, at least x% of girls and boys are ready for primary school through participation in quality early childhood care and education, including at least one year of free and compulsory pre-primary education, with particular attention to gender equality and the most marginalized.</i></p> <p>OWG Target 4.2: <i>By 20130, ensure that all girls and boys have access to quality early childhood development, care and pre-primary education so that they are ready for primary education</i></p>	<ul style="list-style-type: none"> States' effort to adopt legal frameworks and enforcement mechanisms that are conducive to the implementation of the rights of children to early childhood care and education from birth. 		<ul style="list-style-type: none"> Countries with a legal framework guaranteeing the rights of children to early childhood care and education, including one year of free and compulsory pre-primary education (structural indicator) Percentage of teachers in pre-primary education who are trained (process indicator) 	<ul style="list-style-type: none"> States have to report regularly on the implementation of the right to education to UNESCO and to UN treaties bodies. As such they could be requested to use these to report on the existence / status of a national legal framework guaranteeing the right to early childhood care and education, including one year of free and compulsory pre-primary education. UNESCO Database on the Right to Education¹⁹⁵ provides available education laws, including laws and provisions related to early childhood care and education. UNESCO Institute for Education (UIS) provides data on the percentage of 	<ul style="list-style-type: none"> There is no international legal obligation to adopt a legal framework guaranteeing the rights of children to early childhood care and education, or an obligation to provide one year of free and compulsory pre-primary education. The existence of a legal framework is not enough to guarantee the full implementation in practice but allows for remedies through legal or quasi-judicial mechanisms when there are violations.

¹⁹⁴ A cross-cutting indicator could apply to all targets: the number of countries that have ratified international treaties guaranteeing the right to education showing the will of States to reach the goal committing to international human rights law and mechanisms.

¹⁹⁵ UNESCO Global Database on the Right to Education: <http://www.unesco.org/new/en/education/themes/leading-the-international-agenda/right-to-education/database/>

				teachers in pre-primary education.	
	<ul style="list-style-type: none"> • Equality between men and women in pre-primary education according to Article 10 of the Convention for the Elimination of all Forms of Discrimination against Women. • The enjoyment of pre-primary education by marginalised groups should be also measured 	Percentage of children attending at least one year of pre-primary education disaggregated by sex, disability, rural/urban, income/wealth deciles (outcome indicator)		UIS provides data on the enrolment in pre-primary education, disaggregated by sex.	There is only disaggregated data by sex. Other disaggregated data by other prohibited grounds of discrimination would be needed. The availability or not of such disaggregated data could be an indicator.
Primary and secondary education					
<p>EFA SC Target 2: By 2030, all girls and boys complete free and compulsory quality basic education of at least 9 years and achieve relevant learning outcomes, with particular attention to gender equality and the most marginalized.</p> <p>OWG Target 4.1: By 2030, ensure that all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and effective learning outcomes.</p>	<ul style="list-style-type: none"> • The enjoyment of free primary and secondary education of good quality without discrimination 	<ul style="list-style-type: none"> • Percentage of children enrolled in primary education disaggregated by sex, disability, rural/urban, income/wealth deciles (outcome indicator) • Percentage of children that complete primary education disaggregated by sex, disability, rural/urban, income/wealth deciles (outcome indicator) • Percentage of children that enrolled in secondary education disaggregated by sex, disability, rural/urban, income/wealth deciles (outcome indicator) • Percentage of children that 		UIS provides data for the outcomes indicators disaggregated by sex.	<ul style="list-style-type: none"> • It is most difficult to measure the enjoyment of quality education, particularly cross-nationally as it requires qualitative data. The TAG suggests pupil teacher ratio and the percentage of children who achieve minimum proficiency standards in reading and mathematics, which is very reductive. A wider structural or process indicator that addresses the breadth of learning is particularly important in this area.

		complete secondary education disaggregated by sex, disability, rural/urban, income/wealth deciles (outcome indicator)			
		<ul style="list-style-type: none"> • Number of out-of-school children disaggregated by sex, disability, rural/urban, income/wealth deciles (outcome indicator) 			
	<ul style="list-style-type: none"> • States' effort to comply with their obligation to provide free and compulsory primary education, or to ensure that a detailed plan is in place within two years of ratification of the treaty that set forth a specific timeline for fulfilment of the right as quickly as possible. • States' effort to comply with their obligation to progressively provide free secondary education 		<ul style="list-style-type: none"> • Countries with a legal framework guaranteeing 9 years of free and compulsory basic education, or having a detailed plan in place that sets forth a specific timeline for fulfilment of the right to free primary education – with indication of the number of countries having such plan (structural indicator) • Countries with a legal framework setting a minimum age for entering employment no less than the age at which compulsory education ends and no lower than fifteen (structural indicator) 	States have to report regularly on the implementation of the right to education to UNESCO and to UN treaties bodies, and are requested to report about the legal framework guaranteeing the right to free and compulsory education. UNESCO Database on the Right to Education provides available education laws, including laws, policies and provisions related to primary and secondary education.	<ul style="list-style-type: none"> • The existence of a legal framework is not enough to guarantee the full implementation in practice but allows for remedies through legal or quasi-judicial mechanisms when there are violations.
	<ul style="list-style-type: none"> • States' effort to comply 		Countries with a legal		

	with their obligation to guarantee primary and secondary education of good quality		framework setting minimum education standards (structural indicator)		
Skills					
<p><i>EFA SC Target 4: By 2030, at least x% of youth and y% of adults have the knowledge and skills for decent work and life through technical and vocational, upper secondary and tertiary education and training, with particular attention to gender equality and the most marginalised.</i></p> <p><i>OWG Target 4.3: By 2030, ensure equal access for all women and men to affordable quality technical, vocational and tertiary education, including university</i></p> <p><i>OWG target 4.4: By 2030, increase by x% the number of youth and adult who have relevant skills, including technical and vocational skills, for employment, decent jobs and</i></p>	<ul style="list-style-type: none"> • The enjoyment of the right to upper secondary education and tertiary education without discrimination • The enjoyment of the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training 	<ul style="list-style-type: none"> • Upper secondary education net enrolment rate disaggregated by sex, disability, rural/urban, income/wealth deciles (outcome indicator) • Tertiary education net enrolment rate disaggregated by sex, disability, rural/urban, income/wealth deciles (outcome indicator) • Percentage of young and adults receiving vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training, disaggregated by sex, disability, rural/urban, income/wealth deciles (outcome indicator) 		UIS provides data for most of the outcomes indicators (disaggregated by sex) ¹⁹⁶	Technical and vocational education is a type of education within secondary and tertiary education.

¹⁹⁶ Excepted for the percentage of young and adults receiving vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training.

<i>entrepreneurship</i>					
	<ul style="list-style-type: none"> States' effort to comply with their obligation to take steps to ensure progressively free secondary and tertiary education, including technical and vocational education 		Countries with education policies providing grants at upper secondary and tertiary education, including technical and vocational education, for students from low income families (structural indicator)	States have to report regularly on the implementation of the right to education to UNESCO and to UN treaties bodies, they are requested to inform about the measures taken to introduce free secondary and higher education as well as to implement technical and vocational education and training. UNESCO Database on the Right to Education provides available education laws and policies, which can inform about the existence of grants and legal framework for technical and vocational education and training.	The existence of a legal framework is not enough to guarantee the full implementation in practice but allows for remedies through legal or quasi-judicial mechanisms when there are violations.
	<ul style="list-style-type: none"> States' effort to comply with their obligation to ensure marginalised groups have access to secondary and tertiary education, including technical and vocational education 		Countries with legal framework for technical and vocational education and training, including provisions to guarantee non-discrimination (structural indicators)		
Equity					
<i>EFA SC Target 1,2 and 4: ... with particular attention to gender equality and the most marginalised</i>	The enjoyment of the right to education without discrimination and with equal opportunities	Outcome indicators for relevant target disaggregated by sex, disability, rural/urban, income/wealth deciles		UIS provides data for most outcome indicators, disaggregated by sex.	Disaggregated data should be collected nationally according to the specific context. However disaggregated data on the ground of sex, disability, rural/urban and wealth quintiles should be globally comparable.
<i>EFA SC Target 3: ...with particular attention to girls and women and the most marginalised</i>	States' effort to comply with their obligation to ensure the right to education of everyone without		<ul style="list-style-type: none"> Countries that collect credible and comprehensive disaggregated data by prohibited grounds of 	<ul style="list-style-type: none"> There may not be available data regarding countries collecting disaggregated data but 	

<p>OWG Target 4.5: <i>By 2030, eliminate gender disparities in education and ensure equal access to all levels of education and vocational training for the vulnerable including persons with disabilities, indigenous peoples and children in vulnerable situations.</i></p>	<p>discrimination and with equal opportunities (States' obligations to identify marginalised groups deprived of the right to education and to take the appropriate measures to guarantee address it)</p>		<p>discrimination related to the enjoyment of the right to education (process indicator)</p> <ul style="list-style-type: none"> • Countries with laws and policies (that are implemented / resourced¹⁹⁷) to ensure the enjoyment of the right to education of marginalised groups without discrimination and with equal opportunities (structural indicator) 	<p>States could be requested to provide such information, notably when reporting to UNESCO or to UN treaty bodies</p> <ul style="list-style-type: none"> • States have to report regularly on the implementation of the right to education to UNESCO and to UN treaties bodies and are requested to inform about the measures taken to ensure the enjoyment of the right to education of marginalised groups without discrimination and with equal opportunities. UNESCO Database on the Right to Education provides available education laws and policies, which can inform about the existence of such measures towards marginalised groups 	<ul style="list-style-type: none"> • The existence of a legal framework is not enough to guarantee the full implementation in practice but allows for remedies through legal or quasi-judicial mechanisms when there are violations.
Literacy and numeracy					
<p>EFA SC Target 3: <i>By 2030, all youth and at least x% of adults reach a proficiency level in literacy and numeracy sufficient to fully participate in society, with</i></p>	<p>The enjoyment of the right to fundamental education without discrimination</p>	<ul style="list-style-type: none"> • Youth/adult literacy rate on a 3 or 5 point spectrum (e.g. no literacy / low / functional / good / excellent) disaggregated by sex, disability, rural/urban, 		<p>UIS provides youth/adult literacy rate disaggregated by sex</p>	<p>Percentage of women and men participating in literacy programmes may not be available globally but it would be a good indicator.</p>

¹⁹⁷ This is very important but may be difficult to measure globally.

<p><i>particular attention to girls and women and the most marginalized.</i></p> <p>OWG Target 4.6: <i>By 2030, all youth and at least x% of adults, both men and women, achieve literacy and numeracy</i></p>		<p>income/wealth deciles (outcome indicators)</p> <ul style="list-style-type: none"> • Percentage of women and men participating in literacy programmes (outcome indicators) 			
	<p>States' effort to comply with their obligation to encourage or intensify literacy programmes on a basis of equality of men and women</p>		<ul style="list-style-type: none"> • Countries with legal or policy framework guaranteeing fundamental education or promoting literacy programmes (structural indicator) • Countries with assessment systems that accurately track progress on literacy and numeracy, alongside a broad range of other learning outcomes (process indicator). 	<p>States have to report regularly on the implementation of the right to education to UNESCO and to UN treaties bodies and are requested to inform about the measures taken to encourage or intensify literacy programmes. UNESCO Database on the Right to Education provides available education laws and policies, including laws and policies promoting fundamental education and literacy programmes.</p>	<p>The existence of a legal framework is not enough to guarantee the full implementation in practice but allows for remedies through legal or quasi-judicial mechanisms when there are violations.</p>
Global citizenship and sustainability					
<p>EFA SC Target 5: <i>By 2030, all learners acquire knowledge, skills, values and attitudes to establish sustainable and peaceful societies, including through global citizenship education and education for sustainable development.</i></p> <p>OWG Target 4.7: <i>By 2030,</i></p>	<p>The enjoyment of the right to quality education - through the acquisition of knowledge, skills, values and attitudes to establish sustainable and peaceful societies, including through global citizenship education and education for sustainable development.</p>				<p>The enjoyment of the right to quality education is difficult to measure, particularly cross-nationally, this is the reason why we suggest to measure States' obligations using structural or process indicators.</p>

<p><i>ensure all learners acquire knowledge and skills needed to promote sustainable development, including among others through education for sustainable development and sustainable lifestyles, human rights, gender equality, promotion of culture of peace and non violence, global citizenship, and appreciation of cultural diversity and of culture's contribution to sustainable development</i></p>					
	<p>States' efforts to comply with their obligation to ensure quality education – through the development of a curriculum aiming at teaching knowledge, skills, values and attitudes to establish sustainable and peaceful societies, including through global citizenship education and education for sustainable development.</p>		<ul style="list-style-type: none"> • Countries with curriculum aiming at teaching knowledge, skills, values and attitudes to establish sustainable and peaceful societies, including through global citizenship education and education for sustainable development (process indicator) • Countries with national assessment systems that include tracking of representative qualitative 	<p>States have to report regularly to UNESCO on the implementation of the Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms and are requested to provide such information¹⁹⁸.</p>	<p>The existence of such curriculum is not sufficient to guarantee in practice the acquisition of such knowledge, skills and values but it is a good indicator of the will of the State to achieve this target.</p>

¹⁹⁸ See UNESCO (2012), *The Fifth Consultation of the implementation of the Recommendation concerning Education for International Understanding, Cooperation and Peace and Education relating to Human Rights and Fundamental Freedom (1974)*, CL/3997, UNESCO, available at: <http://unesdoc.unesco.org/images/0021/002174/217411e.pdf>

			data on the outcomes of education on citizenship and sustainable development (process indicator)		
Means of implementation: school environment					
<i>OWG MOI Target 4.a: Build and upgrade education facilities that are child, disability and gender sensitive and provide safe, non-violent, inclusive and effective learning environment for all</i>	The enjoyment of the right to education in a safe and non-violent environment which is child, disability and gender sensitive				The enjoyment of the right to education in a safe and non-violent environment which is child, disability and gender sensitive may be difficult to measure cross-nationally, this is the reason why we suggest to measure States' obligations using structural or process indicators.
	States' efforts to comply with their obligation to ensure that education is delivered in a safe and non-violent environment which is child, disability and gender sensitive		<ul style="list-style-type: none"> • Countries with legal framework banning corporal punishment in school (structural indicator) • Countries where there are mechanisms in place to complain for violence received in schools (structural indicator) • Countries with legal framework defining the minimum norms and standards for a safe and non-violent environment (structural indicator) 	States have to report regularly on the implementation of the right to education to UNESCO and to UN treaties bodies, and could be requested to provide such information. UNESCO Database on the Right to Education provides available education laws, which could also provide such information.	<ul style="list-style-type: none"> • The minimum norms and standards for a safe and non-violent environment would vary from country to country, so the cross-national comparison would not be accurate. • The existence of a legal framework is not enough to guarantee the full implementation in practice but allows for remedies through legal or quasi-judicial mechanisms when there are violations.
Means of implementation: teachers					

<p>EFA SC Target 6: By 2030, all governments ensure that all learners are taught by qualified, professionally-trained, motivated and well-supported teachers.</p> <p>OWG MOI Target 4.c: By 2030, increase by x% the supply of qualified teachers, including through international cooperation for teacher training in developing countries, especially Least Development Countries (LDCs) and Small Island Developing States (SIDS)</p>	<p>States' efforts to comply with their obligation to guarantee the right to quality education ensuring teachers are well qualified, professionally-trained, motivated and well-supported teachers.</p>		<ul style="list-style-type: none"> • Countries with legal framework regulating the status of teachers (structural indicator) • Percentage of teachers qualified according to national standards (by level) (process indicator) • Percentage of teachers trained according to national standards (by level) (process indicator) 	<ul style="list-style-type: none"> • States have to report regularly on the implementation of the right to education to UNESCO and are requested to inform about the laws and policies that regulate the status of teachers.¹⁹⁹ • According to the TAG process indicators are available²⁰⁰ 	<p>The existence of a legal framework is not enough to guarantee the full implementation in practice but allows for remedies through legal or quasi-judicial mechanisms when there are violations.</p>
<p>Means of implementation: finance</p>					
<p>EFA SC Target 7: By 2030, all countries allocate at least 4-6% of their Gross Domestic Product (GDP) or at least 15-20% of their public expenditure to education, prioritizing groups most in need; and strengthen financial cooperation for education, prioritizing countries most in need.</p>	<p>States' efforts to comply with their obligations to use the maximum of their available resources to ensure the full enjoyment of the right to education.</p> <p>States' efforts to comply with their obligation related to international assistance and cooperation</p>		<ul style="list-style-type: none"> • Countries allocated at least 4-6% of the GDP to education • Countries allocated at least 15-20% of their public expenditure to education • Total Official Development Assistance (ODA) to education 	<p>According to the TAG, these data are available.</p>	<p>The groups more in need will vary from country to another country and the share of the budget allocated to such groups will vary from country to country depending of the specific context.</p>

¹⁹⁹ UNESCO (2011), *Revised draft guidelines for the preparation of reports by Member States on the application of the 1960 Convention and Recommendation against Discrimination in Education*, Document 186 EX/45, UNESCO: <http://unesdoc.unesco.org/images/0019/001924/192435e.pdf>

²⁰⁰ Post-2015 Education Indicators Technical Advisory Group of the EFA Steering Committee (November 2014), *Towards indicators for a post-2015 education framework*, supra note 44.

			<ul style="list-style-type: none">• Total ODA to basic education• Percentage of total ODA to education in low-income countries• Percentage of total ODA to basic education in low-income countries		
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