

**The Significance of the Right to Secondary Education for Ensuring
Equality in South Asia: A Comparative Study of India, Pakistan, and
Bangladesh.**

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ABSTRACT

The thesis explores the right to secondary education in South Asia, specifically focusing on India, Bangladesh, and Pakistan. Recognizing secondary education as a fundamental human right is essential for broader socio-economic development, therefore, the study examines the existing legal and political frameworks and the region's compliance with international human rights treaties. Despite commitments to universal education, significant challenges such as high dropout rates, large numbers of out-of-school children, and systemic inequalities persist. The analysis through the 4A framework to education highlights socio-economic, gender, and cultural barriers contributing to these issues and assesses the impact of privatization on educational access and quality. Using a socio-legal approach, the research integrates doctrinal legal analysis with empirical data to identify factors influencing dropout rates and to evaluate the effectiveness of policy interventions and international treaties' recommendations and obligations. Recommendations include constitutional reforms, increased public funding, equitable policy measures, and enhanced accountability to improve secondary education access and completion rates, thereby advancing human rights and development in the region.

Keywords: secondary education, privatization, sustainable development goals, India, Pakistan, Bangladesh, out-of-school children, availability, accessibility, acceptability, adaptability.

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LIST OF ABBREVIATIONS

- CEDAW - Convention on the Elimination of All Forms of Discrimination against Women
- CERD - International Convention on the Elimination of All Forms of Racial Discrimination
- CRPD - Convention on the Rights of Persons with Disabilities
- CRC - Convention on the Rights of the Child
- GER – Gross Enrolment Ratio
- GPI – Gender Parity Index
- ICESCR - International Covenant on Economic, Social, and Cultural Rights
- ICCPR – International Covenant on Civil and Political Rights
- IDP - Internally displaced person
- NEP – National Education Policy
- OOSC – Out of school children
- PIL – Public Interest Litigation
- RTE - Right of Children to Free and Compulsory Education Act
- SDG – Sustainable Development Goal
- TVE – Technical and Vocational Education
- TVET - Technical and Vocational Education and Training
- UDHR - Universal Declaration of Human Rights

INTRODUCTION

The right to education is a fundamental human right protected by major international agreements such as the Universal Declaration of Human Rights and the International Covenant on Economic, Social, and Cultural Rights. This fundamental right is further defined by specialized conventions such as the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, and the Convention on the Rights of Persons with Disabilities. While the establishment of the right to education began with the UDHR, its comprehensive implementation, particularly beyond primary education, remains an ongoing challenge.

Secondary education, although critical for individual development and societal progress, is not universally recognized as compulsory and free in the international human rights framework and is subject to progressive realization. This gap is particularly pronounced in South Asia, specifically in India, Bangladesh, and Pakistan, where achieving universal secondary education is impeded by various legal, socio-economic, and cultural barriers. These challenges are examined through the 4A Framework: Availability, Accessibility, Acceptability, and Adaptability, providing a structured lens to analyze the factors affecting educational access.

In contemporary context, SDG 4 underscores the importance of secondary education, aiming for inclusive and equitable quality education by 2030. Despite this, only 58% of children worldwide completed upper secondary education by 2021. In South Asia, socioeconomic status, gender, disability and ethnicity-based discrimination result in high dropout rates and numerous out-of-school children. India, Bangladesh, and Pakistan face some of the lowest secondary education completion rates, impeding SDG 4 attainment and poverty reduction. Although primary education is free and compulsory since 2009-2010 educational reforms, secondary

education remains hindered by limited public funding and reliance on private education, perpetuating inequality.

The main goal of this research is to analyze the key legal, socio-economic, and cultural factors that hinder the realization of the right to secondary education in India, Bangladesh, and Pakistan through the 4A Framework elaborated in General Comment No.13 and evaluate how these barriers can be effectively addressed. The study explores the extent to which international human rights obligations and national policies align with the principles of the 4A framework and the effects of privatization and socio-economic inequalities on educational quality and access.

The study employs a socio-legal methodology, combining doctrinal legal analysis with qualitative and quantitative research. The legal analysis involves examining international treaties and national legislation to assess their alignment with the right to education. One of the primary strengths of the socio-legal approach in this case lies in its interdisciplinary nature. The integration of legal analysis of the key doctrines with qualitative and quantitative research methods ensures a comprehensive understanding of the lack of realization of the right to secondary education.

1. THEORETICAL FRAMEWORK OF THE RIGHT TO EDUCATION.

1.1 The right to education as a fundamental human right.

There exists a global consensus regarding the paramount importance of the right to education. While a century ago, attending school was a distant dream for many children worldwide, today, education is recognized as a fundamental human right. This shift reflects profound changes in international norms and the universal acknowledgment of education's critical role in personal and societal development.

The foundation of the right to education has deep historical roots and is enshrined in numerous international treaties and declarations. Article 26 of the Universal Declaration of Human Rights (UDHR), adopted in 1948 and signed by 192-member states, unequivocally declares, "Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available, and higher education shall be equally accessible to all on the basis of merit." This declaration emphasizes the progressive stages of education, from compulsory elementary education to equitable access to higher education based on merit.¹ Nevertheless, the interpretation and application of these stages can diverge significantly among nations, leading to potential discrepancies within the educational framework.

Initially, during its development, there was a bifurcation in the recognition of rights, with economic, social, and cultural rights did not accord the same status as civil and political rights, which led to the adoption of the ICCPR and ICESCR in 1966. This distinction was due to the different justiciability of both categories of rights at the time of the adoption of these Covenants.

¹ Universal Declaration on Human Rights, G.A. Res. 217A (III), U.N. GAOR, 3rd Sess., pt. 1, at 71, U.N. Doc. A/810 (Dec. 10, 1948), <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

ESCR were seen as imposing positive obligations, while CPR involved negative obligations and considered immediately enforceable. Over time, both types of rights came to be understood as entailing both positive and negative obligations. The right to education as a positive right requires actions from the state such as school institutions, teachers, textbooks and facilities, and subsequently is subject to progressive realization. However, it also comprises components that are immediately realizable, such as non-discrimination and non-interference in parental choice.²

The right to education because of the development of human rights is considered fundamental and held by all individuals. However, the effective access to upper stages of education is frequently contingent upon one's educational level, which typically pertains to primary education.

If we imagine a just society in which we all want to live, equal access to quality education is one of its essential elements. Education is not just about acquiring knowledge; it is an empowering right that enables individuals to make informed decisions about their lives and their future. Without access to education, people may lack the empowerment necessary to make these decisions, thereby being deprived of dignity. However, there are debates about what level of education should be reached to realize this right and provide a dignified life. Globally, there is a consensus about the significance of primary education, which is enshrined in the UDHR and most international conventions. Primary education is seen as the foundation, ensuring that every individual has the basic skills of literacy and numeracy, which are essential for everyday functioning and further learning.³

² "Accountability from a human rights perspective: The incorporation and enforcement of the right to education in the domestic legal order," 2017/8, Global Education Monitoring Report, ED/GEMR/MRT/2017/P1/2, p. 31.

³ UNICEF, "Primary education," last modified June 2022, accessed 02.06.2024, <https://data.unicef.org/topic/education/primary-education/#status>.

The situation differs when it comes to secondary and higher education, and this often depends on regional, historical, and cultural contexts. In some regions, secondary education is considered crucial for providing individuals with advanced skills and knowledge, preparing them for the workforce or higher education. Conversely, in other regions, secondary education may not be as accessible or prioritized. For instance, in countries like India and Bangladesh, secondary education is neither compulsory nor free.

The most recent development to the right to education is expressed in the 4th Sustainable Development Goal and the current sustainable development agenda in its Goal 4.1 explicitly mentions that by 2030 it is necessary to “ensure that all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and effective learning outcomes.”⁴ It underscores the necessity of completion of secondary education, which is not a predominant narrative in most of the international treaties. The idea to include universal secondary education comes from the concept of lifelong learning opportunities. While the concept of lifelong learning itself is subject to different interpretations, the main idea is that unlike conventional stages of education, learning encompasses all forms of learning experiences, whether formal, informal and non-formal.⁵ Secondary education from this perspective can be considered as a crucial transition from the primary to higher level of education, without which it is impossible to achieve the full learning potential.

⁴ United Nations. "Goal 4: Quality Education." Sustainable Development Goals, accessed March 28, 2024. https://sdgs.un.org/goals/goal4#targets_and_indicators.

⁵ C.N. Power and R. Maclean, "Lifelong Learning: Meaning, Challenges, and Opportunities," in *Skills Development for Inclusive and Sustainable Growth in Developing Asia-Pacific*, Springer, 2013, https://doi.org/10.1007/978-94-007-5937-4_2, p. 30-31

As lifelong learning encompasses the understanding that learning should not be limited to a certain age, this leads to a double-sided effect. On the one hand a person doesn't stop learning after finishing school or university, but on the other hand it provides opportunities for individuals to return to education at any stage in their lives. This can include completing secondary education or earning equivalent qualifications even after reaching the standard age of enrollment.⁶

While the SDGs are often characterized as "soft law" instruments due to their reliance on voluntary compliance and the absence of robust enforcement and accountability mechanisms, it can be debated whether the SDGs are part of international law or belong to political normativity.⁷ One of the key strengths of the SDGs lies in their intersectional approach, which recognizes the interconnectedness of various social, economic, and environmental issues.⁸ The SDGs offer a holistic framework that emphasizes the interdependence of different development goals by recognizing that progress in one area, such as poverty eradication, is intricately linked to advancements in other areas, including human rights.

Understanding the right to education requires a thorough examination of its definitions and implications, particularly as they pertain to modern educational needs, which have significantly changed since 1948. The focus on secondary education is especially crucial, as it plays a pivotal role in shaping individuals' and societal future.

⁶ Morgane Dumollard, "Empowering Adults: Going Back to School for Lifelong Learning," EHL Hospitality Insights, February 26, 2024, <https://hospitalityinsights.ehl.edu/empowering-adults-going-back-to-school-for-lifelong-learning>

⁷ ActionAid International, Right to Education Initiative, "Accountability from a human rights perspective: the incorporation and enforcement of the right to education in the domestic legal order," page 3, ED/GEMR/MRT/2017/P1/2 REV.2, <https://unesdoc.unesco.org/ark:/48223/pf0000259560>.

⁸ LaMondre Pough and Nabil Eid for Ruh Global IMPACT, "Intersectionality of Sustainability and Disability," January 25, 2021, <https://www.ruhglobal.com/intersectionality-of-sustainability-and-disability/>

1.1.1 Progressive realization

Nowadays, every state in the world has signed at least one international treaty, which recognizes the right to education.⁹ When a state signs a certain treaty, it has some obligations derived from its provisions. In the context of the right to education, one of the most fundamental treaties is the ICESCR, according to which the states shall fulfill their minimum core obligations as it is stated in the General Comment No. 3.¹⁰

The minimum core approach was elaborated to guide states to subsequently achieve progressive realization of fundamental rights.¹¹ The General Comment No 13 confirmed that minimum core obligations include an obligation: to ensure the right of access to public educational institutions and programs on a non-discriminatory basis; to ensure that education conforms to the objectives set out in article 13 (1); to provide primary education for all in accordance with article 13 (2) (a); to adopt and implement a national educational strategy which includes provision for secondary, higher and fundamental education; and to ensure free choice of education without interference from the State or third parties.¹² It means that the other parts of Article 13, among which is secondary education, are subject to progressive realizations and depend on the states' available resources.

According to Article 2.1 of the ICESCR "Each State Party to the present Covenant undertakes to take steps...to the maximum of its available resources, with a view to achieving progressively

⁹ ActionAid International and Right to Education Initiative, "Accountability from a Human Rights Perspective, 7.

¹⁰ UN Economic and Social Council, General Comment No. 13: The Right to Education, E/C.12/1999/10, UN Committee on Economic, Social and Cultural Rights, 8 December 1999, <https://www.refworld.org/legal/general/cescr/1999/en/37937>

¹¹ Fisher, Angelina. "Minimum Core and the Right to Education," 2017. doi:10.1596/29142

¹² General Comment No. 13: The Right to Education

the full realization of the rights".¹³ This concession to socio-economic rights is stipulated by the understanding that these rights cannot be fully realized immediately and need time and resources allocation, without which the obligations taken by states cannot be complied. One of the primer elements of progressive realization is free secondary education and further technical and vocational training and higher education. The right to education often faces limits because of insufficient resources, as states, the main duty holders for fulfilling this right, may not always allocate adequate resources, further hindering its realization.¹⁴

According to the UNESCO Framework for Action for the Implementation of SDG 4, international and regional benchmarks are established for resource allocation in education. These benchmarks recommend dedicating a minimum of 4% to 6% of GDP or 15% to 20% of public expenditure to education, however, these targets are often not reached in the developing states.¹⁵ In India, Pakistan and Bangladesh, where low tax allocations result in a tax-to-GDP ratio¹⁶ of around 10%, funding for education frequently falls short of established targets and depends on household spending and not on state obligations.¹⁷

To provide a clarification and guidance to the international and national actors, CESCR elaborated the Limburg principles on the implementation of ICESCR, which states that when

¹³ International Covenant on Economic, Social and Cultural Rights, opened for signature December 16, 1966, 993 U.N.T.S. 3 (entered into force January 3, 1976), art. 2.1

¹⁴ Kundu, Rajendra Prasad, The Right to Education: Some Theoretical Issues (October 4, 2010). Contemporary Issues and Ideas in Social Sciences, January 2005, Available at SSRN: <https://ssrn.com/abstract=1687208>

¹⁵ UNESCO. "SDG4-Education 2030, Incheon Declaration (ID) and Framework for Action. For the Implementation of Sustainable Development Goal 4, ED-2016/WS/28" (Paris: UNESCO, 2016), p.67.

¹⁶ Tax revenue is a measure used to evaluate the level of taxation within an economy relative to its gross domestic product. Low ratio suggests either a small tax base, inefficient tax collection, or deliberate policies aimed at low taxation.

¹⁷ Global Education Monitoring Report Team et al. Global Education Monitoring Report 2022, South Asia: Non-State Actors in Education: Who Chooses? Who Loses? ISBN 978-92-3-100556-5, 2022. <https://unesdoc.unesco.org/ark:/48223/pf0000383550>, p.10

allocating available resources, due priority should be given to human rights, covered by the Covenant above other considerations.¹⁸ The idea here to give "due priority" to economic, social, and cultural rights implementation grants states significant discretion in resource allocation, posing challenges for international monitoring bodies, which try to make state allocate more budget funds for the rights covered by the treaties.¹⁹

To understand how states should implement the provision of progressive realization, the concept of "maximum available resources" requires further clarification. Progressive realization of the right to education entails resource mobilization, primarily considered a matter of economic policies. In the General Comment №24 CESCR provides a more recent development of the obligation to fulfill the ESCR, stating, "Discharging such duties may require the mobilization of resources by the State, including by enforcing progressive taxation schemes. It may require seeking business cooperation and support to implement the Covenant rights and comply with other human rights standards and principles".²⁰ While budget allocations constitute the primary resources, encompassing monetary assets, other essential resources include technological, administrative, human, natural, and organizational aspects.²¹ From this perspective, the right to education can also be viewed as a human resource. Therefore, investing in education as a means of resource mobilization can provide the necessary foundation for fulfilling other human rights, for example, the right to health.²² Education equips

¹⁸ Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights, Principle 28.

¹⁹ Dommen, Caroline, and Magdalena Sepúlveda. "The Obligation to Mobilise Resources: Bridging Human Rights, Sustainable Development Goals, and Economic and Fiscal Policies." International Bar Association's Human Rights Institute, 2017, p.39.

²⁰ CESCR, General Comment No 24 on State Obligations under the International Covenant on Economic, Social and Cultural Rights in the Context of Business Activities (2017) E/C.12/GC/24, para 23.

²¹ Dommen, C., Sepúlveda M. "The Obligation to Mobilise Resources".

²² Yasmine Sherif, "Education Is a Fundamental Human Right and the Priority of the 21st Century," Education Cannot Wait, last modified December 10, 2020, <https://www.educationcannotwait.org/news-stories/directors-corner/education-fundamental-human-right-and-the-priority-the-21st-century-0>.

individuals with the knowledge and skills necessary to pursue careers in healthcare, thereby contributing to the development of a well-trained medical workforce.

The obligation to mobilize resources for the realization of ESCR necessitates proactive measures from States to address declines in rights protection. This means that total lack of steps from the state can be considered a violation of the ESCR. The same applies to retrogressive measures, in case there is no reasonable justification and alternatives available. This requires a high level of scrutiny, for instance, with the urgency to mitigate impacts of climate change if a natural disaster devastates a region, it may necessitate temporary adjustments in allocations of resources. However, such measures should be strictly temporary and accompanied by clear plans for reinstating educational provisions once the emergency has been addressed.²³ One of recent crises, which affected the public spending on education was COVID-19 pandemic. The COVID-19 pandemic disrupted the positive trajectory of per capita public spending on education in low- and lower-middle-income countries, with minimal growth of 1% in low-income countries or even declines in spending of 4% in lower-middle income countries in 2020.²⁴

1.1.2 The role of education in the realization of human rights.

The right to education, especially secondary and higher education, is often challenging to immediately realize. However, ensuring access to quality education, including secondary education, is crucial as it serves as a foundation for individuals to exercise other human rights effectively. This role of education is underscored in General Comment No.13 of the CESCR:

²³ Dommen, C., and Sepúlveda M., "The Obligation to Mobilise Resources". p.37.

²⁴ Global Education Monitoring Report Team, World Bank, UNESCO Institute for Statistics, Education Finance Watch 2022, <https://doi.org/10.54676/MMGP8369>, <https://unesdoc.unesco.org/ark:/48223/pf0000381644>, p.11

“Education is both a human right in itself and an indispensable means of realizing other human rights. As an empowerment right, education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities.”²⁵

From an individual perspective, the right to education provides opportunities for the holistic development of personality, socialization, and both physical and mental capabilities. Education serves as a gateway to exploring the world around us and discovering our unique place within it, facilitating the cultivation of values, identity, and cultural norms.

Moreover, the right to education is considered a “multiplier right”, which means that it leads to reinforcement of other rights and increases the potential of their realization.²⁶ From a human rights perspective, education serves as a cornerstone for the exercise of both socio-economic as well as civil and political rights. Education plays a vital role in ensuring access to socio-economic opportunities, including employment, housing, and healthcare. At the same time access to quality education empowers individuals by equipping them with knowledge, critical thinking skills, and awareness of their rights and responsibilities as citizens, promoting their participation in political processes. Particularly in the context of secondary education, where advanced skills are honed, individuals are better prepared to engage in democratic processes, advocate for their rights, and hold governments accountable, therefore promoting voting rights, freedom of assembly, freedom of expression etc.²⁷

²⁵ UN Committee on Economic, Social and Cultural Rights, General Comment No. 13: The Right to Education (8 December 1999) E/C.12/1999/10 (General Comment No. 13).

²⁶ Murphy E et al. Right to Education Handbook. United Nations Educational, Scientific and Cultural Organization 2019, <https://unesdoc.unesco.org/ark:/48223/pf0000366556?posInSet=11&queryId=N-bcae0510-a577-400f-a25a-416432a4837f>, p.32

²⁷ Ibid., 33

The impact of education spreads not only to the individual rights, but it also strengthens “collective” voices. This empowerment is particularly significant for marginalized and impoverished communities, which often face systemic barriers to full participation in democratic processes as limited educational opportunities often result in a lack of awareness about the importance of voting and how to navigate the electoral system. The former UN Special on extreme poverty and human rights Philip Alston has acknowledged this impact of the right to education to the increased representation of the poor: “As a result, it is hardly surprising that the poor have lower turnout rates than other groups. One study concluded that ‘the relationships among income, education, and voter turnout are quite strong: the probability of a highly educated or wealthy individual casting a ballot is much, much higher than the probability of a less-educated or poorer individual casting a ballot.’”²⁸

Thus, ensuring universal access to quality education serves to safeguard and promote other essential rights crucial for the functioning of democratic societies.

This understanding lays a deep connection between the right to education and international development. UN Special Rapporteur on the Right to Education, Ms. Farida Shaheed, underscores the link between education and social mobility, stating, “Individuals and groups who are unable to enjoy the right to quality education and lifelong learning have fewer opportunities for social mobility and are thus less likely to transition out of poverty.”²⁹ This statement underscores the pivotal role of education in breaking the cycle of poverty and promoting social inclusion, becoming a catalyst for broader societal development and progress.

1.2 The Role of Secondary Education in Human Rights Realization.

²⁸ Bård A. Andreassen, *Research Handbook on the Politics of Human Rights Law*, Edward Elgar Publishing, 2023. <https://research.ebsco.com/linkprocessor/plink?id=79d84a1c-0ae0-3ede-a90f-05592c9342da>, p. 244

²⁹ Q&A with the UN Special Rapporteur on the Right to Education," UNESCO, December 8, 2023, <https://www.unesco.org/en/articles/qa-un-special-rapporteur-right-education>.

1.2.1 The right to secondary education as a fundamental human right.

Despite the recognition of education as a fundamental right, the precise framework defining this right remains ambiguous. Even in the UDHR and the CRC although the need for education to be compulsory is highlighted, it usually refers exclusively to primary education, leaving out secondary education. This idea is also contained in General Comment 13, which claims that while secondary education creates the ground for “lifelong learning” and “human development”, primary education remains the primary focus of states.³⁰ This conceptual gap results in a blind spot in the coverage of secondary education, which is often a vital precondition to higher education. However, it should not be disputed that the principle of progressive realization described in I.1.1. indicates that while states tend to prioritize providing free primary education, they also carry the obligation to take meaningful actions towards securing free access to secondary and higher education.³¹

There is no international treaty expressly requiring that secondary education be free and compulsory until completion, referring only to primary education with unspecified grade, which is left to the discretion of national authorities. This discrepancy presents a compelling contradiction: the ideal of universal opportunity for people to realize their full potential³² is coupled with the lack of compulsory secondary education, which is a prerequisite for many people seeking higher aspirations. Compulsory secondary education plays a significant role in providing individuals with the necessary skills, knowledge, and opportunities to pursue higher

³⁰ General Comment No. 13 para 14.

³¹ Grover, Sonja. 2004. “Secondary Education as a Universal Human Right.” *Education and the Law* 16 (1): 21–31. <https://research.ebsco.com/linkprocessor/plink?id=267333f4-831a-3f63-a117-bb8542b6a076>

³² UN Committee on the Rights of the Child (CRC), General comment No. 1 (2001), Article 29 (1), The aims of education, CRC/GC/2001/1, 17 April 2001, <https://www.refworld.org/legal/general/crc/2001/en/39221>

education. Moreover, in today's interconnected world, individuals without secondary education may struggle to compete effectively in the global marketplace, as employers often seek candidates with a diverse skill set, including strong educational backgrounds, to remain competitive in a rapidly evolving economy.³³

From this perspective, it is important to extend free and compulsory education till the completion of secondary education. Currently, there is a tendency to prolong compulsory schooling. Many developing countries like Pakistan, Vietnam, and Rwanda tend to mandate schooling until lower secondary education, typically until ages 15 or 16, while some countries, particularly in Europe such as Finland, Germany etc. have extended compulsory education until the completion of upper secondary education, usually until the age of 18.³⁴ Despite initial perceptions linking the lack of extension to financial constraints, this is not universally the case. In countries like the United States and Canada, compulsory education typically ends at lower secondary levels. Beyond this stage, students may opt for upper secondary education or vocational training, but attendance is not mandatory, granting autonomy to older teenagers to decide their educational path offers freedom of choice This pattern is also observed in post-Soviet states such as Russia, where compulsory education ends after the 9th grade.

However, it can be argued that the absence of a compulsory system contributes to higher dropout rates at the upper secondary level and impedes the continuation of studies. This disproportionately affects marginalized groups and communities, who often face pressures to

³³ Grover, Sonja. 2004. "Secondary Education as a Universal Human Right."

³⁴ "Finland: Compulsory education extended to upper secondary education, including VET," Cedefop - European Centre for the Development of Vocational Training, published April 14, 2021, <https://www.cedefop.europa.eu/en/news/finland-compulsory-education-extended-upper-secondary-education-including-vet>.

enter the workforce prematurely and lack the financial means to prepare for mandatory exams required after the end of secondary stage, which are prerequisites for graduation and therefore their choice to leave school can be influenced by external factors rather than their aspirations.³⁵ In the report “The State of the Right to Education Worldwide” from 2006 one of the main researchers and former Special Rapporteur on the right to education, Katarina Tomasevski, states that: “Education should be universalized to encompass all children. To ensure that this is so, education should also be compulsory. To be compulsory, it has to be free.” In her report, Tomasevski also emphasizes the crucial age until which education should be provided free of charge—the minimum age of employment, now universally acknowledged as 18 years old, corresponding to the completion of higher secondary education. This established standard for employment age aims to eradicate child labor, a prevalent issue in developing countries that often hinders children from continuing their education.³⁶ She also emphasizes that education should not merely serve as a tool for poverty reduction as true education should promote holistic development for individuals and societies. Personal development is closely linked to the core of education, which includes not only the acquisition of knowledge but also the development of an intellectual framework that forms an individual's identity and understanding of the world³⁷, essential for national identity and state-building. Compulsory education, therefore, ensures equal access to learning opportunities across socio-economic backgrounds,

³⁵ Grover, Sonja. 2004. “Secondary Education as a Universal Human Right.”

³⁶ Katarina Tomasevski, “The State of the Right to Education Worldwide: Free or Fee?” *Power, Pedagogy and Praxis* ISBN: 9789087904920, 2008. <https://research.ebsco.com/linkprocessor/plink?id=0a01b45b-c6be-3930-a697-2820a42ada14>, p xxv

³⁷ Jover, Gonzalo. 2001. “What Does the Right to Education Mean? A Look at an International Debate from Legal, Ethical, and Pedagogical Points of View.” *Studies in Philosophy & Education* 20 (3): 213–23. doi:10.1023/A:1010305416970.

with free education being pivotal in making compulsory education universally accessible and feasible.³⁸

1.2.2 Equality from the perspective of secondary education.

Nowadays the right to education is intertwined with equality and opportunity for all people to develop their potential, which is impossible without providing equal access to education. According to Kishore Singh, former Special Rapporteur on the right to education: “The promotion of equality of opportunity in education is of paramount importance for the full realization of the right to education, as attaining de facto equality of opportunity in education remains a permanent challenge for almost all countries in the world”.³⁹ The importance of education from the perspective of equality lies in addressing disparities among various groups, such as women, rural populations, urban poor, marginalized ethnic minorities, and children not attending school. A strong regulatory framework for both public and private education systems is essential for implementing programs and policies that promote equity and ensure the realization of this fundamental right and eradication of poverty and exclusion.⁴⁰

While the Article 13 of the ICESCR doesn’t explicitly mention non-discrimination, this clause is included in the Article 2, highlighting that the ESCRs, particularly the right to education, shall be exercised without “discrimination of any kind as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”.⁴¹ This

³⁸ *ibid*, p. xxii

³⁹ Singh, Kishore. 2014. “Right to Education and Equality of Educational Opportunities ” 國際教育協力論集 16 (2): p.9. <https://research.ebsco.com/linkprocessor/plink?id=40419a54-13ac-3bef-9b61-5950671f7d53>

⁴⁰ *ibid*, p.9

⁴¹ UN General Assembly, International Covenant on Economic, Social and Cultural Rights, United Nations, Treaty Series, p. 3, 16 December 1966, <https://www.refworld.org/legal/agreements/unga/1966/en/33423>

provision underscores the foundational principle that educational opportunities must be universally accessible and free from discriminatory barriers.

Expanding on the principles of equality in education, Article 13 of the ICESCR recognizes secondary education in “its different forms”, including technical and vocational education (TVE).⁴² According to General Comment No. 13 TVE is not only part of the right to education, which is considered here a part of all levels of education, but also of a right to work (Article 6.2 of ICESCR). Although TVE aims to provide opportunities for marginalized groups such as women, girls, out-of-school youth, unemployed youth, and migrants, it is often perceived as less prestigious than academic education. This perception treats TVE as a path for struggling students, diminishing its potential to impact poverty eradication. For example, participants of the forum UNESCO-UNEVOC TVeT, organized in 2018 reported that “It is for those who are less educated and competent, for those who failed at school or with a profile associated with migrant communities (i.e. the Netherlands), or for ‘lower castes’ (i.e. India) as expressed by participants from those countries”.⁴³

Considering disparities within secondary education, it is important to distinguish between secondary and higher education in terms of equality and accessibility. Article 13 states that secondary education should be “accessible to all by every appropriate means,” meaning it must be open to everyone regardless of merit or ability.⁴⁴ In contrast, higher education should be “equally accessible to all, on the basis of capacity,” implying access is determined by merit. This approach can exclude students with lower capacity, introducing inequality.⁴⁵ The

⁴² General Comment No. 13, para 12.

⁴³ Stephen Billett. Virtual Conference Report on Improving the Image of TVET. UNESCO-UNEVOC TVeT Forum, July 16-24, 2018, <http://creativecommons.org/licenses/by-sa/3.0/igo/>, p. 8

⁴⁴ General Comment No. 13, para 13.

⁴⁵ UN General Assembly, International Covenant on Economic, Social and Cultural Rights, United Nations, Treaty Series, vol. 993, p. 3, 16 December 1966, <https://www.refworld.org/legal/agreements/unga/1966/en/33423>

emphasis on secondary education accessibility means it should not involve screening procedures for admission. Therefore, recognizing the significance of equality in accessing secondary education and its role in advancing equity, it is imperative to address disparities that persist within the secondary education system. These inequities can stem from systemic issues and from negative perceptions surrounding alternative forms of secondary education.

1.2.3 Addressing Implementation Challenges of the Right to Secondary Education through the 4A Framework.

A fundamental theoretical framework influencing the understanding of the right to education is delineated in General Comment 13, offering interpretation to the Article 13 of the ICESCR. A notable advancement articulated within GC 13 is the integration of the 4A framework, originally conceptualized by Katarina Tomasevski and used for assessing progress in the implementation of the right to education. The framework's four dimensions— availability, accessibility, acceptability, and adaptability—all play crucial roles in determining whether this fundamental right is realized. Without assuring all these elements are at least partly fulfilled, meaningful progress in defending the right to education remains elusive.⁴⁶

Availability ensures that education is freely available for all students at the level of secondary education. This includes that states provide public institutions in a quantity that can accommodate all children, particularly from marginalized communities.⁴⁷ When public schools are non-existent or overcrowded, children from the disadvantaged groups often have no option but to turn to private institutions, which may not be affordable for many families, raising questions about resource allocation. This situation creates a disparity in academic performance

⁴⁶ General Comment No. 13, Article 13(2)

⁴⁷ Veriava, Faranaaz, and Kate Paterson. "Chapter 7: The right to education". In *Research Handbook on Economic, Social and Cultural Rights as Human Rights*, accessed Jun 17, 2024, <https://doi.org/10.4337/9781788974172.00015>, p.115.

between public and private schools, with the latter often providing better facilities and more qualified teachers due to their ability to offer higher salaries and better working conditions. Addressing these disparities is essential for promoting social equity and justice. The other important element of availability according to the GC 13 includes functional physical infrastructure, such as classrooms, libraries, sanitation facilities, safe drinking water and electricity as well as laboratories, educational materials, and technological resources.⁴⁸

Accessibility refers to the ability of all individuals to access the available educational opportunities without discrimination. According to General Comment 13, accessibility consists of three components: non-discrimination, physical accessibility, and economic accessibility. Non-discrimination requires immediate, rather than progressive realization, as highlighted by Katarina Tomaševski as it is a part of negative obligations.⁴⁹ Nevertheless, there is still necessity for states to take positive actions to combat discrimination such as reduce dropout rates by girls. This approach is underscored in GC 13, as it outlines the obligations of States parties to respect, protect and fulfill the right to education. For instance, States must not close private schools (respecting availability), prevent third parties from obstructing access to education through child labor (protecting accessibility), and ensure culturally appropriate education for minorities (fulfilling acceptability).⁵⁰ Physical accessibility refers to the ability of children to access available educational institutions, as education should be rather geographically accessible, in a neighborhood, or there should be access to distance learning programs.⁵¹ Economic accessibility – in relation to secondary education means it shall be made progressively free “by every appropriate means”. This refers not only to tuition fees, as

⁴⁸ General Comment No. 13 [6(a)]

⁴⁹ Tomaševski, Katarina. "Human rights obligations: making education available, accessible, acceptable and adaptable".(2001, Right to education primers no. 3). <https://dspace.ceid.org.tr/xmlui/handle/1/84>, p.27

⁵⁰ General Comment No. 13, para 50.

⁵¹ Veriava and Paterson, *Research Handbook on Economic, Social and Cultural Rights*, p. 127.

education can involve indirect costs such as transportation, school uniforms, textbooks, and supplies.

Acceptability refers to the substance of education, which corresponds to the standards of curricula and teaching methods. Article 13.3 of ICESCR protects the rights of parents “to ensure the religious and moral education of their children in conformity with their own convictions”.⁵² The important factor, which can preclude children from education or continuing learning is the choice of official language of instruction. It is important to provide opportunities to study in minority or indigenous languages to facilitate students’ experience and results.⁵³

Adaptability is the opportunity of education to be child-centric to the specific needs of students and communities. It emphasizes the importance of educational systems being dynamic enough to accommodate diverse learning environments, contexts, and learners with varying abilities and backgrounds. One of the most directions of this dimension refers to children with disabilities, as it requires affirmative action to adapt to the needs of children and provide reasonable accommodation, which can include ramps, elevators, wheelchair-accessible desks, and other assistive technologies to facilitate their participation in learning activities, etc.⁵⁴ Moreover, adaptability can refer to children who have to leave their home or suffer the effects of climate change, which is especially relevant in South Asia, vulnerable to climate change impact.⁵⁵

⁵² ICESCR, Article 13.3.

⁵³ Tomaševski K., Human rights obligations, p.30

⁵⁴ Mejeh, M., Rehm, M. Taking adaptive learning in educational settings to the next level: leveraging natural language processing for improved personalization. *Education Tech Research Dev* (2024). <https://doi.org/10.1007/s11423-024-10345-1>

⁵⁵ Tomaševski K., Human rights obligations, p. 34

In the Chapter III the 4A framework will be applied to comparative analysis of the state of secondary education in India, Bangladesh, and Pakistan.

2. LEGAL AND POLITICAL FRAMEWORK IN INDIA, PAKISTAN AND BANGLADESH.

2.1 International human rights framework for the right to secondary education in India, Bangladesh, and Pakistan.

Katarina Tomaševski claims that one of the most significant explanations for failures on a collective scale is the reluctance or avoidance of engaging with the law. The law inherently establishes a balance between individual rights and the corresponding responsibilities of governments. By sidestepping or neglecting to address legal frameworks, there is a failure to ensure accountability and uphold the rights of individuals in relation to governmental duties.⁵⁶ Therefore, it is important to discuss the role of legal systems in establishing and maintaining a fair and equitable society. For many states, international human rights law served as an aspiration for national law and policy development.

The variation in the realization of the right to education among the states is influenced by a variety of factors, including historical, economic, and cultural contexts. Despite the differences and specific contextual challenges, there is a notable progress achieved by all three states of the current research during the post-independence period. While India, Pakistan, and Bangladesh have each ratified major international treaties, such as ICESCR, CRC, CEDAW, CERD, CRPD, there are several reservations to the above-mentioned conventions, which I will discuss further as they provide insights into the limits of the right realization and promotion.

⁵⁶ Katarina Tomasevski, "The State of the Right to Education Worldwide: Free or Fee?",p.XX

2.1.1 Ratification and reservation to the International Human rights treaties.

International Covenant on Economic, Social and Cultural Rights.

India ratified the ICESCR in 1979 without reservations to Article 13, which guarantees the right to education, but reserved the application of national law to foreigners, potentially impacting migrants' and refugees' access to education.

While Pakistan ratified the ICESCR in 2008, it made a reservation regarding the realization of rights in the Covenant. The reservation states that Pakistan “shall use all appropriate means to the maximum of its available resources.” Critics argue that this reservation, along with Pakistan's late ratification and reservations to the International Bill of Rights, undermines the goals of the Covenants by citing economic constraints and referring to domestic law, particularly in combination with the concerning ICCPR reservation to Article 3 on equal treatment of men and women, which can lead to the gender gap in education.⁵⁷ Similarly, Bangladesh ratified the ICESCR in 1998, reserving Article 13 to realize the right to education progressively based on economic conditions and national development plans.⁵⁸

Convention on the Rights of the Child.

India, Pakistan, and Bangladesh all ratified the CRC. Pakistan later withdrew its reservations to the Convention, whereas Bangladesh maintained a reservation to Article 14.1 concerning freedom of thought, conscience, and religion, citing compatibility issues with Sharia laws that

⁵⁷ Fazal Afridi, "Can Pakistan Implement The International Bill Of Human Rights?" Radio Mashaal, Radio Free Europe/Radio Liberty, accessed April 27, 2024, https://www.rferl.org/a/gandhara_international_bill_of_rights_afриди/2244846.html

⁵⁸ United Nations Treaty Collection. "International Covenant on Economic, Social and Cultural Rights." Treaties.UN.org, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&clang=en

restrict children from practicing their beliefs, which can be explained by the important role of Madrasas in the state's educational system.⁵⁹

India ratified the CRC in 1989 but declared that its laws can only be "progressively implemented" due to resource constraints, contradicting efforts to eliminate severe challenges faced by children, such as, child labor.⁶⁰ Despite India's economic growth and progress achieved in children's rights protection, it has not reviewed this reservation on Article 32.

Convention on the Elimination of All Forms of Discrimination against Women.

CEDAW encounters numerous reservations, primarily due to cultural and traditional considerations related to gender equality and customary laws, impacting educational gender gaps and quality issues in enrollment and completion rates between boys and girls.

Upon ratifying CEDAW, the Government of India issued declarations and reservations affirming its commitment to articles 5(a) and 16(1) but emphasized respecting community autonomy and non-interference in personal affairs without consent, despite concerns regarding practices like child marriages.⁶¹

In Pakistan and Bangladesh, conflicts often arise between religious laws and women's rights, leading to reservations about CEDAW's compatibility with Islamic principles. Bangladesh, despite ratifying CEDAW, maintains reservations on Articles 2 and 16.1(c), which pertain to

⁵⁹ International Commission of Jurists. "Reservations to the Convention on the Rights of the Child: A Look at the Reservations of Asian State Parties." October 1994/ <https://www.icj.org/wp-content/uploads/2013/10/Asia-Convention-Rights-of-the-Child-non-legal-submission-1994-eng.pdf>

⁶⁰ Turn the Bus. "Education Against Child Labour in India." Published on October 11, 2023. Accessed on 27.04.2024, <https://www.turnthebus.org/blog/education-against-child-labour-in-india#>

⁶¹ Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), <http://ncw.nic.in/sites/default/files/CEDAW%20The%20Reservations%20And%20Optional%20Protocol.pdf>.

eliminating gender biases and ensuring equal marital rights, as they conflict with Sharia law.⁶² These reservations, particularly on key articles of CEDAW, coupled with religious-based family laws, restrict women's rights in marriage, divorce, and inheritance, impacting girls' access to education. Moreover, limited agency in marital decisions may hinder girls from pursuing educational opportunities, as their right to consent is compromised.⁶³

Convention on the Rights of Persons with Disabilities.

The lack of infrastructure and the segregation of education are significant barriers to accessing secondary education for individuals with disabilities. India, Pakistan, and Bangladesh ratified the CRPD without reservations or declarations, which sets it apart from previous treaties discussed. However, concerns persist regarding the enrollment of children with disabilities in mainstream education. This issue is underscored by the CRPD's concluding observations for Bangladesh (2022) and India (2019), which criticize the overreliance on segregated and special education systems. The CRPD specifically notes the introduction of the comprehensive special education policy on disability, emphasizing the need to prioritize inclusive education practices.⁶⁴

International Convention on the Elimination of All Forms of Racial Discrimination

India, Pakistan, and Bangladesh all ratified CERD. However, the Committee expressed concerns in its concluding observations about minority rights in Pakistan, particularly

⁶² Brandt, Michele, and Jeffrey A. Kaplan. "The Tension between Women's Rights and Religious Rights: Reservations to Cedaw by Egypt, Bangladesh and Tunisia." *Journal of Law and Religion* 12, no. 1 (1995): 105–42. <https://doi.org/10.2307/1051612>

⁶³ Roksana Khan, "Time for Bangladesh to withdraw CEDAW reservations," *The Daily Star*, March 11, 2024, <https://www.thedailystar.net/opinion/views/news/time-bangladesh-withdraw-cedaw-reservations-3563516>

⁶⁴ Convention on the Rights of Persons with Disabilities, CRPD/C/BGD/CO/1, "Concluding observations on the initial report of Bangladesh", October 11, 2022.

regarding discrimination against Dalits and refugees from Afghanistan in accessing education in India and Pakistan.⁶⁵

ILO Minimum Age Convention.

In addition to major international human rights treaties, the ILO Minimum Age Convention adopted in 1973 is particularly relevant to all three states due to the specific issue of child labor. Bangladesh ratified this convention only in 2022, setting the minimum age at 14, which is below the international standard.⁶⁶ The convention stipulates that the minimum age for regular employment is 15 years (or 13 for light work), and 18 years for hazardous work (or 16 under strict conditions). While ILO sets “the minimum age ... shall not be less than the age of completion of compulsory schooling”, it creates a gap where children are legally allowed to work before completing their education.⁶⁷ In India, Pakistan and Bangladesh, children can leave school prematurely to enter the workforce, as it is considered legal, particularly in regions where there are socio-economic pressures or limited educational opportunities. Children who combine school and work perform worse at school and usually have to repeat grades, which leads to higher dropouts.⁶⁸ Furthermore, many children are engaged in informal labor, with girls frequently employed as domestic workers, particularly in Bangladesh, for instance, three-quarters of child domestic workers are denied access to education.⁶⁹

⁶⁵ Committee on the Elimination of Racial Discrimination, Concluding observations on the combined twenty-first to twenty-third periodic reports of Pakistan, CERD/C/PAK/CO/21-23, October 3, 2016.

⁶⁶ International Labour Organization, "Bangladesh Ratifies Fundamental ILO Convention on Child Labour," March 22, 2022, <https://www.ilo.org/resource/news/bangladesh-ratifies-fundamental-ilo-convention-child-labour#:~:text=Ratification%20of%20ILO's%20Minimum%20Age,at%2014%20years%20of%20age.>

⁶⁷ International Labour Organization, Minimum Age Convention, C138, C138, 26 June 1973, <https://www.refworld.org/legal/agreements/ilo/1973/en/36173>

⁶⁸ International Labour Office, Child Labour and Education: Progress, Challenges and Future Directions (Geneva: ILO, 2015), ISBN: 978-92-2-129614-0, p.3

⁶⁹ Md. Nizam Uddin, "Child Labor in Bangladesh and its Social Impact," Social Change ISSN: 1997-938X, Vol. 8, No. 1 (2018): p. 107

2.2 Legal Basis for Secondary Education Rights in India, Pakistan, and Bangladesh.

While international human rights law provides essential guidelines for states by setting standards and goals for rights realization, national law remains the primary mechanism through which these rights are enforced, and accountability is established. International instruments often require domestic legislation and enforcement mechanisms to be effective, translating international norms into actionable and enforceable rights. Examining the legal foundation of secondary education rights in India, Bangladesh, and Pakistan reveals how each country's legal framework addresses educational access and equity.

2.2.1 Right to Secondary Education in India.

2.2.1.1 National Legal Framework for the Right to Secondary Education.

After gaining independence in 1947, India prioritized establishing a democratic framework and protecting CPR through the Constitution of 1950, which enshrined these rights in Part III as Fundamental Rights, enforceable by the courts. In contrast ESCR, including the right to education, were included in the non-justiciable Directive Principles of State Policy.⁷⁰

The right to education as a fundamental right in India began to receive significant attention in 2002, when a major Constitutional amendment was passed, resulting in the incorporation of Article 21A as a fundamental right. This article states: "The State shall provide free and compulsory education to all children of the age of six to fourteen years in such a manner as the

⁷⁰ Vijayashri Spipati, "Human Rights in India - Fifty Years after Independence," 26 *Denv. J. Int'l L. & Pol'y* 93 (1997): p. 95.

State may, by law, determine."⁷¹ The 2009 Right to Education (RTE) Act was a pivotal development in India's educational policy, providing a framework to implement Article 21A and aiming to achieve universal elementary education. The RTE mandates free and compulsory education for children aged 6 to 14, corresponding to grades 1 to 8, emphasizing non-discrimination by caste, class, and gender to promote inclusive learning environments.⁷² Section 13 prohibits screening procedures, reinforcing the belief that all children have equal potential to learn and succeed.⁷³

To address infrastructure challenges, particularly in remote areas, the Central Government issued Model RTE Rules, including specific distance regulations to improve school accessibility—school for grades VI-VIII should be within three kilometers. The RTE also extends to private institutions, requiring private aided schools (receiving government financial support) to reserve at least 25% of seats for elementary students and unaided schools to allocate 25% of seats for economically weaker sections and disadvantaged groups.⁷⁴

Despite its comprehensive approach to elementary education, the RTE Act and the Constitution do not extend these protections to secondary education.

⁷¹ India. The Constitution of India, <https://www.loc.gov/item/57026883/>.

⁷² "Right of Children to Free and Compulsory Education Act, 2009." Ministry of Law and Justice, Government of India. http://www.education.gov.in/sites/upload_files/mhrd/files/upload_document/rte.pdf.

⁷³ "Right of Children to Free and Compulsory Education Act, 2009: Clarification on Provisions." Ministry of Education, https://www.education.gov.in/sites/upload_files/mhrd/files/upload_document/RTE_Section_wise_rationale_rev_0.pdf

⁷⁴ Anderson, Jason, and Amy Lightfoot. "The School Education System in India: An Overview", British Council, 2019. https://www.britishcouncil.in/sites/default/files/school_education_system_in_india_report_2019_final_web.pdf, 21.

2.2.1.2 National education policy 2020.

Despite this legislative gap, the Government of India adopted the National Education Policy (NEP) in 2020, introducing significant changes to the existing system. Aligned with the SDGs, the NEP aims to restructure the entire education system to achieve the SDGs' targets by 2030, particularly emphasizing the goal of ensuring universal secondary education. Notably, the NEP does not include provisions for free secondary education.⁷⁵

Although formally approved in 2020, the NEP was implemented starting from the 2023-2024 academic year, making its impact challenging to assess at present. Nevertheless, experts anticipate that the NEP will bring substantial changes to the Indian education landscape through its emphasis on systemic reform, particularly in secondary education.⁷⁶ Key features include the introduction of a new 5+3+3+4 academic structure, replacing the traditional 10+2 system, and offering multidisciplinary studies in grades 9-12 to cater to diverse student interests and career aspirations. Addressing linguistic barriers, the NEP mandates instruction in the student's mother tongue, local language, or regional language until at least Grade 5, with a preference for continuing this practice until Grade 8 and beyond. This aims to enhance academic achievement by overcoming language-related obstacles.⁷⁷

⁷⁵ National Education Policy 2020, Ministry of Human Resource Development, Government of India, accessed May 27, 2024, https://www.education.gov.in/sites/upload_files/mhrd/files/NEP_Final_English_0.pdf, 3

⁷⁶ Kumar, A. "New Education Policy (NEP) 2020: A Roadmap for India 2.0." *Advances in Global Education and Research*, 2021. <https://www.doi.org/10.5038/9781955833042>.

⁷⁷ Premananda Sarkar, "Impact of NEP 2020 on Secondary Education," *International Journal of Trend in Scientific Research and Development* 7, June 2023, <https://www.ijtsrd.com.com/papers/ijtsrd57465.pdf>.

A major goal of the NEP is to reduce dropout rates. Current data shows the Gross Enrollment Ratio (GER)⁷⁸ is 90.9% for grades 6-8, but drops to 79.3% for grades 9-10 and further to 56.5% for grades 11-12, indicating significant student withdrawal after Grade 5 and particularly after Grade 8. The policy proposes infrastructure improvements, school upgrades, and increased counseling services to achieve universal participation. However, it does not address financial barriers, as secondary education in India remains fee-based and not compulsory by law.⁷⁹

The NEP identifies Socio-Economically Disadvantaged Groups (SEDGs) based on:

1. Gender identities (particularly female and transgender individuals),
2. Socio-cultural identities (such as Scheduled Castes, Scheduled Tribes, OBCs, and minorities),
3. Geographical identities (such as students from villages, small towns, and aspirational districts),
4. Disabilities (including learning disabilities),
5. Socio-economic conditions (such as migrant communities, low-income households, children in vulnerable situations, victims of or children of victims of trafficking, and the urban poor).⁸⁰

The NEP proposes targeted policies, such as scholarships, conditional cash transfers, bicycles for transportation, and the reorganization of schools into clusters.

2.2.2 Right to Secondary Education in Pakistan

⁷⁸ Total enrolment in a specific level of education, regardless of age, expressed as a percentage of the population in the official age group corresponding to this level of education. The GER can exceed 100% because of early or late entry and/or grade repetition.

⁷⁹ National Education Policy 2020, Ministry of Human Resource Development, Government of India, 10.

⁸⁰ NEP, p.24

2.2.2.1 National Legal Framework for the Right to Secondary Education.

The implementation of the right to education in Pakistan, similar to India, was not immediate following independence in 1947. In Pakistan's initial Constitution adopted in 1973, education was mentioned in Article 37(b) and Article 38(d). Article 37(b) states: "The State shall remove illiteracy and provide free and compulsory secondary education within the minimum possible period", which acknowledges as well that secondary education should be not only free, but compulsory.

However, education as a right was formally acknowledged in the Constitution of Pakistan only recently, with the 18th Amendment in 2010, which inserted Article 25-A. This article states: "The State shall provide free and compulsory education to all children of the age of five to sixteen years in such manner as may be determined by law." This provision elevates education to the status of a human right in Pakistan.⁸¹ What sets Pakistan apart from neighboring countries like India and Bangladesh is the upper age limit for compulsory education. In Pakistan, this limit corresponds to the completion of lower secondary education or Grade 10, typically achieved by the age of 16.

The school education system in Pakistan has a structure of 5-3-2-2, which consists of primary education, middle education (grades six through eight), high (grades nine and ten), and higher secondary education (grades eleven and twelve). High and Higher secondary school have examination upon completion.⁸²

⁸¹ Constitution (Eighteenth Amendment) Act, 2010, accessed May 27, 2024, <https://www.pakistani.org/pakistan/constitution/amendments/18amendment.html>.

⁸² Pakistan Institute of Education, "Pakistan Education Statistics 2021-22," Ministry of Federal Education & Professional Training, Government of Pakistan, accessed June 3, 2024, <https://pie.gov.pk/SiteImage/Downloads/PES%202021-22%20reduced.pdf>, p, 27

2.2.2.2 Analysis of the National Education Policy 2017-2025

In 2017, Pakistan adopted a new National Education Policy (NEP) which, unlike India's NEP, includes a specific chapter on secondary education, covering Middle (V-VIII), High (IX-X), and Higher Secondary (XI-XII) phases. The NEP addresses the issue of out-of-school children, noting that approximately 18 million adolescents aged 10 to 16 years (62%) are not enrolled in secondary education (there is an evidence of 22 million according to UNICEF⁸³).

The NEP highlights significant challenges in achieving secondary education goals, particularly in rural and underdeveloped regions where girls face substantial enrollment barriers. Pakistan's Gender Parity Index (GPI)⁸⁴ for secondary education is 0.80, significantly lower than India's 1.01 and Bangladesh's 1.08, indicating a lower enrollment rate for girls. According to Pakistan Vision 2025, which is a development plan for the country, the GPI at the level of secondary education should become 1.⁸⁵ Moreover, the GER for 2021 was only 42% on the secondary level, which is the lowest among its neighboring states.⁸⁶

The NEP reveals a disparity between the number of middle schools in the public and private sectors. In 2017, there were 16,820 public middle schools compared to 127,829 private ones.⁸⁷

The NEP sets ambitious targets for 2025, aiming to upgrade 50% of public primary schools to

⁸³ UNICEF, "Education," UNICEF Pakistan, accessed June 17, 2024, <https://www.unicef.org/pakistan/education>.

⁸⁴ GPI according to the World Bank refers to parity between girls and boys. A GPI of less than 1 suggests girls are more disadvantaged than boys in learning opportunities and a GPI of greater than 1 suggests the other way around.

⁸⁵ Pakistan Vision 2025." Planning Commission, Government of Pakistan. Accessed 08.06.2024. <http://www.pc.gov.pk/pakistan-vision.php>.

⁸⁶ World Bank, "Gross Enrollment Ratio, Secondary, Both Sexes (%)," World Bank, accessed June 17, 2024, <https://data.worldbank.org/indicator/SE.SEC.ENRR?locations=PK>.

⁸⁷ National Education Policy of Pakistan 2017, Ministry of Federal Education and Professional Training, Government of Pakistan, 2017, https://planipolis.iiep.unesco.org/sites/default/files/ressources/pakistan_national_education_policy_2017-2025.pdf, p.55.

middle schools, 40% of middle schools to high schools, and 20% of high schools to higher secondary schools.

Strategies to achieve these targets focus on improving infrastructure, resources, and teacher quality, particularly in science and mathematics. Enhancements in educational quality encompass the development of teaching materials, digital libraries, science labs, and integration of ICT. The NEP also promotes merit-based schooling, directing 20% of low achievers to vocational training, 20% of high achievers to advanced model schools, and 10% of the general stream to Islamic education institutions.⁸⁸

One of the aims of the NEP is to integrate students into mainstream education, addressing the challenges posed by single-gender higher secondary schools. According to 2021-2022 data, public institutions are 54% male-only, 39% female-only, and 8% mixed-gender, while private institutions are 11% male-only, 10% female-only, and 78% mixed-gender. This highlights the issue of gender-based segregation in schools. The policy advocates for more inclusive practices, indicating a need for the educational system to adapt to these disparities by promoting gender integration in educational institutions.⁸⁹

2.2.3 Right to Secondary Education in Bangladesh

2.2.3.1 National Legal Framework for the Right to Secondary Education.

According to the 2017 Global Education Monitoring Report, India and Pakistan guarantee a formally justiciable right to education, while Bangladesh recognizes it as a directive principle

⁸⁸ National Education Policy of Pakistan 2017, Ministry of Federal Education and Professional Training, Government of Pakistan, chap. 7.

⁸⁹ Pakistan Education Statistics 2021-22, Pakistan Institute of Education, ISBN: 978-969-444-121-4, <https://pie.gov.pk/SiteImage/Downloads/PES%20Report%202021-22.pdf>, p. 37.

or aspirational right.⁹⁰ In Bangladesh, this recognition means there are fewer possibilities for holding state actors accountable for failures in realizing the right to education.

Constitution Part II, which contains fundamental principles of state policy in Article 17, states that the State “shall adopt effective measures for the purpose of establishing a uniform, mass oriented and universal system of education and extending free and compulsory education to all children to such stage as may be determined by law”.⁹¹ However, this Article doesn’t mention till which age education shall be compulsory and free and doesn’t include the right to education in the Part II, which lists fundamental rights.

2.2.3.2 Analysis of the National Education Policy 2010 and national strategic plans.

In 2010, the Government of Bangladesh adopted the National Education Policy, extending compulsory primary education to Grade 8, which is typically considered lower secondary education. It states that secondary education includes Grades 9-12, which differs from Pakistan and India. Bangladesh's education system includes Madrasah Islamic schools as one of the secondary education streams, alongside general and technical schools. Additionally, the policy emphasizes Information Technology in the syllabus, a trend also seen in the NEPs of Pakistan and India, particularly at the secondary level.⁹²

Bangladesh's educational agenda has been integrated in the Education Policy published 14 years ago and incorporated into long-term national visions. Bangladesh Vision 2021, aligned

⁹⁰ Global Education Monitoring Report Team, *Accountability in education: Meeting our commitments* (Paper commissioned for the 2017/8 Global Education Monitoring Report, ED/GEMR/MRT/2017/P1/2), accessed 25.04.2024, ISBN: 978-3-940785-90-9.

⁹¹ Constitution of the People's Republic of Bangladesh, 4 November 1972, <https://www.refworld.org/legal/legislation/natlegbod/1972/en/101782> [accessed 10 June 2024]

⁹² National Education Policy, Ministry of Education, accessed June 17, 2024, https://planipolis.iiep.unesco.org/sites/default/files/ressources/bangladesh_national_education_policy_2010.pdf

with the 50th anniversary of independence, aimed to transform the nation into a middle-income. The plan includes eight goals, with the fifth goal dedicated to delivering 12 years of quality education: 8 years of primary and 4 years of secondary. It emphasizes inclusivity regardless of income, gender, religion, ethnicity, or disabilities, and seeks to expand the Secondary Stipend Programme to support both boys and girls.⁹³ In 2021 Bangladesh achieved relatively high GER on the level of secondary education, around 71%.⁹⁴

Bangladesh Vision 2041 sets an ambitious goal of building a "Smart Bangladesh." Despite ongoing issues with enrolment, dropout rates at the secondary level, and low public expenditure on education, Vision 2041 outlines strategies to enhance public-private partnerships, improve education quality, eliminate dropouts, integrate Madrassa education into the mainstream, and decentralize education delivery.

3. COMPARATIVE ANALYSIS OF INDIA, BANGLADESH, AND PAKISTAN.

A critical aspect of this analysis involves examining out-of-school children (OOSC)⁹⁵ and dropout rates. These indicators are vital because they reflect not just enrollment numbers but the broader systemic issues that prevent children from accessing and completing secondary education.⁹⁶ Overcoming different barriers that prevent access and completion of education is

⁹³ Centre for Policy Dialogue, Bangladesh Vision 2021 (2007), <https://cpd.org.bd/wp-content/uploads/2007/08/Bangladesh-Vision-2021-English.pdf>.

⁹⁴ World Bank, "Gross Enrollment Ratio, Secondary, Both Sexes (%)," World Bank, accessed June 17, 2024, <https://data.worldbank.org/indicator/SE.SEC.ENRR?locations=PK-BD-IN>

⁹⁵ The abbreviation customarily used in international documents for children not enrolled in either primary or secondary level of education because they dropped out or they have never been enrolled.

⁹⁶ Lewin, Keith M., and Angela W. Little. 2011. "Access to Education Revisited: Equity, Drop out and Transitions to Secondary School in South Asia and Sub-Saharan Africa." *INTERNATIONAL JOURNAL OF EDUCATIONAL DEVELOPMENT* 31, 3133–37. doi:10.1016/j.ijedudev.2011.01.011.

one of the key strategies to build inclusive equal societies, where marginalized groups of the population have equal opportunities. Therefore, III.1. Out-of-school children and dropout rates is dedicated to exploring the current situation with OOSC in the chosen states.

3.1 Out-of-school children and dropout rates.

Currently, over 250 million children globally are out of school, with an increase of 6 million in 2022, largely attributed to the exclusion of girls from education in Afghanistan.⁹⁷ South Asia ranks second globally in its out-of-school population, with the highest numbers at the upper secondary level.⁹⁸

Pakistan has one of the largest OOSC populations globally, second only to Nigeria. Despite compulsory education up to age 16, approximately 22.8 million children aged 5-16 are not enrolled, constituting 44% of this age group. This issue is exacerbated at the secondary level, where out-of-school numbers double, posing the primary challenge to school attendance in Pakistan.⁹⁹ Disparities in out-of-school children (OOSC) exist based on gender, socio-economic status, disability, and geographic location. For instance, in Baluchistan, 78% of OOSC are girls, and 96% of children with disabilities do not attend school.¹⁰⁰

Despite being the most populous country in South Asia, India has reduced the number of OOSC, though challenges persist, especially for disadvantaged groups like scheduled castes and tribes, Muslim minorities, migrants, children with special needs, urban poor, working children, and

⁹⁷ Global Education Monitoring Report Team. SDG 4 mid-term progress review: progress since 2015 has been far too slow. ED/GEM/MRT/2023/FS/G/2. Accessed 08.06.2024. DOI: <https://doi.org/10.54676/NLOV8340>.

⁹⁸ "Out-of-School Children," Global Education Estimates, accessed 11.06.2024, <https://education-estimates.org/out-of-school/>.

⁹⁹ UNICEF Pakistan, "Education," accessed 07.06.2024, <https://www.unicef.org/pakistan/education>.

¹⁰⁰ Shafiq ur Rahman, "Constitutional Responsibility of the State towards out of School Children (OOSC): A Case of Pakistan," Pakistan Journal of Law, December 2023, 46-55

those affected by civil conflicts.¹⁰¹ Estimates of out-of-school children vary widely, with the National Sample Survey Organization reporting 32 million children in 2017-18. However, there is no regular statistics in India related to OOSC, which leads to the different numbers which ranging from 13 million to 48 million children in 2021-2022 academic year.¹⁰² The trend shows improvement in primary education enrollment due to increased Net Enrollment Rates (NER)¹⁰³, but secondary education faces dropout challenges, especially in the 16-17 age group.¹⁰⁴

Efforts to achieve a 100% secondary completion rate by 2030 are hindered by gender and regional disparities. States like Bihar and Uttar Pradesh have high OOSC numbers, while regions like Delhi and Kerala report near-zero OOSC, highlighting disparities in access and enrollment, with boys experiencing higher dropout rates in secondary education.¹⁰⁵

In Bangladesh, as of 2020, approximately 6.7 million children were out of school, with 1.2 million at the lower secondary level and 4.5 million at the upper secondary level according to UNICEF. Similar to India, boys are more than twice as likely as girls to be out of school in the lower-secondary age group. While gender parity improves among older children, both genders face higher out-of-school rates compared to younger children, exacerbated by significant disparities in socioeconomic status. Urban-rural differences in dropout rates are less

¹⁰¹ Right of Children to Free and Compulsory Education Act, 2009.

¹⁰² "Computation of Out-of-School Children based on UDISEPlus 2021-22." Education for All in India. Last modified January 2023. <https://educationforallinindia.com/computation-of-out-of-school-children-based-on-udiseplus-2021-22/#:~:text=The%20latest%20data%20from%20the,out%20of%20school%20than%20boys.>

¹⁰³ According to the World Bank, the ratio of children of official school age who are enrolled in school to the population of the corresponding official school age.

¹⁰⁴ ASER Centre. ASER 2023 Report. New Delhi: ASER Centre, 2023. <https://asercentre.org/wp-content/uploads/2022/12/ASER-2023-Report-1.pdf>, p.15

¹⁰⁵ "More boys dropped out of school than girls at secondary level," July 2, 2021, The Times of India, , http://timesofindia.indiatimes.com/articleshow/84056302.cms?utm_source=contentofinterest&utm_medium=txt&utm_campaign=cppst.

pronounced than disparities based on socioeconomic background, underscoring the influence of wealth on educational access.¹⁰⁶ Climate change exacerbates school dropout rates in low-lying Bangladesh due to frequent and severe natural disasters, which damage infrastructure, displace families, and force children to leave school to support their families economically.¹⁰⁷ The prevalence of OOSC and high dropout rates highlights significant barriers to universal secondary education, prompting a critical look at how education is delivered. In cases where public education is underfunded or insufficient, private education plays a major role in shaping access to and quality of secondary education. Section III.2 will analyze the trends, quality and impacts of privatization, offering insights into its influence within the broader educational system.

3.2 Privatization of secondary education.

3.2.1 Extent of Privatization.

While the state holds the primary responsibility for ensuring the right to education through the provision of free and compulsory schooling, the Education 2030 Framework for Action emphasizes that achieving universal enrollment in secondary education requires the engagement of non-state actors. According to the framework, “Country-led action will drive change; however, the ambitious education goal cannot be achieved by governments alone. They will need the support of all stakeholders, including non-state actors.”¹⁰⁸ Non-state actors

¹⁰⁶ UNICEF. “Bangladesh Education Fact Sheets 2020: Analysis for Learning and Equity Using Bangladesh MICS 2019”. UNICEF, 2020, https://data.unicef.org/wp-content/uploads/2021/05/Bangladesh-Education-Fact-Sheets_V7.pdf, p.25

¹⁰⁷ World Economic Forum. "How Climate Disasters Are Driving More Bangladeshi Children into Work." May 26, 2022. Accessed June 12, 2024. <https://www.weforum.org/agenda/2022/05/climate-disasters-bangladesh-children-work/#:~:text=Growing%20numbers%20of%20Bangladeshi%20children,are%20now%20labourers%2C%20UNICEF%20says.>

¹⁰⁸ UNESCO. 2015. Incheon Declaration and Framework for Action for the Implementation of Sustainable Development Goal 4. Paris, UNESCO, p.60

encompass a diverse range of entities such as individuals, private corporations, philanthropic foundations, non-governmental organizations, academics, and the media. These actors contribute to education through provision, financing, and advocacy, with private actors constituting a significant subset.

Privatization of education holds particular significance in South Asia, where the region leads globally in the enrollment of children in private institutions, despite education being recognized as a public good. On average, 42% of primary and secondary school students in South Asia attend non-state schools. According to UNESCO Institute of Statistics data from 2020, the share of enrollment in private institutions at the secondary level is notably high: 34% in Pakistan, 51% in India, and 94% in Bangladesh. Despite high levels of private enrollment, the completion rates for secondary education highlight the challenges faced in achieving universal education in all three states. For lower secondary education, completion rates stand at 85% in India, 55% in Pakistan, and 70% in Bangladesh. However, at the upper secondary level, completion rates drop, reaching 55% in India, 23% in Pakistan, and 35% in Bangladesh.¹⁰⁹ This discrepancy underscores the complex relationship between privatization and educational outcomes, suggesting that high private enrollment does not necessarily translate to higher completion rates.

The strong presence of private actors in South Asian education is driven by several factors. Firstly, despite the region's large student population, public expenditure on education remains comparatively low. The Education 2030 Framework advocates that governments allocate 4-

¹⁰⁹ Global Education Monitoring Report Team et al. Global Education Monitoring Report 2022, South Asia: Non-State Actors in Education: Who Chooses? Who Loses? ISBN 978-92-3-100556-5, 2022. <https://unesdoc.unesco.org/ark:/48223/pf0000383550>.

6% of GDP to education to meet SDG4 goals.¹¹⁰ However, as of 2022, Bangladesh allocated only 2% of GDP, Pakistan 1.7%, and India met the minimum with 4.6% in 2021.¹¹¹ Notably, most public education spending is directed towards primary rather than secondary education.¹¹² Secondly, socio-economic disparities based on caste, ethnicity, and religion prompt privileged groups to opt for more prestigious or specialized schools. Additionally, there is a general lack of trust in public services in many states. For instance, in India, only 46% of people believe that the government is the primary provider of education services.¹¹³

In India, a striking statistic underscores this diversity: out of the 97,000 schools established since 2014, a significant majority—67,000—are classified as private and unaided. In both India and Pakistan, approximately 35% of students are enrolled in non-state, independent schools operating without public funding. Moreover, there is a substantial presence of low-fee private schools across all three countries, offering affordable education with fees below minimum wage levels. For instance, in India, 70% of students paid less than \$15 per month for tuition in low-fee schools in 2018.¹¹⁴ In Pakistan, 89% of private schools are extremely low-cost, starting from \$3 per month.¹¹⁵

3.2.2 Private vs. Public Education.

¹¹⁰ UNESCO (2015). SDG4-Education 2030, Incheon Declaration (ID) and Framework for Action. For the Implementation of Sustainable Development Goal 4, Ensure Inclusive and Equitable Quality Education and Promote Lifelong Learning Opportunities for All, ED-2016/WS/28, p.9

¹¹¹ World Bank, "Government Expenditure on Education, Total (% of GDP)," World Development Indicators, accessed June 12, 2024, <https://data.worldbank.org/indicator/SE.XPD.TOTL.GD.ZS>.

¹¹² Bordoloi M., Pandey S., "Challenges in Access to Secondary Education in India," Ideas for India, November 9, 2022, <https://www.ideasforindia.in/topics/governance/challenges-in-access-to-secondary-education-in-india.html>.

¹¹³ Global Education Monitoring Report Team et al. Global Education Monitoring Report 2022

¹¹⁴ Ibid, p. 26

¹¹⁵ Qureshi, Zainab, and Ayesha Razzaque. "Busting the Myth of Private Schools for the Elite in Pakistan." RISE Programme. Accessed June 13, 2024. <https://riseprogramme.org/blog/busting-myth-private-schools-elite-pakistan.html#:~:text=If%20the%20line%20for%20low,for%20the%20elite%20to%20rest.>

The preference for private schools over public education in India, Pakistan, and Bangladesh reflects perceived shortcomings in public education. Despite public education aiming to meet universal standards, the demand for private schooling remains high.

In India, a Central Square Foundation report identifies key reasons for choosing private schools: higher quality learning environments (73.1%), English-medium education (12%), lack of nearby government schools (10.2%), and other factors (4.7%).¹¹⁶ Similarly, in Pakistan, private schools, often perceived as elite institutions, are becoming more accessible to low-income families through the prevalence of low-fee private schools, offering better education and English-medium instruction. Proximity also affects choice, with each additional 500 meters reducing the likelihood of selecting a school by 11.1% for girls and 6.0% for boys.¹¹⁷

In Bangladesh, research from Chittagong, second city in the country, shows that school quality, future prospects, and parental income positively influence the decision to choose private schools, while factors like school popularity and parental education level have minimal impact.¹¹⁸

3.2.3 Impact of Privatization on Equality: A 4A Framework Analysis.

Privatization of education in South Asia aims to improve educational quality and address deficiencies in public provision. This is evidenced by parental preference for private schools and the regulatory involvement of governments and international entities like the World Bank.

Understanding the impact of privatization on secondary education necessitates an examination

¹¹⁶ Central Square Foundation. 2020. State of the Sector Report: Private Schools in India. New Delhi, Central Square Foundation/Omidyar Network India, p. 41 -42

¹¹⁷ Pedro Carneiro, Jishnu Das, Hugo Reis, "The Value of Private Schools: Evidence from Pakistan", The Review of Economics and Statistics 2022; doi: https://doi.org/10.1162/rest_a_01237, p.3

¹¹⁸ Suppramaniam, S.. "Factors Influencing Parents' Decision in Selecting Private Schools in Chittagong City, Bangladesh." International Journal of Recent Technology and Engineering 7 (2019): 318-330. Accessed June 13, 2024.

https://www.researchgate.net/publication/333563580_Factors_influencing_parents_decision_in_selecting_private_schools_in_Chittagong_city_Bangladesh#:~:text=In%20the%20results%2C%20it%20showed.school%20selection%20in%20Chittagong%20city.

through the lens of the 4A dimensions, as privatization inherently had to adjust to these standards to make education accessible, adaptable, available, and acceptable.

Availability

Private schools have expanded access to education, particularly in urban and peri-urban areas where public schools are insufficient. This has increased overall enrollment rates and provided alternatives for families dissatisfied with public schooling. Private schools can provide better school facilities, which can be missing in public schools. For instance, in India, private unaided schools are more likely to have computers, internet and boundary walls.¹¹⁹

Accessibility

Private institutions operate on a fee-based model, thereby linking access to household income, which varies significantly between state-funded and independent schools. This economic disparity limits access to private schools for lower-income households, with financial status becoming the primary determinant of educational access. Direct costs like tuition fees and indirect expenses such as textbooks, meals, uniforms, and transportation further contribute to these socio-economic barriers.¹²⁰ Socio-economic status in this regard defines the choice of the institution, influencing parents' ability to make informed decisions based on criteria such as class size, teacher quality, safety, and language of instruction, with wealthier parents more likely to have access to information and their concerns addressed compared to poorer parents.

¹¹⁹ Global Education Monitoring Report Team et al. Global Education Monitoring Report 2022, South Asia: Non-State Actors in Education: Who Chooses? Who Loses? ISBN 978-92-3-100556-5, 2022. <https://unesdoc.unesco.org/ark:/48223/pf0000383550>, p.55

¹²⁰ Singh, Kishore. 2014. "Right to Education and Equality of Educational Opportunities" 國際教育協力論集 16 (2): 5–19. <https://research.ebsco.com/linkprocessor/plink?id=40419a54-13ac-3bef-9b61-5950671f7d53>.

In India, children from the richest quintile were seven times as likely (63%) as children from the poorest quintile (9%) to attend private institutions. Children in rural areas and from scheduled tribes were half as likely to use private provision as those in urban areas and non-designated social groups. Still, 9% of the poorest, 18% of those from scheduled tribes and 23% of rural households sent their children to private preschools.¹²¹ Comparable results were seen in Pakistan, where access to private schools is distorted towards urban, wealthier, and more educated households, thereby limiting accessibility for economically disadvantaged children. The other factor refers to gender as detrimental to the choice of school. Only in Bangladesh there is no gender gap in terms of enrolment in private or public school, which can be stipulated by the targeted programs to increase girls' enrolment. However, In India and Pakistan boys are more likely to be enrolled to private schools in rural and urban areas, while girls are more likely to visit public school.¹²²

Acceptability

The quality and qualifications of teachers impact the acceptability of education. The level of qualifications can vary depending on the school type. While teachers in public schools can be well-qualified as in elite private schools, the situation differs when it comes to low-cost private schools. For example, in Pakistan and India such schools often hire young women with low salaries, particularly in rural areas while more qualified teachers start working for private tutoring.¹²³ At the same time this has a side effect as private schools are the largest employers

¹²¹ Global Education Monitoring Report Team et al. Global Education Monitoring Report 2022, p.47

¹²² Akmal Maryam, Crawford Lee and Hares Susannah. "Low-Cost Private Schools: What Have We Learned Five Years After the DFID Rigorous Review?" Center for Global Development (CGD), October 28, 2019. <https://www.cgdev.org/blog/low-cost-private-schools-what-have-we-learned-five-years-dfid-rigorous-review>.

¹²³ Ibid, 54

for women, in Pakistan around 90, 000 women work as school teachers.¹²⁴ The other question can refer to quality of education as one of the biggest motivations to send children to private schools. However, the results can be controversial. For example, in Bangladesh, 96% of students graduating from public programs attained the highest grades on the Secondary School Certificate examination, in contrast to 36% of students from private programs, which is related to lower teacher's qualifications in private schools despite the better student teacher ratio.¹²⁵

Adaptability

There are several ways to accommodate students' needs. For instance, in India, private schools (45%) are less likely than public schools (78%) to have ramps for students with mobility challenges, indicating that public schools are more likely to offer reasonable accommodations for students with special needs.¹²⁶ Private schools and programs often lead to innovation, often supported by NGOs or foundations rather than profit-driven motives. These institutions are more likely to adopt international curricula, contrasting with public entities that typically adhere to standardized curricula. Innovations in private education may involve integrating technology, implementing personalized learning strategies, and employing progressive pedagogical methods aimed at addressing the diverse needs of students with a child-centered approach.

3.3 4A framework analysis of barriers to secondary education.

Privatization of education presents a complex interplay of benefits and drawbacks in relation to enrollment, the reintegration of out-of-school children, and the overall quality of education.

¹²⁴ Qureshi, Zainab, and Ayesha Razzaque. "Busting the Myth of Private Schools for the Elite in Pakistan." RISE Programme. Accessed June 13, 2024. <https://riseprogramme.org/blog/busting-myth-private-schools-elite-pakistan.html#:~:text=If%20the%20line%20for%20low,for%20the%20elite%20to%20rest.>

¹²⁵ Global Education Monitoring Report Team et al., "Global Education Monitoring Report 2022, South Asia: Non-State Actors in Education: Who Chooses? Who Loses?," p. 64

¹²⁶ Global Education Monitoring Report Team et al, South Asia: Non-state actors in education: Who chooses? Who loses?, p. 55

Beyond the impact of privatization, numerous other factors contribute to the challenges of realizing secondary education in the selected states, rendering it non-available, inaccessible, unacceptable, and non-adaptable for many students.

3.3.1 Availability

To ensure educational availability, there must be an adequate number of functioning educational institutions. While all three states—India, Pakistan, and Bangladesh—have prioritized the provision of universal primary education, there is a notable deficiency in secondary education facilities. In India, for instance, out of approximately 1.5 million schools, only 291,466 (around 19%) offer secondary education, with nearly half of these being private institutions. This raises significant concerns about the availability of secondary education, particularly for disadvantaged groups.¹²⁷ This issue is highlighted in Pakistan's National Education Policy (NEP), which attempts to reconfigure primary schools to also offer secondary education. In Pakistan formal education, as of 2021, there are 184,423 primary (136,601) and middle schools (47,822), but only 41,018 (around 22% comparing to them) high and higher secondary schools.¹²⁸ In Bangladesh, as of 2022, the disparity is even more pronounced, with 118,891 primary schools compared to just 21,003 secondary schools (around 17%).¹²⁹

The insufficiency of schools and classrooms often results in inadequate space to accommodate all students within a given area, leading to overcrowding that negatively impacts academic

¹²⁷Bordoloi M., Pandey S., “Challenges in Access to Secondary Education in India,”

¹²⁸ Pakistan Bureau of Statistics, Pakistan Education Statistics 2021-22, (Islamabad: Ministry of Federal Education and Professional Training, 2022), <https://pie.gov.pk/SiteImage/Downloads/PES%202021-22%20reduced.pdf>, p.31-36.

¹²⁹ Bangladesh Bureau of Educational Information and Statistics (BANBEIS), Bangladesh Education Statistics 2022, (Dhaka: Ministry of Education, 2022), Summary 2, [https://shed.portal.gov.bd/sites/default/files/files/shed.portal.gov.bd/page/100c3c96_562d_4e72_ba9c_444af8fea5a7/Bangladesh%20Education%20Statistics%202022%20\(1\)_compressed.pdf](https://shed.portal.gov.bd/sites/default/files/files/shed.portal.gov.bd/page/100c3c96_562d_4e72_ba9c_444af8fea5a7/Bangladesh%20Education%20Statistics%202022%20(1)_compressed.pdf).

outcomes. Research indicates that smaller class sizes, ideally with around 20 students, are associated with better academic performance.¹³⁰ According to the Bangladesh Education Statistics 2022, the student-teacher ratio at the secondary education level in Bangladesh stands at 36:1.¹³¹ In Pakistan, while the primary education level exhibits the highest ratios, the secondary level ratios are lower, with 25:1 for middle and 30:1 for upper secondary education. However, these figures may reflect the substantial number of OOSC at the secondary level, suggesting rather a significant absence of children from schools.¹³² In India, data indicates an average student-teacher ratio of 18:1 at the secondary level and 27:1 at the higher secondary level. Nonetheless, this national average has significant disparities among states, such as Bihar, where the ratios are as high as 55:1 for secondary and 63:1 for higher secondary education.¹³³ In India segregated data for primary and secondary schools is unavailable. However, an important distinction emerges between the presence of facilities and their functionality, which according to General Comment 13 is one of the main elements of availability. Out of approximately 1.5 million schools, only 1,330,305 have access to electricity, with 1,289,245 schools reporting functional electricity, revealing substantial operational challenges despite initial provision.¹³⁴ In Pakistan, statistics primarily cover public secondary schools, indicating

¹³⁰ Barrett, Peter, Alberto Treves, Tigran Shmis, Diego Ambasz, and Maria Ustinova. 2018. "The Impact of School Infrastructure on Learning: A Synthesis of the Evidence," November. <https://research.ebsco.com/linkprocessor/plink?id=98094f4e-ebb1-3845-b1d7-134851a21b37>

¹³¹ Bangladesh Bureau of Educational Information and Statistics (BANBEIS), Bangladesh Education Statistics 2022, p.49

¹³² Pakistan Bureau of Statistics, Pakistan Education Statistics 2021-22 Highlights, (Islamabad: Ministry of Federal Education and Professional Training, 2022), <https://pie.gov.pk/SiteImage/Downloads/PES%20Highlights%202021-22%20New.pdf>, p.11

¹³³ Ministry of Education, Government of India, Unified District Information System for Education Plus (UDISE+) 2021-22, (New Delhi: Department of School Education and Literacy, 2023), https://www.education.gov.in/sites/upload_files/mhrd/files/statistics-new/udise_21_22.pdf, p.54

¹³⁴ Ibid.

around 70% have electricity access. However, the figures rise to 94% and 97% at the high and higher secondary levels respectively, albeit with significant regional disparities; for instance, in Balochistan, these rates drop to 65% and 80% respectively.

Information technology is crucial for secondary education, offering in-depth learning opportunities in subjects like Mathematics, Chemistry, Physics, and IT. In India, however, only 87.3% of schools have libraries, 47.5% are equipped with computers, and 33.9% have internet access.¹³⁵ While specific quantitative data on facilities in Pakistani schools is limited, initiatives like the 'Establishment of Computer Labs in Secondary Schools in Punjab' indicate regional efforts towards digitalization. Despite these initiatives, a study reveals that only 12% of students feel there are sufficient computers available.¹³⁶ Bangladesh shows relatively high facility availability in secondary schools, with 88% having computers, 83% internet access, and 72% science laboratories.¹³⁷

3.3.2 Accessibility

Educational institutions and programs must be accessible to everyone within the state's jurisdiction without discrimination, ensuring physical and economic accessibility. In the assessment of the right to education, accessibility emerges as a pivotal dimension. Challenges predominantly arise from disparities in access and educational standards, particularly affecting

¹³⁵ Ministry of Education, Government of India, Unified District Information System for Education Plus (UDISE+) 2021-22, p.125-140.

¹³⁶ Hakim Ali, Anam Zahra, Uzma Shahzadi, and Muhammad Dilshad, "Utility of Computer Labs in Secondary Schools as Perceived by Students with Diverse Demographics," *Review of Economics and Development Studies* 5, no. 4 (2019): 821, <https://doi.org/10.26710/reads.v5i4.898>.

¹³⁷ Bangladesh Bureau of Educational Information and Statistics (BANBEIS), *Bangladesh Education Statistics 2022*, p.159-164

marginalized groups such as girls, minorities, and individuals with disabilities. These inequalities significantly hinder their ability to access and benefit from quality education.¹³⁸

3.3.2.1 *Economic accessibility*

Economic constraints provide one of the biggest challenges in all three states. Poverty stands out as a primary factor contributing to the issue of OOSC and represents a significant barrier associated with privatization efforts. For instance, in Pakistan, a disproportionate number of OOSC belong to the poorest socioeconomic strata, with 51% of this group not enrolled in schools, whereas enrollment rates improve progressively among wealthier households.¹³⁹ South Asia emerges as the region with the highest household expenditure on education, with a substantial proportion of educational funding being derived directly from family budgets. Data from the National Sample Survey in India indicates that the average per-student expenditure for secondary and higher-secondary education in government schools is approximately three to five times higher, respectively, than that for primary education.¹⁴⁰ In Pakistan, households contribute around 50% of the total education costs, whereas in Bangladesh, this figure rises to 71%, representing one of the highest rates globally.¹⁴¹

Consequently, many households face a critical decision regarding whether their children should continue their education beyond primary school. In secondary education, there are significant issues such as the deprivation of education for girls and the prevalence of child labor. One

¹³⁸ Right to Education Project. 2016. Guide to Monitoring the Right to Education Using Indicators. Accessed June 17, 2024. https://www.right-to-education.org/monitoring/sites/right-to-education.org/monitoring/files/RTE_Monitoring_the_Right_to_Education_Using_Indicators_Full_Guide_2016_En.pdf, p. 18

¹³⁹ Government of Pakistan, "Pakistan Economic Survey 2021-22," Ministry of Finance, accessed June 14, 2024, <https://pie.gov.pk/SiteImage/Downloads/PES%20Report%202021-22.pdf>, p. 7

¹⁴⁰ National Sample Survey Organization (NSSO): Ministry of Statistics & Programme Implementation (MoSPI), Government of India

¹⁴¹ Global Education Monitoring Report Team et al., "Global Education Monitoring Report 2022, South Asia: Non-State Actors in Education: Who Chooses? Who Loses?," p. 103-105

reason for this is the unwillingness of parents to send their daughters to school due to the perceived lack of economic benefit. This logic also applies to child labor, where children are viewed as additional sources of income, leading families to prioritize immediate economic needs over education. The low internationally recognized minimum age of employment, set at 15 years exacerbates this issue by enabling children to engage in labor activities to supplement the household income. A considerable portion of this income is allocated to educational expenses. Notably, in India, it is reported that 31% of children who are out of school are engaged in work to support household income, while 25% are involved in domestic chores, thereby limiting their access to formal education.¹⁴² This raises the question of child labor as one of the factors preventing children from accessing secondary education.

According to 2014 International Labour Organization (ILO) data, 5.8 million children aged 5-17 in India, 5.0 million in Bangladesh, and 3.4 million in Pakistan are engaged in child labor.¹⁴³ However, these figures may underestimate the issue, as most child labor occurs within family units. Over two-thirds of child laborers work as unpaid family laborers, while 27% are in paid employment and 4% are own-account workers.¹⁴⁴ Moreover, older children, at the age of higher secondary education, are often involved in hazardous jobs.¹⁴⁵ Notably, among working

¹⁴² Bordoloi M., Pandey S., "Challenges in Access to Secondary Education in India," Ideas for India, November 9, 2022, <https://www.ideasforindia.in/topics/governance/challenges-in-access-to-secondary-education-in-india.html>.

¹⁴³

¹⁴⁴ International Labour Organization (ILO), "World Report on Child Labour 2015: Paving the Way to Decent Work for Young People" (Geneva: International Labour Office, 2015), 32, <https://www.ilo.org/media/421641/download>.

¹⁴⁵ According to ILO, hazardous child labour is work in dangerous or unhealthy conditions that could result in a child being killed, or injured or made ill as a consequence of poor safety and health standards and working arrangements.

adolescents aged 15-17, hazardous employment is prevalent: 75% in Bangladesh, 41% in Pakistan, and 20% in India.¹⁴⁶

It is crucial to note that a substantial portion of child labor remains obscured from conventional reporting frameworks, notably child domestic work. In Bangladesh, for instance, an estimated 421,000 children are engaged in domestic labor, a majority of whom are girls. These children face unique vulnerabilities due to their work being largely conducted in private settings under the control of employers, with whom they often live. Moreover, their labor is often undervalued, remunerated inadequately, and occurs without rest, including during holidays.¹⁴⁷ Domestic workers lack agency and usually cannot determine their life choices. Moreover, due to their vulnerable position and hierarchical relations with their employers, they often face domestic violence, including risks such as rape and even murder.¹⁴⁸

3.3.2.2 *Non-discrimination.*

Gender discrimination significantly contributes to the exclusion of girls from education. As noted by Malala Yousafzai in a famous book “I am Malala”:

I was a girl in a land where rifles are fired in celebration of a son, while daughters are hidden away behind a curtain, their role in life simply to prepare food and give birth to children.

¹⁴⁶

International Labour Organization (ILO), "World Report on Child Labour 2015: Paving the Way to Decent Work for Young People" (Geneva: International Labour Office, 2015), 47, <http://www.ilo.org/ippecinfo/product/download.do?type=document&id=26977>.

¹⁴⁷ Kameel Ahmady, "Gender Differences in Child Labour: A Systematic Review of Causes, Forms, Features, and Consequences," March 2024, accessed June 14, 2024, https://www.researchgate.net/publication/378708926_Gender_differences_in_child_labour_A_systematic_review_of_causes_forms_features_and_consequences.

¹⁴⁸ Kari B. Jensen, "Female child domestic workers' limited agency: Working and living in the private homes of employers in Bangladesh," in *Risk, Protection, Provision and Policy* (2017), p.92

Families often prioritize boys' education, leaving girls with household duties, caregiving roles, or early marriage, hindering their education beyond primary school. Caste disparities worsen this issue, with lower progression rates among Muslim and Scheduled Caste girls.¹⁴⁹ South Asia has the highest incidence of child brides, mostly among economically disadvantaged rural girls, who are four times more likely to be out of school. Societal norms often view marriage and education as incompatible, leading to girls being withdrawn from school and married between ages 15 to 18, typically coinciding with secondary school age. Bangladesh reports the highest prevalence of child marriages, with over 50% of women aged 20 to 24 marrying before 18, compared to 23% in India and 18% in Pakistan.¹⁵⁰

Social background significantly impacts dropout rates in Indian education, perpetuating systemic inequalities despite constitutional protections against discrimination (Article 14). Marginalized groups such as SC, ST, and Muslims encounter barriers that hinder their educational advancement. While India has achieved universal enrollment at the primary level, many children from these communities struggle to transition to secondary school due to discrimination within educational institutions. This discrimination is evident in practices like the "hidden curriculum,"¹⁵¹ which includes derogatory remarks, seating segregation, denial of access to facilities and meals, and exclusion from school activities. Dalit girls face intersectional discrimination, with heightened risks of harassment, rape, and assault. Education

¹⁴⁹ Lewin, Keith M., and Angela W. Little. 2011. "Access to Education Revisited," 336.

¹⁵⁰ United Nations Children's Fund, A Profile of Child Marriage in South Asia, UNICEF, New York, 2023., https://data.unicef.org/wp-content/uploads/2023/05/Profile_of_child_marriage_in_South_Asia.pdf

¹⁵¹ 'hidden curriculum' in schools would be: classroom arrangement (who sits where), differential task assignment (reinforcing that SC girls undertake the 'domestic' tasks (sweeping, cleaning extra-curricular activities and types), subject choice (often girls or children from SC families are discouraged from taking Mathematics and Science subjects), language used by teachers and peers in the school environment.

remains crucial for social mobility among marginalized groups, yet pervasive biases and systemic obstacles persistently limit their educational opportunities.¹⁵²

3.3.2.3 *Physical accessibility.*

Physical accessibility in education varies significantly between rural and urban areas. For instance, national policies often lack strict guidelines regarding the proximity of secondary schools, unlike the Samagra Shiksha scheme in India, which recommends schools be within five kilometers of a habitation unless states establish their own standards. This limited accessibility presents safety challenges for students, particularly girls in remote or challenging geographic locations, who must travel longer distances to access secondary education.¹⁵³

Physical accessibility is also deeply related with no discrimination of persons with disabilities. According to UNICEF, half of children with disabilities remain excluded from schooling despite the overall ratification of CRPD by all three states, with an existing gender disparity further exacerbating the issue. Specifically, only 42% of girls with disabilities complete primary school, compared to 51% of boys. Children with disabilities often face stigmatization, parents hide them due to religious arguments of “past life sins”, widespread in Hinduism, and consider them an economic burden.¹⁵⁴ Pakistan demonstrates exclusion of children with disabilities from mainstream education, 96% of children with disability in Pakistan were OOSC in 2016.¹⁵⁵ In India only 9% of children with disabilities complete

¹⁵² ” Exclusion in Schools: A Study on Practice of Discrimination and Violence”, National Dalit Movement for Justice, 2017, http://www.annihilatecaste.in/uploads/downloads/doc_171008102333_2922.pdf, p.46

¹⁵³ Bordoloi M., Pandey S., “Challenges in Access to Secondary Education in India.”

¹⁵⁴ S. Shaukat, "Challenges for Education of Children With Disabilities in Pakistan," *Intervention in School and Clinic* 59, no. 1 (2023): 75-80, <https://doi.org/10.1177/10534512221130082>.

¹⁵⁵ A. Manzoor, A. Hameed, and T. Nabeel, "Voices of Out of School Children with Disabilities in Pakistan," *Journal of Research in Special Educational Needs* 16 (2016): 1099-1103, <https://doi.org/10.1111/1471-3802.12256>.

secondary school.¹⁵⁶ In Bangladesh only 1.57% of persons with disabilities finishing education beyond 12th grade.¹⁵⁷

Political instability profoundly impacts secondary education accessibility. Conflict-driven displacement frequently disrupts schooling as families prioritize safety and stability. In host countries, refugee children, such as the approximately 400,000 Rohingya school-age children in Bangladesh, face vulnerabilities due to the lack of legal frameworks guaranteeing compulsory and free education for non-citizens.¹⁵⁸ Bangladeshi law does not mandate educational rights for migrants and refugees, leaving these children reliant on humanitarian-operated learning centers or informal home schooling. However, these provisions typically cater only to children under 14, denying older refugee children access to secondary education and their educational rights.¹⁵⁹

Due to political instability, girls become victims of gender-based violence in conflict zones and border areas in India, for example, there was a rise on 15% in violence in 2021.¹⁶⁰ Moreover, girls in Pakistan are frequently targeted in attacks on educational facilities by armed groups, reflecting systemic gender-based denial of educational rights. A dramatic incident occurred in 2012 when Malala Yousafzai, a 15-year-old advocate for girls' education, was shot by a Taliban

¹⁵⁶ UNICEF, "Country Profile - India," accessed June 16, 2024, <https://www.unicef.org/rosa/media/16996/file/Country%20Profile%20-%20India.pdf>.

¹⁵⁷ "Opportunities and Challenges of Inclusive Education for Children with Disabilities in Bangladesh," The Daily Star, July 18, 2023, <https://www.thedailystar.net/roundtables/news/opportunities-and-challenges-inclusive-education-children-disabilities-bangladesh-3371986>.

¹⁵⁸ UNICEF, "UNICEF Reaches Education Milestone for Rohingya Refugee Children with Myanmar Curriculum Pilot," May 1, 2022, <https://www.unicef.org/press-releases/unicef-education-milestone-rohingya-refugee-children-myanmar-curriculum-pilot>.

¹⁵⁹ Human Rights Watch, "Bangladesh: Officials Threaten Rohingya for Setting Up Schools," March 21, 2022, <https://www.hrw.org/news/2022/03/21/bangladesh-officials-threaten-rohingya-setting-schools>.

¹⁶⁰ Muheet Ul Islam, "Indian Kashmir Witnesses Rise in Crimes Against Women," VOA, May 3, 2023, <https://www.voanews.com/a/indian-kashmir-witnesses-rise-in-crimes-against-women/7076420.html>.

gunman while riding a bus. Despite international outcry and her subsequent recovery, similar threats persisted. In 2021, at least seven attacks on schools were documented following clashes with India, including two specifically targeting girls' schools.¹⁶¹

3.3.3 Acceptability.

Acceptability in the context of secondary education in India, Pakistan, and Bangladesh refers to the quality and cultural relevance of education that makes it acceptable to students, parents, and the community. It encompasses factors such as the curriculum, teaching methods, language of instruction.

Governments in South Asia face the complex challenge of accommodating not only religious but also linguistic diversity within their educational systems. In India, where 22 languages are officially recognized, the NEP 2020's multilingual approach is considered progressive as it aims to enhance academic performance and cognitive development among students. Despite the potential benefits, the implementation of such an approach entails significant challenges, including curriculum development, teacher training as they are the primary source of instruction, and textbooks development.¹⁶²

The school curriculum is a subject of intense debate both within the selected states and globally. Key discussions focus on balancing theoretical and practical knowledge and determining the skills to prioritize at the secondary education level. These debates are particularly relevant in the context of growing privatization, where the adoption of international curricula significantly

¹⁶¹ "Education Under Attack 2022", Global Coalition to Protect Education from Attack (GCPEA), June 2022, <https://www.educationcannotwait.org/resource-library/education-under-attack-2022>, p. 164

¹⁶² Dhokare, Satish, Shraddha Jadhav, and Arun Gaikwad. "Embracing Diversity: The Multilingual Approach to Education in India's NEP 2020." *Remittances Review* 8, no. 4 (June 2023): 3534-3553. <https://doi.org/10.33182/rr.v8i4.243>.

influences the choice of private schools. India (2023), Pakistan (2023-2024), and Bangladesh (2021-2027) have all undertaken curriculum reforms in recent years to address modern needs and challenges.¹⁶³ However, there are significant delays in the implementation and regional disparities, for example, while Punjab, known for its strong academic performance, currently provides SNC textbooks only in digital format, Sindh and Balochistan encounter more substantial challenges, including delays affecting lower grades.¹⁶⁴

The main features of the new curriculums relate to the opportunity to choose subjects on the level of secondary education, which provides an opportunity for more individualized learning plans and flexibility.¹⁶⁵

One of the issues in Pakistan and Bangladesh is rote memorization with the prevalence of outdated and inconsistent curricula across provinces.¹⁶⁶ The focus is on making standardized activity-based and competence-based curriculums, at the same time there are attempts to accommodate Islamic content into compulsory subjects like Mathematics and Science. All three states focus on IT and technological development providing separate tracks with technical focus on the secondary level.

Faith-based education in South Asia, rooted in preserving cultural and religious values, remains influential, with networks like Vidya Bharati in India emphasizing Hindu identity and

¹⁶³ Yahya Badal, "A Bridge Gap in Pakistan's Curriculum and Pedagogy," The Friday Times, October 26, 2023, <https://thefridaytimes.com/26-Oct-2023/a-bridge-gap-in-pakistan-s-curriculum-and-pedagogy>.

¹⁶⁴ Maryam Naqvi, "Single National Curriculum: Educational Disparities in Pakistan," LSE South Asia Blog, October 4, 2021, <https://blogs.lse.ac.uk/southasia/2021/10/04/single-national-curriculum-educational-disparities-in-pakistan/>.

¹⁶⁵ National Steering Committee for National Curriculum Frameworks, National Curriculum Framework for School Education, 2023, accessed June 15, 2024, https://www.education.gov.in/sites/upload_files/mhrd/files/NCF-School-Education-Pre-Draft.pdf.

¹⁶⁶ Sazzad Hossain, "Skill based curriculum adopted for 'Smart Bangladesh' " The Daily Observer, July 20, 2023, <https://www.observerbd.com/news.php?id=428933>.

Madrasas, which provide in-depth religious education at all school levels, including memorization and interpretation of the Quran, Hadith studies, and Islamic jurisprudence. In Pakistan there are around 1.8 to 3.5 million religious schools.¹⁶⁷ Among the reasons behind the growth in the number of students are inadequacies in the public school system, particularly in rural areas, exclusion of Afghan and other refugees from formal education in Pakistan and exclusion of girls from traditional families from mainstream education.¹⁶⁸ While governments try to control religious education and adapt it to standardized curricula, which is seen in NEPs as an attempt to adapt religious education to mainstream,¹⁶⁹ they can serve radicalization and political mobilization of youngsters, many institutions remain unregistered, avoiding government regulation.¹⁷⁰ Moreover, curriculum and textbooks can include gender stereotyping portraying women as unequal to men.¹⁷¹

3.3.4 Adaptability.

Adaptability in educational systems pertains to their capacity to respond effectively to the diverse needs of children and societal challenges. In India, Pakistan, and Bangladesh these challenges originate from various factors including low accommodation of children with special needs and challenges such as climate change, regional conflicts, political instability, and cross-border migration.

¹⁶⁷ Robert Hunter, "Education in Pakistan," World Education Services, February 25, 2020, <https://wenr.wes.org/2020/02/education-in-pakistan> (accessed June 3, 2024).

¹⁶⁸ "Pakistani Prime Minister's Education Aims May Include Reining in Religious Schools," Religion News Service, March 5, 2019, <https://religionnews.com/2019/03/05/pakistani-prime-ministers-education-aims-may-include-reining-in-religious-schools/>, (accessed 03.06.2024)

¹⁶⁹ Republic Policy, "Madrasah Reforms and Mainstreaming of Curriculum and Education in Pakistan," Republic Policy, accessed June 15, 2024, <https://republicpolicy.com/madrasah-reforms-and-mainstreaming-of-curriculum-and-education-in-pakistan/>.

¹⁷⁰ Ibid, p.30.

¹⁷¹ Convention on the Elimination of All Forms of Discrimination against Women, CEDAW/C/PAK/CO/4, para. 20, 28.

Climate change profoundly impacts the region, especially the most underprivileged groups who often lack the means to recover. Bangladesh, India, and Pakistan are significantly affected by climate migration trends with many victims becoming internally displaced persons (IDPs), underscoring the critical need for educational adaptability. According to UNICEF's Children's Climate Risk Index in 2021, Bangladesh ranks 15th, India 26th, and Pakistan 14th in terms of climate vulnerability. The region frequently experiences climate-related disasters such as flooding and extreme weather events, which devastate or render educational facilities inaccessible, particularly in vulnerable rural areas. These conditions necessitate adaptive responses in education provision. Given Bangladesh's low-lying geography of just 10 meters above sea level, even minor sea level changes have profound implications for its population. A 2019 UNICEF report highlights that nearly 20 million Bangladeshi children are vulnerable to climate hazards, with 25,430 educational institutions in disaster-prone zones. In India, around 14 million people migrated in 2020 due to climate change, affecting agriculture and leading to severe droughts and cyclones.¹⁷² Pakistan also faces severe flooding, such as the 2010 floods that affected 3.9 million people¹⁷³

In such contexts, schools often serve as shelters during and after disasters, disrupting regular attendance and requiring extra instructional hours to maintain academic progress.¹⁷⁴ Droughts worsen these issues by causing seasonal absenteeism and water shortages, even where water

¹⁷² F. Kagawa, *The Heat is On! Towards a Climate Resilient Education System in India*, UNICEF Regional Office for South Asia, 2022.

¹⁷³ Kagawa, F. (2022). *The Heat is On! Towards a Climate Resilient Education System in Pakistan*, UNICEF Regional Office for South Asia, 2022

¹⁷⁴ F. Kagawa, *The Heat is On! Towards a Climate Resilient Education System in Bangladesh* (Kathmandu: UNICEF Regional Office for South Asia, 2022), <https://www.unicef.org/rosa/media/17566/file/The%20Heat%20is%20On%20-%20Bangladesh.pdf>

facilities exist, particularly affecting girls' consistent school attendance. As agricultural families lose income, they often cut spending on daughters' education, keeping them home for chores, especially at the secondary level when they grow up and can be involved in labor.¹⁷⁵ Additionally, the impact of climate change often forces families to migrate to safer regions, leading to settlements in urban slums where children are more likely to drop out of school to support their families economically through labor¹⁷⁶

4. RECOMMENDATIONS.

The previous chapters have detailed the numerous barriers to achieving universal and equitable secondary education in India, Pakistan, and Bangladesh. These barriers encompass a broad spectrum of issues, including inadequate infrastructure, economic constraints, social and gender disparities, and challenges related to curriculum relevance and adaptability to climate change and political threats, as analyzed through the 4A framework. This chapter aims to provide actionable recommendations to address these multifaceted challenges related to legal and policy interventions.

4.1 Constitutional changes to enforce the right to secondary education.

To enforce the right to secondary education in India, Pakistan, and Bangladesh, it is imperative to introduce constitutional amendments explicitly encompassing secondary education.

¹⁷⁵ Thomas, T. 2021. Climate change is forcing girls out of school – here is what young women want leaders to do about it. Assembly: A Malala Fund Publication. <https://assembly.malala.org/stories/climate-change-is-forcing-girls-out-of-school> (Accessed 10 June 2024)

¹⁷⁶ Mosabber Hossain, "Climate disasters are pushing Bangladeshi children out of the school system," World Economic Forum Agenda, May 11, 2022, <https://www.weforum.org/agenda/2022/05/climate-disasters-bangladesh-children-work/>.

According to the World Policy Analysis Center, constitutions should explicitly mention a right to secondary education, a right to education at all levels, or a right to education for at least 11 years or until at least age 16. These provisions can generalize the right or specifically mandate that secondary education be free or compulsory. It is also crucial that such provisions include technical and vocational training.¹⁷⁷

Chapter II reveals that only Pakistan mandates compulsory education up to the age of 16, though this still excludes higher secondary education, which should be protected constitutionally as free. In India, Article 21A, which currently guarantees free and compulsory education for children aged 6 to 14, should be amended to extend this right up to the age of 18, thereby including secondary education. Similarly, in Bangladesh, where the right to education is not considered a fundamental right, the primary objective is to include the right to education in Part III of the Constitution, which deals with fundamental rights. Article 17 should be amended to include the right to free and compulsory secondary education up to 18.

For all three states, it is crucial to clearly define secondary education within their constitutional frameworks to eliminate any ambiguity regarding state obligations, emphasizing clear deadlines for the realization of the right to secondary education can increase accountability.

4.2 Public spending on the educational system.

Relatively low public spending on education in all three states is a persistent challenge which prevents implementation of educational reforms and realization of the right to secondary education, which remains underfinanced and highly privatized.

¹⁷⁷ "Does the Constitution Explicitly Guarantee Citizens' Right to Secondary Education?" WORLD Policy Analysis Center. Accessed June 16, 2024. <https://www.worldpolicycenter.org/policies/does-the-constitution-explicitly-guarantee-citizens-right-to-secondary-education>.

The most recent Committee on Economic, Social, and Cultural Rights (CESCR) report for India, conducted in 2008 prior to the Right to Education Act of 2009 and the National Education Policy, highlighted ongoing issues such as inadequate public school funding and rising privatization.¹⁷⁸ Similarly, Pakistan's 2017 review pointed out substantial underspending in education budgets, especially at the provincial level, and emphasized the need for progressive taxation to address the low tax-to-GDP ratio and mitigate the financial burden on low-income populations.¹⁷⁹ In Bangladesh's 2018 review, the CESCR recommended enhancing educational resource allocation by optimizing tax collection, expanding the tax base, and combating tax evasion.¹⁸⁰

Achieving the Education 2030 Framework for Action's target of 6% of GDP for education necessitates increased public spending and the adoption of progressive taxation. Currently, private household contributions to education in these states are among the highest globally, imposing significant financial burdens on families. Moreover, World Bank data indicates that over 60% of public education expenditure is allocated to teachers' salaries and infrastructure, yet there remains a deficiency in financing educational quality. Therefore, substantial investments are required in enhancing educational inputs and processes, including modern equipment, technology, educational materials, and teacher retraining, to align with educational targets..¹⁸¹

¹⁷⁸ Committee on Economic, Social and Cultural Rights, "Consideration of Reports Submitted by States Parties Under Articles 16 and 17 of the Covenant: India," E/C.12/IND/CO/5, 8 August 2008.

¹⁷⁹ Committee on Economic, Social and Cultural Rights, "Concluding Observations on the Initial Report of Pakistan," E/C.12/PAK/1, 23 June 2017

¹⁸⁰ Committee on Economic, Social and Cultural Rights, "Concluding Observations on the Initial Report of Bangladesh," E/C.12/BGD/1, 29 March 2018

¹⁸¹ Tara Bêteille et al., *Public Financing of Education in South Asia* (Washington, DC: World Bank, March 2020), chapter 2, https://doi.org/10.1596/978-1-4648-1327-6_ch2.

4.3 Guarantees of equal right protection and equality in secondary education.

Equality and non-discrimination are foundational principles in the realization of human rights, particularly in the context of secondary education. These guarantees serve to eliminate barriers and create opportunities for all individuals, regardless of their background, to benefit equally from education.

4.3.1 Legal guarantees.

Non-discrimination is a fundamental principle enshrined in both international treaties and national constitutions, such as Article 14 of India's Constitution, Articles 25-27 of Pakistan's Constitution, and Articles 27-29 of Bangladesh's Constitution. These constitutional provisions explicitly prohibit discrimination based on religion, race, caste, sex, or place of birth, establishing a legal framework for protecting disadvantaged groups.

Most states have ratified key international treaties addressing discrimination based on gender (CEDAW), race (CERD), and disability (CRPD). To enforce these treaties, states typically enact national legislation, following the principle of subsidiarity, which allows for the domestic interpretation and implementation of international rights. In dualist legal systems, such as those in India, Pakistan, and Bangladesh, international treaties require incorporation into national law to be enforceable by domestic courts.¹⁸²

Effective legislative protection for disadvantaged groups is crucial for realizing the right to secondary education, as it addresses underlying causes of school dropouts and enrollment barriers. Laws against child marriage, child labor, and domestic violence in India, Pakistan, and Bangladesh are essential for preventing disruptions to education and supporting continuous

¹⁸² Chandra, A. India and international law: formal dualism, functional monism. *Indian Journal of International Law* 57, 25–45 (2017). <https://doi.org/10.1007/s40901-017-0069-0>

school attendance. Additionally, each country has enacted legislation protecting the rights of persons with disabilities, ensuring equal opportunities and access to educational services for individuals with special needs. However, a notable gap exists in the legal protection of the right to education for refugee children, internally displaced persons (IDPs), and migrants.¹⁸³ The 2016 CEDAW observations on Bangladesh highlight that Rohingya women and girls often fall victim to human trafficking due to inadequate legal protections. Similarly, the CRC's 2016 observations on Pakistan underscore the lack of a legal framework to safeguard the educational rights of Afghan refugees.¹⁸⁴

Moreover, the effectiveness of legal protections is heavily dependent on their implementation and enforcement. For instance, in Pakistan federal and provincial legislation on the minimum age for work and hazardous work often fails to meet international standards, particularly in informal employment sectors like domestic work and in provinces such as Khyber Pakhtunkhwa and Balochistan.¹⁸⁵

4.3.2 Policy interventions.

Enforcement of legal provisions relies on policy interventions and executive efforts. Despite the existence of protective laws for disadvantaged groups, effective implementation necessitates targeted policies aimed at eradicating all forms of discrimination. Subsequently, this analysis will delve into major existing policies within secondary education.

The Samagra Shiksha scheme, initiated by the Indian government in 2018 following successful primary education initiatives, focuses on retaining students and preventing dropouts,

¹⁸³ DR S. IRUDAYA RAJANKULDEEPSINGH RAJPUT, "Right to Education of Migrating Children in India". World Bank Blogs, June 2023, <https://blogs.worldbank.org/en/peoplemove/right-education-migrating-children-india>.

¹⁸⁴ United Nations Committee on the Rights of the Child, Concluding Observations on the Fifth Periodic Report of Pakistan, CRC/C/PAK/CO/5, July 11, 2016

¹⁸⁵ U.S. Department of Labor, Bureau of International Labor Affairs, "Pakistan," accessed June 16, 2024, <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/pakistan>.

particularly among marginalized groups such as Scheduled Castes (SC), Scheduled Tribes (ST), Muslim minorities, landless agricultural workers, children with special needs, and girls. Key components include integrated schools (Grades 1 to 12), improved water, sanitation, and hygiene facilities, and residential facilities in remote areas. The scheme adopts an intersectional approach, acknowledging that gender intersects with other social categories, leading to multiple forms of disadvantage.¹⁸⁶

Programs targeting persons with disabilities are critical, as completion rates for these students are below 10% at the secondary level, with many excluded from mainstream education. The Samagra Shiksha scheme includes support for students with special needs, such as individualized study plans and necessary infrastructure to accommodate various disabilities. Efforts include alternative schooling under the scheme's zero-rejection policy, using open schools and distance learning technologies. However, integrating learners into mainstream schools remains a challenge, exacerbated by increased dropouts post-COVID-19.¹⁸⁷

One of the major ways to prevent dropouts is through cash transfers, which provide incentives for families or children to avoid child labor and continue their education. When these cash transfers are tied to attendance, they offer an additional incentive for students to stay in school and not drop out.¹⁸⁸ All three states have programs of conditional cash transfers for girls such as Secondary Education Stipend Programme in Bangladesh (launched in 1994 with World

¹⁸⁶ SAMAGRA SHIKSHA, An Integrated Scheme for School Education, FRAMEWORK FOR IMPLEMENTATION, Ministry of Human Resource Development Department of School Education and Literacy, https://samagra.education.gov.in/docs/Framework_IISE%20F.pdf.

¹⁸⁷ Grimes, P., et al. Disability-Inclusive Education Practices in Bangladesh. Kathmandu: United Nations Children's Fund Regional Office for South Asia, 2021, www.unicef.org/rosa/media/16986/file/Country%20Profile%20-%20Bangladesh.pdf.

¹⁸⁸ Finnigan C., "Education Cash Transfers: Improving the Quality of Education in India." LSE South Asia Blog, June 24, 2019. <https://blogs.lse.ac.uk/southasia/2019/06/24/education-cash-transfers-improving-the-quality-of-education-in-india/>.

Bank support), National Scheme of Incentives to Girls for Secondary Education (NSIGSE) and Waseela-e-Taleem initiative.

In Bangladesh girls have to have attendance more than 75%¹⁸⁹ and 70% in Pakistan, where cash transfers work for boys and girls with an additional payment to girls, as well as minimum exam scores have to be achieved.¹⁹⁰ In India assistance is targeted for girls from marginalized communities, It aims to increase girls' enrollment in secondary schools, enhance their success in SSC exams for better job prospects, delay marriage, and boost socio-economic participation.¹⁹¹ However, the amount of assistance, for example in India it is equivalent to 35 USD may not sufficiently address the decision-making factors leading to school dropouts.¹⁹²

In 2023, India and Bangladesh achieved a GPI score of 1 for secondary education enrollment, indicating parity between genders, while Pakistan made significant progress with a score of 0.868. Despite the progress, these initiatives lack re-entry policies for young women to return to school post-pregnancy, crucial in regions where child marriages contribute to secondary school dropouts among girls. Additionally, the modest amounts provided through cash transfers highlight the broader issue of insufficient public spending on education, making these transfers more symbolic than effective in addressing educational needs.

4.4 Accountability of states and private institutions.

India, Pakistan and Bangladesh face criticism for their implementation of the right to education, given the high number of OOSC and disparities in access to secondary education. This

¹⁸⁹ "Secondary Education Stipend Programme (SESP)," socialprotection.org, accessed June 11, 2024, <https://socialprotection.org/discover/programmes/secondary-education-stipend-programme-sesp>.

¹⁹⁰ Hussain, Shabbir. "Waseela-e-Taleem to Add 1.75m More Students." The Express Tribune, July 19, 2021. Accessed June 16, 2024. <https://tribune.com.pk/story/2311352/waseela-e-taleem-to-add-175m-more-students>.

¹⁹¹ Simeen Mahmud, Female Secondary School Stipend Programme in Bangladesh, document code 2004/ED/EFA/MRT/PI/44, UNESCO, 2004, <https://unesdoc.unesco.org/ark:/48223/pf0000146803>, p. 3-4

¹⁹² Ministry of Education, Government of India. "National Scheme of Incentive to Girls for Secondary Education (NSIGSE)." Accessed June 16, 2024. <https://dse.education.gov.in/nsigse>.

underscores the need for robust mechanisms for accountability and redress. Although the states have signed fundamental international treaties, they often refrain from signing optional protocols that allow for individual complaints. None of the states has ratified the Optional Protocol to ICESCR or the Optional Protocol to the CRC. Bangladesh, while having signed and ratified the Optional Protocol to the CEDAW, restricts its application by prohibiting Committee inquiries into grave violations and country visits. India and Pakistan have not signed the Optional Protocol to CEDAW.¹⁹³ Furthermore, India and Pakistan have not signed the Optional Protocol to the CRPD, whereas Bangladesh has formally acceded to it. All three states have ratified Article 14 of the CERD without reservation. When states merely sign treaties without substantive implementation efforts and do not provide avenues for accountability, enforcement often falls to civil society.¹⁹⁴

4.4.1 Public interest litigation.

International avenues for seeking redress in addition to non-ratification of Optional protocols face constraints stemming from the non-binding nature of recommendations issued by treaty bodies, which limits their enforcement capabilities. Consequently, national courts emerge as pivotal entities in the pursuit of justice. Public interest litigation within these courts constitutes a perspective mechanism, particularly beneficial for marginalized segments of society.¹⁹⁵ In all three states under consideration, foundational prerequisites for human rights litigation are in

¹⁹³ United Nations Treaty Collection, "Convention on the Elimination of All Forms of Discrimination Against Women," accessed May 15, 2024, https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-8-b&chapter=4&clang=en

¹⁹⁴ ActionAid International and Right to Education Initiative, "Accountability from a Human Rights Perspective, 23.

¹⁹⁵ Veriava, Faranaaz, and Kate Paterson. "Chapter 7: The right to education". In Research Handbook on Economic, Social and Cultural Rights as Human Rights, (Cheltenham, UK: Edward Elgar Publishing, 2020) accessed Jun 17, 2024, <https://doi.org/10.4337/9781788974172.00015>

place, underscored by constitutional provisions facilitating public interest litigation. These provisions empower Supreme or High courts to safeguard and enforce fundamental rights.¹⁹⁶ Public interest litigation presents an opportunity for success due to its open access nature, exemplified by India's provision for suo motu consideration of cases without a formal complainant. Despite this advantage, there is evidence of under-litigation in educational cases, presenting a potential opportunity for further legal advocacy.¹⁹⁷

I will further demonstrate the potential of PIL on the example of Indian Supreme Court. The Indian Supreme Court has been pivotal in affirming education as a fundamental right, equally significant as civil and political rights, as seen in the landmark case *Mohini Jain v. State of Karnataka* (1992). This case recognized the justiciability of the right to education and led to its implementation in Constitution.

Following the enactment of the RTE Act, litigation has concentrated on its enforcement, particularly the mandated 25% reservation for disadvantaged students in private schools, leading to disputes over admissions and school fees. For example, in *Society for Un-aided Private Schools of Rajasthan v. Union of India*, private schools contested this provision, claiming it infringed their constitutional rights to free occupation. The Supreme Court upheld the provision, affirming the state's obligation to provide free and compulsory education.¹⁹⁸

Litigation highlights the potential for legal avenues to enhance educational access, especially for marginalized groups. A notable instance is the *Registrar of High Court of Karnataka v.*

¹⁹⁶ Article 32 of Constitution of India, Article 184(3) of Constitution of Pakistan, Article 44 of Constitution of Bangladesh.

¹⁹⁷ Skelton, Ann. "Strategic Litigation Impacts: Equal Access to Quality Education," January 1, 2017. <https://research.ebsco.com/linkprocessor/plink?id=63e5a997-307d-36f2-baa1-e6bc29469dbe> , p.38

¹⁹⁸ Veriava F. and Paterson K., Chapter 7. The right to education, p. 129.

State of Karnataka & Ors. (2013), which originated from a report on 50,000 OOSC in Karnataka. The court's intervention revealed the actual figure of 170,000 OOSC and led to initiatives that reduced this number by 75% through admission camps and enrollment schemes. This case exemplifies how PIL can address systemic educational issues and improve access for disadvantaged groups, strengthening their individual needs as well as collective voices.¹⁹⁹

4.4.2 Regulation of privatization of education.

Public interest litigation in India, particularly after 2009, shows a shift towards cases concerning the privatization of education and equality issues. This suggests that regulatory oversight of private educational institutions might address barriers in secondary education. Chapter III.2 examines the mixed effects of educational privatization, prompting a critical inquiry of whether their participation should be encouraged, contained, or prevented to ensure equitable access and quality education for all students.

Critics of educational privatization argue that it stigmatizes public schools, often perceived as inferior and serving primarily poor and marginalized students, despite the presence of many high-quality public institutions.²⁰⁰ Privatization in education aligns with neoliberalization, which contends that private sectors can enhance educational availability, acceptability, adaptability, and accessibility. However, this often leads to the commodification of education, viewing students as future workers rather than citizens, and treating education as a market

¹⁹⁹ Jayna Kothari, Gaurav Mukherjee, "The 'Out-of-School Children' Case: A Model for Court Facilitated Dialogue," OxHRH Blog, September 18, 2015, <https://ohrh.law.ox.ac.uk/the-out-of-school-children-case-a-model-for-court-facilitated-dialogue/>.

²⁰⁰ Ibid, p.65.

commodity.²⁰¹ This critique was highlighted in Katarina Tomasevski's report, "The State of the Right to Education," where the criticism of World Bank policies is explicit. The main idea is that the World Bank's approach to education conflicts with the concept of education as a human right. Instead of viewing education as a free and compulsory public service, this perspective leads to policies that emphasize efficiency and consumer choice over equitable access and quality, resulting in underfunding and degradation of public education.²⁰²

Taking this critic into account, in 2019 a group of experts adopted the Abidjan Principles on the human rights obligations of States to provide public education and to regulate private involvement in education, which recall states obligations to respect, protect and fulfill right to education and use their maximum available resources for it. Therefore, states should prioritize funding public schools, public resources should not be diverted to subsidize private education providers in a manner that undermines the public education system and regulate private schools as educational alternatives rather than a primary pathway so they must meet certain standards, not leading to segregation or inequality.²⁰³

Despite these efforts, the states under research encourage privatization and public-private partnerships as is demonstrated by India's NEP which reduces direct control over private institutions. Moreover, while regulations of private schools exist in all states, they refer only to establishment criteria but not the work of private institutions, therefore, quality and equity of

²⁰¹ Sheila Wood, "A Clash of Interests: Neoliberalism in Education," *One World in Dialogue*, 2023, 9-11, <https://ssc.teachers.ab.ca/SiteCollectionDocuments/OneWorldInDialogue/2023%20V7N1/A%20Clash%20of%20Interests%20Neoliberalism%20in%20Education.pdf>.

²⁰² Tomasevski K., "The State of the Right to Education", p. xxiii

²⁰³ Abidjan Principles. "The Abidjan Principles on the Human Rights Obligations of States to Provide Public Education and to Regulate Private Involvement in Education." August 2021. <https://static1.squarespace.com/static/5c2d081daf2096648cc801da/t/61484ef2125d785da37eb98d/1632128758265/ABIDJAN+PRINCIPLES+%ENGLISH+August2021.pdf>.

private schools are left on their discretion. One of the methods to cope with commodification of education is fee regulation and allocation of places for poorer in private schools. For example, in Indian state Bihar there is a control of fee increases on maximum 7% and in Pakistan 10% of places in private school should be free for “deserving children”. However, the results of Indian progressive RTE act, discussed in the previous Chapter show that only 16 out of 36 states in India were following RTE guidelines in 2021.²⁰⁴

4.4.3 Monitoring and Evaluation.

Monitoring and evaluation (M&E) are crucial for assessing progress, ensuring accountability, and guiding evidence-based decision-making in secondary education across India, Pakistan, and Bangladesh. National and international stakeholders, including government agencies, educational institutions, and organizations like UNESCO, UNICEF, and the World Bank, collect vital data on enrollment, dropout rates, learning outcomes, and infrastructure development through M&E processes. This data highlights areas needing improvement, informs policy formulation, and guides resource allocation. Regular and systematic monitoring is essential to address discrepancies in data reliability and consistency, ensuring accurate analysis of progress in secondary education.

The impact of M&E can be illustrated by the experience of Bangladesh, where the "Girls' Education Challenge (GEC)" program aimed to improve access to quality education for girls in marginalized communities. Rigorous monitoring collected data on enrollment rates, reasons of dropping out and learning outcomes of participating girls. The evaluation component assessed the program's effectiveness, identifying key factors influencing success and areas for

²⁰⁴ Global Education Monitoring Report Team et al., "Global Education Monitoring Report 2022," p. 81

improvement. Consequently, awareness-raising campaigns and targeted interventions, such as additional teacher, bursaries, assistive devices for girls with disabilities, menstrual kits were provided to enhance girls' individual learning experience which led to increased enrollment and improved learning outcomes.²⁰⁵

By integrating data from national and international stakeholders, M&E promotes transparency, accountability, and improves the quality of secondary education initiatives. It ensures that educational interventions are responsive to local needs while leveraging global expertise to achieve impactful outcomes in education.

CONCLUSION

This thesis underscores the critical role of secondary education and the existence of the right to secondary education, which is overlooked by international human rights law and national legislation, focusing mostly on primary education. Secondary education should become free and compulsory in order to achieve not only the progress and equality in India, Pakistan and Bangladesh, but to pursue the full realization of the right to education, which has enormous potential for personal and societal development. The role of the right to secondary education as an empowerment right cannot be denied as on the level of secondary education an individual develops personality and intellectual framework. Moreover, the role of the right to secondary education as a multiplier right is crucial not only for the realization of ESCR as well as CPR is deeply interrelated to the realization of the right to secondary education. Education is not merely a pathway to knowledge but a fundamental human right that empowers individuals to participate actively in society. It equips them with the skills and confidence necessary to

²⁰⁵ Girls' Education Challenge, "Innovation Window Guidance," Worldview Mission, March 2012, <https://worldviewmission.nl/wp-content/uploads/2012/03/WM-Edu-Clair3-Girls-Education-Challenge-Innovation-Window-Guidance-English.pdf>.

exercise their civil and political rights, fostering an informed and engaged citizenry. This empowerment is crucial for the full realization of other human rights, including the rights to freedom of expression, association, and participation in political life.

This thesis has critically examined the right to secondary education in South Asia, specifically in India, Pakistan, and Bangladesh, through the lens of the 4A Framework: Availability, Accessibility, Acceptability, and Adaptability. From a theoretical perspective, the 4A Framework, developed by the Committee on Economic, Social and Cultural Rights (CESCR) in General Comment No.13, provided a robust foundation for analyzing the barriers to secondary education. This framework emphasizes that education should be available in sufficient quantity, accessible to everyone without discrimination, acceptable in form and substance, and adaptable to the needs of changing societies and communities. Applying this theoretical framework revealed critical insights into how socio-economic, gender, and cultural barriers impact educational access and completion of secondary education in these South Asian countries.

The research highlighted that socio-economic disparities, gender biases, and cultural norms significantly influence educational outcomes. It also highlighted the impact of child labor, child marriages, stigmatization and climate change on the right to secondary education. Poverty as one of the major economic constraints often leads to higher dropout rates among children from disadvantaged backgrounds, while gender biases limit girls' access to education and completion rates, especially on the level of secondary education. The privatization of education while providing positive outcomes in quality and innovation has further exacerbated these inequalities, restricting access to quality education for economically marginalized groups, who cannot afford direct and indirect costs of learning and therefore prioritize economic needs over education.

Key findings indicate that while India, Pakistan, and Bangladesh have achieved relative progress in primary education, secondary education remains underfunded and inadequately prioritized. Constitutional reforms, increased public funding, equitable policy measures, and enhanced accountability are crucial for improving access and completion rates at the secondary education level. Aligning national policies with international human rights obligations and effectively regulating the privatization of education can significantly advance the realization of the right to secondary education.

To address these challenges, this thesis recommends several measures. First, constitutional and legal reforms are essential to explicitly recognize secondary education as a compulsory and free. Second, increasing public funding for secondary education is crucial to reduce reliance on private institutions and ensure equitable access and provision of free secondary education. Third, civil society and NGOs can create an incentive for changing norms and attitudes towards the role of secondary education and cope with discriminatory practices using PIL and awareness-raising campaigns. Finally, policies must be designed to address socio-economic, gender disparities and needs of persons with special needs as well as migrants and refugees, including targeted scholarships, provision of functional infrastructure, alignment with individual student's needs and support programs for disadvantaged groups.

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