1. Background

The Dakar Framework for Action reaffirmed education as a fundamental human right. Developments in the aftermath of the Dakar conference have underlined the importance of rights-based government action in implementing Education for All (EFA). The right to education and Education for All provide the point of departure for this meeting. The existing international human rights framework is used to analyze the development and implementation of EFA policies. This framework captures key issues as well as providing for qualitative and quantitative analysis that is globally comparable.

2. Conceptual framework

This meeting has been planned to examine post-Dakar developments focusing on the process of operationalizing EFA goals and policies at the domestic level. The aim is to identify the existing experiences, as well as common challenges, in designing and putting into practice rights-based approaches. A rights-based approach to development is a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights. In other words, a rights-based approach integrates the norms, standards and principles of the international human rights system into the plans, policies and processes of development.

The purpose of the meeting is to enhance harmonization of normative action, namely constitutional and legal measures implementing the right to education as defined in international human rights instruments.

These instruments include core human rights treaties that have been, together with the Universal Declaration of Human Rights, proclaimed by the United Nations to constitute the International Bill of Human Rights, namely the International Covenants on Civil and Political, and on Economic, Social and Cultural Rights. Global EFA goals and priorities emphasize the elimination of exclusion and discrimination, hence three key international human rights treaties are used as yardstick for this area: the UNESCO Convention against Discrimination in Education, the Convention on the Elimination of Racial Discrimination, and the Convention on the Elimination of All Forms of Discrimination against Women. The focus of EFA is, inevitably, on children and the Convention on the Rights of the Child represents guidance for the whole world as well as outlining all rights of the child as these should apply in education. The right to education (article 26) should be mentioned here. The link between education and poverty eradication, especially with regard to the elimination of child labour, highlights two principal international treaties generated by the International
Labour Organization (ILO), namely Conventions on the Minimum Age for Employment and on Intolerable Forms of Child Labour.

All states have not ratified all these treaties and the preparatory work for the Workshop will map out the status of undertaken international obligations for those countries that will be represented in the Workshop. Moreover, ratifications have sometimes been accompanied by reservations, which limit the application of specific treaties in individual countries, and these will be identified as well. This stocktaking exercise will constitute input in the Workshop so as to crystallize similarities and differences in the approaches to rights-based education.

Specifically, the focus of the meeting are the rights of the child and gender equality and the right to education. The Convention on the Rights of the Child has generated the greatest level of commitment in the world (192 ratifications in May 2002), while gender equality constitutes the first time-bound goal agreed upon within the Dakar Framework of Action.

3. Objectives of the Workshop

* To review the extent to which national constitutions and laws, policies and practices, have been harmonized with the core human rights obligations relevant for education. The Workshop aims to examine gaps between the requirements of international human rights treaties and domestic laws, to identify difficulties and obstacles to harmonization and discuss how these could be best overcome. Moreover, gaps are often found at the domestic level, between legislation and implementation. A variety of institutions have been established in different countries, including national human rights commissions or children’s ombudsmen, and this Workshop provides an opportunity for the examination of their experiences.

* To assess the extent to which qualitative and quantitative data are available in individual countries to demonstrate progress towards fulfilling the core obligations emanating from the principal human rights treaties and advancing the implementation of EFA, and to share experiences and best practices in generating necessary and internationally comparable data.

* To discuss optimal processes and institutional frameworks through which the identified gaps between goals and realities could be filled in the future, including possible sub-regional and regional cooperation.

4. Key substantive issues and proposed inputs

The meeting aims to identify common regional challenges and strategies and focus on recent, on-going and forthcoming normative action in the cross-cutting area of rights-based education. Preparations for the meeting have identified, on the basis of comparing domestic and regional post-Dakar experiences, four substantive issues detailed below. The most suitable approach has transpired to be the application of key international human rights treaties, as the common point of reference, followed

Comment: Maybe a special focus could be put on issues "forgotten" in the EFA assessment such as assessing gender equity and the inclusion of certain vulnerable groups such as persons with disabilities.
by the examination of national constitutions, domestic laws, policies and practices aimed at translating these commitments into practice.

4.1. Overcoming exclusion

The focus of the meeting on universalizing access to education relates to the emphasis in the Dakar Framework for Action on excluded, vulnerable, marginalized and/or disadvantaged children, less able children. References to the Convention on the Rights of the Child reiterate the obligation of all states to ensure education for all children, especially to eliminate exclusion and discrimination. The Commentary to the Dakar Framework has noted particular categories without access to education, such as minority and migrant children. For minority children, the obstacle may be the language of instruction in school, for migrant children it may be constitutional or legal guarantee of education only for citizens. Hence, the identification of categories without access to education and the sharing of experiences and best practices in overcoming exclusion constitutes the objective of the Workshop.

Definitions of the categories that may be excluded or unreached vary between countries and little comparative data is available. The preparations of the Workshop will facilitate the generation of needed data through a summarized overview of governmental reports of the countries represented in the Workshop under international human rights treaties. The conventions against discrimination in education, and the reports thereon, provide a wealth of authoritative data on the pattern of discrimination in each country, especially regarding racial and gender discrimination. The Convention on the Rights of the Child has provided the broadest listing of the prohibited grounds of discrimination\(^1\) and thus constitutes a comprehensive analytical framework.

4.2. Universalizing access to free and compulsory education

The existing international normative instruments\(^2\) posit free and compulsory primary education as a governmental responsibility. A similar provision is repeated in many, but not all national constitutions, and differences will be highlighted.

The two components - free and compulsory - are not necessarily related in practice. Although international normative instruments have been grounded on the belief that

\(^1\) Article 2 of the Convention obliges governments to ensure the right to education to all children on their territory without discrimination of any kind, including race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. It includes specific provisions on the education of minority and indigenous children, children with disabilities, as well as children deprived of their liberty.

\(^2\) The UNESCO Convention against Discrimination in Education stipulates that primary education should be free and compulsory, the International Covenant on Economic, Social and Cultural Rights says that "primary education shall be compulsory and available free for all," while the Convention on the Rights of the Child defines as a governmental obligation to "make primary education compulsory and available free for all," urging governments to progressively achieve every child’s right to education on the basis of equal opportunity.'
education cannot be made compulsory unless it is free, direct and indirect costs of primary schooling preclude access to education for many children.

Further normative action in support of that goal will constitute a focus of the meeting. Particular attention will be paid to the elimination of financial obstacles in primary and/or basic education, and to the process of lengthening compulsory education in many countries.

Moreover, the international human rights framework provides useful guidance by linking the school-leaving age with the minimum age for employment. That link was set by the ILO in 1921 at the age of 14, and as of 1946 the ILO is recommending 16 as the school-leaving age and/or minimum age for employment. Specific legal commitments for the countries represented in the Workshop, under the ILO Minimum Age Convention, will constitute an input for the Workshop. The varying definitions of primary and/or basic education, as well as differing length and enforcement of compulsory education, make age-related categorizations pertinent, especially in view of the global commitment to the elimination of all forms of child labour and provision of education to working children. States’ reports under the Convention on the Rights of the Child will be used as the basis for a comparative review of the age categorizations that are applied in individual countries.

The linkage between education and work for children also requires a close examination of the length, quality, orientation and contents of education from the viewpoint of its sufficiency for subsequent income generation. The phenomenon of graduate unemployment indicates the need to closely link education and the labour market (including employment and self-employment, formal and informal sectors).

4.3. Improving quality of education and access to work-related skills

The inter-generational transmission of the lack of access to education, and its effect on the perpetuation of poverty, is a well-documented phenomenon as is the fact that differences in children’s learning accomplishments and their consequent ability to learn are developed in early childhood. The Dakar Framework for Action therefore heightens (highlights?) attention to developing the learning potential of children and focuses on mother-tongue education. The Convention on the Rights of the Child provides further guidance on the importance of mother tongue during the first stages of education, while governmental reports under the Conventions point to a variety of domestic practices. These will be summarized for the Workshop.

The Dakar Framework for Action has enriched rights-based approach to education by moving beyond universalizing access to education to highlight the importance of its quality and relevance. Domestic normative action, including recent developments in constitutional and legislative bases for assessing quality and relevance of education from rights-based perspective, will thus be reviewed during the meeting. The Convention on the Rights of the Child provides useful guidance about the orientation and quality of education, while the Committee on the Rights of the Child has further developed recommendations for child-rights-based education.
The lack of access to education leads to exclusion from the labour market, which perpetuates and increases poverty. Education alone cannot lead people out of poverty, rights-based approaches to development strive towards linking different sectors (such as education and employment) within a common conceptual framework. This framework emanates from human rights. Because human rights are interrelated and interdependent, the enjoyment of the right to education leads to the exercise of other human rights, including the right to work. The rapid ratification of the ILO Convention on Intolerable Forms of Child Labour, and the experiences in its implementation, will provide guidance for this component of the Workshop.

What about other rights such as:

The Right to Property (Article 17)
The Right to Social Security (Article 22)
The Right to Rest and Leisure (Article 24)
The Right to an Adequate Standard of Living (Article 25)
The Right to Participate in Cultural Life (Article 27)

4.4. Achieving gender equality
(more to come)
The emphasis on the necessity to eliminate all forms of discrimination against girls and women is shared between international human rights instruments and EFA policies, and it will also constitute an overarching objective of the meeting.

The global commitment to eliminating gender disparities in primary and secondary education by the year 2005 constitutes the first time-bound goal agreed upon at Dakar. It is, therefore, a key objective of the meeting to review progress in its attainment at the domestic level, to identify remaining obstacles, and forge common strategies to facilitate the attainment of that goal.