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3

**FOREIGN AID AND INTERNATIONAL ASSISTANCE
FOR IMPLEMENTING FREE BASIC EDUCATION IN
SUB - SAHARAN AFRICA: PROSPECTS AND
CHALLENGES**

By

Osifunke S. Ekundayo***Abstract**

The paper analyses the trends of aid to education in Sub Saharan Africa. It examines the obligations under international human rights instruments that poor states should seek assistance from richer nations. References to 'international assistance cooperation' in article 2.1 and to 'international action' in article 23 of the ICESCR are of particular relevance for poor States. Where a State party is clearly lacking in the financial resources and/ or expertise required to provide free education for its children, the international community has a clear obligation to assist under international human rights laws. It is revealed that Sub Saharan Africa receives a declining share to basic education, therefore aid to basic education must be better allocated and sufficiently in Sub-Saharan Africa. So the question was raised that what should be done? The answer as discussed in the paper is threefold, first, there is a need to increase the amounts of aid provided. Second aid should be based more firmly on both needs and the capacity to absorb the aid provided in a transparent manner by demanding greater accountability and transparency in terms of the allocation and use of aid funds. Finally it is important to ensure that the aid supplied will be provided for a sufficient length of time for it to have a better chance of making a difference by working to ensure better outcome in availability and accessibility to education for children in Africa and to reach Sustainable Development Goal 4 (SDG 4).

Key words: Foreign aid, free education, Sub-Saharan Africa, international assistance, IMF, World Bank.

Introduction

Education has much to contribute to both individual and national development and ought to be regarded by States as an investment in human capital.¹ Additionally, from human rights' perspective, right to education is essential for people to be aware of the other rights they have to exercise them and so to demand these rights.² The global community recognises education as a human right due to its indispensability to the preservation and enhancement of

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¹ Van Bueren, G. (1994), *The International Law on the Right of the Child*, the Netherlands: Martinus Nijhoff Publishers, p.232.

² UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 13: The Right to Education (Art. 13 of the Covenant)*, 8 December 1999, E/C.12/1999/10, para 1 available at <http://www.refworld.org/docid/4538838c22.html> [accessed 17 June 2014]

the inherent dignity of the person.³ States have the primary responsibility to promote and ensure the right to education for all individuals in their territories and subject to their jurisdiction. States parties to relevant human right treaties on the right to education are required to establish an accessible educational system, and refrain from actions which may prevent or limit its accessibility.⁴ Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) similarly elaborates as follows:

...education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. [...] that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups...⁵

Likewise, Article 29 of the Convention on the Rights of the Child (CRC) provides that; *the education of the child shall be directed towards the 'development of the child's personality, talents and mental and physical abilities to their fullest potential.'*⁶ In addition, the Declaration adopted by the World Conference on Education for All proclaims that, 'Every person – child, youth and adult – shall be able to benefit from educational opportunities designed to meet their basic learning needs'.⁷ In sum, within human rights contexts, education is a prerequisite for the development of the child's intellectual and spiritual potential and it prepares the child to become an integrated member of the society.

While the importance of education is emphasised worldwide and the need of primary education for children is being well documented by scholars, there are still a large number of children who do not attend primary school. Exclusion by the provision of the law and poverty remain the greatest obstacles to the realisation of the right to education in the developing nations. Countries that have ratified human right treaties are required to establish an accessible educational system, and refrain from action which may prevent or limit its accessibility.⁸ Children of ratified States are entitled to receive free and compulsory primary education.⁹ The most frequently cited reason for children's lack of schooling is the inability of government to afford the costs due to the country's debt repayment of loans to global creditors such as International Monetary Fund (IMF) and World Bank. These global creditors attach stringent conditions that are not favourable to implementing free education, because debt repayment exceeds investments in development. In most sub-Saharan Africa countries, monetary policies are influenced by the macro-economic policy and preferences of

³ *ibid* para 4.

⁴ *ibid*, paras 46 & 47.

⁵ Article 13(1)ICESCR.

⁶ See Committee on the Rights of the Child, *General Comment 1: The Aims of Education* (Article 29 (1) Convention on the Rights of the Child), U.N. Doc. CRC/GC/2001/1 (2001).

⁷ World Conference on Education for All: *The Dakar Framework for Action*, adopted by World Education Forum, Dakar, Senegal, 26-28 April 2000, available at: <http://www.unesco.org/education/wef/en-conf/dakframeng.shtml> accessed 17 June 2014.

⁸ CESCR General Comment 13, note 2 paras. 46 & 47.

⁹ Article 26 Universal Declaration of Human Rights, (1948) G.A. Res 217, UNGAOR 3rd Sess. Supp. No 127 at 71 UN Doc A/80.

the IMF.¹⁰ If a government does not respect the policies agreed to in a loan, the IMF will stop loan disbursements which will send a signal to donors and private companies that the country is economically unstable.¹¹ It is always argued that free education is unsustainable for most developing countries due to lack of adequate resources. Bray argued that financing primary education by the state is unaffordable because government cannot afford to provide the necessary funding needed to deliver adequate education service.¹² He gave examples of countries like Nigeria, Ghana and Kenya that had made attempts to abolish school fees in the 1960s and 70s, but found these policies to be unsustainable. He went on that some African governments have noted that insufficient resources exist for realising Economic Social and Cultural (ESC) rights – and that realisation of these rights is aspirational and a complaints procedure will force unrealistic choices on states.¹³ Where a state party is lacking in financial resources, it is required to work out a detailed plan and the international community has a clear obligation to assist.¹⁴ In case the State alone cannot fund the free education, Article 2 of ICESCR obligates State parties as follows:

Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant...

This is further reiterated by CESCR in its General Comment No11 where the Committee calls upon the relevant international agencies to assist States parties to the greatest extent possible to meet their obligations on an urgent basis. All these point to the need for an immediate and all-encompassing global commitment to stimulate stronger financial commitment by rich States and thus eliminate the financial obstacles that impede free education for all schoolchildren in Africa. Sadly aid to education in Sub-Saharan Africa has been stagnant since 2010, also the aid that is given does not go to the countries most in need.

Education as a Matter of Human Rights under the International Laws

Education is one of the most protected rights in international law. UDHR establishes right to education, and the ICESCR, CRC, UNESCO and ACRWC contain similar provisions. The Universal Declaration of Human Rights (UDHR)¹⁵ states, 'Everyone has the right to education.'¹⁶ The right to education is reiterated in a number of international human rights conventions. This right is covered comprehensively in UNESCO's Convention against

¹⁰ Tomaveski, K. (2006) 'The State of Right to Education Worldwide. Free or Fee', 2006 *Global Report* see also; Tomaveski, K. (2003) *Education Denied: Cost and Remedies*, London; Zed Books, p 70

¹¹ Alexander, N, (2001), 'Paying for Education: How the World Bank and the International Monetary Fund Influence Education in Developing Countries;', *Peabody Journal of Education*, 76 (3&4), 285-338, at 322

¹² Bray, M. (1988) 'School fees- Philosophical and Operational Issues. In: M. Bray & K. Lillis (eds), *Community financing education; issues & Policy Implication in Less Developed countries*, Oxford: Pergamon Press, 55-74 at 60.

¹³ *ibid*

¹⁴ CESCR Gen Comment 11: Plans of Action for Primary Education, para 9.

¹⁵ Universal Declaration of Human Rights,(UDHR) 1948, G.A.Res 217, UNGAOR 3rdSess.Supp. No127 at 71 UN Doc A/80 (1948)

¹⁶ UDHR, art. 26, para. 1.

Discrimination in Education (1960)¹⁷ and Articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966).¹⁸ Several other human rights conventions recognise the right to education for specific groups of individuals. These include the Convention on the Rights of the Child (CRC),¹⁹ (Articles 28–30), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)²⁰ (Article 10); the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families²¹ (Articles 12 and 30); the Convention on the Elimination of Racial Discrimination²² (Article 5(e), and the Convention on the Rights of Persons with Disabilities²³ (Article 24). Regional human rights treaties also include provisions on the right to education, for example, the African Charter on Human and Peoples' Rights (ACHPR or Banjul Charter) (1981) which provides that every *individual* shall have the right to education²⁴, and the African Charter on Rights and Welfare of the Child (ACRWC) which provides in Article 11 that every *child* should have the right to education.²⁵ In many cases, compliance with such obligations may be undertaken by most States with relative ease, and without significant resource implications. As a result implementing free and compulsory primary education differs from country to country. In other cases, however, full realisation of the rights may depend upon the availability of adequate financial and material resources as is the case with most States in Sub-Saharan Africa.

Tomasevski rightly pointed out that many developing countries have difficulties (due to, inter alia, debt servicing, resource constraints and internal conflicts) with meeting the human rights obligation to ensure free and compulsory education to all. This however is difficult if the actors (namely; governments which have human rights obligations and development institutions and donors which set policy priorities and help funding education) do not share a common language and common objectives.²⁶ Considering the fact that the education sector in

¹⁷ Article 4(a), UNESCO Convention against Discrimination in Education (1960) entered into force 22nd May 1962.

¹⁸ International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966), 993UNTS 3 entered into force January 3 1976

¹⁹ Convention on the Rights of the Child (CRC) (1989) G.A. Res 44/25 UNGAOR, 44th sess, Supp No 49 at 167, UN Doc/44/49 (1989), entered into force 2nd September 1990.

²⁰ UN General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979, A/RES/34/189, available at: <http://www.refworld.org/docid/3b00f2244.html> [accessed 17 June 2014]

²¹ UN General Assembly, *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*, 18 December 1990, A/RES/45/158, available at: <http://www.refworld.org/docid/3ae6b3980.html> [accessed 17 June 2014]

²² UN General Assembly, *International Convention on the Elimination of All Forms of Racial Discrimination*, 21 December 1965, United Nations, Treaty Series, vol. 660, p. 195, available at: <http://www.refworld.org/docid/3ae6b3940.html> [accessed 17 June 2014]

²³ UN General Assembly, *Convention on the Rights of Persons with Disabilities : resolution / adopted by the General Assembly*, 24 January 2007, A/RES/61/106, available at: <http://www.refworld.org/docid/45f973632.html> [accessed 17 June 2014]

²⁴ Article 17(1), Organization of African Unity (OAU), *African Charter on Human and Peoples' Rights ("Banjul Charter")*, 27 June 1981, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), available at: <http://www.refworld.org/docid/3ae6b3630.html> [accessed 17 June 2014] [emphasis own]

²⁵ African Charter on the Rights and Welfare of the Child (ACRWC) (1990), OAU/Doc/CAB/LEG/24.9/49(1990) entered into force Nov 29 1999, available at: <http://www.refworld.org/docid/3ae6b38c18.html> [accessed 17 June 2014] [emphasis own]

²⁶ Tomaveski, K. (2003) *Education Denied: Cost and Remedies*, London: Zed Books, p.34.

many developing countries is completely dependent on foreign lending and development programs, it is a big challenge to move the development cooperation towards a human right-based approach.²⁷

International Cooperation in Realisation of Free Basic Education

The international community is a major participant in the realisation of the right to education in poor nations provides support to build capacity of both governments and individuals. To enable all States Parties to improve their capabilities and skills, States Parties are under a duty to promote and encourage international cooperation in educational matters, particularly taking into account the needs of developing states, regardless of whether the developing states is a party to the Convention.²⁸ The term 'international cooperation' not only refers to bilateral cooperation but also to cooperation by States as members of intergovernmental organisations. Both the CRC Committee and the CESCR Committee maintain that States Parties have an obligation to ensure that their actions as members of international organisations, take due account of the right to education.²⁹

Article 28(3) of the CRC provides in relation to international cooperation on matters concerning education that State parties:

States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

It is the most comprehensive call in a binding human rights instrument addressed to the States. Parties are to cooperate internationally in educational matters.³⁰ In Article 28(3) CRC, the right to education is approached as a third generation right:³¹ in the framework of the right to education, the beneficiaries in developing countries have a right to solidarity. Article 28(3) CRC is silent about the type and extent of the assistance. It is clear that the international cooperative actions should relate to 'matters' relating to education.³² The CRC Committee gave some more concrete indications as to the type of assistance. In the framework of its competence under Article 45(b) of the CRC,³³ the Committee identified a need for technical

²⁷ Ibid.

²⁸ Art. 23(4) ICESCR

²⁹ CRC Committee, *General Comment no. 5: General measures of implementation of the Convention on the Rights of the Child* (UN. Doc. CRC/GC/ 2003, 5, 2003), paras 63-64; CESCR Committee General Comment No. 13 on the Rights to Education (UN. Doc. E/C.12/1999/10, 1999), para 56.

³⁰ Verheyde, M., (2006), *A Commentary on the United Nations on the Right of the Child, Article 28: The Right to Education*, Leiden: Martinus Nijhoff Publishers, p.65.

³¹ Nowak, Manfred (2001) 'The Right to Education', in; Asbjorn Eide, Catarina Krause and Allan Rosas (eds), *Economic Social and Cultural Rights : A Textbook*, Dordrecht: Martinus Nijhoff Publishers, pp 254-255

³² Verheyde note 30, p.65

³³ Under this Article the CRC Committee has the competence to send reports.

advice and assistance and consequently referred reports, especially to UNICEF and UNESCO. The CRC Committee pointed out that;

...when States ratify the Convention, they take upon themselves the obligations not only to implement it within their jurisdiction, but also to contribute through international cooperation, to global implementation.³⁴

In the same vein, the CESCR Committee reiterated that particularly those States which are in a position to assist others should fulfill the obligation to international cooperation for the realisation of economic, social and cultural rights.³⁵ Similarly, in its General Comment 11, CESCR committee encourages States parties to seek assistance of relevant international agencies including the International Labor Organisation (ILO), the United Nations Development Programme (UNDP), the United Nations Educational Scientific and Cultural Organisation (UNESCO), the United Nations Children's Fund (UNICEF), the International Monetary Fund (IMF) and the World Bank in relation both to the preparation of plans of action as required under article 14 and their subsequent implementation. The Committee also calls upon the relevant international agencies to assist State parties to the greatest extent possible to meet their obligations on an urgent basis.³⁶ Articles 10-14 and 21 of the Dakar Framework for Action, as well as in some other UNESCO instruments,³⁷ and in the 1993 Vienna Declaration and Programme of Action,³⁸ all have similar provisions on the necessity of international cooperation in the effective realisation the right to education in human rights instruments.

Funding from funding agencies

In most of the countries of Sub-Sahara, even with improved mobilisation and allocation of domestic resources, and enhanced efficiency in their use, meeting all the education goals will require additional funding from international development agencies such as, Education Sector Support Programme in Nigeria (ESSPIN), Department for International Development (DFID), Japan International Cooperation Agency (JICA) and US Agency of International Development (USAID). Funding agencies are willing to allocate significant resources towards Education as demonstrated through Fast Track Initiative (FTI) and School Fee Abolition Initiative (SFAI). The keys to releasing these resources are evidence of, or potential for sustained political commitment; effective and transparent mechanism for consultation with civil society organisations in developing, implementing and monitoring Education for All (EFA) plans. There is monitoring of how the funds are spent. Funding agencies will need to make longer term and more predictable commitments, and to be more accountable and

³⁴ CRC Committee, (2003) *General Comment No5: General Measures of implementation of the Convention on the Rights of the Child* (UN Doc. CRC/GC/2003/5, para.7.

³⁵ CESCR Committee, (1990) *General Comment No.3 on the Nature of State Parties Obligations* E/1991/23, para. 14. See also, Articles 2, 23 and 15(4) of the ICESCR,

³⁶ CESCR Committee, (1999), *General Comment No11 Plans of Action for Primary Education*, Article 14 ICESCR), E/C.12/1999/4, 10/05/1999. para11.

³⁷ See Article 1.2(c) of the UNESCO Constitution and among others Articles 43-45 of the Education Recommendation concerning education for international understanding, co-operation and peace and education relating to human rights and fundamental freedoms, adopted on 19 November 1974

³⁸ World Conference on Human Rights: Vienna Declaration and Programme of Action (UN.Doc. A/ CONF.157/23, 1993), para 34

transparent. They must provide timely and accurate information on their disbursements and ensure there is regular reporting at the regional and international levels.

For example, a major source of financial and other assistance to education in Nigeria is the international donor agencies, both multilateral and bilateral namely; UNICEF, DFID, UNESCO and JICA. Of the assistance provided by these agencies over the past decade, that of the World Bank has been quantitatively the most significant. The efforts of the U.N. agencies and the bilateral agencies have focused on capacity building, technical assistance, experimental initiatives and research. The efforts of the UN agencies and the bilateral agencies have focused on capacity building, technical assistance, experimental initiatives and research, rather than grants or loans. Tomasevski explained that aid from funding agencies is not a gift. She pointed out that an example was debt relief to Nigeria in 2005-2006. The portion which Nigeria paid to its creditors was, in the case of the United Kingdom, \$3billion, equivalent to Britain's total aid to Africa at the time. Because that repayment was classified as Britain's aid to Africa, statistics showed a huge increase in aid although there really was hardly any.³⁹ This practice is widespread amongst creditor countries.

Also, financial institutions like the IMF and the World Bank are forcing governments to cut public expenditures including those relating to education, as a result of the stringent conditionalities attached to the Structural Adjustment Programmes of the IMF. And regarding the IMF/World Bank conditionalities, it is obvious that they have detrimental effects on the socio-economic situation in indebted countries. And there have been references to these measures in States' reports, as posing difficulties for the full realisation of economic, social and cultural rights. Without significant changes to the IMF architecture and removal of conditionalities, the poorest nations will remain unable to lift themselves out of recession. Education systems will be left to languish without desperately-needed funds and the teacher workforce, already squeezed is likely to face further pressure. As long as IMF conditions continue it is unlikely that the poor countries will be able to build on the fragile gains made in education over recent years. Children waiting at the school gate should not be left out because of the short-sightedness of global institutions. It is crucial that IMF carries out the review on loan conditionalities in poor countries.⁴⁰ World Bank is the largest provider of external funding for education, it pursues its own strategy and it is a gatekeeper in assessing countries eligibility for development finance and debt relief. There are 139 countries and territories to which the World Bank has provided loans to education in 1963-2006, and small grants have been provided to countries which qualified for debt relief, extensive documentation and literature describes the ends and means of its involvement in education.⁴¹ Tomasevski, expounded that although international cooperation has been anticipated in international human right law to underpin the right to education, global education and development finance

³⁹ Tomasevski, *Education Denied: Costs and Remedies*, note 26, p.10.

⁴⁰ Global Campaign for Education Press Release; Make or Break: IMF new lease on life must benefit Education for All. 25th April 2009.

⁴¹ International Development Association (IDA) (The World's Bank Funds to the Poorest) available at: <http://www.worldbank.org/ida/> accessed 7 July 2014.

strategies have proved an obstacle to it.⁴² In the General Comment No 11 of the CESCR, the Committee calls upon the relevant international agencies to assist States parties to the greatest extent possible to meet their obligations on an urgent basis.⁴³

State Parties' Obligation to Seek (Or Provide) International Assistance and Co-Operation

State has an obligation to seek or provide international assistance and cooperation whenever it is necessary to do so.⁴⁴ International assistance and cooperation was affirmed in the Declaration on the Right to Development⁴⁵ and the Vienna Declaration and Programme of Action.⁴⁶ Ssenyojo raised two questions on international assistance; First if 'international assistance and cooperation' oblige developed states to transfer resources to developing states? And Second whether developing states are obliged to seek such 'assistance and cooperation'?⁴⁷ In answering, he explained that generally, while most developed states give assistance to developing states, developed states have consistently denied the existence of any clear legal obligation to transfer resources to the developing states.⁴⁸ He went on that It has further been argued that 'although there is clearly an obligation to cooperate internationally, it is not clear whether this means that wealthy States Parties are obliged to provide aid to assist in the realisation of the rights in other countries'.⁴⁹ In the debates surrounding the drafting of the Optional Protocol to the ICESCR the representatives of the United Kingdom, the Czech Republic, Canada, France and Portugal believed that international cooperation and assistance was an 'important moral obligation' but 'not a legal entitlement', and did not interpret the Covenant to impose a legal obligation to provide development assistance or give a legal right to receive such aid.⁵⁰ Article 14 of the Optional Protocol was referring only to the 'need for technical advice'.⁵¹ The fear is that, if there is no legal obligation underpinning the human rights responsibility of international assistance and cooperation, then, inescapably, all international assistance and cooperation fundamentally rests upon charity. This will adversely affect implementing free education in Sub Saharan Africa as states would not be able to sustain as insufficient resources are routinely emphasised in government reports required by

⁴² Tomasevski, K. (2005), 'Globalising what: education as a human right or as a traded service?' *Indiana Journal of Global Legal Studies*, Vol 17, No.1 pp.1-78.

⁴³ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 11: Plans of Action for Primary Education (Art. 14 of the Covenant), 10 May 1999, E/1992/23, available at: <http://www.refworld.org/docid/4538838c0.html> [accessed 6 June 2014]

⁴⁴ Art. 23(4) ICESCR and Art 28(3) CRC.

⁴⁵ Declaration on the Right to Development (1986) GA res. 41/128, annex, 41 UN GAOR Supp. (No. 53) at 186, UN Doc. A/41/53.

⁴⁶ Vienna Declaration (1993), paras 9, 12 and 34.

⁴⁷ Ssenyojo, M. (2011) 'Reflections on States Obligations with Respect to Economic, Social and Cultural Rights in International Human Rights Law', Vol.15, No.6, *The International Journal of Human Rights*, 967-1012 at 983

⁴⁸ Ibid. see also, P. Alston and G. Quinn, (1987) 'The Nature and Scope of States Parties' Obligations under the International Covenant on Economic, Social and Cultural Rights', *Human Rights Quarterly* 9, no. 2: 156, at 188.

⁴⁹ Report of the Open-ended Working Group to Consider Options Regarding the Elaboration of an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights on its Second Session, UN Doc. E/CN.4/2005/52 (10 February 2005), para. 76.

⁵⁰ Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (2008) A/RES/63/117.

human right treaties as the key obstacle to making education free. On the contrary, ICESCR Committee's approach appears to recommend that the economically developed states parties to the Covenant are under an obligation to assist developing states parties to realise the core obligations of ESC rights. Thus, the CESCR has stressed that 'it is particularly incumbent on all those who can assist, to help developing countries respect this international minimum threshold'.⁵² It can therefore be inferred that, where a developing state is in need of assistance to fund its free education programme, there is an obligation to seek assistance and cooperation from 'all those who can assist'. In sum, it is incumbent on States Parties, and other actors in position to assist, to provide international assistance and cooperation, especially economic and technical which enables developing countries to fulfil their core obligations.

The Extent of the Usefulness of Foreign Aid to Education

Aid monies have been channeled into a variety of interventions such as school feeding programmes, classroom construction, teacher education, girls' scholarships programmes to reduce girl-child student drop-out, curriculum development, targeting different educational levels and utilizing different aid modalities. Individual country project impact evaluations by development agencies have tended to produce more positive results than the studies of aid impact utilizing panel data from international aid and education statistics, as will be discussed below. When focused on the impact of aid to education on outcomes such as access to education or years of completed education, studies have found very small impact. For instance, Michaelowa and Weber in a study utilized sectoral aid data drawn from Organisation for Economic Co-operation and Development (OECD), Development Assistance Committee (DAC) statistics from the early 1970s to 2000 and education statistics drawn from the UNESCO Institute of Statistics data base for 2006 encompassing 120 low and lower-middle-income countries.⁵³ They found an increase in the primary completion rate of 2.5 points for an increase in aid to education of 1 per cent of GDP.⁵⁴ To put this result into perspective, aid to education in the 1990s across the data set countries was 0.3 per cent of GDP. The authors' regressions uncovered negative aid impact in countries with extremely oppressive regimes and showed that government expenditure had no greater impact on educational outcomes than aid.⁵⁵ According to UNESCO report, only 2% of educational funds come from international aid, while government's finance 63% of its cost and 35% is privately funded.⁵⁶ (In comparison, only 8% of compulsory education is privately funded in the OECD).⁵⁷ Within the 2% of internationally funded education much is taken to finance parallel creditors and donors' bureaucracies. Mark Sundberg (of the World Bank) analysed

⁵² CESCR Gen Comment 13 para 44

⁵³ Michaelowa, K., and A. Wechtler (2006). 'The Cost-Effectiveness of Inputs in Primary Education: Insights from the Literature and Recent Student Surveys for Sub-Saharan Africa', *Association for the Development of Education in Africa, Biennale on Education in Africa*, Libreville, Gabon.

⁵⁴ Ibid

⁵⁵ Riddell, Abby (2012) 'The Effectiveness of Foreign Aid to Education: What Can Be Learned?' *World Institute for Development Economics Research Working Paper No. 2012/75 United Nations University UNU WIDER*

⁵⁶ UNESCO-*Bulletin of the UNESCO Education Sector*, Paris, No5, April-June 2003

⁵⁷ OECD- *Education at a Glance: OECD Indicators 2004*, Paris 2004, pp.233-240

that “500 days of technical assistance costs the same as employing 5,000 teachers.”⁵⁸ Tomasevski with her invaluable experience as a Special rapporteur on the Right to Education of the United Nations Commission on Human Rights, and having had the policy makers and planners in the government, non-governmental organisations and international aid community as the main audience, presented an authentic account of the analysis, that, employing additional teachers is likely to be advice furnished by international bodies supporting education as a public service, but disallowed by international financial institutions because the public sector’s payroll will increase in consequence. In accord with the English adage that he who pays the piper dictates the tune, therefore additional teachers will not be employed but there will be space for additional consultants.

Challenges of the recipient countries and the aid donors

The challenges to aid receiving states

Some of the challenges of the receiving countries are; First, Sub Saharan Africa receives a declining share in aid to basic education. The region, with over half of the world’s out-of-school children remains the largest recipient of aid to basic education, accounting for US \$1.3billion and yet this represents half of its share in 2002.⁵⁹ Whereas Northern Africa and Western Asia home to just 9% of out-of-school children, have received a disproportionately high share, rising from 5% in 2002 to 22% in 2015.⁶⁰ The gap between aid needs and aid provided is widening. Debt relief to the poorest countries remains inadequate, with too little aid being provided. Donor commitments to basic education in Africa are not new, but they are severely weakened by divisions among donors and large gaps remain between the rhetoric of support for basic education and the reality of sectoral aid allocations. The aid given often does not go to the countries most in need. The crux of this problem is that donors do not target basic education aid sufficiently to countries most in need.

Second, aid to education has dropped in priority and aid to education continues stagnate. In 2010 aid to education reached its highest level, it decreased in 2011/12 and in 2017 still below its 2010 level.⁶¹ This might be attributed to the current global recession. Third, the funds come late, at times inadequate and they are terminated before the completion of the project they are meant for, as a result it is difficult for countries to plan effectively on how the funding will be disbursed. Debt reduction programmes should offer governments an opportunity to give priority to education within overall poverty reduction frame works. But it is not all tales of woe, as prospects are noticed; there is greater operation between national and international agencies at the country level, through structures and mechanism such as Comprehensive Development Frameworks, Poverty Reduction Strategy Plans and United Nations Development Assistance Frameworks offers the potential for resource-related partnerships for basic education.

⁵⁸ Bounds, A-World Bank casts doubt on consultants’ effectiveness, *Financial Times*, 8 June 2006.

⁵⁹ Global Education Monitoring (GEM) Report (2017) ‘Aid to Education is Stagnating and not Going to Countries most in Need’, *Global Education Monitoring Report Policy Paper 31* Paris: UNESCO

⁶⁰ *ibid*

⁶¹ GEM Report Team analysis based on OECD Creditor Reporting System (2017)

Fourth, aid has been increasingly provided as a 'reward' for adopting donor-approved policies, withheld when donors did not approve of policies, and withdrawn, or at least reduced, when recipient practice wandered too far from agreed policies. In other words aid is given as a reward for following donor-approved policies. Riddell mentioned that some countries are finding that conditions applied by the IMF to control money supply and reduce government deficits prevent them from using additional aid to fund expanded recurrent costs, including education development expenditures.⁶² The effect is that, if extra funds are forthcoming from donors, the rules require these to be channeled into uses other than enhancing and expanding services for the poor based on expanded government budgets.⁶³ Fifth, African aid relations are still beset by donor rivalry, notwithstanding all the noble words about collaboration and co-operation which are continually made by donors. Unless and until donors are willing to pool their resources and allow the necessary external funds to be driven by the overall development needs of recipients, it is likely that the current gaps between rhetoric and reality will continue. For example in the case of Ghana, The problem was that donor activity was uncoordinated throughout the period of 1986-1991, resulting in the creation of several project implementation units (PIUs) within the Ministry of Education.⁶⁴ In 1992, in an effort to co-ordinate better the various international funding and technical assistance agencies, the World Bank provided support for the establishment of the Project Management Unit (PMU) with a Director General to co-ordinate the activities and missions of all funding and donor agencies. However, many donors strongly felt that the PMU was not serving the collective interests of all donors.⁶⁵ Joint missions were difficult to facilitate and most of the PMU staff had contracts funded through IDA credit to the government.⁶⁶ Writing in 2000, Mettle-Nunoo & Louise Hilditch reported that, lack of co-ordination was still the biggest barrier to more effective support to education in Ghana and other developing countries as well.⁶⁷ Significant in this period was the ambition of the government to reform the education system by restructuring the nation's economic base to bring it into conformity with the financial credibility criteria required by the World Bank.⁶⁸ It was characterised by Ghana's participation in and endorsement of, international agreements such as EFA, the Convention on the Rights of the Child, and CEDAW. This meant that the Government had to remain committed to her obligations under the international human rights laws, and must be influenced by the bilateral and multilateral negotiations it had taken part in, as a guide when making policies. With this condition met, Ghana had the opportunity of negotiating for credits and grants to finance major education reform. The outcome of the reforms and recovery of the education sector is the FCUBE created in 1996. The Government of Ghana recognises education as the fundamental building block of the country, and realising that a literate citizenry is the foundation of democratic processes, economic growth and social well-being of a nation's population. From world human development rating, Ghana

⁶² Ridell, Roger, (1999) 'The End of Foreign Aid to Africa? Concerns about Donor Policies', *African Affairs* **98**, 309-335 at 323.

⁶³ Ibid

⁶⁴ Action Aid, (2000), *A Report on Donor Participation in the Education Sector in Ghana*, Accra p.27.

⁶⁵ Ibid

⁶⁶ Ibid p. 33

⁶⁷ Ibid

⁶⁸ Ibid

is categorised today as within medium human development nations with a Human Development Index (HDI) ranking of 131.⁶⁹

Sometime, a country's Ministry of finance may support debt servicing which impeded free primary education in poor indebted countries while its gender ministry may at the same time lament the educational exclusion of girls with such debt servicing entails. Critics may be pacified because some debt relief has been granted, but maybe not because aid is likely to have decreased in consequence. An example was debt relief to Nigeria in 2005-2006. The portion which Nigeria paid to its creditors was, in the case of the United Kingdom, \$3billion, equivalent to Britain's total aid to Africa at the time. Because that repayment was classified as Britain's aid to Africa, statistics showed a huge increase in aid although there really was hardly any.⁷⁰ This practice is widespread amongst creditor countries. Headlines relating to debt relief tend to be big while few people read the small print in the voluminous official documents which describes conditions of debt relief for each country and circumscribes the fate of education. Each of the poorest countries should report under the human rights treaties it is a party to, submit due reports to the bilateral and multilateral donors, prepare a PRSP (Poverty Reduction Strategy Paper) so as to qualify for debt relief, generate an EFA plan, notify its commitments under GATS, and also prepare its strategy and reports on the MDGs.

Article 2 of ICESCR states:

Each Party to the Present Covenant undertakes to take steps individually and through international assistance and cooperation...to the maximum of its available resources with a view to achieving progressively the full realisation of the rights.

This implies that States must prioritise resources in order to implement the right to education apart from receiving international assistance and cooperation. For example, there are a number of national constitutions that protect resource allocations for education.⁷¹ In the Philippines in 1991 for example, it was challenged in court that the government must comply with the constitutional requirement on budgetary allocation for education. The constitutionality of automatic appropriations for debt servicing was challenged for violating Section 5(5) of the Constitution.⁷² The question was raised on the commitment of the Philippines government to comply with the provisions in Article XIV, sections 1-5 of the Philippines Constitution dealing with the right to education. Section 5(5) contains, inter alia, the following clause: 'The state shall assign the highest budgetary priority to education...' However, other domestic laws provide for automatic appropriations for payments of principal and interest on public debt. Thus, in practice, allocations for debt services were much higher than allocations for education.⁷³ The Court ruled that the automatic appropriations were not

⁶⁹ Akyeampong, Kwame, (2009) 'Revisiting Free Compulsory Universal Basic Education (FCUBE) in Ghana' Vol. 45, No. 2, *May Comparative Education*, pp.175-195 at 179.

⁷⁰ *The Data Report 2006*, available at www.data.org

⁷¹ For example, Section 5(5), Article XIV, 1987 Constitution of Philippines obligates the Philippines not only to invest in education but also to assign it the highest budgetary priority.

⁷² *Guigona Jr. v. Carague*, (1991) 196 SCRA 221.

⁷³ *Ibid*

unconstitutional, because Congress (the legislative) in the Philippines must have power to respond to 'the imperatives of the national interest and ... the attainment of other state policies or objective'. What was at stake in the view of the Court was 'the very survival of our economy, ..., although the Constitution mandates that the highest budgetary priority be given to education, it does not follow that the hands of Congress are so hamstrung as to deprive it of its power to respond to economic and financial challenges'. The Court also held that the Philippines government had complied with its constitutional mandate under the educational section, because it had increased the budget from education since 1985.⁷⁴ The decision was criticised on grounds that the Court's affirmation of the automatic appropriations for the payment of the country's debt can be legitimately viewed as an impediment to the government's compliance with its treaty obligations under the ICESCR.⁷⁵ This reveals that the clarity of international human rights law in its guarantee of free and compulsory primary education contrasts sharply with national and international strategies adopted by some State parties.

Lastly, internally the Organization for Economic Cooperation and Development (OECD) countries apply human rights law, externally, different policies guide bilateral and multilateral aid, and distinct conditions apply to bilateral and multilateral debt relief, policy coherence figure high on the agenda but the value of educational exports to poor countries dwarfs aid and debt relief.⁷⁶ Its conflicting external roles as donor, creditors and exporter of educational services are disjoint.⁷⁷

Arguments of donors

Africa is replete with examples of aid going to waste, of it causing or encouraging corruption and going to support an array of unsavoury political regimes. Corruption in the education sector not only distorts access to education but also affects the quality of education. Despite public outrage, corruption persists in Nigeria because public officials have no fear of being held accountable for their actions.⁷⁸ The issue was highlighted in 2006, when it was discovered that US\$21 million had been lost in 2005 and 2006 to the illegal and unauthorised utilization of funds. As a direct consequence, over five million Nigerian children lacked access to primary education.⁷⁹ As a result of unchecked magnitude of corruption in the country, international donors exercise caution in giving aids towards educational development to the country directly.

Insecurity in most African countries is also a great challenge to donors as it is limiting donor activities. In Nigeria for example, the suicide bombing at the UN headquarters in Abuja in

⁷⁴ Diokno, M.S.I. (2007) 'Short-Changing the Right to Education in the Philippines', *15 No 4 Interights Bulletin* 201 at 203, p. 203

⁷⁵ Ibid at 204

⁷⁶ Tomaveski, K, note 26

⁷⁷ Ibid

⁷⁸ K.R. Hope, Sr. (2002), *From Crisis to Renewal: Development Policy and Management in Africa*, Leiden: Brill, p.104.

⁷⁹ Mumuni, Adetokunbo, & Sweeney, Gareth., (2013) 'Public interest litigation for the right to education: the *SERAP v. Nigeriacase*', *Global Corruption Report: Education, Transparency International*, Oxford: Routledge, p. 307.

August 2011 in addition to the loss of lives. This also affected UNICEF's ability to complete the Girls' Education Programme (GEP2), due to the effect on its management systems as all records were destroyed.⁸⁰ Without doubt, this is a great setback to donor agencies activities.

Concluding Remark

Ensuring that primary schools are available for all children requires a considerable investment, where public funding is insufficient, African states need to seek international assistance from richer states, international financial institutions such as the World Bank, regional banks, and international organisations.⁸¹ There has been much too little international support for the many battles for the right to education. If aid is genuinely to be allowed to fulfil its development function, donors will need to work in a concerted and coordinated way to ensure that their efforts are in harmony and they complement each other by pooling both their resources and skills. This will prevent duplication of effort or incur unnecessary additional administration cost. For aid to be effective, it is necessary for donors—and recipients to dislodge themselves entirely and individually from the aid relationship.

It has to be acknowledged that international assistance and cooperation including economic aid entails procedural fairness. Donors must ensure that their allocations are proportionate to the financing gap that the recipient countries are facing, therefore aid to education must go to where it is needed most. It is very important that donors have a responsibility not to withdraw critical aid without first giving the recipient state reasonable notice and opportunity to make alternative arrangements. In addition donors must refrain from attaching conditions to such aid which are reasonably foreseeable to result in the violation of international human rights law in other states.

Conclusion

This paper has shown the positive contribution that aid has made to education in aid-recipient countries, the most tangible outcome of which has been the contribution made to expanding enrolments especially of basic education. But the paper also indicates that there is a considerable gap between what aid does and what it could potentially achieve, especially in relation to its contribution to improvements in educational quality. However, perhaps the paper's most important conclusion emphasises the fact that domestic expenditure of most countries in Sub-Saharan Africa is not sufficient to make free education sustainable and so aid is needed to make up the shortfall. International human rights law mandates progressive realisation of the right to education and prioritises international cooperation toward the realisation. Finally, in order for countries in Sub-Saharan Africa to reach Sustainable Development Goal 4 (SDG4), foreign aid to education is most needed.

⁸⁰ DFID (2013) Report on Nigeria.

⁸¹ CESCR General Comment No 13 paras 56 & 60