Chapter Four

The Productive Plasticity of Rights: Globalization, Education, and Human Rights

Monisha Bajaj

Globalization, education, and, in the last sixty-five years, human rights, interact in complex ways not reducible to a singular, linear argument.[1] In this chapter, I examine the ways in which the contemporary forces of globalization and human rights are refracted differentially in educational policy discussions, textbook revisions, teacher education, and in the everyday life of schools. For better and worse, as I will argue, rights frameworks have become the primary organizing force for diverse actors from international organizations to lawyers, educational scholars, and policy-makers at national and local levels. In particular, I examine what I believe to be the productive plasticity of rights discourse. Culminating with a case study of the Right to Education (RTE) Act in India, I look at how "human rights" concepts often assume different meanings, uses, and definitions. I also consider that the international currency and discursive popularity of these frameworks can be and are utilized by local actors strategically and usefully, even if in ways whose ends are not at-the-moment determined, in promoting greater access to quality education.

One of the most common shifts in international educational policy discourse is the assertion of rights-based claims that education, in and of itself, is an entitlement alongside the decades-old conditional and cost-benefit analyses of schooling—namely, human capital theory and rate of return analyses (Gillis, Radelet, Snodgrass, Roemer and Perkins, 2001; Pscharopoulos, 1996; Schultz, 1961, 1980). Rights-based approaches emphasize marginalized and hard-to-reach populations, such as ethnic minorities, certain religious groups, and disabled children, viewing their access to schooling as a fundamental component of their guarantees as citizens and human beings (UN Education Science and Cultural Organization [UNESCO], 2010). International documents increasingly count out-of-school children in global, rather than purely national, terms, highlighting the efforts toward international partnership for Education for All launched through the 1990 (Jomtien) and 2000 (Dakar) summits and subsequent meetings (see Mundy and Manion's chapter in this volume).

This chapter explores three lines of inquiry operating on different registers and levels of specificity. My first line of inquiry examines how globalization is affecting human rights. There has been a global diffusion of ideas related to democracy and human rights—often with different operational meanings—within donor agencies, international organizations, national governments, and local bodies. With more institutions and actors paying attention to human rights, it is important to explore how such concepts are engaged despite gaps between advoca-

cy and implementation. My second line of inquiry, then, explores differing deployments of human rights and education under contemporary conditions of globalization. These are education *as* a human right (entitlement claims), education *with* rights (equality and dignity claims), and education *for* human rights (exploring matters such as curriculum and teacher training).[2] My third line of inquiry interrogates some of the strategic and contingent uses of "rights talk" utilized by actors at the local, national, and international levels as a means of highlighting the plasticity, malleability, or pluriform character of this discourse, terms I use to emphasize the capaciousness and possibility of rights talk such as it is, not to dismiss the framework for relativism.[3] The case study of India's national adoption of a "Right to Education" bill in 2009 and debates surrounding its implementation will further illuminate some of the ways in which local policy actors operating within the landscape of the globalization of human rights have engaged rights talk to promote greater social equity.

Various approaches have been applied to the study of globalization and education in the field of international and comparative education. Resisting the claim that school systems are converging beyond the discursive level, this chapter is premised on postcolonial and "culturalist" perspectives that "local actors borrow from multiple models in the global flow of educational ideas" (Spring, 2008, p. 336; see also Anderson-Levitt, 2003; Crossley and Tikly, 2004; Little, 2003; Steiner-Khamsi, 2004; Stromquist, 2002). This chapter draws on an approach to globalization and education that gives primacy to networks and flows, akin to Arjun Appadurai's concept of *scapes* in terms of the movement of ideas, knowledge, and information. It also draws on the work of rights scholars broadly, even if not specifically concerned with educational rights (Baxi, 1998; Dembour, 2010; Madhok, 2010; Merry, 2003). In this view then, rights talk and rights "scapes"[4]—here the scapes created by the shifting intersections of globalization, education, and human rights—are neither wholly liberating nor oppressive; rather, they provide a site in which to explore the creation of new forms of citizenship, as well as the unique limitations and possibilities for the exercise of human agency.

GLOBALIZATION AND HUMAN RIGHTS

Despite scholarly debates about the historic origins of human rights (from ancient Persia, to various religious scriptures, to the European Enlightenment and the French Revolution), the modern rise of human rights in the post–World War II era can be traced to the establishment of the United Nations in 1945 and the adoption of the Universal Declaration of Human Rights in 1948. While further documents, treaties, declarations, and conventions expounded on different categories of rights (e.g., related to race, gender, torture, the rights of children) in subsequent decades, the period of the Cold War (1947–1991) divided human rights supporters among those giving primacy to civil and political rights and aligned with the United States and western Europe, and those who favored economic and social rights and tended to align more with the Soviet Bloc.

After the fall of the Soviet Union in 1991, international consensus shifted toward the importance of human rights, particularly civil and political rights, and several milestones related to the global rise of human rights occurred at the United Nations World Conference on Human Rights held in Vienna soon after (1993). The first international conference on human rights was held by the United Nations in Tehran in 1968 to assess progress related to the Universal Declaration of Human Rights, and the second international conference was held in Vienna in 1993, arguably at a very distinct historical moment given the shifting balance of power globally. For the purpose of this discussion on education, globalization, and human rights, three outcomes of the Vienna conference were notable: (1) despite the fall of the Soviet

Union, the Vienna conference recommended the development of indicators for assessing the progress of nations toward the fulfillment of obligations outlined in the International Covenant on Economic, Social and Cultural Rights (including on education as outlined in Articles 13 and 14); (2) the Vienna conference created the post of the UN High Commissioner for Human Rights, an office charged with education and public information related to human rights; and (3) the Vienna Declaration and Program of Action (adopted by consensus by the representatives of the 171 countries present) asserted that human rights education (HRE) be a task that member states engage in, calling on "all States and institutions to include human rights, humanitarian law, democracy and rule of law as subjects in the curricula of all learning institutions in formal and non-formal settings" (UN, 2013, para 1). Arguably, the global attention and commitment to human rights in Vienna (and subsequently) increased the diffusion of ideas related to democracy and rights, particularly as it corresponded with changes in information and communication technology underway in the mid- to late 1990s.

The more than two decades since the Vienna Conference have been marked by an increasing emphasis on human rights–based approaches to development, foreign aid, and international engagement. While the gap between policy and implementation is important to consider, the discursive shift toward human rights–based approaches is evidenced in international documents, compacts, declarations, and meetings. Institution-wide initiatives, such as the United Nations' mainstreaming of human rights since 1997 and subsequent development of an interagency "Common Understanding of a Human Rights-Based Approach to Development (2003),"[5] suggest the power of global parlance to influence transformations within institutions involved in global governance, aid, and development. Since the late 1990s, the World Bank has issued various reports on human rights that have "explored the ways in which structural and distributional inequalities can hinder development" (World Bank, 2012, para 3). Rights-based approaches to development undergird shifts in the policy and practice of many bilateral and multilateral aid agencies as well, including those of Germany, the United Kingdom, and others, who find that "A human rights-based approach to development cooperation promotes non-discrimination and equality of opportunity, participation and empowerment, transparency and accountability. … The German government promotes a form of development cooperation which views the people as agents of their own development" (German Federal Ministry for Cooperation and Development, 2013, para 1). Having charted the global rise and diffusion of human rights, the following section focuses squarely on how human rights concepts have influenced international discussions and policy-making related to education, delineating three relationships: (1) education *as a* human right, (2) education *with* human rights, and (3) education *for* human rights.

EDUCATION AND HUMAN RIGHTS

Education *as a* Human Right

From the vantage point of the Global South, in the years after independence from colonial rule, access to schooling shifted from an elite concern to part of broader national visions for advancing integration and social cohesion (however slowly and partially realized) (Meyer, Ramirez, and Soysal, 1992). Post–World War II, as the process of decolonization began in parts of Asia and Africa, and with the emergence of institutions such as the World Bank and the United Nations, seminal instruments such as the Universal Declaration of Human Rights (1948) announced the right to education for all children. Governments were conceived as the primary guarantors of rights. The deepening of western schooling in newly independent na-

tions corresponded with international calls for equitable and broad access to schooling regardless of whether rights justifications were utilized locally for such decisions (Boli, Meyer, and Ramirez, 1985; Fuller, 1991).

In industrialized countries, educational access and equity also expanded in the post–World War II period. For example, in the United States, the Supreme Court's *Brown v. Board of Education* decision (1954) desegregated schools and led to greater calls for racial equity in education despite the lingering and continuing practices of unequal school funding (rooted in financing through property taxes) (Orfield and Eaton, 1997). Assimilationist education practices toward indigenous groups that stripped communities of their linguistic and cultural heritage in places such as Australia and the United States were discontinued amidst increasingly global discussions of civil and human rights (Deyhle and Swisher, 1997; Sumida Huaman, 2011).

Positing access to schooling as a human right has provided rights-bearers the ability, at least in theory, to hold governments accountable. Efforts toward educational rights, which require involvement on global scales, were advanced most notably through the Education for All Declarations adopted in Jomtien[6] and Dakar, and codified through the Millennium Development Goals (2000). Rights frameworks also facilitate the agency of children and their families in demanding their right to schooling as opposed to being passive beneficiaries or targets of interventions (typically framed in larger efficiency terms rooted in arguments for economic development) (McCowan, 2013; Robeyns, 2006).

Critiques of the rights framework in education often focus on the limited entitlement offered by international declarations and meetings: "access to primary schooling," rather than a more comprehensive vision of rights to further secondary and tertiary education, food, work, social security, etc. Additionally, the inordinate focus on *access*, at least in the Millennium Development Goals, has also been critiqued for its myopia to questions of overcrowding, lack of resources in schools, and consequent poor quality education that does not benefit children (and may actually put them at heightened risk, particularly girls, as they attend crowded schools with limited adult supervision) (Mirembe and Davies, 2001).

Still, the contemporary framing of access to education as a human right demonstrates the potential of globalization to diffuse ideas and frameworks internationally. International organizations, such as the UN Children's Fund (UNICEF), have declared and promoted the view that, "Education is not a static commodity to be considered in isolation from its greater context; it is an ongoing process and holds its own inherent value as a human right" (UNICEF, 2007, p. xii). Since the initial codification of the right to education in the Universal Declaration of Human Rights in 1948 when a small minority of the world's children had access to schooling, the rise of globalization and, with it, increased international attention on educational access, has resulted in the majority of children across the globe attending school with considerable consensus on the need for attaining universal primary enrollment. Less discussed, however, are questions of ensuring students' rights once they reach schools.

Education *with* Human Rights

The importance of education of high quality, with dignity, and as part of a process in which families and communities can effectively participate in schooling, is increasingly a focus of attention in international and national policy forums. Access to crumbling and overcrowded primary schools is surely a poor realization of the right to education. Nonetheless, despite the growing recognition of the limits of policy focus on access, donor funding has inordinately been earmarked for primary education and removing access-related barriers (Jones, 2007). Only recently has literature begun to expand its focus from school "drop-outs" (where the

blame is placed on children and families) to "push-outs," or children and families who opt out of formal education due to school-level factors such as discrimination, corporal punishment, poor quality, absentee teachers, among other reasons (Reddy and Sinha, 2010).

In elaborating a more holistic vision of educational rights, the former UN Special Rapporteur for the Right to Education, Katarina Tomasevski, elaborated four "A's" that must be considered and acted upon in education. The four include: Availability, namely, that education is free, government-supported, and that both the "hardware" (adequate school facilities, etc.) and "software" (curricular materials, trained teachers, etc.) of education are provided; Accessibility, namely that schools are open to members of different social groups without discrimination and that efforts are made to ensure that marginalized and hard-to-reach populations are included in government education; Acceptability, in that the curriculum is relevant (culturally, linguistically, and in terms of level), of high quality, and in safe locales staffed with professional teachers; and Adaptability, namely, that education can adjust to the needs of families and communities in order to suit local conditions and realities, and lessen social inequalities (Tomasevski, 2006).

Education with human rights is promoted within global networks that diffuse ideas, curricula, and school-level policies. Many of these initiatives emerged in response to the numerous reports across the globe of abuses within schools ranging from corporal punishment, teacher absenteeism, sexual abuse, and violence or bullying. In order to make schools places where students can learn with dignity and safety, attention has been paid toward developing indicators and standards for "Child-Friendly Schools," UNICEF's flagship initiative of thousands of schools in over fifty-six countries (UNICEF, 2009). Since 1953, UNESCO has had a network of educational institutions (now numbering nine thousand) that form its Associated Schools Project Network in which rights-based curriculum and approaches are shared through a global network of schools (UNESCO, n.d.). Amnesty International has also published guidelines for human rights–friendly schools that lay out the processes, content, pedagogy, structures, and policies that frame how schools can operate with the principles of equality, dignity, respect, non-discrimination, and participation (Amnesty International, 2009). Schools globally have been identified and selected as human rights–friendly schools in order to advance Amnesty International's vision. One component of child- and rights-friendly schools—whether connected to UNICEF, UNESCO, or Amnesty International—is curricular content and pedagogy oriented toward teaching for human rights, as discussed in the following section.

Education *for* Human Rights

Over the past four decades, HRE has become a greater part of international discussions of educational policy, national textbook reform, and the work of nongovernmental organizations (NGOs) (Bajaj, 2011; Meyer, Bromley-Martin, and Ramirez, 2010; Ramirez, Suarez, and Meyer, 2007). While there are many variants of HRE, there is broad agreement about certain core components. First, most scholars and practitioners agree that HRE must include both *content* and *process* related to human rights (Flowers, 2003; Tibbitts, 2002). Indeed, Tibbitts (2005) finds that "nearly all formal literature associated with HRE will mention the importance of using participatory methods" for effectively teaching about human rights (p. 107). Second, most literature discusses the need for HRE to include goals related to cognitive (content), attitudinal or emotive (values/skills), and action-oriented components (Bajaj, 2011).

As HRE figured more prominently in intergovernmental discussions, the United Nations declared 1995–2004 the International Decade for Human Rights Education (which, in 2005, became the ongoing UN World Program for Human Rights Education, housed within the United Nation's Office of the High Commissioner for Human Rights). The UN General

Assembly also declared 2009 the International Year of Human Rights Learning and subsequently adopted the UN Declaration on Human Rights Education and Training in 2011. Since 1999, the NGO Human Rights Education Associates has operated an online list-serve of over eight thousand members from 190 countries—a global network that consists of academics, educators, human rights activists, and government officials at all levels (Human Rights Education Associates, n.d.).

Despite the highly favorable and prescriptive literature on education for human rights, some scholars of globalization and education have asserted that by the time human rights content gets incorporated into textbooks, HRE may be altered such that it loses its activist-oriented focus to the extent that human rights are presented in a manner delinked from the struggles that have achieved such rights (Bajaj, 2011; Cardenas, 2005). Indeed, these processes of adaptation can generate greater variation among HRE initiatives; just as pressure from above depoliticizes HRE, pressure from below can deepen the connection of HRE to social justice struggles. In discussing the disconnection of HRE from its discursive convergence to "decoupled" practice, the work of neoinstitutionalist scholars in international and comparative education on issues of human rights in education, and HRE, proves insightful as do perspectives from the fields of law and political science on the various meanings and uses of rights.

CONCEPTUAL PERSPECTIVES ON HUMAN RIGHTS AND THE GLOBALIZATION OF EDUCATION

Neoinstitutional Theory and Human Rights in Education

The diffusion of educational reforms has concerned scholars of international and comparative education as a key component of increased globalization in recent decades (e.g., Ramirez, Suarez, and Meyer, 2007; Taylor, 2009). Specifically, the role of human rights principles and HRE has been discussed as a core component of a "world society" through the convergence toward similar curricular reforms among nation-states (Meyer, Bromley-Martin, and Ramirez, 2010; Ramirez, Suarez, and Meyer, 2007). In explaining the rise of human rights frameworks in education globally and HRE in international textbooks, neoinstitutionalist scholars have linked the influence of processes of globalization on the formation of a world society that valorizes individual rights (Ramirez, Suarez, and Meyer, 2007). Scholars have pointed to the rise in human rights content in textbooks across the globe, prioritizing individual agency as a rights bearer in an international system over one's status as a national citizen (Meyer, Bromley-Martin, and Ramirez, 2010; Ramirez, Suarez, and Meyer, 2007; Suarez, 2007). Various explanatory factors are given for this reframing including the rise of the human rights movement after World War II, increasing global connections at the international level, the circulation of fashionable reforms that states feel compelled to adopt (at least nominally), among others.

The concepts of decoupling and loose coupling are particularly useful in understanding the intermediation of HRE by ideology, context, constituency, and locale. The term "decoupling," as it emerged in new institutional theory, refers to the existence of discrepancies between formal policies and actual practice and local adaptation of these norms to diverse ends (Meyer and Rowan, 1978). The term has been applied to organizational studies as well as practices in schools, agencies, and other entities. A world society perspective on decoupling and human rights holds that even though nations may sign treaties or agree to adopt HRE because it is the "expected, rational, and legitimate" thing for countries to do (Bromley, 2009, p. 40), the level of commitment of governments to enact these agreements varies (Ramirez and Wotipka,

2007). The case study of the RTE Act in India, that follows the subsequent section on the diverse meanings and uses of rights, offers a productive example of the tensions between the globalization of rights-talk and strategic decoupling by local policy actors to advance agendas that are beyond the scope of the human rights framework.

Differing Meanings and Uses of Rights

Scholars of neoinstitutional theory identify decoupling as a process of adaptation and change broadly, whereas legal scholars of human rights have increasingly noted the different meanings and uses of "human rights" by different groups with diverse orientations (Baxi, 1998, 2006; Dembour, 2010). For example, legal scholar Upendra Baxi terms the different "languages and logics of human rights," that vary from the discourse of international covenants, to the use of rights language as a part of corporate social responsibility, and to the use of human rights to frame the struggles of historically disadvantaged groups (Baxi, 2006, p. 119). He further distinguishes between "modern" and "contemporary" forms of human rights; the former having been used as a force of exclusion with a state-centric and Eurocentric slant, while the latter are "increasingly inclusive and often marked by intense negotiation between NGOs and governments" (Baxi, 1998, p. 135).

Legal scholar Marie-Bénédicte Dembour distinguishes between four schools of thought regarding the rise of human rights in global parlance and governance. The four schools suggest different ways that scholars and activists perceive the provenance and nature of rights, indicating their position toward and advocacy based on them. The first school, natural rights scholars, "conceive[s] of human rights as given," drawing on nature or God as the source of rights (Dembour, 2010, p. 1). The second group, "deliberative scholars," views human rights as "agreed upon" as the best system and sees legal recognition and human rights law as the central aim of the human rights project. The third group, "protest scholars," sees human rights as fought for and won through collective struggle, focusing on lessening the gap between guarantees and actual social conditions faced by marginalized groups. The fourth group, which she terms "discourse scholars," views human rights skeptically and identifies their prominence as arising simply because rights are talked about, but not necessarily real beyond the discursive level. Dembour and Baxi advance critical legal scholarship that seeks to define more explicitly the different uses (and arguably, misuses) of human rights language at different levels and in different venues (see also Mutua, 2002). The differential uses of rights talk also apply to how rights-based frameworks enter into global educational discussions and what becomes codified in curriculum to be included in HRE endeavors.

The conceptualization of different forms and meanings of human rights offers a framework in which to better understand how local, national, and global actors leverage different networks and ideas within a larger framework of similar sounding "rights talk" to advance a variety of agendas. Political scientists have explored how governments and nongovernmental actors converge around similar discourses, such as those pertaining to human rights, through theories of "norm diffusion." Finnemore (1996) attributes significant norm diffusion related to perspectives on poverty alleviation to the work of international organizations, such as the World Bank, that influences local discourses in a variety of national contexts. Further elaborating, Finnemore and Sikkink (1998) find that "norm entrepreneurs," be they institutions such as international organizations or NGOs, or individuals, can spread norms in diverse ways.

Political scientists Keck and Sikkink (1998) further explore how networks of individuals come together to advance certain ideas with an emphasis on the global spread of human rights. The global linkages at the level of governments through international meetings and through

the United Nations is paralleled by the greater contact between civil society groups through dense global networks, leading toward what Keck and Sikkink term the "boomerang effect." For example, local- and national-level officials are influenced by global transnational advocacy networks—that local NGOs are often part of—that then have an impact on policy changes, creating multi-directional flows of ideas and reforms. Although rights talk may be co-opted and used differentially, the fact that national- and local-level policy actors, as well as local social movements and NGOs, are utilizing the same language allows for unforeseen pressures to be placed on policy decisions from above, below, and in the circular way that these networks operate. The case of India's RTE Act also sheds light on how globalization influences educational policy and practice through the strategic use of the global currency of "rights talk" that demonstrates how human rights norms are indigenized in national policy.

Case Study: India's Right to Education Act

The use of rights talk to frame a particular vision of quality education in India utilizes global discussions as a springboard but goes far beyond international agreements on the right to access primary schooling to offer a far more comprehensive vision for children. While such legislation is contested locally, it demonstrates the strategic use of rights language and "rights scapes" to frame an agenda that has deep roots in progressive education circles in India.

The Indian Constitution (1950), in hindsight, is deeply and subtly innovative in codifying a transformative agenda into the very blueprint of governance. India, of course, is a vast and socially, culturally, and linguistically diverse nation state, that had a mere 16.9 percent literacy rate and a weak state at the time of independence in 1947. The Constitution was sold by its framers, the Dalit[7] icon and lawyer B.R. Ambedkar and Fabian socialist Jawaharlal Nehru, as reflecting Western best practices, and indeed can be seen as part of a deep century-long intellectual engagement with the Western enlightenment tradition. Yet, in practice, the document codifies a revolutionary social agenda; an agenda that has had all the contradictions, successes, and limitations that such an agenda—radical social transformation through the formal procedures of government as opposed to revolution preceding the formation of government—would entail. In this context, the right to education was identified in the original framing of the Indian Constitution (1950) as a "directive principle," distinguished from the fundamental rights enshrined in that document. Access to schooling was made a priority, but not a right, for all Indians (Premi, 2002).

Rights language has also been used strategically to frame progressive education agendas in India since the 1960s. After the first Prime Minister Nehru's tenure (1947–1964), enrollment rates grew throughout the 1970s and 1980s. Schooling was a state responsibility in the years following independence, but in 1976, a constitutional amendment made education a "concurrent" responsibility of states and the central or national government (Bajaj, 2011). In 1986, the National Policy on Education was adopted, which resulted in various initiatives that sought to utilize technology and equip all schools with the basic classroom materials needed for teaching (e.g., Operation Blackboard). The National Literacy Mission was also launched to combat adult illiteracy, particularly of women, nationwide. Some states in India had been providing "mid-day meals" to children at schools since the 1960s, though nationwide adoption of the program commenced only after a landmark 2001 Supreme Court decision provided a legal entitlement to the right to food in primary schools (Asia-Pacific Human Rights Network, 2002).

India liberalized trade and made formal decisions to integrate firmly into the global economy in the mid-1980s, and decisively in 1991. Concomitant with this massive sea change in Indian governance, educational policy moved into greater alignment with the "rights talk" in

global educational discussions of the time. For example, in 1978 the National Curricular Framework for Teacher Education framed the purpose of teacher education "to develop Gandhian values of education such as non-violence, truthfulness, self-discipline, self-reliance, [and] dignity of labor [to achieve] the goals of building up a democratic, secular, and socialist society" (as cited in Bajaj, 2011, p. 44). Whereas, an excerpt from the updated Curricular Framework in 1998, soon after India's greater integration into the global market, demonstrates increasing convergence toward global educational priorities at that moment: "[The objectives of teacher education are] ... to sensitize teachers towards the promotion of social cohesion, international understanding and protection of human rights and child rights; [and] to sensitize teachers and teacher educators about emerging issues such as environment, ecology, population, gender equality, etc." (as cited in Bajaj, 2011, p. 44). More recent versions of these frameworks have included language related to learner-centered and critical pedagogies, peace, democracy, and citizenship. The global influence of rights talk in Indian educational policy can be seen in how policies are enacted as well as how they are framed.

Drawing on international agreement around accomplishing universal primary enrollment, notably the consensus achieved in the Millennium Development Goals and Education for All conferences (1990 and 2000), India launched its domestic *Sarva Shiksha Abhiyan* program, first announced in 2000, to eradicate all obstacles to primary school access (Iyengar, 2010). Significant activities under this campaign have included teacher training, district resource centers, free materials and supplies to marginalized children, construction of new classrooms, and, in some states, the recruitment of para-professional teachers (UNESCO, 2004). In 2010, the RTE Act came into force after several years of discussion and debate, shifting education from a non-binding "directive principle" to an enforceable "fundamental right" in Indian constitutional law and providing all children aged six to fourteen the right to a free and compulsory education in a school within one to three kilometers of their home. There are several provisions in the RTE Act that deepen the legal claims individuals and families can make on the government, and a considerable onus is placed on state governments to increase spending in order to be compliant.

While many of the provisions of the RTE Act mirror global discussions on quality education, such as education for disabled and minoritized children, there are other more controversial aspects of the Act that have not gone unnoticed. Those charged with drafting the legislation—members of civil society who had long been active in educational NGOs and movements as well as policy-makers—drew on human rights language to include a variety of measures, some of which are beyond the scope of conventional educational rights reforms. The most controversial aspect of the RTE Act has been the mandate that private schools (many of which are for-profit endeavors in India) set aside 25 percent of their seats for non–fee-paying children from "weaker sections of society," justified on the grounds that 25 percent of the population comes from various marginalized and low-income backgrounds, and that the government frequently provides land and other resources to private institutions, which renders these institutions, functionally speaking, not wholly private. These students are determined eligible by their families' annual income in relation to the poverty line, and the government is to reimburse private schools for part of the fees of these children. Affluent families who compete (and often pay large "donations") to secure a spot in such schools for their children and who will now be displaced by the policy have not accepted this change silently, especially as many worry that their fees will go up to accommodate the lesser fees the government may pay for the 25 percent of students. The opinion pages in Indian (and international) papers and online blogs, which cater to a privileged middle class audience, have been a site of heated and tilted debates couched in arguments of financing, efficiency, and sometimes

straight prejudice. For example, commentators ranging from the libertarian Cato Institute to a magazine noted for its investigative journalism and exposés on various corruption scandals have noted the following:

> India has just enacted a Right to Education Act, guaranteeing every child in the six to 14 age group the right to free, compulsory education. The new law is essentially socialist: it seeks to ensure that, as far as possible, state governments provide free government schooling to all children. But it also obliges private schools to reserve a quarter of their seats for poor and low-caste children. ... [Many] view the 25 per cent reservation as a way of hammering elite schools rather than empowering students through school choice. (Aiyar, n.d., paras 1-2)

> Now the new RTE Act with its rather absurd reservation of 25 percent seats in all schools has been heralded as the panacea for all ills. However, in a state like Delhi around 9000 poor children will benefit from this; for the rest, the poorly run government schools will have to do as nothing pertains to their upgradation in the new bill. ... Needless to say, the schools are up in arms and wondering where the missing numbers would come from. The option that jumps to mind is the increase of fees thus passing the burden to parents of "rich" children. This is terribly unfair as many middle class parents scrap[e] the barrel to send their children to a good school. (Bakshi, 2012, paras 3-4)

> Private schools have been opposing the idea of RTE and its implementation for long now. The Karnataka Unaided Schools Management Association (KUSMA), an organisation of private schools, has been fiercely opposing the idea since its inception. KUSMA president GS Sharma had to quit on 18 July after his remark that students gaining admission into private schools under RTE were like "sewage flowing into clean water." In the case of Oxford English School (OES), a member of KUSMA, parents [of poor children] allege that the school management cut off their children's hair to humiliate and ostracise them. According to the parents, the school has been systematically discriminating against them from the beginning. Even to get the RTE form, parents claim they had to resort to protest. In a class of 40 students of Standard [grade] I at OES, eight children were admitted under RTE. "They were made to sit on the last bench, their names were not included in the attendance register and no books were provided to them. They were not given neck-ties, belts, or even homework. And on top of that, the teachers used to check their [lunch] boxes—asking them if they'd brought the previous day's leftover 'since you're from poor families,'" says Geeta, mother of one of the victims. (Khan, 2012, paras. 2-3)

Some commentators and officials were of course favorable to the decision, and the RTE Act was upheld by the Supreme Court in 2012 despite a legal challenge by dozens of private schools. The Act exempts religious schools, and, not surprisingly, many elite private schools are seeking to affiliate with religious organizations (or emphasize long-dormant connections) suggesting that strategic avoidance of rights legislation is as vibrant as its utilization.

The story of India's RTE and the 25 percent set-asides further illuminates the tensions between the global proliferation of rights-talk and local decoupling. The committee charged with drafting the legislation sought to secure a provision that considered two opposing positions that held sway in India for decades. On the one hand, a vibrant, yet marginalized, sector of government officials, educators, and activists have been lobbying for a "Common School System" since the position was first articulated in the Kothari Commission report in 1966. In this view, all children would be able to attend any neighborhood school—public or private— regardless of their background, ability to pay fees, or other factors. Opponents, on the other hand, argued that the state could not mandate anything that pertains to private schools and must only concern itself with government-run schools. Vinod Raina, a key protagonist in the drafting of the RTE Act, has written,

The inclusion versus quality (merit) argument has gone on for long in this country. While we bemoan the fact that our children are nearly at the bottom of PISA tests in terms of learning outcomes, even though such tests are and will remain controversial, we should also pay attention to the fact that children from countries that are at the top of these tests, like Finland, Sweden, Denmark and even Singapore have been practicing inclusive classrooms for years now. They have demonstrated that rather than a burden on quality, inclusion helps improve quality. Time we gave up our colonial time biases that poor and disadvantaged children will "pollute" our smartly dressed children in classrooms and as parents and teachers, learn the lessons of inclusion. It is the endowed parents who have problems with inclusion, not the children. (Raina, 2012, para. 8)

Other somewhat controversial aspects of the RTE Act demonstrate how policy actors, in this case nongovernmental and governmental members that comprised the Central Advisory Board for Education drafting group, understand and localize what quality education means. The Act mandates that all schools must have libraries that include newspapers, magazines, and books; stipulates that 50 percent of School Management committees be comprised of women with adequate representation of low-income parents; bans teachers from offering private lessons for which they charge tuition that often supplement teachers' income in after-school settings; and prohibits any high-stakes testing at the primary/elementary level. As such, the use of rights talk to frame a particular vision of education, while contested, utilizes global discussions as a foundation but goes far beyond international agreements on the right to access primary schooling to entrench a far more comprehensive framework for Indian children.

CONCLUDING THOUGHTS

The impact of globalization and the framing of rights language in education policy is a complex and multifaceted phenomenon. Certainly, rights-based claims to education have their critiques, particularly from international and comparative education scholars writing from a capabilities perspective (Unterhalter, 2003). Ingrid Robeyns finds that, despite its justice orientation, the rights framework "sounds overtly rhetorical" with governments adopting guarantees while millions of children still languish out of school (2006, p. 76). Similarly, she notes that the reduction of the right to education to merely a legal right standing alone, without any connection to a moral imperative or comprehensive plan for implementation, risks confining the right to political discourse. Next, Robeyns offers an equity argument that a government, once a right to education is in place, may not go beyond "its duties in terms of the rights-based policies, to undertake action to ensure that every child can fully and equally enjoy her right to education" (2006, p. 77). Where cultural or social impediments to educational access exist, significant racial, caste, religious, or gender gaps may still persist if rights are limited to laws on paper to be enacted by governments and absent engagement with unequal social structures and hierarchies.

Rights-based arguments for educational access, quality, and equity have rivaled the efficiency and rate of return arguments of decades past (and present) in calling for the expansion of education worldwide. Many nations will not meet the targets set forth in the Education for All and Millennium Development Goals agreements. While intergovernmental agencies, NGOs, and research institutes begin discussing strategies and responses post-2015, questions remain about what rights and justice claims do for families and communities. India's pioneering RTE Act offers one example of domestic legislation that allows parents to sue the government for violations of the provisions related to accessible schooling, absentee teachers, and availability of resources for disabled children. The tests of such legislative measures are their

implementation, enforcement, and their ability to sanction violations. Further questions, which suggest the limits and depth of rights talk and claims, include the following:

- To what extent are rights-based claims for education sufficient for ensuring quality and accountability in the provision of state-sponsored schooling for children of all social groups?
- In what ways will the strategic use of rights talk advance or limit the localization of human rights in educational policy and practice?
- How and in what ways will declarations and policy mandates related to education for human rights influence curricula, teacher training, and pedagogy on the ground in the Global South?
- How do cultural and social practices interact with rights proclamations in the formation of "vernacular" rights movements and practices (Levitt and Merry, 2009)?

In today's version of globalization, rights frameworks have become the primary organizing force for diverse actors from international organizations, lawyers, educational scholars, and policy-makers at national and local levels. Yet, human rights concepts often assume different meanings, uses, and definitions, and indeed are used strategically, to varying ends, by these actors. The case of the RTE Act in India suggests the productive plasticity of rights talk and demonstrates how "human rights" concepts are strategically engaged due to their international currency and discursive popularity. As such, the use of rights talk, while contested, draws on, but goes far beyond international agreements on the right to access primary schooling to posit a far more wide-ranging vision of educational access and quality for Indian children. Certainly, the extent of success and depth of these claims in promoting greater access to quality education over longer periods of time requires further study. Widening gaps in social and economic inequalities between the "North" and "South" and within nations of the Global South, not to mention the limits of social struggles deploying rights claims suggested previously, may yet belie the imperative to understand schooling as a force for social justice and equity. These topics and many more should concern scholars of globalization and education in the years ahead.

Acknowledgments

REFERENCES

Aiyar, Swaminathan. n.d. A Right to Schooling, but Not to Education. Commentary, Cato Institute. http://www.cato.org/publications/commentary/right-schooling-not-education

Amnesty International. 2009. *Guidelines for Human Rights Friendly Schools*. London: Amnesty International.

Anderson-Levitt, Kathryn. 2003. A World Culture of Schooling? In Kathryn Anderson-Levitt (ed.), *Local Meanings, Global Schooling: Anthropology and World Culture Theory* (pp. 1–26). New York: Palgrave MacMillan.

Asia-Pacific Human Rights Network. 2002. Right to Food: The Indian Experience. *Human Rights Features*. http://www.hrdc.net/sahrdc/hrfeatures/HRF58.htm

Bajaj, Monisha. 2011. *Schooling for Social Change: The Rise and Impact of Human Rights Education in India*. New York: Continuum Publishing.

_____ and Bikku Kuruvila. 2012. Rights and Resistance: The Limits and Promise of Human Rights Education in India. In Dip Kapoor, Bijoy P. Barua and Al-Karim Datoo (eds.), *Globalization, Culture, and Education in South Asia: Critical Excursions* (pp. 123–38). New York: Palgrave.

Bakshi, Anouradha. 2012. Right to Education … Passing the Buck. Project Why, April 27. http://project-why.blogspot.in/2012/04/right-to-education-passing-buck.html.

Baxi, Upendra. 1998. Voices of Suffering and the Future of Human Rights. *Transnational Law and Contemporary Problems*, vol. 8, pp. 125–70.

_____. 2006. Human Rights and Human Rights Education: Arriving at the Truth. In *Human Rights Learning: A People's Report* (pp. 117–36). New York: People's Movement for Human Rights Learning.

Boli, John, John Meyer, and Francisco Ramirez. 1985. Explaining the Origins and Expansion of Mass Education. *Comparative Education Review*, vol. 29, no. 2, pp. 145–70.

Bromley, Patricia. 2009. Cosmopolitanism in Civic Education: Exploring Cross-National Trends, 1970-2008. *Current Issues in Comparative Education*, vol.12, no. 1, pp. 33–44.

Cardenas, Sonia. 2005. Constructing Rights? Human Rights Education and the State. *International Political Science Review*, vol. 26, no. 4, pp. 363–79.

Chatterjee, Partha. 2011. *Lineages of Political Society: Studies in Postcolonial Democracy*. New York: Columbia University Press.

Crossley, Michael, and Leon Tikly. 2004. Postcolonial Perspectives and Comparative and International Research in Education: A Critical Introduction. *Comparative Education*, vol. 40, no. 2, pp. 147–56.

Dembour, Marie-Bénédicte. 2010. What Are Human Rights? Four Schools of Thought. *Human Rights Quarterly*, vol. 32, no. 1, pp. 1–20.

Deyhle, Donna, and Karen Swisher. 1997. Research in American Indian and Alaska Native Education: From Assimilation to Self-determination. *Review of Research in Education*, vol. 22, pp. 113–94.

Finnemore, Martha. 1996. *National Interests in International Society*. Ithaca: Cornell University Press.

_____ and Kathryn Sikkink. 1998. International Norm Dynamics and Political Change. *International Organization*, vol. 52, no. 4, pp. 887–917.

Flowers, Nancy. 2003. *What Is Human Rights Education?* Hamburg: Bertelsmann Verlag. http://www.hrea.org/erc/Library/curriculum_methodology/flowers03.pdf

Fuller, Bruce. 1991. *Growing up Modern*. New York and London: Routledge.

German Federal Ministry for Economic Development and Cooperation. 2013. The Importance of Human Rights in German Development Policy. http://www.bmz.de/en/what_we_do/issues/HumanRights/allgemeine_menschenrechte/deutsche_entwicklungspolitik/index.html

Gillis, Malcolm, Steven Radelet, Donald Snodgrass, Michael Roemer, and Dwight Perkins. 2001. *Economics of Development*, 5th edition. New York: W.W. Norton.

Human Rights Education Associates. n.d. The Global Human Rights Education List. Human Rights Education Associates, http://www.hrea.org/lists/hr-education/

Iyengar, Radhika. 2010. Different Implementation Approaches to a Common Goal: Education for All in the Indian Context. *Society of International Education Journal*, vol. 7, no. 1, pp. 63–91.

Jones, Phillip W. 2007. *World Bank Financing of Education: Lending, Learning and Development*. New York: Routledge.

Kaviraj, Sudipta. 2012. *The Enchantment of Democracy and India: Politics and Ideas*. Hyderabad: Orient Blackswan.

Keck, Margaret, and Kathryn Sikkink. 1998. *Activists Beyond Borders*. Ithaca: Cornell University Press.

Khan, Imran. 2012. No Way to Teach a Lesson in Class. *Tehelka*, August 4. http://tehelka.com/no-way-to-teach-a-lesson-in-class/

Levitt, Peggy, and Sally Merry. 2009. Vernacularization on the Ground: Local Uses of Global Women's Rights in Peru, China, India and the United States. *Global Networks*, vol. 9, no. 4, pp. 441–61.

Little, Angela. 2003. Extended Review: Clash of Civilisations: Threat or Opportunity? *Comparative Education*, vol. 39, no. 3, pp. 391–94.

McCowan, Tristan. 2013. *Education as a Human Right: Principles for a Universal Entitlement to Learning*. London: Bloomsbury.

Madhok, Sumi. 2010. Rights Talk and the Feminist Movement in India. In Mina Roces and Louise Edwards (eds.), *Women's Movements in Asia: Feminisms and Transnational Activism* (pp. 224–40). New York: Routledge,

Merry, Sally. 2003. Rights Talk and the Experience of Law: Implementing Women's Human Rights to Protection from Violence. *Human Rights Quarterly*, vol. 25, no. 2, pp. 343–81.

Meyer, John W., and Brian Rowan. 1978. The Structure of Educational Organizations. In John W. Meyer, Brian Rowan and W. Richard Scott (eds.), *Organizations and Environments* (pp. 78–109). San Francisco: Jossey Bass.

Meyer, John W., Francisco O. Ramirez, and Yasemin Nuholu Soysal. 1992. World Expansion of Mass Education, 1870-1980. *Sociology of Education*, vol. 65, no. 2, pp. 128–49.

Meyer, John W., Patricia Bromley-Martin, and Francisco O. Ramirez. 2010. Human Rights in Social Science Textbooks: Cross-National Analyses, 1970-2008. *Sociology of Education*, vol. 83, no. 2, pp. 111–34.

Mirembe, Robina, and Lynn Davies. 2001. Is Schooling a Risk? Gender, Power Relations, and School Culture in Uganda. *Gender and Education*, vol.13, no. 4, pp. 401–16.

Mutua, Makau. 2002. *Human Rights: A Political and Cultural Critique*. Philadelphia: University of Pennsylvania Press.

Orfield, Gary, and Susan E. Eaton. 1997. *Dismantling Desegregation: The Quiet Reversal of Brown V. Board of Education*. New York: New Press.

Premi, Mahendra. 2002. India's Literacy Panorama. *Seminar on Progress of Literacy in India*. http://www.educationforallinindia.com/page172.html.

Psacharopoulos, George. 1996. *Human Capital Underdevelopment: The Worst Aspects*. Washington, DC: The World Bank.

Raina, Vinod. 2012. On RTE, Set the Record Straight. *The Indian Express*, May 25. http://www.indianexpress.com/news/on-rte-set-the-record-straight/953538/0.

Ramirez, Francisco, David Suarez, and John Meyer. 2007. The Worldwide Rise of Human Rights Education. In Aaron Benavot, Cecilia Braslavsky, and Nhung Truong (eds.), *School Knowledge in Comparative and Historical Perspective* (pp. 35–52). Dordrecht: Springer.

Ramirez, Francisco, and Christine Min Wotipka. 2007. World Society and Human Rights: An Event History Analysis of the Convention on All Forms of Discrimination against Women. In Frank Dobbin, Beth Simmons, and Geoffrey Garrett (eds.), *The Global Diffusion of Markets and Democracy* (pp. 303–43). Cambridge: Cambridge University Press.

Reddy, Anugula N., and Shantha Sinha. 2010. School Dropouts or Pushouts? Overcoming Barriers for the Right to Education. Research Monograph No. 40, CREATE Pathways to Access. New Delhi: National University of Educational Planning and Administration.

Robeyns, Ingrid. 2006. Three Models of Education: Rights, Capabilities and Human Capital. *Theory and Research in Education*, vol. 4, no. 1, pp. 69–84.

Schultz, Theodore. 1961. Investment in Human Capital. *American Economic Review*, vol. 51, no. 1, pp. 1–17.

_____. 1980. Nobel Lecture: The Economics of Being Poor. *The Journal of Political Economy*, vol. 88, no. 4, pp. 639–51.

Spring, Joel. 2008. Research on Globalization and Education. *Review of Educational Research*, vol. 78, no. 2, pp. 330–63.

Steiner-Khamsi, Gita (ed.). 2004. *The Global Politics of Education Borrowing*. New York: Teachers College Press.

Stromquist, Nelly P. 2002. *Education in a Globalized World: The Connectivity of Economic Power, Technology and Power*. Lanham, MD: Rowman & Littlefield.

Suarez, David. 2007. Education Professionals and the Construction of Human Rights Education. *Comparative Education Review*, vol. 51, no. 1, pp. 48–70.

Subrahmanian, Ramya. 2003. Gender Equality in Education: Definitions and Measurements. Background Paper for UNESCO Global Monitoring Report 2003. Paris: UNESCO.

Sumida Huaman, Elizabeth. 2011. Transforming Education, Transforming Society: The Co-Construction of Critical Peace Education and Indigenous Education. *Journal of Peace Education*, vol. 8, no. 3, pp. 243–58.

Taylor, Aleesha. 2009. Questioning Participation. In Frances Vavrus and Lesley Bartlett (eds.), *Critical Approaches to Comparative Education* (pp. 75–92). New York: Palgrave Macmillan.

Tibbitts, Felisa. 2002. Understanding What We Do: Emerging Models for Human Rights Education. *International Review of Education*, vol. 48, nos. 3-4, pp. 159–71.

_____. 2005. Transformative Learning and Human Rights Education: Taking a Closer Look. *Intercultural Education*, vol. 16, no. 2, pp. 107–13.

Tomasevski, Katarina. 2006. *Human Rights Obligations in Education: The 4-a Scheme*. Nijmegen, Netherlands: Wolf Legal Publishers.

United Nations. 2013. Outcomes of Human Rights. United Nations. http://www.un.org/en/development/devagenda/humanrights.shtml

UN Education Science and Cultural Organization. n.d. Associated Schools Project Network. UNESCO. http://www.unesco.org/new/en/education/networks/global-networks/aspnet/

_____. 2004. *Para Teachers in India: A Review*. Paris: UNESCO.

_____. 2010. *2010 Global Monitoring Report: Reaching the Marginalized*. Paris: UNESCO.

UN Children's Fund. 2007. *A Human Rights-Based Approach to Education for All*. New York: UNICEF.

_____. 2009. Child Friendly Schools Manual. New York: UNICEF.

Unterhalter, Elaine. 2003. Education, Capabilities and Social Justice. Background Paper for the EFA Global Monitoring Report 2003/4. Paris: UNESCO.

World Bank. 2012. Human Rights. World Bank. http://web.worldbank.org/WBSITE/EXTERNAL/EXTSITE-TOOLS/0,,contentMDK:20749693~pagePK:98400~piPK:98424~theSitePK:95474,00.html

NOTES

1. For example, the relationship between colonial modernity and education is a nodal point of reference that has been theorized extensively in an Indian context by historians and political theorists such as those of the Subaltern Studies school (see Chatterjee, 2011, and also Kaviraj, 2012).

2. These distinctions are reminiscent of Ramya Subrahmanian's (2003) discussions of gender and education, which she conceptualizes in three ways: (1) girls' right to education (access), (2) rights within education (schools that are safe and welcome for girls), and (3) rights through education (related broadly to greater gender justice).

3. I use the term "rights talk" here and elsewhere (Bajaj and Kuruvila, 2012) to connote the way that human rights language has permeated international-, national-, and local-level discourses and operations. As anthropologist Sally Merry notes, in terms of social movements, "From civil rights to human rights, rights talk remains a dominant

framework for contemporary social justice movements" (2003, p. 344). Other studies have discussed "rights talk" as an organizing framework to situate demands on the state (or other entities) in rights-based terms. Here I use rights talk in a slightly more diffuse way given its prominence in educational policy discussions, often with vague or diverse meanings attached to which rights are being referenced in a given situation or context. This is similar to the way that legal scholar Upendra Baxi identifies the manipulation of rights talk that "code[s] for power and hierarchy" (1998, p. 129).

4. For example, Sumi Madhok's (2010) work on "rights scapes" offers a useful framework for analyzing how local actors engage with globally circulating discourses: "Emergent 'rights scapes' provide fertile opportunities for investigating how rights actually operate when coupled alongside strong claims for social justice and the new subjectivities and forms of subjection these create" (Madhok, 2010, p. 236).

5. The United Nation's "Common Understanding" adheres to normative concepts within human rights related to their inalienability, indivisibility, interdependence, and universality; the United Nation's approach further stipulates that rights-based development programs enhance participation, inclusion, non-discrimination, empowerment, and accountability (UNICEF, 2007).

6. The Children's Rights Convention adopted by the United Nations in 1989 also provided a contemporary framework for the discussion of the right to education for the first World Conference on Education for All at Jomtien in 1990.

7. Dalits (literally translated as "broken people" and formerly called "untouchables") constitute 16 percent of India's population.