

2016

Comparative Approaches to Myanmar's Child Labor Epidemic: The Role of Compulsory Education

Jack W. Roberts

Follow this and additional works at: <https://scholarlycommons.law.emory.edu/eilr>

Recommended Citation

Jack W. Roberts, *Comparative Approaches to Myanmar's Child Labor Epidemic: The Role of Compulsory Education*, 30 Emory Int'l L. Rev. 661 (2016).

Available at: <https://scholarlycommons.law.emory.edu/eilr/vol30/iss4/5>

This Comment is brought to you for free and open access by the Journals at Emory Law Scholarly Commons. It has been accepted for inclusion in Emory International Law Review by an authorized editor of Emory Law Scholarly Commons. For more information, please contact law-scholarly-commons@emory.edu.

COMPARATIVE APPROACHES TO MYANMAR'S CHILD LABOR EPIDEMIC: THE ROLE OF COMPULSORY EDUCATION

ABSTRACT

Long an epicenter of child labor in Southeast Asia, Myanmar (Burma) has recently enjoyed a period of relative political stability, following decades of instability tainted with periods of military rule. However, foreign contractors have recently uncovered instances of continued child labor, which indicate that the issue may be even more prevalent than previously considered. Debate has arisen among Burmese officials over a plan to expand compulsory free education, which currently only applies through grade school—or the early teenage years—to the age of sixteen. It is the hope of many in Myanmar that these efforts will decrease the prevalence of child labor.

While predicting the effects that expansion of compulsory education will have is impossible, an observation of similar plans in China, Brazil, and India over the past half-century demonstrates that there are policies—as well as areas of caution—that Myanmar can potentially adopt to aid the implementation of such an expansion. It is well established that simply changing the law will not have the full desired effect. In observing these three nations as examples, it seems likely that Myanmar could benefit from taking efforts to combat corruption both at the local and national levels, possibly through further decentralization combined with a centralized oversight mechanism, incorporating assistance from non-governmental organizations and trade unions through more consistent approaches, and finding creative, cultural, and gender-specific methods of incentivizing low income families to send their children to school rather than collect the modest but immediate benefits of sending their children to work.

INTRODUCTION

Myanmar—historically known as Burma—is in the midst of a long-fought battle against child labor.¹ The Buddhist-majority² Southeast Asian country of over fifty million residents has dealt with significant child labor problems dating back at least as far as the Industrial Revolution, when the country served as a British colony.³ Since Myanmar gained independence in 1948, solutions to the problem have been scarce and ineffective.⁴ In August 2014, a Norwegian company, Telenor, which was working to help build Myanmar's first national mobile phone network, discovered that the child labor situation in Myanmar was considerably worse than earlier estimated.⁵ During unannounced health and safety inspections, Telenor discovered over a dozen cases of child labor in violation of the company's contracts with subcontractors.⁶

Some sources point to the conclusion that an outright ban on child labor is not an effective means of ending the practice, due to an economic dependence on the dividends of child labor by families and by the entire national economy.⁷ A proposed method to combat the issue of child labor in Myanmar that has seen some success elsewhere has been to increase mandatory free education.⁸ Education is currently free for all school age children, but it is only compulsory through secondary school, or the early teenage years.⁹ Some commentators, both within Myanmar and abroad, argue that extending compulsory education through age sixteen would have a profound positive

¹ *Education Would Help Stop Child Labor, Say Experts*, DEMOCRATIC VOICE BURMA (Aug. 25, 2014), <http://www.dvb.no/news/education-would-help-stop-child-labor-say-experts-burma-myanmar/43511>.

² For a discussion of the tensions involving Myanmar's Muslim minority, who suffer disproportionately from many of the problems described in this Comment, see Adam B. Ellick & Nicholas Kristof, *Myanmar's Persecuted Minority*, N.Y. TIMES (June 16, 2014), http://www.nytimes.com/interactive/2014/06/16/opinion/nicholas-kristof-myanmar-documentary.html?_r=0.

³ For a discussion of the theory that child labor was simply exported from industrialized nations to their colonial territories in the years following the beginning of the Industrial Revolution, see Kaushik Basu & Zafiris Tzannatos, *The Global Child Labor Problem: What Do We Know and What Can We Do?*, 17 WORLD BANK ECON. REV. 147, 147 (2003).

⁴ See FOREIGN AFFAIRS COMM., ALL BURMA FED'N OF STUDENT UNIONS, BURMA'S CHILD IN EDUCATION 2 (Aug. 2003), <http://www.burmalibrary.org/docs12/CRC2004-Myanmar-NGO-ABSFU.pdf> [hereinafter BURMA'S CHILD IN EDUCATION].

⁵ Michael Peel, *Telenor Uncovers Child Labor Among Myanmar Suppliers*, FIN. TIMES (Aug. 19, 2014, 4:44 PM), <http://www.ft.com/cms/s/0/9eac10b0-27a5-11e4-ae44-00144feabd0c.html#axzz3xcd05nz>.

⁶ *Id.*

⁷ See, e.g., Saranya Kapur, *Child Labor Bans Actually Make Things Worse for the Poorest Children*, BUS. INSIDER (Nov. 11, 2013, 10:35 AM), <http://www.businessinsider.com/banning-child-labor-worse-for-children-2013-11>.

⁸ *Education Would Help Stop Child Labor, Say Experts*, *supra* note 1.

⁹ *Id.*

impact on child labor.¹⁰ However, the nation faces questions as to how this change should be implemented and enforced. Critics argue that Myanmar's problems run deeper and steps must be taken to fight corruption in the country before effective education reform can take place.¹¹

Myanmar, of course, is not the first country to face issues with child labor in recent history. Similarly situated countries have used education expansion to combat child labor with mixed success. This Comment will examine three countries that have taken this route in the past half-century—namely China, Brazil, and India—in hopes of finding suggestions and reasons for caution that would best serve Myanmar in its quest to move beyond its reliance on child labor. While these three nations have experienced varying levels of success in eliminating child labor through the expansion of compulsory free education, each nation has implemented plans that could apply in some degree to Myanmar's social and economic climate. This Comment will attempt to identify the best aspects of these plans in order to search for the most effective strategies for confronting Myanmar's child labor problem.

Viewing Myanmar through the lens of three significantly larger countries raises issues of comparison. China, Brazil, and India all have populations much larger than that of Myanmar. However, because these nations have the three largest economies that have undertaken vast efforts aimed towards expanding education and eliminating child labor in the past half-century, it seems to follow that at least some of the strategies employed in these countries should have a universal quality that can be applied to countries of a much smaller size. “[G]enuine normative universality” of international children's rights “is a somewhat paradoxical concept which is yet to be realized in real and concrete terms.”¹² The specific culture of Myanmar means that no international model will perfectly apply to its own problems. Any analysis of international child labor should balance and reconcile “apparently conflicting basic needs as well as rais[e] the question of who defines those needs and for whom.”¹³

Often, a society that produces child labor also produces conditions that would expose children to “excessive exploitation and abuse” in the absence of

¹⁰ *Id.*

¹¹ Abdullahi An-Na'im, *Cultural Transformation and Normative Consensus on the Best Interests of the Child*, 8 INT'L J.L. & FAM. 62, 78 (1994).

¹² *Id.* at 65.

¹³ *Id.* at 77.

child labor.¹⁴ China, India, and Brazil are used in this Comment because they are three countries that have prioritized the elimination of child labor as part of an overall movement towards economic development. China is frequently cited as a developmental model for Myanmar.¹⁵ India and Myanmar share a common origin and remnants of the British colonial system.¹⁶ Brazil shares a volatile past filled with periods of military rule.¹⁷ It follows that some of the approaches taken or proposed in these other countries should at least have comparative value for the situation in Myanmar.

Ultimately, this Comment details how the expansion of compulsory education will likely improve Myanmar's child labor situation. However, it also analyzes why simply making education free and compulsory will not alone make a significant impact. To reduce child labor, Myanmar will have to combat corruption and the difficulty and cost of enforcing mandatory education laws. To do this effectively, it will have to create a system in which families view education as more valuable than the wages their children can earn in the workplace.¹⁸ This can be done by reducing the costs associated with schooling,¹⁹ providing incentives to compliant families,²⁰ and incorporating the aid of non-governmental organizations (NGOs) and trade unions.²¹ Only with a combination of these efforts will any new law that makes education in Myanmar compulsory have a positive impact on Myanmar's rates of child labor.

¹⁴ *Id.* at 78.

¹⁵ See generally Peter Birgbauer, *China Lessons for Myanmar Investors*, DIPLOMAT (Oct. 27, 2013), <http://thediplomat.com/2013/10/china-lessons-for-myanmar-investors/>; Johnathan H. Ping, *Myanmar in the Global Political Economy: Development Models, The West and China* (Bond Univ. Humanities & Soc. Sci. Papers, Paper No. 749, 2013), http://epublications.bond.edu.au/hss_pubs/749.

¹⁶ See DAVID I. STEINBERG, *BURMA/MYANMAR: WHAT EVERYONE NEEDS TO KNOW* 1–5 (2010).

¹⁷ See Erik H. Ribeiro, *Military Can Still Be Good State-Builders for Myanmar*, NEW MANDALA (Oct. 15, 2013), <http://asiapacific.anu.edu.au/newmandala/2013/10/15/military-can-still-be-good-state-builders-for-myanmar/>.

¹⁸ See Patrick Winn, *Youth Interrupted: Myanmar's Underage Illiterate Workers*, NPR (Sept. 19, 2013, 1:32 PM), <http://www.npr.org/sections/parallels/2013/09/19/224075632/youth-interrupted-myanmars-underage-illiterate-workers>.

¹⁹ See Andrew Kirkwood, *What to Do for Burma's Children* 7 (Nat'l Bureau Asian Research, 2009), http://www.nbr.org/Downloads/pdfs/ETA/BMY_Conf09_Kirkwood.pdf.

²⁰ See Sabine Schlemmer-Schulte, *The Contribution of the World Bank in Fostering Respect for ILO Child Labour Standards*, in *CHILD LABOUR IN A GLOBALIZED WORLD: A LEGAL ANALYSIS OF ILO ACTION* 229, 231 (Giuseppe Nesi et al. eds., 2008).

²¹ See Andrew J. Morgan, *A Remarkable Occurrence: Progress for Civil Society in an "Open" Myanmar*, 23 PAC. RIM L. & POL'Y J. 495, 506 (2014).

I. THE CURRENT SITUATION: ECONOMIC REALITIES AND A LACK OF INCENTIVES

A study of 5,000 children across fourteen townships in Myanmar in 2006 found that more than one third of children between the ages of seven and sixteen are employed.²² As many as half of these underage laborers are employed in what are described as hazardous jobs, including mining, working as child soldiers, and even prostitution.²³ Due to healthcare problems in the country, children are often forced to work when a parent becomes ill, often with an illness that would be treatable with sophisticated modern medicine.²⁴ The Human Capital Theory is at play in Myanmar,²⁵ for many Burmese families, the perceived present value of the potential wages children can make in the workplace are greater than the perceived future value of an education for those children.²⁶

Myanmar's volatile political climate has presented additional barriers. Corruption siphons off much of the little funding that does make it to the local school level.²⁷ Corruption is also present in the classroom, where money and influence can often purchase good grades, leading to a loss of credibility for state-sponsored education.²⁸ The nation's frequent military clashes have further destabilized the education system, as well as increased the prevalence of child soldiers.²⁹ As recently as 2012, Maplecroft, a risk analysis firm from the United Kingdom, ranked Myanmar's child labor problem as being the worst in

²² MINISTRY NAT'L PLAN. & ECON. DEV., U.N. CHILDREN'S FUND [UNICEF], SITUATION ANALYSIS OF CHILDREN IN MYANMAR 116 (July 2012), http://www.unicef.org/eapro/Myanmar_Situation_Analysis.pdf.

²³ Winn, *supra* note 18; *see also* INT'L LABOUR OFFICE, CHILDREN IN HAZARDOUS WORK 3-4 (2011), http://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms_155428.pdf [hereinafter CHILDREN IN HAZARDOUS WORK].

²⁴ Winn, *supra* note 18.

²⁵ For a discussion of how the human capital theory applies in Myanmar, see Sandee Pyne, *Migrating Knowledge: Schooling, Statelessness and Safety at the Thailand-Burma Border* (Aug. 8, 2007) (unpublished Ph.D. dissertation, University of Maryland) (on file with the Digital Repository, University of Maryland).

²⁶ *Id.* at 21; CHILDREN IN HAZARDOUS WORK, *supra* note 23, at xv-xvii; Winn, *supra* note 18.

²⁷ *See* UNITED NATIONS DEV. PROGRAMME, TACKLING CORRUPTION, TRANSFORMING LIVES: ACCELERATING HUMAN DEVELOPMENT IN ASIA AND THE PACIFIC 62-65 (2008), http://hdr.undp.org/sites/default/files/rhdr_full_report_tackling_corruption_transforming_lives.pdf; Simon Montlake, *Myanmar Democracy Icon Suu Kyi Taps 'Crony' Capitalists for Charity Funds*, FORBES (Jan. 16, 2013, 5:11 AM), <http://www.forbes.com/sites/simonmontlake/2013/01/16/myanmar-democracy-icon-suu-kyi-taps-crony-capitalists-for-charity-funds/#2715e4857a0b1936bd204fe6>.

²⁸ *Education in Myanmar*, AROHANA, <http://arohanascholarships.org/education-in-myanmar/> (last visited Feb. 3, 2016).

²⁹ *See* Hilary Whiteman, *The Fight to Free Myanmar's Child Soldiers*, CNN (Nov. 1, 2013, 2:17 AM), <http://www.cnn.com/2013/10/15/world/asia/myanmar-burma-child-soldiers/>.

the world—worse than North Korea and Somalia.³⁰ The International Labour Organization's (ILO) negotiations with the Burma Army and rebels have reportedly had “some success,” although instances of children serving as soldiers continue to be reported.³¹ The instability, combined with the effects of recent natural disasters³² and health crises,³³ has led to increased poverty in Myanmar, which has increased the demand for child labor.³⁴ In many instances, the labor is forced upon children by their parents.

A. Struggles to Find Solutions and International Mixed Signals

Myanmar has faced much public scrutiny from foreign nations and potential investors in recent years due to their inability to stop child labor, but foreign entities have inconsistently dealt with Myanmar. Strategies have included everything from withdrawing investments to prevent participation in the problem, to encouraging investment to boost industry and lessen the conditions leading to child labor.³⁵ Myanmar became a party to the United Nations (U.N.) Convention on the Rights of the Child on July 15, 1991.³⁶ The treaty guarantees the right to a formal education and protection of leisure and recreation for children.³⁷ The situation, however, did not improve. Myanmar's military, in part, made compliance with the treaty impossible, since there is no method by which the civilian government can regulate and prosecute the

³⁰ *Child Labor Index*, MAPLECROFT, https://maplecroft.com/about/news/child_labour_2012.html (last visited Jan. 18, 2016) (citing child labor statistics from 2012).

³¹ San Yamin Aung, *Govt to Start Child Labor Elimination Policy in December*, IRRAWADDY (July 18, 2014, 7:32 PM), <http://www.irrawaddy.com/burma/govt-start-child-labor-elimination-policy-december.html>.

³² In 2008, Cyclone Nargis killed tens of thousands and crippled Myanmar's already weak infrastructure. The death toll was escalated in part due to the military junta's lackluster attempts to warn individuals in the delta region of Myanmar. See Michael Casey, *Why the Cyclone in Myanmar Was So Deadly*, NAT'L GEOGRAPHIC NEWS (May 8, 2008), <http://news.nationalgeographic.com/news/2008/05/080508-AP-the-perfect.html>.

³³ HIV and AIDS have taken a large toll on Myanmar's population and its labor supply. See MORTEN B. PEDERSEN, PROMOTING HUMAN RIGHTS IN BURMA: A CRITIQUE OF WESTERN SANCTIONS POLICY 200 (2008).

³⁴ See Winn, *supra* note 18.

³⁵ *Id.*; see also Steven Lee Myers, *U.S. Companies Investing in Myanmar Must Show Steps to Respect Human Rights*, N.Y. TIMES (June 30, 2013), <http://www.nytimes.com/2013/07/01/world/asia/us-companies-investing-in-myanmar-must-show-steps-to-respect-human-rights.html>.

³⁶ See Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3.

³⁷ See *Fact Sheet: A Summary of the Rights Under the Convention on the Rights of the Child*, UNICEF, http://www.unicef.org/crc/files/Rights_overview.pdf (last updated May 19, 2014).

military.³⁸ As a result, two decades after ratification of the Convention, the nation is still plagued by the problem of child labor.

Foreign nations have also behaved inconsistently towards Myanmar, due in part to changing public perception towards international child labor problems. In the 1990s and early 2000s, Pepsi, Levi-Strauss, British American Tobacco and other corporations ceased operations in Myanmar due to pressure from consumers and activists.³⁹ In 2003, the United States passed the Burmese Freedom and Democracy Act, which banned all imports from the country.⁴⁰ In 2000, the ILO invoked its Article 33 powers with regards to Myanmar, which allows the ILO to take any action against a nation to secure compliance.⁴¹ This is the only time the ILO has ever invoked its Article 33 powers.⁴² Further action, however, was never taken.⁴³ Despite this, President Barack Obama has encouraged companies to invest in Myanmar's economy, and many restrictions have been lifted.⁴⁴ General Electric, Ford, British American Tobacco, Visa, MasterCard, and other corporations have already resumed production in Myanmar.⁴⁵

In December 2013, Myanmar ratified the ILO's Worst Forms of Child Labour Convention of 1999, becoming the 178th ILO member state to do so.⁴⁶ This requires, among other things, that Myanmar prohibit and eliminate children working in hazardous fields.⁴⁷ Minister of Labor Aye Myint promised to start implementing the ban by December 2014.⁴⁸ Myanmar's Labor Ministry has also made plans to form a committee to implement the Convention and conduct a full survey on child labor.⁴⁹ Despite the recent efforts, Myanmar has

³⁸ See *Myanmar/Burma's Binding Obligations Under International Law*, GLOBAL JUST. CTR. (Nov. 2012), <http://www.globaljusticecenter.net/index.php/publications/advocacy-resources/106-myanmar-burma-s-binding-obligations-under-international-law>.

³⁹ Winn, *supra* note 18.

⁴⁰ Burmese Freedom and Democracy Act of 2003, Pub. L. No. 108-61, 117 Stat. 864 (2003).

⁴¹ Int'l Labour Org. [ILO] Const. art. 33 (2010); Junlin Ho, *The International Labour Organization's Role in Nationalizing the International Movement to Abolish Child Labor*, 7 CHI. J. INT'L L. 337, 346 (2006).

⁴² Ho, *supra* note 41.

⁴³ *Id.*

⁴⁴ Myers, *supra* note 35.

⁴⁵ Winn, *supra* note 18.

⁴⁶ *Myanmar Ratifies the Worst Forms of Child Labour Convention*, INT'L LAB. ORG. (Dec. 19, 2013), http://www.ilo.org/global/standards/information-resources-and-publications/news/WCMS_233060/lang-en/index.htm.

⁴⁷ Convention (No. 182) Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour art. 3, June 17, 1999, 2133 U.N.T.S. 161.

⁴⁸ Aung, *supra* note 31.

⁴⁹ *Id.*

yet to adopt ILO Convention No. 138, which sets a strict minimum age at which children can legally be employed in any type of job.⁵⁰

Some argue that developing countries like Myanmar face a path towards ending their reliance on child labor that contains higher obstacles than were faced by nations whose economies developed earlier.⁵¹ Nations like the United States and the United Kingdom “were allowed to grow their economies on the backs of children without foreign interference.”⁵² Once they had developed more mature economies, they were able to pass child labor legislation that prohibited practices that had already disappeared.⁵³ Myanmar does not have this opportunity due to increased global concern over child labor.⁵⁴ Myanmar faces the additional difficulty of building an economy that disincentivizes child labor without the benefit of building this economy through child labor, especially when coupled with investors’s hesitancy to deal with Myanmar due to public perception surrounding child labor.⁵⁵

B. The Present Education System and its Flaws

Lower secondary school through middle school is currently both free and mandatory.⁵⁶ Upper secondary school, however, is not.⁵⁷ Laws, predictably, are not well enforced.⁵⁸ Additionally, it is perhaps inaccurate to regard education at any level as “free.” Parents are often asked to help with costs at their local schools, says Thanda Kyaw, senior program adviser with Save the Children in

⁵⁰ *Id.*

⁵¹ One view is that many Western nations are concerned with eliminating child labor in developing countries less because of “noble humanitarian aspirations” and more because of “self-serving economic motives to protect western trade from the competition of lower priced goods produced in the developing countries.” Michele D’Avolio, *Child Labor and Cultural Relativism: From 19th Century America to 21st Century Nepal*, 16 PACE INT’L L. REV. 109, 132–33 (2004).

⁵² Winn, *supra* note 18. For an interesting look at Puritanical justifications for child labor around the turn of the twentieth century, see Edith Abbott, *A Study of the Early History of Child Labor in America*, 14 AM. J. SOCIOLOGY 15, 15 (1908).

⁵³ See Benjamin Powell, *A Case Against Child Labor Prohibitions*, ECON. DEV. BULL. (Cato Inst. Ctr. for Global Liberty & Prosperity, Washington, D.C.), July 2014, at 3.

⁵⁴ Winn, *supra* note 18 (noting that corporations left the country in the 1990’s and early 2000’s due to concern over child labor).

⁵⁵ See *id.*

⁵⁶ *World Data on Education: Myanmar*, UNESCO, <http://unesdoc.unesco.org/images/0019/001931/193185e.pdf> (last updated Apr. 2011).

⁵⁷ *Id.*

⁵⁸ See *President Asks Parliament to Reconsider National Education Law*, ELEVEN, <http://www.elevenmyanmar.com/local/president-asks-parliament-reconsider-national-education-law> (last visited Feb. 3, 2016).

Myanmar.⁵⁹ Without these donations, teachers have little incentive to come to work.⁶⁰ There are reports of entire schools without any teachers.⁶¹ While school attendance among fourteen-year-olds had climbed to 62.4% by 2009-2010, attendance among sixteen-year-olds remained at 39.3%.⁶²

Although there are compulsory education laws on the books, as many as forty percent of children never enroll in any type of school.⁶³ Only twenty-five to thirty-five percent of Burmese children complete the “mandatory” five-year primary school course.⁶⁴ Many of the Burmese children who can afford schooling leave the country to study or work and are often offered little incentive to return under the current political system.⁶⁵ For example, there are as many as two million Burmese migrant workers in Thailand alone, many of whom are undocumented and participate in the same forms of child labor prevalent in Myanmar.⁶⁶ This creates a shortage of skilled labor, which limits the development of technology that could make many of the unskilled labor positions filled by children obsolete.⁶⁷

C. Movement from Within: Student Protests and Proposed Plans

Students have been involved in widespread protests for the expansion of compulsory education, and many credit these movements with bringing the issue to the forefront.⁶⁸ The most famous and catastrophic of these movements was the uprising in 1988, which led to the deaths of protestors and the dismantling of many universities, which were seen as “hotbed[s] of political opposition.”⁶⁹ More recently, protesting students were dismissed from schools

⁵⁹ Winn, *supra* note 18.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² UNICEF, MYANMAR: MONITORING THE SITUATION OF CHILDREN AND WOMEN, MULTIPLE INDICATOR CLUSTER SURVEY 181 (2010).

⁶³ *Burma/Myanmar*, CHILD LAB. COALITION, <http://www.stopchildlabor.org/?cat=578> (last visited Feb. 3, 2016).

⁶⁴ *Id.*

⁶⁵ See PEDERSEN, *supra* note 33, at 200.

⁶⁶ For a detailed account of Burmese migrant work in Thailand, see generally Bryant Yuan Fu Yang, *Life and Death Away from the Golden Land, The Plight of Burmese Migrant Workers in Thailand*, 8 ASIAN-PACIFIC L. & POL’Y J. 485 (2007).

⁶⁷ See PEDERSEN, *supra* note 33, at 200.

⁶⁸ See BURMA’S CHILD IN EDUCATION, *supra* note 4, at 2.

⁶⁹ Yen Snaing, *University Teachers’ Association Boycotts Talks on Burma Education Reform*, IRRAWADDY (Jan. 22, 2014, 7:32 PM), <http://www.irrawaddy.org/burma/university-teachers-association-boycotts-talks-burma-education-reform.html>; BURMA’S CHILD IN EDUCATION, *supra* note 4.

simply due to their participation in politics.⁷⁰ Myanmar's most recent National Education Bill was met with protests from students unhappy with the burdens the law places on student unions, as well as the centralization of education.⁷¹ Students warn that the newly formed National Education Commission places too much control in the hands of the government and fear that it is simply a rebranding of the same policies that have failed Myanmar's schools for decades.⁷² Students also complain that the public was not adequately informed about the development of the legislation.⁷³ The fears of over-centralization are mostly directed at university education in Myanmar, where a recent push was aimed at autonomy in the higher-education sector.⁷⁴

These protests have also helped build support for the idea of expanding compulsory education. Recent laws have attempted to strengthen the enforcement of compulsory primary education.⁷⁵ Parliamentarian Nyo Nyo Thin has advocated for the idea of expanding compulsory education to older children as well, calling free compulsory education "a basic human right."⁷⁶ Burmese National Network for Education Reform spokesperson Thu Thu Mar wants free compulsory education for no less than nine years.⁷⁷ Any plans to extend compulsory education would likely need to be combined with an expansion of the national education budget, which currently sits at 5.84 percent of the total national budget.⁷⁸ Commentators like Dr. Thein Lwin, an education expert at the National League for Democracy's Education Network, insist that this proportion is "low compared to the number of students" and should be increased.⁷⁹ As the movement in favor of expanding free compulsory education gathers steam, Myanmar is faced with questions about how it will implement, enforce, and fund the program, and concerns that the current political, economic, and educational systems in place will render such a plan ineffective.

⁷⁰ BURMA'S CHILD IN EDUCATION, *supra* note 4.

⁷¹ Paing Soe, *Mandalay Students Protest Education Bill*, DEMOCRATIC VOICE BURMA (Aug. 28, 2014), <http://www.dvb.no/news/mandalay-students-protest-education-bill-burma-myanmar/43612>.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ Khin Khin Ei, *Myanmar's University Students Protest Proposed Education Law*, RADIO FREE ASIA (Sept. 2, 2014), <http://www.rfa.org/english/news/myanmar/protest-09022014192146.html> (translated by Khet Mar & Roseanne Gerin).

⁷⁵ Aung Shin, *Education Gets a Boost*, MYANMAR TIMES (May 14, 2013), <http://www.mmtimes.com/index.php/special-features/165-back-to-school-2013/6747-education-budget-boost-is-it-enough.html>.

⁷⁶ *Education Would Help Stop Child Labour, Say Experts*, DEMOCRATIC VOICE BURMA (Aug. 25, 2014), <http://www.dvb.no/news/education-would-help-stop-child-labor-say-experts-burma-myanmar/43511>.

⁷⁷ *Id.*

⁷⁸ Shin, *supra* note 75.

⁷⁹ *Id.*

II. POSSIBLE SOLUTIONS FROM ABROAD

In analyzing whether a plan to expand free compulsory education in Myanmar will be effective in lowering child labor and deciding what steps must be taken to ensure the best possible outcome, it is helpful to consider other nations that have attempted to combat child labor with the expansion of compulsory education. China, Brazil, and India all used compulsory education to combat child labor in the latter portion of the twentieth century, with varying degrees of success.⁸⁰ While each possesses an economic and political atmosphere distinct from that of Myanmar, there are similarities that render some of the innovative methods practiced in these countries potentially useful.

A. China

The extent of child labor in China, both historically and presently, is hard to measure because the Chinese government classifies such data as “highly secret.”⁸¹ In 1988, it was estimated by China’s Ministry of Labor that child workers represented ten percent of all workers in China.⁸² Despite the absence of hard statistical data, the ILO cites “evidence on poverty reduction and education expansion” as proof of progress.⁸³ While critics continue to contend that child labor remains a problem in China due to the government being “preoccupied with the country’s economic growth”⁸⁴ and China’s lack of progress in reversing gender differences,⁸⁵ most authorities seem to be in agreement that child labor is no longer “a widespread and pervasive problem.”⁸⁶

⁸⁰ See Int’l Labour Org. [ILO], Report of the Director-General for the 95th Session of the Int’l Labour Conference, *The End of Child Labour: Within Reach* (2006) [hereinafter *The End of Child Labour: Within Reach*].

⁸¹ CONG. EXEC. COMM’N ON CHINA 110th CONG., 1st SESS., ANNUAL REPORT 108 (2007).

⁸² G.K. Lieten, *Child Labor in China: An Overview*, in THE WORLD OF CHILD LABOR: AN HISTORICAL AND REGIONAL SURVEY 11–13 (Hugh D. Hindman ed., 2009).

⁸³ *The End of Child Labour: Within Reach*, *supra* note 80.

⁸⁴ Dana C. Nicholas, *China’s Labor Enforcement Crisis: International Intervention and Corporate Social Responsibility*, 11 SCHOLAR 155, 156 (2009).

⁸⁵ While gender issues in China are certainly complex enough to warrant their own discussion, they are outside the scope of this Comment. Women are generally encouraged to enter the workplace earlier, rather than remain in school, but have fewer opportunities for advancement compared to men. See John Bauer et al., *Gender Inequality in Urban China: Education and Employment*, 18 MOD. CHINA 333, 362 (1992).

⁸⁶ Lieten, *supra* note 82.

Beginning in the 1980s, rapid urbanization brought many rural Chinese families into cities.⁸⁷ China promulgated the Compulsory Education Law in 1986, which created free, mandatory education for nine years.⁸⁸ This compulsory education system is enforced by a separate education fund, which is collected by taxation agencies but controlled by educational administrations.⁸⁹ Provinces experiencing funding problems are also permitted to allocate funds locally for the specific purpose of education.⁹⁰ To help with enforcement, China exempts all rural students from the incidental fees that occur with schooling and provides free textbooks and subsidized boarding fees to poor students.⁹¹ These special funds for rural students are co-financed by the central and local governments.⁹² China makes exceptions to the ban on under-sixteen labor for “units of literature and art, physical culture and sport, and special arts and crafts,” which need to recruit juveniles under the age of sixteen, but even these children “must go through the formalities of examination and approval according to the relevant provisions of the State and guarantee their right to compulsory education.”⁹³ The government also encourages recent graduates to gain employment by serving in the army or by moving to rural areas to teach.⁹⁴ These measures have allowed China’s education reform to continue without upsetting important aspects of its economy.

China’s child labor and education reforms have also improved its standing in the international community, which has allowed for increased investment in the country, thus lowering the demand for child labor.⁹⁵ For instance, China’s Programme for Children’s Development sets forth standards in child labor and education reform, standing as a public demonstration of the country’s

⁸⁷ Xia Chunli, *Migrant Children and the Right to Compulsory Education in China*, 7 ASIA-PAC. J. HUM. RTS. & L. 29, 30 (2006).

⁸⁸ *Compulsory Education Law of the People’s Republic of China*, L. INFO CHINA (June 29, 2006), <http://www.lawinfochina.com/display.aspx?lib=law&id=5299&CGid=>

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Compulsory Education Law Enforcement Comes Under Inspection*, WINDOW CHINA (Sept. 16, 2008), http://news.xinhuanet.com/english/2008-09/16/content_10038902.htm.

⁹² *Id.*

⁹³ Int’l Labour Org. [ILO], *China Labour Act*, Doc. 9, ch. 2, § 15 (July 5, 1994), <https://www.ilo.org/dyn/natlex/docs/WEBTEXT/37357/64926/E94CHN01.htm>.

⁹⁴ See KPMG, *EDUCATION IN CHINA 10* (2010), <https://www.kpmg.com/CN/en/IssuesAndInsights/ArticlesPublications/Documents/Education-in-China-201011.pdf>.

⁹⁵ See 2013 *Investment Climate Statement—China*, U.S. DEP’T STATE (Feb. 2013), <http://www.state.gov/e/eb/rls/othr/ics/2013/204621.htm>.

dedication to these issues.⁹⁶ The United States has been involved in these developments, and the Bureau of International Labor Affairs has awarded funds to such organizations for their work in the elimination of child labor, especially targeting educational funding as a sign of child labor deterrence.⁹⁷ While critics have debated the effect that investment, especially from the United States, has had in promoting human rights in China, the United States has generally conditioned investments upon China's continued dedication to improving such rights.⁹⁸

China's education system and economy as a whole vary widely between its urban and rural areas.⁹⁹ To combat these discrepancies, China's educational reforms included decentralization of funding to the local level.¹⁰⁰ A side effect to this decentralization is that it "has made localities increasingly dependent on their own resource bases to finance current and capital expenditures."¹⁰¹ While this has been less of a problem in urban centers—and especially wealthier neighborhoods—the decentralization efforts have failed to ensure that rural communities have adequate funding.¹⁰² As a result, many "local governments have had to resort to imposing surtaxes and charging a variety of user fees for . . . primary education."¹⁰³ This has made education "so expensive that some rural residents have kept their children out of school."¹⁰⁴

Corruption is also cited as a problem in China's education system.¹⁰⁵ Chinese parents can often bribe officials to get their children into better public

⁹⁶ Eur. Comm'n on Hum. Rts., Rep. on the Work of its Sixty-First Session, Apr. 8, 2005, U.N. Doc. E/CN.4/2005/SR.40 (Aug. 24, 2005).

⁹⁷ While only a fraction of the Bureau's initial award of \$58 million went towards serving conditions in China, the program is still cited as increasing public scrutiny surrounding the link between education and child labor. See *Combating Exploitive Child Labor Through Education*, 72 Fed. Reg. 32,869 (June 14, 2007); see also Press Release, Embassy of the United States, Windhoek, Namibia, U.S. Department of Labor Awards More Than \$58 Million to Eliminate Exploitive Child Labor Around the World (Oct. 7, 2008), http://windhoek.usembassy.gov/october_7_2008.html; Nicholas, *supra* note 84, at 192.

⁹⁸ For an analysis on the possible benefits and detriments the U.S. investments have on human rights in China, see Diane F. Orentlicher & Timothy A. Gelatt, *Public Law, Private Actors: The Impact of Human Rights on Business Investors in China*, 14 NW. J. INT'L L. & BUS. 66, 117–18 (1993).

⁹⁹ Brian Holland, *Migrant Children, Compulsory Education, and the Rule of Law in China*, 14 BUFF. HUM. RTS. L. REV. 209, 225 (2008).

¹⁰⁰ *Id.* at 226.

¹⁰¹ AZIZUR RAHMAN KHAN & CARL RISKIN, *INEQUALITY AND POVERTY IN CHINA IN THE AGE OF GLOBALIZATION* 87 (2001).

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ See William Wan, *In China, Parents Bribe to Get Students into Top Schools, Despite Campaign Against Corruption*, WASH. POST (Oct. 7, 2013), <https://www.washingtonpost.com/world/in-china-parents->

schools—even at the elementary school level.¹⁰⁶ Students are supposed to be assigned to schools on a geographic basis, but wealthy parents can often pay a fee to send their children to the school of their choice.¹⁰⁷ In China, the best schools are often the public schools. Private schools are often reserved for children barred from public schools,¹⁰⁸ either because they cannot afford the necessary costs associated with schooling, or, more commonly, they are the children of migrant workers who do not qualify to attend school where they currently live.¹⁰⁹ Students are registered for school (and other public services, such as healthcare) on a hereditary basis under China's *hukou* system.¹¹⁰ The *hukou* system causes tens of millions of migrants to leave their children behind with rural-dwelling relatives when they move to cities in search of work, creating further problems in rural education.¹¹¹ The discrepancy between public and private schools contributes to China's difficulties in lessening its gap between the wealthy and poor.¹¹² Still, in the past quarter century China has lifted more citizens out of poverty and enrolled more children in school than any other country.¹¹³ A direct link likely exists between China's success in lessening child labor and its better enforcement of compulsory education laws.¹¹⁴

B. Brazil

Brazil's development involves a long period of military rule characterized by "indifference to social issues of the poor majority," which "left child labor largely unchecked and at all-time highs."¹¹⁵ The military dictatorship did, however, impose an economic model that "marked a decline in inflation

bribe-to-get-students-into-top-schools-despite-campaign-against-corruption/2013/10/07/fa8d9d32-2a61-11e3-8ade-a1f23cda135e_story.html.

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ Tania Branigan, *Millions of Chinese Rural Migrants Denied Education for their Children*, GUARDIAN (Mar. 14, 2010, 9:07 PM), <http://www.theguardian.com/world/2010/mar/15/china-migrant-workers-children-education>.

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² Wan, *supra* note 105.

¹¹³ Lieten, *supra* note 82, at 2.

¹¹⁴ *See id.* at 2, 6, 7.

¹¹⁵ Charles T. Mantei, *It Takes a Village to Raise a Child: The Role of the Organization of American States in Eliminating the Worst Forms of Child Labor in Brazil*, 32 U. MIAMI INTER-AM. L. REV. 469, 484 (2001).

leading to significant economic development.”¹¹⁶ Through the 1980s in Brazil, “child labour remained an important feature of the labour market,”¹¹⁷ but the 1990s have seen a dramatic decrease in child labor and an increase in the percentage of children that are enrolled in schools.¹¹⁸ A 1998 constitutional amendment raised the minimum working age from fourteen to sixteen, resulting in a marked decrease in labor in children newly covered under the amendment.¹¹⁹ While critics claim that Brazilian education laws, which mandate school attendance until age fourteen, are not well enforced, ninety-three percent of boys and ninety-four percent of girls between the ages of seven and sixteen do attend school at least on a part-time basis.¹²⁰ Secondary education enrollment has also been increasing by about ten percent annually since 1995, indicating a rise in demand for secondary education.¹²¹ While Brazil’s economic development has certainly contributed to the improved child labor conditions, the innovative programs that Brazil implemented to encourage education have also played a vital role.¹²²

Brazil has benefitted from the emergence of NGOs committed to improving the conditions of its poorest children.¹²³ NGOs provide assistance to the government in setting curricula for schools, due to their proximity to children living in poverty and their needs.¹²⁴ Many of these NGOs receive international funding.¹²⁵ The centers put in place by these NGOs often serve as “the first point of contact for street children,” allowing them to use the facilities for non-educational purposes such as hygiene and medical care.¹²⁶ Some of the programs that target regions with high instances of child labor make efforts to emphasize extra-curricular activities.¹²⁷ Trade unions also provide assistance in

¹¹⁶ *Id.*

¹¹⁷ *The End of Child Labour: Within Reach*, *supra* note 80, at 13–14.

¹¹⁸ *Id.* at 14.

¹¹⁹ Mantei, *supra* note 115, at 499–500.

¹²⁰ *Made in Brazil: Confronting Child Labor*, COUNCIL ON HEMISPHERIC AFF. (Nov. 16, 2010), <http://www.coha.org/made-in-brazil-confronting-child-labor/>.

¹²¹ *The End of Child Labour: Within Reach*, *supra* note 80, at 14.

¹²² *Made in Brazil: Confronting Child Labor*, *supra* note 120.

¹²³ Mantei, *supra* note 115, at 484–85.

¹²⁴ Mona Pare, *Educating Marginalized Children: The Challenge of the Right to Education in Brazil*, 12 INT’L J. CHILD. RTS. 217, 234 (2004).

¹²⁵ Armand Pereira, *Domestic Child Labor: An Overview of Brazil’s Recent Experience*, GLOBAL POL’Y FORUM (Jan. 2010), <https://www.globalpolicy.org/social-and-economic-policy/labor-rights-and-labor-movements/48669-domestic-child-labor-an-overview-of-brazils-recent-experience.html>.

¹²⁶ Pare, *supra* note 124, at 237–38.

¹²⁷ Mantei, *supra* note 115, at 494.

ensuring that children are not forced to work.¹²⁸ The Brazilian government has formed Integrated Action Programs (the “Programa de Ações Integradas,” or “PIAs”), which combine the initiatives of NGOs, government agencies, and trade unions into coalitions to remove children from the labor force and place them in educational settings.¹²⁹ By cooperating with NGOs, Brazil has been able to better focus their educational efforts on issues that are most relevant in poorer communities.

Through the PIAs, the Brazilian government implemented incentive-based policies to motivate poor families to promote school attendance among their children. Brazil has used conditional cash transfers (CCTs) under a program called *Bolsa Família* since 2003.¹³⁰ *Bolsa Família* provides financial assistance to poor families on the condition that their children attend school regularly and receive vaccinations.¹³¹ By late 2013, the program reached fifty million people, or a quarter of Brazil’s total population.¹³² It is estimated that the program has reduced Brazil’s rate of extreme poverty by more than one half.¹³³ Preserving primarily municipal funding for *Bolsa Família* ensures innovation and efficiency through the reduction of administrative costs that would be required for more centralized funding.¹³⁴ Under the program, if one child from a family misses more than fifteen percent of classes, then the child’s entire family loses funding.¹³⁵ This has caused the program to be “particularly effective at helping girls to stay in school,” reversing generations of gender disparities in Brazil’s education system.¹³⁶ It has increased both attendance and enrollment rates in Brazil among adolescents of both genders.¹³⁷

¹²⁸ *Id.* at 493.

¹²⁹ *Id.* at 489–90.

¹³⁰ Kathy Lindert, *Brazil: Bolsa Família Program – Scaling-Up Cash Transfers for the Poor*, in MFDR PRINCIPLES IN ACTION: SOURCEBOOK ON EMERGING GOOD PRACTICES 67, 67 (2006).

¹³¹ Fábio Veras Soares et al., *Evaluating the Impact of Brazil’s Bolsa Família*, 45 LATIN AM. RES. REV. 173, 174 n.1 (2010).

¹³² Deborah Wetzel & Valor Econômico, *Opinion: Bolsa Família: Brazil’s Quiet Revolution*, WORLD BANK (Nov. 4, 2013), <http://www.worldbank.org/en/news/opinion/2013/11/04/bolsa-familia-Brazil-quiet-revolution>.

¹³³ *Id.*

¹³⁴ See Kathy Lindert et al., *The Nuts and Bolts of Brazil’s Bolsa Família Program: Implementing Conditional Cash Transfers in a Decentralized Context* 14, 29, 117 (World Bank, Discussion Paper No. 0709, 2007).

¹³⁵ *Brazil’s Bolsa Família: How to Get Children out of Jobs and into School*, ECONOMIST (July 29, 2010), <http://www.economist.com/node/16690887>.

¹³⁶ Cindy Calvo, *Social Work and Conditional Cash Transfers in Latin America*, 38 J. SOC. & SOC. WELFARE 53, 60 (2011).

¹³⁷ *See id.*

Brazil still deals with large-scale corruption in its education industry, against which the government has fought only minimally.¹³⁸ Money transferred from the central government to municipalities in the form of educational block grants are often the target of corruption.¹³⁹ While using more local revenue to fund schools helps eliminate this problem, federal funding is often needed to ensure uniformity among poor communities. Mayors themselves are often guilty of diverting resources designated as educational to other programs—or into their own bank accounts.¹⁴⁰ As a result, teachers often do not receive their full salaries, which can decrease teacher motivation.¹⁴¹ Evidence suggests that school quality decreases due to this corruption, and commentators suggest a monitoring system to oversee the use of educational block grants.¹⁴²

Brazil's economy is heavily divided between mostly urban populations in the eastern coastal regions and mostly rural areas inland.¹⁴³ Brazil's 1995 "Every Child in School" Program, which expanded enrollment by as much as ten percent, had an especially profound impact in Brazil's poorest regions—the North, North-East, and Central-West.¹⁴⁴ One of the largest lingering problems arises from children that work in their parents' households, where they escape government monitoring.¹⁴⁵ Psychological issues are at play in transitioning children whose families have gone generations without a formal education into the unfamiliar setting of a classroom. In Brazil, "poverty begets child labor begets lack of education begets poverty."¹⁴⁶ The country has yet to find a program that completely eliminates child labor, especially in urban areas.

Brazil has been cited by the ILO as an example of a country where, "in addition to poverty reduction, the decision to focus on mass education" has led to a "transition point" in the elimination of child labor.¹⁴⁷ The number of children between the ages of five and seventeen has been reduced by more than fifty percent since 1992, and Brazil's dedication to incentivizing education has

¹³⁸ See Roslyn Arlin Mickelson, *Globalization, Childhood Poverty, and Education in the Americas*, in CHILDREN ON THE STREETS OF THE AMERICAS 11, 30 (Roslyn Arlin Mickelson ed., 2000).

¹³⁹ Claudio Ferraz et al., *Corrupting Learning: Evidence from Missing Federal Education Funds in Brazil*, 96 J. PUB. ECON. 712, 712 (2012).

¹⁴⁰ *Id.* at 715.

¹⁴¹ *Id.*

¹⁴² *Id.* at 716.

¹⁴³ *Urbanisation in Brazil*, BRAZIL, <http://www.brazil.org.za/unrbanisation-in-brazil.html> (last visited Feb. 3, 2016).

¹⁴⁴ *The End of Child Labour: Within Reach*, *supra* note 80, at 14.

¹⁴⁵ *Made in Brazil: Confronting Child Labor*, *supra* note 120.

¹⁴⁶ Mantei, *supra* note 115, at 484.

¹⁴⁷ *The End of Child Labour: Within Reach*, *supra* note 80, at xi.

likely been the primary cause for this reduction.¹⁴⁸ Some have complained that Brazil's reforms have been skewed too heavily towards rural areas.¹⁴⁹ Urban children often earn more than rural children; therefore, the incentives provided by *Bolsa Familia* are often less than what a child can make by working.¹⁵⁰ Despite its shortcomings, Brazil's efforts to enforce its minimum age schooling requirement through incentives has had a substantial impact on lowering dropout rates and in reducing child labor participation rates.¹⁵¹

C. India

As a former English colony, India's child labor difficulties have a common source with those experienced by Myanmar and date back at least as far as the Industrial Revolution.¹⁵² India's traditional economy and social structure called for children to observe their family's occupation and learn the skills practiced by their parents, often beginning at a young age.¹⁵³ The Industrial Revolution only perpetuated this cycle.¹⁵⁴ Parental illiteracy, overpopulation, and an economy that creates a high demand for child labor have allowed the problem to linger.¹⁵⁵ While bans applying only to hazardous jobs have seen limited success, India has made less progress in eliminating their problem of child labor as a whole. Prosecutions are rarely undertaken when violations are found.¹⁵⁶ A larger problem, however, is India's failure to bring about meaningful education reform. Although laws mandate free public education, corruption and a lack of enforcement have prevented these laws from having a meaningful effect. Ultimately, India's economy creates a situation in which an

¹⁴⁸ Pereira, *supra* note 125.

¹⁴⁹ *Brazil's Bolsa Familia: How to Get Children out of Jobs and into School*, *supra* note 135.

¹⁵⁰ *Id.*

¹⁵¹ See Calvo, *supra* note 136, at 60.

¹⁵² See generally Vijay Prashad, *Calloused Consciences: The Limited Challenge to Child Labor*, DOLLARS AND SENSE, Sept.-Oct. 1999.

¹⁵³ See Darlene Adkins, *Children in Labor: How Sociocultural Values Support Child Labor*, WORLD & I, Feb. 1995, at 370.

¹⁵⁴ See Suresh Babu, *Child Labour in India, Problems in Conceptualisation*, 9 THINK INDIA Q. 47, 48 (2006).

¹⁵⁵ Odyssey Bordoloi, *Origin and Causes of Child Labour and Its Possible Solutions*, LAWYERSCLUBINDIA (Sept. 28, 2010), <http://www.lawyersclubindia.com/articles/Origin-and-Causes-of-Child-Labour-and-its-Possible-Solutions-3194.asp#Vr9rLfkK2w>.

¹⁵⁶ *Id.* Statistics show that between 2007 and 2009, 5,392 instances of violations were detected. Six of these cases were prosecuted but only three resulted in convictions. In 2006-2007, there was only one conviction from 2,363 violations. *Id.*

outright ban on child labor is ineffective without significant steps towards redeveloping an economy that emphasizes education.¹⁵⁷

Much of India's problem is related to enforcement and prioritization of laws supporting education and banning child labor.¹⁵⁸ Since it obtained its independence more recently, India is somewhat unique in that its constitution provides that education is a right guaranteed to children up to a certain age.¹⁵⁹ Article 45 directs the state to enact legislation to make education compulsory and free within ten years of the 1947 Constitution's enactment, and to legislate to remove children under age fourteen from the workplace.¹⁶⁰ However, throughout India's period of independence, the right to free and compulsory education has not been justiciable in court, despite both numerous proposed amendments to make it so and court decisions that affirmed education's status as a fundamental right.¹⁶¹ Although some provinces have passed laws that have attempted to tackle the problems of child labor and low education attendance, the central government has largely failed to provide an adequate model to eliminate these problems, despite numerous national laws on the subject that are only meagerly enforced.¹⁶² Thus, many state laws go unenforced, due in part to lack of administrative ability.¹⁶³ As a result, electoral promises to allocate six percent of GDP to education have remained "pious wishes,"¹⁶⁴ and the legislature is free to slash educational funding at its convenience.

Like Brazil, India receives much help from NGOs, which provide assistance with education and child labor prevention at a grassroots level.¹⁶⁵ While a "relatively new phenomenon" in India, NGOs have grown rapidly in the twenty-first century,¹⁶⁶ although they are often still limited by their small

¹⁵⁷ See Kapur, *supra* note 7.

¹⁵⁸ *India: Child Labor Law Welcomed, But Needs Enforcing*, HUM. RTS. WATCH (Oct. 5, 2006), <https://www.hrw.org/news/2006/10/05/india-child-labor-law-welcomed-needs-enforcing>.

¹⁵⁹ INDIA CONSTITUTION 2012, art. 45.

¹⁶⁰ Saroj Pandey, *Education as a Fundamental Right in India: Promises and Challenges*, 1 INT'L J. EDUC. L. & POL'Y 13, 14 (2005).

¹⁶¹ *Id.*

¹⁶² *Id.* at 15.

¹⁶³ *Id.*

¹⁶⁴ Nalini Junej, *Correcting a Historical Injustice*, HINDU (May 14, 2014), <http://www.thehindu.com/opinion/lead/correcting-a-historical-injustice/article6005953.ece>.

¹⁶⁵ See 5 *Indian NGOs Working Toward Education Equality*, BOARD (Aug. 27, 2013), <http://www.edtechboard.com/5-indian-ngos-working-toward-education-equality/>.

¹⁶⁶ GEETA GANDHI KINGDON, GLOBAL POVERTY RESEARCH GRP., *THE PROGRESS OF SCHOOL EDUCATION IN INDIA* 28 (Mar. 2007).

scope.¹⁶⁷ NGOs attempt to enforce existing legislation on education, while advocating for more expansive laws on the subject.¹⁶⁸ They have also geared their efforts towards promoting attendance through providing resources to assist with the Mid-Day-Meal program, which provides lunch to students who attend school.¹⁶⁹ NGOs are also involved in promoting less formal education centers in tribal areas and attempting to arrange for foster programs to allow homeless children to attend schools.¹⁷⁰ These NGOs have made a noticeable difference in the areas in which they have worked but face difficulty in implementing nation-wide change, due in part to a lack of comprehensive cooperation from the central government.¹⁷¹ While many NGOs have “achieved considerable national credibility,” they often “continue to be susceptible to the vagaries of governmental policies and directives.”¹⁷² NGOs often must “endure sudden shifts in policies, undoing several years of fruitful collaboration.”¹⁷³ This turbulence makes it difficult for the NGOs to make progress.

India, like Brazil and China, has benefited from economic development in the last quarter century. India’s Green Revolution increased agricultural technology in some parts of the country.¹⁷⁴ However, the increased productivity has not been as transformative on the child labor front as it has been in China and Brazil. In 1983, ninety percent of Indian child laborers worked in rural areas, and while this percentage has lessened, it still remains the norm.¹⁷⁵ Many parts of India struggle with an informal economy—one where the technology is not yet in place to render certain unskilled tasks unnecessary. This leads to a higher demand for child labor.¹⁷⁶ Additionally, the lingering restrictions of India’s caste system have played a large role in keeping children in the workforce despite overall trends of improving

¹⁶⁷ M. Neil Browne et al., *Universal Moral Principles and the Law: The Failure of One-Size-Fits-All Child Labor Laws*, 27 Hous. J. Int’l L. 1, 24 (2005).

¹⁶⁸ Vijayashri Sripati, *India – Constitutional Amendment Making the Right to Education a Fundamental Right*, 2 Int’l J. Const. L. 148, 156 (2004).

¹⁶⁹ KINGDON, *supra* note 166, at 25; 447 NGOs Involved in Mid-Day Meal Scheme: Government, FIRST POST (Aug. 26, 2013), <http://www.firstpost.com/india/447-ngos-involved-in-mid-day-meal-scheme-government-1061847.html>.

¹⁷⁰ KINGDON, *supra* note 166, at 28.

¹⁷¹ *Id.*

¹⁷² Shanti Jagannathan, *The Role of Nongovernmental Organizations in Primary Education: A Study of Six NGOs in India* 29 (WBG, Working Paper No. 2530, 2001).

¹⁷³ *Id.*

¹⁷⁴ AMARTYA SEN, POVERTY AND FAMINES: AN ESSAY ON ENTITLEMENT AND DEPRIVATION 42 (1981).

¹⁷⁵ Babu, *supra* note 154, at 52.

¹⁷⁶ Browne et al., *supra* note 167, at 27.

poverty.¹⁷⁷ Many areas of India still experience bonded labor, although the practice is constitutionally forbidden.¹⁷⁸ Indian society's instinctive propensity towards preserving social norms combined with its uneven economic development creates an economy that still relies upon child labor for efficient production.

Many commentators have argued that India is an exception to the general rule that compulsory education laws promote high levels of enrollment.¹⁷⁹ Borrowing from programs in Egypt and Colombia, India has adopted a flexible approach to school terms that are based on the local agricultural cycle.¹⁸⁰ Courts have suggested providing employment opportunities to unemployed parents as an incentive to remove children from the workforce and enroll them in schools.¹⁸¹ The government has not pursued these measures, however. Some analysts cite the fact that India's child labor is more deeply rooted because the poorest families do not "perceive a positive net benefit from schooling, due to indivisibility of costs associated with attending schools."¹⁸² Administrative costs associated with enforcing attendance laws are higher than the government is willing to pay, especially in rural areas, so many families are not persuaded to send their children to school.

Implementation has been difficult, especially in rural areas where there are allegations of corruption among local officials.¹⁸³ Educational funding is misappropriated by government officials for their own private use through conniving means, such as drafting fake nominees for scholarship systems to take money away from legitimate students.¹⁸⁴ This creates a situation where households must spend a substantial portion of their family income paying fees.¹⁸⁵ It also leads to high levels of teacher absenteeism due to low wages.¹⁸⁶

¹⁷⁷ Babu, *supra* note 154, at 56.

¹⁷⁸ *Id.* at 54.

¹⁷⁹ Pandey, *supra* note 160, at 18.

¹⁸⁰ *Id.*

¹⁸¹ See Browne et al., *supra* note 167, at 9.

¹⁸² Jayanta Sarkar & Dipanwita Sarkar, *Why Does Child Labour Persist with Declining Poverty* 21 (Nat'l Ctr. for Educ. Res., Working Paper No. 84, 2012).

¹⁸³ Aarti Dhar, *U.K. Doesn't Intend to Probe Sarva Shiksha Abhiyan for Corruption*, HINDU (July 28, 2010), <http://www.thehindu.com/news/national/uk-doesnt-intend-to-probe-sarva-shiksha-abhiyan-for-corruption/article538703.ece>.

¹⁸⁴ Kusum Jain & Shelly, *Corruption: It's Silent Penetration into the Indian Education System*, 4 J. EDUC. & PRAC. 30, 33 (2013).

¹⁸⁵ Sarkar & Sarkar, *supra* note 182, at 7.

¹⁸⁶ JACQUES HALLAK & MURIEL POISSON, *CORRUPT SCHOOLS, CORRUPT UNIVERSITIES: WHAT CAN BE DONE?* 166 (2007).

In some states, an average of two of every five teachers are absent on any given day.¹⁸⁷ This system strongly favors children from wealthier families, who can better manipulate their outcomes through financial means. Students who can afford unethical private tutoring sessions,¹⁸⁸ entrance exam fees that allow them to enter study tracts for which they otherwise do not qualify, or pay bribes, will perform better and receive better outcomes from their educational experience.¹⁸⁹ This perpetuates the lack of incentives for education provided to the poorest students—the students who most need education to escape the cycle of child labor.

In some communities, the cycle of poverty seems to have been worsened by India's attempts to eliminate child labor. Families often rely upon child labor for survival, and when child wages decrease in response to bans, poor families are often forced to utilize more child labor, for example, by sending another child in their household to work alongside a sibling.¹⁹⁰ India still has the distinction of having the most child workers in the world, with estimates ranging between seventeen and forty-four million—due largely to its massive population.¹⁹¹ A “notion of benevolence often masks the exploitation and long-term harm” for child workers.¹⁹² Employers often bring children into the workplace, and families send them there, thinking that it is the best option for the child.¹⁹³ India's social structure and lack of administrative emphasis on education, despite recent economic development, perpetuate the child labor cycle by providing few incentives to send children to school, and many incentives to send them to work.

III. STRATEGIES FOR MYANMAR: SIMILARITIES AND DIFFICULTIES

Similar to these recently developing countries, Myanmar is shaped by its history. It shares a colonial past similar to India's, but its Buddhist tradition

¹⁸⁷ *Id.* at 164.

¹⁸⁸ *Id.* at 32–33. According to UNESCO, private tutoring “does not necessarily have a negative impact on the system,” but it is often “imposed by teachers as a requirement for access to all the topics included in the curriculum,” which undermines schooling efforts. *Id.*

¹⁸⁹ *Id.*

¹⁹⁰ Prashant Bharadwaj et al., *Perverse Consequences of Well-Intentioned Regulation: Evidence from India's Child Labor Ban 4* (NBER, Working Paper, No. 19602, 2013).

¹⁹¹ Pandey, *supra* note 160, at 18.

¹⁹² Anuj Chopra, *India's Latest Move to Stop Child Labor*, CHRISTIAN SCI. MONITOR (Oct. 10, 2006), <http://www.csmonitor.com/2006/1010/p07s02-wosc.html>.

¹⁹³ *Id.*

leaves it with less social rigidity.¹⁹⁴ Like Brazil, it has experienced periods of military rule, but it did not achieve the same rapid economic development.¹⁹⁵ While many factors have combined to cause Myanmar to lag behind these nations in development, there remain lessons to be learned from the plights of Brazil, India, and China.

Myanmar's population is heavily divided along urban and rural lines. Like India, its economy continues to include a large agricultural sector.¹⁹⁶ More than seventy percent of Myanmar's residents continue to reside in rural areas.¹⁹⁷ It has not experienced the widespread urbanization enjoyed in China.¹⁹⁸ Myanmar's inability to bring its poor urban and rural communities together to support political change contributes to the country's difficulties in establishing lasting democracy.¹⁹⁹ However, in some ways, Myanmar's urban/rural dichotomy differs from those in the other recently developing countries. In Myanmar, the majority of investments, both from the government and from foreign investors and sources of aid, have been devoted to improving the conditions of the rural poor, while Myanmar's cities have gone largely neglected.²⁰⁰ This more closely resembles the situation in Brazil.²⁰¹ As militarily-imposed travel bans are lifted and Burmese citizens begin to enjoy increased freedom of mobility, it is projected that many will flock to cities whose infrastructures—and schools—are unprepared for a large influx of people.²⁰² China's *hukou* system, while not without its flaws, protected against this phenomenon.²⁰³ Any educational reform in Myanmar will have to consider both the problems of corruption and teacher shortages in rural areas, while also preparing for the burden that a large amount of new students would place on its urban schools. As has been the case in Brazil, Myanmar could greatly benefit from the help of non-government organizations in poor urban areas to help carry the burden of non-educational necessities such as hygiene and basic nutrition.

¹⁹⁴ See STEINBERG, *supra* note 16, at 1–5.

¹⁹⁵ See Ribeiro, *supra* note 17.

¹⁹⁶ Thihan Myo Nyun, *Feeling Good or Doing Good: Inefficacy of the U.S. Unilateral Sanctions Against the Military Government of Burma/Myanmar*, 7 WASH. U. GLOBAL STUD. L. REV. 455, 487 (2008).

¹⁹⁷ *Id.* at 490 n.154.

¹⁹⁸ *Id.* at 490.

¹⁹⁹ *Id.* at 490 n.154.

²⁰⁰ *Myanmar Could See Explosion of Slums, Expert Warns*, THOMSON REUTERS FOUND. (June 3, 2012), <http://news.trust.org/item/20120603111000-6a5m9/>.

²⁰¹ *Brazil's Bolsa Familia: How to Get Children out of Jobs and into School*, *supra* note 135.

²⁰² *Myanmar Could See Explosion of Slums, Expert Warns*, *supra* note 200.

²⁰³ Branigan, *supra* note 109.

Myanmar also must contend with the fact that the international community is less tolerant of child labor now than it was a quarter century ago when Brazil, China, and India made the majority of their reforms.²⁰⁴ Perhaps this can be attributed to the rise of the Internet and easier international monitoring of child labor conditions.²⁰⁵ As a result, international investors are hesitant to devote funds and physical capital to Myanmar's economy in fear of public backlash.²⁰⁶ A demonstrated dedication to eliminating the practice on a scale far greater than has been observed thus far would persuade more investors to return to Myanmar.

The exodus of many upper-class students has also had a significant effect on Myanmar's economy, as many do not return to Myanmar after their studies are complete.²⁰⁷ This reduces the supply of political leaders and technological innovators, which in turn perpetuates an economy that has a high demand for the unskilled labor positions that are often filled by children.²⁰⁸ In many ways, Myanmar is subject to the same type of intellectual poverty that continues to create difficulties in Brazil's economy.²⁰⁹

Myanmar, like many recently developed countries, faces problems with gender and racial inequality. Burmese Buddhism faces the challenge of "long-established discriminatory practices against women."²¹⁰ Similarly, racial and religious minorities are often ostracized as impure and are especially condemned when they marry into Burmese Buddhist families, an arrangement often regarded as "degenerative."²¹¹ When fees for children's schooling become burdensome, there is "a greater likelihood that parents may keep their boys in school and take the girls out."²¹² Women's career options are often limited to unskilled jobs; they account for ninety percent of the workforce in

²⁰⁴ See Raneer Khooshie Lal Panjabi, *Sacrificial Lambs of Globalization: Child Labor in the Twenty-First Century*, 37 DENV. J. INT'L L. & POL'Y 421, 443 (2009).

²⁰⁵ *Id.*

²⁰⁶ Syed Zain Al-Mahmood & Shibani Mahtani, *U.S. Initiative Could Help Investors in Myanmar Avoid Labor Problems*, WALL ST. J. (Aug. 29, 2014), <http://www.wsj.com/articles/u-s-initiative-could-help-investors-in-myanmar-avoid-labor-problems-1409297585>.

²⁰⁷ PEDERSEN, *supra* note 33, at 200.

²⁰⁸ *Id.*

²⁰⁹ Mantei, *supra* note 115, at 484.

²¹⁰ No Tun, *The Link Between Gender and Racial Inequality in Burma*, DEMOCRATIC VOICE BURMA (Apr. 27, 2014), <http://www.dvb.no/analysis/the-link-between-gender-and-racial-inequality-in-burma-myanmar/39936>.

²¹¹ *Id.*

²¹² Marwaan Macan-Markar, *Burma: Public Education a Drain on Family Incomes*, INTER PRESS SERV. (June 20, 2010), <http://www.ipsnews.net/2010/06/burma-public-education-a-drain-on-family-incomes/>.

the country's garment industry.²¹³ While the recent rise of labor unions has helped improve conditions for female workers, any aims at reform will have to take into account the discrepancies in societal attitudes towards females and minorities, and their perceived status in the Burmese economy.²¹⁴

A patchy relationship with trade unions and NGOs has also hindered Myanmar's efforts. Until the mid-1990s, the military-run government did not authorize any NGOs to operate in Myanmar.²¹⁵ The past two decades, however, have seen a dramatic increase in these organizations at the local level, some of which are officially registered with the government.²¹⁶ However, as is the case in India, these organizations are often underfunded and uncoordinated due to inconsistencies in levels of government cooperation.²¹⁷ Many of these NGOs focus on providing necessities like hygiene and nutrition to children attending school in poor areas, such as the refugee camps that continue to operate near the Thailand border.²¹⁸ Myanmar has also banned NGO members serving as teachers, which makes matters more difficult.²¹⁹ While the government's recent attitude towards NGOs in the education field has allowed for progress, many NGOs remain "under the constant threat of repercussions" if the government changes course, as it has done in the past.²²⁰ This is especially true for those NGOs that are not officially registered.²²¹

The presidency of Thein Sein and the end of military rule in 2012 saw the relaxation of decades-long restrictions on trade unions in Myanmar.²²² Hundreds of labor unions were quickly organized under Burmese law.²²³ Trade unions have pledged to help Myanmar combat child labor and help with the

²¹³ Spike Johnson, *The Rising Power of Burma's Women's Workforce*, IRRAWADDY (Oct. 2, 2014), <http://www.irrawaddy.com/feature/rising-power-burmas-womens-workforce.html>.

²¹⁴ *Id.*

²¹⁵ Kim Wallis & Carine Jaquet, *Local NGOs in Myanmar: Vibrant But Vulnerable*, HUMANITARIAN EXCHANGE MAG., July 2011, at 21, 21.

²¹⁶ *Id.*

²¹⁷ *Id.*

²¹⁸ See Doug Bandow, *Burma Enjoys an Uneasy Peace: Time to Close Thailand's Refugee Camps?*, AM. SPECTATOR (Dec. 15, 2014), <http://spectator.org/articles/61240/burma-enjoys-uneasy-peace-time-close-thailand%E2%80%99s-refugee-camps>.

²¹⁹ Given the choice between working for an NGO and the long hours and lower pay for teaching, many would-be qualified teachers choose the former. See THE OFFICE OF GORDON AND SARAH BROWN, EDUCATION IN BURMA: GUARANTEEING HOPE OF A BETTER FUTURE 3 (2012).

²²⁰ Morgan, *supra* note 21, at 506.

²²¹ *Id.*

²²² Ross Wilson, *The New Union Movement in Myanmar*, GLOBAL LAB. COLUMN (Sept. 25, 2013), http://www.global-labour-university.org/fileadmin/GLU_Column/papers/no_149_Wilson.pdf.

²²³ *Id.*

country's education plans.²²⁴ However, as is the case with NGOs, there remains a lack of sufficient legislative protection for trade unions and labor rights activism.²²⁵ As a result, many of the unions' most effective tactics, such as strikes, are often met with intimidation and repercussions in the workplace.²²⁶ This drastically reduces the unions' ability to bring about positive change regarding child labor.

Finally, Myanmar must deal with forms of corruption that are similar to those found in other recently developed countries. Much of Myanmar's corruption serves to maintain the socioeconomic status quo.²²⁷ As is the case in China, the use of bribes reserve the country's best schools for the children of government elites.²²⁸ Additionally, as is common in the developing world, the siphoning off of bureaucratic funding takes a toll on teachers, leading to low retention rates.²²⁹ However, Myanmar lacks the infrastructure to effectively combat the problem. The ever-strong military, the ruling elite, and organized crime are all intertwined in an inefficient bureaucracy that lacks the checks and balances needed to effectively curb corruption.²³⁰ In Myanmar, more importantly than elsewhere, the success of any education reform hinges on the elimination of corruption.²³¹

V. APPROACHES AND POSSIBLE IMPLEMENTATIONS

While India serves as a point of caution, it remains apparent that expanding free compulsory education in Myanmar will likely reduce the prevalence of child labor in the country. Additionally, expanding compulsory education alone will only be effective if combined with sweeping reforms to the way the

²²⁴ Aung, *supra* note 31.

²²⁵ BURMA P'SHIP, MODERN SLAVERY: A STUDY OF LABOUR CONDITIONS IN YANGON'S INDUSTRIAL ZONES 34 (2013), <http://www.burmapartnership.org/2013/11/modern-slavery-a-study-of-labour-conditions-in-yangons-industrial-zones/>.

²²⁶ *Id.*

²²⁷ *Id.*

²²⁸ Phyoo Wai, *Bribery and Corruption of Teachers to be Tackled*, NATION MULTIMEDIA (Aug. 4, 2014, 7:26 PM), <http://www.elevenmyanmar.com/business/corruption-stunts-myanmar%E2%80%99s-economic-potential>.

²²⁹ Winn, *supra* note 18.

²³⁰ Mark V. Vlasic & Peter Atlee, *Myanmar and the Dodd-Frank Whistleblower "Bounty": The U.S. Foreign Corrupt Practices Act and Curbing Grand Corruption Through Innovative Action*, 29 AM. U. INT'L L. REV. 441, 443 (2014).

²³¹ Kyaw Kyaw Aung, *Myanmar Told to Give Education Priority to Poor and Ethnic Minorities*, RADIO FREE ASIA (July 18, 2014), <http://www.rfa.org/english/news/myanmar/education-07182014185339.html> (translated by Khet Mar & Di Hoa Le).

government approaches the subject of education. There is a delicate “balance between protecting children from harsh labor conditions and ultimately exposing them to even more harmful situations” by abruptly forcing them out of the labor force and into schools that may not be ready for a dramatic expansion.²³² The easiest way to encourage education and discourage child labor would be to follow China’s²³³ and Brazil’s²³⁴ leads and rapidly build the economy by increasing the technological sector, thus reducing the need for unskilled labor and creating demand for education. However, Myanmar simply does not have the human capital needed to undertake such an endeavor, as it is currently receiving far less assistance from abroad due to changing attitudes towards the very problems that Myanmar faces.²³⁵ As seen in Myanmar and other countries, a firmer stance against child labor can attract foreign investment.²³⁶

A. Circumventing the Problem of Corruption

Reducing corruption would certainly improve the conditions of Myanmar’s education system. However, due to the widespread corruption in Myanmar, it would be best in the short term to circumvent corruption at the education level.²³⁷ Funneling money towards its education problems alone would likely solve little because much of the funds would be siphoned off by corrupt politicians.²³⁸ Still, a massive increase in funding and lending more control to local agencies to distribute funding to education programs is essential, especially in rural areas. As in China, education funding should be kept separate from other funding, especially considering the political instability that has plagued Myanmar in recent years.

Myanmar has already begun the process of decentralizing its educational system at the local level, not unlike what has been done in China.²³⁹ Burmese

²³² Nicholas, *supra* note 84.

²³³ *Id.*

²³⁴ Mantei, *supra* note 115, at 484.

²³⁵ OEDC DEV. PATHWAYS, MULTI-DIMENSIONAL REVIEW OF MYANMAR: VOLUME 1. INITIAL ASSESSMENT 17 (2013).

²³⁶ It could be argued that foreign direct investment in nations that rely on child labor will only perpetuate the use of child labor. This argument seems to justify many international investors’ hesitancy to invest in developing countries that continue to experience widespread child labor. See Eric Neumayer & Indra De Soysa, *Trade Openness, Foreign Direct Investment and Child Labor*, 33 *WORLD DEV.* 43, 43 (2005).

²³⁷ See Montlake, *supra* note 27.

²³⁸ *Id.*

²³⁹ Holland, *supra* note 99, at 226; *Myanmar’s Education Reform Process Takes Steps Towards a National Education Law and Decentralized System*, UNESCO (Mar. 10, 2014), <http://www.unesco.org/>

protestors argue that the reforms do not do enough to promote decentralization, especially with regards to higher education.²⁴⁰ China also demonstrates the corruption problems that can accompany decentralization of an education system, including bribery at the local level. Any plans for decentralization should include a centralized monitoring mechanism by a higher government agency.²⁴¹ As has been seen in Brazil, decentralization in the form of block grants to municipalities can lead to increased abuse of funding due to a failure to monitor local authorities.²⁴² Decentralizing Myanmar's education system by allowing for more local control of funding, along with appropriate internal and external monitoring procedures, could help reduce economic waste, increase teacher salaries and attendance, and improve educational outcomes.

B. Incorporating Help from Within

Myanmar could also benefit from better incorporation of NGOs into their efforts to end child labor. Of course, NGOs do not appear out of thin air. This again emphasizes Myanmar's need to improve its standing in the international community. There are, however, existing groups within Myanmar from which the government could seek assistance,²⁴³ including international organizations such as the ILO and UNICEF.²⁴⁴ Myanmar could help increase the efficacy of these organizations by more consistently cooperating with their efforts. For one, it could end its ban on NGO members serving as school teachers.²⁴⁵ While this ban is motivated in part by fears that foreign teachers could stir ethnic and religious tensions, many commentators argue that these fears are vastly outweighed by the potential benefits arising from NGO assistance.²⁴⁶ The lack of a uniform mechanism for registering NGOs with the government is another area that Myanmar could address to improve confidence among its existing

education/news/article/myanmars-education-reform-process-takes-steps-towards-a-national-education-law-and-decentralized/.

²⁴⁰ Soe, *supra* note 71.

²⁴¹ For a detailed analysis of the importance of monitoring apparatuses in educational decentralization movements, see generally ROSALIND LEVACIC & PETER DOWNES ET AL., FORMULA FUNDING OF SCHOOLS, DECENTRALIZATION AND CORRUPTION: A COMPARATIVE ANALYSIS (2004).

²⁴² Ferraz et al., *supra* note 139, at 5–6.

²⁴³ See Morgan, *supra* note 21, at 506.

²⁴⁴ *Mass Release of Children by Myanmar Armed Forces Important Step Towards a New Myanmar*, UNICEF (Jan. 18, 2014), http://www.unicef.org/eapro/media_22067.html.

²⁴⁵ EDUCATION IN BURMA: GUARANTEEING HOPE OF A BETTER FUTURE, *supra* note 219, at 3.

²⁴⁶ See Tim Hume, *Fears Rakhine Extremists Could Drive More Aid Agencies Out of Myanmar State*, CNN (Mar. 4, 2014), <http://www.cnn.com/2014/03/04/world/asia/myanmar-rohingya-msf-fears/> (discussing Myanmar's ban of the international organization Doctors Without Borders, which supplied medical aid to Myanmar's poorest regions, due to complaints from the nation's minority Muslim community).

NGOs and attract newcomers.²⁴⁷ By cooperating with NGOs, the Burmese government could work to build curricula and provide services to children that might motivate them to attend school—services the government alone might not be able to provide.

Trade unions are another source from which Myanmar can seek assistance in removing children from the workforce.²⁴⁸ Historically, trade unions in other countries have been at the forefront of reducing instances of child labor, in part because union members are harmed and displaced by the low wages earned by unskilled children in the workplace.²⁴⁹ While unions have been on the rise in Myanmar in recent years, they remain weak due to insufficient legislative protection. Trade unions in Myanmar have already pledged to help with the problems confronting the country's education system.²⁵⁰ By using the law to protect basic union activities such as strikes and picketing, unions could aid the government in preventing child labor. Brazil has successfully used coalitions of NGOs, trade unions, and government agencies to address child labor problems;²⁵¹ by better cooperating with NGOs and trade unions, Myanmar could potentially reap similar benefits.

C. Incentives, Flexibility, and Cultural Considerations

Compulsory education will likely not be enough unless policies that provide economic incentives to poor families are also implemented. Providing expense exemptions to poor students, especially in rural areas, would help lessen the burden on families who are unable to afford the costs associated with schooling. As in China, these fee exemptions must be supplemented by funding from elsewhere to prevent them from deducting from teachers' salaries.²⁵² These costs should be co-financed at the central and local levels, as in China, while keeping in mind the problem of fund misappropriation that can occur when block grants are distributed to local governments.²⁵³ It is also

²⁴⁷ Wallis & Jaquet, *supra* note 215.

²⁴⁸ BURMA P'SHIP, *supra* note 225, at 1.

²⁴⁹ See Shulamith Lala Ashenberg Straussner & Norma Kolko Phillips, *The Relationship Between Social Work and Labor Unions: A History of Strife and Cooperation*, 15 J. SOC. & SOC. WELFARE 105, 107–14 (1988).

²⁵⁰ Aung, *supra* note 31.

²⁵¹ Mantei, *supra* note 115, at 489.

²⁵² See *Compulsory Education Law Enforcement Comes Under Inspection*, *supra* note 91.

²⁵³ *Id.*

important that local provinces have the authority to levy taxes to raise funds for such exemptions.²⁵⁴

Providing incentives to families who send their children to school might have positive effects in Myanmar as in Brazil.²⁵⁵ A conditional cash transfer system that provides money or tax deductions to families who send their children to school could encourage attendance among families who depend on their children's wages.²⁵⁶ Myanmar must keep in mind that the costs and benefits associated with child labor vary based on the wages a child can make in the workplace and adjust such transfers accordingly. For Myanmar, this likely means providing greater benefits to urban families whose children would be better paid in the workplace in order to encourage compliance. It could also explore the proposed plan from India involving providing jobs for the unemployed parents of working children on the condition that they remove their child from the workplace.²⁵⁷ Additionally, government encouragement to remain in the educational field upon graduation, especially in rural areas, would likely reduce the significant shortage of qualified teachers in Myanmar.²⁵⁸ Similarly, Myanmar is in need of a measure to encourage its students to remain in their home country for their education while it strengthens its school systems, rather than seeking an education abroad.²⁵⁹ A successful plan would likely carry the added benefit of reducing the administrative costs associated with implementing an unpopular policy.²⁶⁰

Due to issues of gender inequality, it is essential that any plans Myanmar sets in place to protect girls in the classroom and workplace. In many ways, Myanmar has shown dedication in working towards gender equality, as its Education for All National Action Plan guarantees equal rights for male and female students.²⁶¹ Brazil has implemented a successful program that removes economic incentives for an entire family if one of their children, male or female, fails to attend school at an adequate rate.²⁶² Such a policy would help

²⁵⁴ *See id.*

²⁵⁵ Lindert, *supra* note 130, at 67.

²⁵⁶ *Id.*

²⁵⁷ Browne et al., *supra* note 167, at 25.

²⁵⁸ EDUCATION IN CHINA, *supra* note 94, at 10.

²⁵⁹ PEDERSEN, *supra* note 33, at 200.

²⁶⁰ *See, e.g.*, Lindert et al., *supra* note 134, at 27.

²⁶¹ Bo Win, Director General, Dep't of Educ. Planning and Training, Ministry of Educ., Access to and Quality of Education: Education for All in Myanmar 23 (Feb. 12, 2012), <http://yangon.sites.unicnetwork.org/files/2013/05/Final-UBW-presentation-12-2-12-UBW.pdf>.

²⁶² Calvo, *supra* note 131, at 60.

ensure that any education and child labor reform in Myanmar would be of equal benefit to Burmese boys and girls.

Flexibility has been a common theme among the countries that have been successful in reducing the prevalence of child labor. There is a delicate “balance between protecting children from harsh labor conditions and ultimately exposing them to even more harmful situations” by abruptly forcing them out of the labor force and into schools that may not be ready for a dramatic expansion.²⁶³ A “notion of benevolence” often accompanies child labor; employers often use children as workers out of pity for their family’s economic standing.²⁶⁴ Due to Myanmar’s agricultural-based economy, it might be beneficial to adopt the flexible approach to school terms, as was done in India.²⁶⁵ However, Myanmar’s goal must not be to allow child labor and education to coexist by allowing children to pursue both simultaneously.

Changes in curriculum have also been advocated. There has been a wider call for liberal teaching so that parents are in turn less authoritative towards their children.²⁶⁶ A generation down the road, this would theoretically reduce the number of instances in which parents who are products of Myanmar’s schools will force their own children into the workplace. This notion is complicated by the observation that teachers in Myanmar “tend to resist change.”²⁶⁷ Myanmar contends with the psychological issues that arise from placing children in the unfamiliar setting of a classroom. Generations of limited access to formal education has developed a “deepened sense of powerlessness”²⁶⁸ among many of the Burmese poor. Myanmar could benefit from some of the approaches Brazil took towards making this transition easier on students.²⁶⁹ A curriculum focused on liberal notions of the importance of education could have a long-term positive impact on Myanmar’s population.

CONCLUSION

Myanmar’s child labor problems run deep, and simply increasing funding and mandating free education will not be enough to solve them. By observing

²⁶³ Nicholas, *supra* note 84, at 192.

²⁶⁴ Chopra, *supra* note 192.

²⁶⁵ Pandey, *supra* note 160, at 18.

²⁶⁶ Han Tin, *Myanmar Education: Challenges, Prospects and Options*, in *DICTATORSHIP, DISORDER, AND DECLINE IN MYANMAR* 115–16 (Monique Skidmore & Trevor Wilson eds., 2010).

²⁶⁷ *Id.* at 115.

²⁶⁸ PEDERSEN, *supra* note 33, at 200.

²⁶⁹ Mantei, *supra* note 115, at 489.

international approaches to child labor problems, however, Myanmar can implement programs that increase the efficacy of compulsory free education policies. While issues of causality abound, international human rights places the burden on Myanmar to demonstrate a dedication to eliminating the practice. By looking abroad, hopefully Myanmar can learn from the examples of countries that have fought this battle before them—with varying degrees of success—and adopt programs that fit within its unique cultural identity to build a healthy economy that no longer relies on child labor.

JACK W. ROBERTS*

* Managing Editor, *Emory International Law Review*; J.D. Candidate, Emory University School of Law (2016); B.A., History, Brown University (2013). The author would like to thank Professor Abdullahi Ahmed An-Na'im, Emory University Charles Howard Candler Professor of Law and Richard F. Doner, Emory University Goodrich C. White Professor of Political Science, for their invaluable guidance and assistance on this work.