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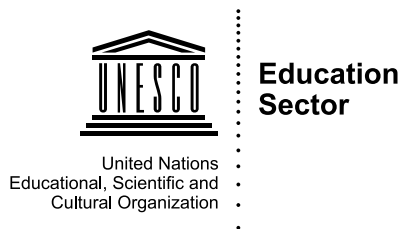


Right to pre-primary education

A global study

UNESCO Education Sector

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Published in 2021 by the United Nations Educational, Scientific and Cultural Organization, 7, place de Fontenoy, 75352 Paris 07 SP, France

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Cover photo: Monkey Business Images/Shutterstock.com

Designed and printed by UNESCO

Printed in France

ED-2021/WS/2 CLD:1077.20



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Acknowledgment

This document was produced by the Section of Education Policy in the Education Sector of UNESCO. The study was drafted by Anaïs Loizillon (International education expert in ECCE), with the technical guidance and contributions of Rolla Moumné, who also led and coordinated the work, in liaison with Rokhaya Diawara and Yoshie Kaga. It was prepared under the leadership of Borhene Chakroun and the supervision of Gwang-Chol Chang. The analysis, prepared by UNESCO in cooperation with the 'Right to Education Initiative', is based on research carried out on qualitative data for 193 UNESCO Member States conducted by UNESCO, and complemented by in-depth research on 17 countries carried out by the 'Right to Education Initiative'.

The study also benefited from reviews and/or inputs of: Delphine Dorsi (Director of the Right to Education Initiative), Ignasi Grau (Director General of OIDEL), Arja Krauchenberg (Vice-president Lifelong Learning platform), Adem Arkadas-Thibert (Independent expert on child rights), and of UNESCO staff: Theophania Chavatzia, Rokhaya Diawara, Yoshie Kaga, Huong Le Thu, Florence Migeon, Katherine Nguyen. Thanks to Mary de Sousa for copy-editing.

Abbreviations

Acronym	Full name
CRC	Convention on the Rights of the Child
ECD	Early Childhood Development
ECCE	Early Childhood Care and Education
ECDI	Early Childhood Development Index
ECE	Early Childhood Education
EFA	Education for All
EGBA	Enrolment gap between ages
GDP	Gross domestic product
GER	Gross enrolment ratio
ICESCR	International Covenant on Economic, Social and Cultural Rights
ISCED	International Standard Classification of Education
MICS	Multiple Indicator Cluster Survey
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the High Commissioner for Human Rights
PTR	Pupil/teacher ratio
SDG	Sustainable Development Goal
UIS	UNESCO Institute for Statistics
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations Children's Fund
WHO	World Health Organization

Executive Summary

Early childhood care and education (ECCE) is increasingly recognized around the world as an essential element in realising a wide range of educational, social and economic rights. International evidence finds that the development of cognitive, language, physical and socio-emotional skills during the early childhood period provides the critical foundations to enable children to develop to their full potential in school and life. Children require a combination of good health, adequate nutrition, responsive caregiving, security and safety and opportunities for quality early learning to promote their well-being. Children from vulnerable households and communities stand to gain most from access to quality early learning opportunities, including pre-primary education. Enabling them to start school on an equal footing with their peers can improve overall educational achievement and enhance social equity. Given that the pace of brain development is at its highest in the first years of life during early childhood, this period represents a critical opportunity for governments to make positive differences in children's lives and to achieve broader national social and economic goals and sustainable development.

The expansion of pre-primary education encourages children's participation in quality learning environments in formal settings. With about 50 per cent of children globally not yet enrolled in pre-primary education, enabling their inclusion remains a central question for education policymakers, stakeholders and parents.

Access to pre-primary education is considered from a right-based perspective. The right to education is stipulated through various international instruments, namely the Universal Declaration of Human Rights (1948), the Convention against Discrimination in Education (1960), the International Covenant on Economic, Social and Cultural Rights (1966) and the Convention on the Rights of the Child (1989). Moreover, the international community has formally recognized on several occasions – such as in the Dakar Framework for Action in 2000 and the Moscow Framework for Action in 2010 – the intrinsic benefits in providing all children, especially the most vulnerable and disadvantaged, with quality early learning opportunities. Most recently, the Education 2030 Framework for Action and the Sustainable Development Goal (SDG) Target 4.2 call for countries to provide access to quality early childhood development, care and pre-primary education for all children. Ensuring at least one-year of universal quality pre-primary education, by making it free and compulsory, is the minimum recommendation for all countries to implement SDG Target 4.2.

The right to free and compulsory pre-primary education serves as a critical protective measure to support young children and their families, including during emergencies and crises, such as the COVID-19 health pandemic. Schools provide children with a safe and secure environment where they receive developmental stimulation to enhance their psychological well-being and build the foundations for their holistic development across all developmental domains (cognitive, language, social, emotional, physical).

This study provides a global overview and an analysis of the adoption of legal provisions for free and compulsory pre-primary education at national level. By providing a rights-based perspective to the implementation of pre-primary education, the study aims to complement existing literature on SDG Target 4.2, which focuses mainly on policy outcomes. This study also fills a gap in the existing literature monitoring rights in ECCE, which fall short of providing guidance on the operationalization of the recommendation on universalizing at least one year of pre-primary education of education 2030. The data collected for this study includes an independent examination of publicly available national legal frameworks, which provide the guarantee within which countries can expand and implement the free and compulsory nature of pre-primary education. This study produces evidence on how countries have implemented international human rights frameworks, which guarantee the right to education and the protection against discrimination in fulfilling this right. By strengthening the global knowledge base on this subject, this study can be used as advocacy opportunity, demonstrating the value and importance of adopting legal provisions for one year of free and compulsory pre-primary education.

The main findings of this study show concern for the status of pre-primary education from a legal rights perspective. Pre-primary education is a well-determined and defined right in too few countries. Of the 193 countries examined in this study, 63 countries have adopted legal provisions for free pre-primary education and 51 countries have adopted pre-primary education as a compulsory level in national legal frameworks.¹ Most countries which have adopted provisions for free and compulsory education are located in Latin America and the Caribbean, Europe and North America and Eastern and Central Europe, and most are of upper-middle and high-income groups. Some countries have adopted specific legal provisions targeting vulnerable groups who can benefit from facilitated or priority access to pre-primary education, such as children from low-income households, children with disabilities and children from indigenous groups.

The upside of these findings is that, despite the low take-up of legal frameworks, enrolment in pre-primary education has been increasing since 1999 worldwide, with an acceleration since 2010. Yet, on average, those countries which adopted legal provisions for free and compulsory pre-primary education have had a higher rate of increase in enrolment ratios. Country case studies revealed, however, that not all countries showed a change in enrolment following the implementation date of the legal framework. Implementation of these frameworks requires significant investment, planning and operationalisation commitments to make pre-primary universally accessible. Evidence was limited to examine changes in government expenditures in pre-primary education following the implementation dates of free and compulsory education.

The benefit of free and compulsory education observed in this study is that children appear to be significantly better off. Those countries with established legal pre-primary education frameworks have higher rates of early childhood well-being – as measured by UNICEF's Early Childhood Development Index (ECDI). This finding reaffirms evidence from national and international studies on the lasting benefits of pre-primary participation in terms of learning outcomes and socioemotional skills.

Finally, the country cases in this study showed that the adoption of free and compulsory education could be affected by negative effects in some countries, especially with regards to education quality. For example, the level of teacher preparedness and adequate training could be weakened with the sudden expansion of pre-primary education. Specific provisions and actions need to be considered in advance of the implementation of legal rights frameworks, such as addressing the expanding capacity of teacher training institutes and the recruitment of trained pre-primary teaching personnel.

In light of the research conducted for this study, policymakers should consider a set of levers to promote the inclusion of early childhood and pre-primary education as a human right within and sustainable development objectives. The following four levers may be considered to accompany efforts to adopt legal frameworks to implement international rights and goals for universal pre-primary education.

- *Governance and financing:* Creating a more secure governance and financing commitment to pre-primary education will facilitate the sustainable implementation of the rights-based framework. Despite international rights and policy objectives, insufficient government prioritisation and investment in ECCE is a short-sighted policy direction.
- *Legal clarity:* Legal frameworks and national policy documents need to be aligned, coherent, and applicable. Furthermore, the definition of free and compulsory pre-primary education needs to be aligned and concordant across all national legal frameworks and policy documents, including implementing regulatory texts.

¹ Data on legal frameworks on free and compulsory pre-primary education were available for 183 and 184 countries, respectively.

- *Societal expectations*: The perceived value of pre-primary education from the perspective of parents, teachers and communities is increased when the government states it is free and compulsory. Children from vulnerable families are most likely to benefit from participation in quality early childhood learning opportunities, with positive effects at later education levels.
- *Early childhood development*: International evidence supports implementing pre-primary education as a distinct period in children's cognitive and social development. This requires developing technical expertise across relevant departments to be sensitive to – and include an explicit focus on – early childhood teaching, learning and well-being frameworks. Supporting a comprehensive approach to the specificity of the early childhood period requires the adoption of relevant national legal and policy frameworks.

Monitoring and evaluating progress across these fields is necessary for better accountability, planning and policy-making. Pre-primary education systems need to develop with the capacity to monitor access across population groups as well as the quality of its programmes, including teacher training, financing, infrastructure and learning outcomes. Monitoring the implementation of the right to pre-primary education is guided by collective standards which have been agreed to at international and national levels.

Prioritising the needs of young children and fulfilling their right to pre-primary education is highly relevant during the unique context of the global health crisis. In many countries, the education response to COVID-19 has neglected pre-primary education and concentrated on the advantage of older children. Given the importance of this development period, governments need to pay special attention to ensure that early learning of young children is given due consideration; and the adoption of legal frameworks for free and compulsory pre-primary education is the first step in guaranteeing that these rights are maintained in all circumstances, including in times of emergencies and crises.

1. Introduction

Children's access to early learning opportunities at home or in quality centre-based environments play a pivotal role in their holistic development during the critical early childhood period starting at birth.² Providing young children with access to nurturing, stimulating and secure environments builds the foundations for their healthy cognitive, language, socio-emotional and physical development. While these opportunities begin and flourish in the home, it is generally recognized that all children stand to benefit developmentally from access to quality early childhood care and education (ECCE) environments, including pre-primary education. Specifically, as a result of entering social education networks before primary school, children are more likely to be ready for primary school, have better learning outcomes and complete higher levels of education. Yet, many children across the world enter primary school without having spent any time in a formal education setting.

In 2015, the international community reaffirmed with the Sustainable Development Goals (SDGs) the importance of the early childhood period as a foundation for lifelong learning and development. SDG Target 4.2 specifically states that by 2030 countries should “ensure that all girls and boys have access to quality early childhood development, care and pre-primary education so that they are ready for primary education”. Within this global context, countries have steadily moved towards increasing enrolment in pre-primary education, with 67 per cent of children attending organized learning one year before the official primary entry age in 2018. Government commitments to reaching this target are measured by monitoring the number of years of free and compulsory pre-primary education guaranteed in legal frameworks (SDG Target 4.2.5).

The main rationale for this study is to better understand global and regional trends regarding the adoption of free and compulsory pre-primary education by filling a gap in monitoring and evaluating the impact of the adoption of legal provisions of free and compulsory pre-primary education on a global scale. National legal frameworks provide the guarantee to expand and implement free and compulsory pre-primary education. Through the examination of publicly available national legal frameworks, this study produces evidence on how countries have adopted international rights frameworks which guarantee the right to education and the protection against discrimination in fulfilling this right. This study is unprecedented; no international mechanism has the mandate to monitor and supervise the implementation of pre-primary education rights for children. By presenting this compilation of evidence, this study fills a gap in the existing literature on monitoring ECCE on a global scale and provides an initial examination of the existing gaps to reach SDG Target 4.2.5.

This study was conducted during 2020 as the COVID-19 global education crisis unfolded. Protecting the rights of all young children during times of crisis and beyond is paramount for their development and future opportunities. More than 155 million pre-school age children were affected by school closures carried out to stem the circulation of the COVID-19 virus (UNESCO, 2020). A decade ago, an estimated 250 million children under age 5 in low- and middle-income countries were at risk of not attaining their developmental potential: this number could increase if the COVID-19 era undermines efforts deployed in health and education (Black et al., 2016).

Learning continuity has been a challenging objective faced by many countries and many families are struggling financially during this period, with the most vulnerable pushed deeper into poverty and socioeconomic exclusion. Public education and health systems have struggled to address the multiple challenges of the crisis, and social safety nets have been increasingly solicited where they exist. The most vulnerable children across the world are at risk

² Early childhood is the period from ages 0 to 8, and refers to all aspects related to the care and development of children. Early Childhood Care and Education (ECCE) indicates a holistic approach to young children's nurturing care, including health, nutrition, security and safety (protection), responsive caregiving and opportunities for early learning (WHO et al., 2018). Other similar terminologies used by multi-state organizations are “Early Childhood Care and Development” (ECCD), Early Childhood Development (ECD) and “Early Childhood Education and Care” (ECEC). ECE refers to a subset of activities which have education and learning as principal components of the programme.

of never entering or never returning to school, even when they reopen. Understanding and protecting the rights of children during early childhood is every country's responsibility to ensure their well-being and future life-long opportunities.

This study contributes to the initiative launched by UNESCO, in the format of Innovative dialogue, to increase political commitment to ECCE in order to accelerate achieving SDG Target 4.2. It addresses policy makers, researchers, civil society and all stakeholders who have a crucial role to play in the promotion and implementation of the right to pre-primary education. Beyond its wide dissemination among right to education and ECCE communities, and given that the question of how to operationalize will be of interest for countries waiting to successfully translate the legal provision into reality, this study will serve as a foundation for further more focused and targeted research, to be carried out in the form of case studies on selected countries in different regions. Based on the findings, the situation in these countries will be examined more deeply in terms of regulation of pre-primary provision, including organization, governance, quality assurance, among others.

The study focused on three broad research questions:

- **Research question 1:** What are the global and regional trends concerning the adoption of legal provisions for free and compulsory pre-primary education?³
- **Research question 2:** Have enrolment rates, financing, proportion of children developmentally on track, pupil/teacher ratio and percentage of qualified teachers changed since the adoption of the legal provision for free and compulsory education?
- **Research question 3:** What do the legal provisions regarding free and compulsory pre-primary education guarantee (e.g. meanings of "free" and "compulsory" pre-primary education as defined by countries; existence of specific provisions for certain target groups within the legal framework)?

These questions evolved as a baseline for measuring how children's rights to pre-primary education are provided. Additional studies could explore other relevant subjects, such as quality ECCE and learning outcomes.

The next section details the methodology and data sources as well as limitations of the primary research conducted specifically for this study. Section 3 of this study presents an overview of the international legal frameworks for free and compulsory education, as well as the efforts to implement these in different contexts. Sections 4 and 5 examine the collected global data on legal frameworks in terms of its coverage and relationships with education outcomes, respectively. Section 6 presents concluding thoughts and considerations for further research.

³ See Annex 1: Methodology, part 2.

2. Methodology

2.1. Definitions

Compulsory education. Compulsory education has been defined in the international rights framework as mandatory presence for children and youth (according to the specified age group) to attend school. The Universal Declaration of Human Rights (Art. 26.1) identifies compulsory education at the elementary level. As a direct consequence, national governments are responsible for the universal provision of access to public school at that compulsory level in the manner in which they see fit (UNESCO and Right to Education Initiative, 2019).

Free education. Article 26 of the Universal Declaration of Human Rights (1948) highlights the obligation for education to be free “at least in the elementary and fundamental stages”. Formal costs include tuition and other school-related enrolment fees; informal costs are those attributed to learning materials, extra-curricular activities, tutoring, uniforms and transportation. The abolishment of formal school fees and other pro-poor policies (e.g. vouchers, stipends, scholarships, free meals, provision of learning supplies) can reduce the costs of attending school for targeted children and families. Yet, the opportunity costs of attending school can also act as a barrier to education and school-related fees remain a common barrier to education for children and youth, especially for those from vulnerable environments.⁴ The International Covenant on Economic, Social and Cultural Rights (ICESCR) devotes two articles to the right to education, articles 13 and 14, the former identifies the “progressive introduction of free education” with a priority for the provision of free primary education.

Pre-primary education. This level of formal school is typically designed for children beginning at ages 3, 4 or 5 and takes place before the start of primary school. UNESCO defines its education criteria as follows: “The educational properties of pre-primary education are characterised by interaction with peers and educators, through which children improve their use of language and social skills, start to develop logical and reasoning skills, and talk through their thought processes. They are also introduced to alphabetical and mathematical concepts, and encouraged to explore their surrounding world and environment. Supervised gross motor activities (i.e. physical exercise through games and other activities) and play-based activities can be used as learning opportunities to promote social interactions with peers and to develop skills, autonomy and school readiness.” It is a subcategory of the broader ISCED level 0 (see below) covering early childhood education (UIS, 2012, §106).

ISCED level 0 (Early Childhood Education). The International Standard Classification of Education (ISCED) 2011 is the international framework to enable the cross-country comparison of different education systems in terms of structure and curricular content. ISCED level 0 corresponds to the initial stages of education programmes below primary education (ISCED level 1). ISCED level 0 programmes have two subcategories by age group: early childhood educational development (010) for children ages 0 to 2 years and pre-primary education (020) for children aged 3 to the official start of primary education. Programmes criteria for each stage must include a learning environment and activities which promote the holistic development of childhood across all developmental domains (cognitive, language, social, emotional, physical). ISCED level 0 excludes programmes providing only child care which cover nutrition, health and supervision, but do not have an educational objective (UIS, 2012).

⁴ See for example (UNICEF EAPRO, 2019).

2.2. Literature review

The literature review conducted for this study focused on identifying national, regional or global studies on the legal and policy contexts with regards to the right to free and compulsory pre-primary education. The research was conducted using Science Direct; JSTOR; IDEAS Repec; ResearchGate; and Google scholar. Other sources included websites of influential and reputable international organisations, think tanks and research centres working around various education themes and producing and publishing relevant “grey” literature (e.g. ARNEC, Brookings Institution, Plan International, Save the Children, UNESCO, UNESCO Institute for Statistics, UNICEF, UNICEF Innocenti, OECD, World Bank).

2.3. Data sources

Three main sources of data serve as a foundation for the cross-country analyses in the following sections of this study. They are described in further detail in Annexes 1 and 2.

Data on free and compulsory education. Qualitative data on free and compulsory education were collected specifically for this study. A team of legal researchers in UNESCO compiled a database of free or compulsory legal provisions for all 193 UNESCO Member States. National constitutions, laws, decrees, regulations and circulars were studied from a variety of sources listed in Annex 1. This research exclusively examined legal frameworks, which does preclude the possibility that free or compulsory pre-primary education is guaranteed in the policy framework.⁵

A group of 14 countries from diverse regions (Table 1) were selected for a more intensive study based on publicly available information on the actual implementation dates of the free and compulsory laws and the content of the legal frameworks. Although an attempt was made to select countries in all regions, countries selected are not

Table 1. Selection of country case studies

Country	Free pre-primary (years)	Compulsory pre-primary (years)	Age group	Year of implementation - free	Year of implementation - compulsory	Income group
Africa						
Ghana	2	2	4-6	2008	2008	Lower middle income
Asia and the Pacific						
Nauru	2	2	4-6	2011	2011	Upper middle income
Tonga	0	1	4-5	n/a	2013	Upper middle income
Eastern and Central Europe						
Croatia	1	1	5-6	2013	2013	High income
Czechia	0	1	4-5	2017	2017	High income
Georgia	4	0	2/3-6	2015	n/a	Upper middle income
Slovakia	1	0	5-6	2008	n/a	High income
Europe and North America						
Cyprus	1	1	n/a	2004	2004	High income
Finland	1	1	6-7	2000	2015	High income
Portugal (1 year PPE)	1	0	5-6	2009	n/a	High income
Portugal (2 year PPE)	2	0	4-6	2015	n/a	High income
Spain	3	0	3-6	2006	n/a	High income
Latin America and the Caribbean						
Nicaragua	1	1	4-5	2006	2006	Lower middle income
Uruguay	3	2	3, 4, 5	2008	2008	High income
Venezuela, B. R.	3	3	3-6	1999	1999	Upper middle income

Notes: In Portugal, two implementation periods are examined for the impact of one year and two years of free pre-primary education in 2009 and 2015, respectively. Regions indicated are those used by UNESCO; countries are not representative of their region.

n/a: Not applicable (i.e. not statutory or implemented).

⁵ The UIS also collects information on free and compulsory education in legal frameworks.

representative of these regions. The majority of cases are from upper-middle- and high-income countries (four and eight, respectively). Combined with UIS data, these case studies are the basis for Section 5 to examine education outcomes with relation to free and compulsory implementation. Some countries could not be examined across all indicators selected for analysis in Section 5 because of data unavailability on the UIS website. For example, pre-primary enrolment data for Georgia and Spain were insufficient to examine a pre- and post-period relative to their respective implementation dates. In addition, Czechia's legal framework adoption was implemented in 2017, but education outcomes data are not available for 2018.

Questionnaire on free and compulsory education. Additional information on the nature and content of free and compulsory pre-primary education was obtained for 17 countries, most of which are high-income. A two-part questionnaire was sent to external legal experts mobilized and guided by the Right to Education Initiative⁶, which provided the basis for in-depth research using publicly available resources (see Annex 2 for more information).

Cross-country education data. Education input and outcome data were collected from UNESCO Institute for Statistics (UIS) Education database (<http://data.uis.unesco.org/>) where the latest data available were collected.

2.4. Limitations

This study set out to evaluate the impact of the adoption of legal provisions of free and compulsory pre-primary education on a global scale (see research questions in Section 1). Several limitations in the research – including the literature review and the data collected – made it difficult to address the research questions in their entirety. In particular, these limitations have laid the ground for further research to better understand the implications of legal provisions. Policy impact is best studied using a broad selection of case studies, which was attempted in the data collected. Further refinement in research is needed and discussed in the concluding section of this study.

Data selection. This study examines data from a mixed set of quantitative and qualitative data and reviews legal frameworks (including legal documents, decrees, statutes, constitutions) for the determination of the free and compulsory status in pre-primary education. Several limitations were identified with regards to using only legal frameworks:

- The ability to extract comparative cross-country information on national definitions of pre-primary education from the legal frameworks is limited, as not all frameworks are developed similarly. For example, legal frameworks provide differing levels of information on the nature of pre-primary education (e.g. in terms of national coverage, ages, days per week, hours per day).
- Examining only legal frameworks does not provide a comprehensive understanding of the implementation of free and compulsory pre-primary education, as policy documents can provide further detail on information not included in the legal frameworks.
- This research could exclude legal provisions which fall outside the scope of education frameworks (e.g. provision of education is under the responsibility of other ministries or authorities).
- In those states with federal systems, the legal provision is not mandated at a national level and the sub-national (federal) entities were not examined due to time constraints (e.g. Belgium, Germany).
- Although the research was completed by December 2019, it is possible that the information is not up-to-date if recent legal frameworks were not found online.

⁶ Through a collaboration with Advocates for International Development and the generous pro bono support of law firms (Kirkland & Ellis International LLP, Latham & Watkins and Shearman & Sterling LLP) which provided information about the legal framework guaranteeing ECCE at national level.

Policy implementation of legal frameworks. The research examined legal provisions for free and compulsory pre-primary education, which relate to the adoption of legal texts for an established right. The policy implementation of these texts is defined as the operationalisation of the rights and is not considered in this research. Additional research in policy implementation requires delving into national administrative texts and available evidence (e.g. academic research, advocacy documents, newspaper reports).

Narrow definition of pre-primary education. The review of legal frameworks was limited to pre-primary education (ISCED level 020, see Section 2.1) for this cross-country analysis. Governments usually interpret “access to pre-primary education” as the free year (or years) before primary education. This limitation effectively means that this review does not cover the entire early childhood period considered under ISCED 0 and SDG Target 4.2, which includes programmes from birth favouring early childhood development, care and pre-primary education. Nonetheless, countries have adopted the provision of free early childhood development programmes (ISCED 010) for younger age groups – such as day care centres, nurseries and crèches – but these might not be included in legal frameworks reviewed here.

Limited coverage of vulnerable populations. Some groups of children considered “invisible” to regular education data collection processes include those with disabilities, those living in emergency situations, homeless children, internally displaced children, children of refugees or nomadic groups and children without birth certificates (UNICEF and UIS, 2015). As such, the analysis in this study with respect to vulnerable populations is limited to the examination of the attention given to children in vulnerable groups and their families in the legal provisions of a set of countries. The impact section uses administrative data, which often excludes disaggregated data to fully invest that theme. UNICEF and UIS have developed a data framework to help countries identify those children who are out of school at the pre-primary school age (see Annex 3).

3. Literature review

3.1. International context: legal foundations for free and compulsory pre-primary education

The right to education is stipulated through various international instruments, namely the Universal Declaration of Human Rights (1948), the Convention against Discrimination in Education (1960), the International Covenant on Economic, Social and Cultural Rights (1966) and the Convention on the Rights of the Child (1989). Moreover, the Conventions on the Elimination of All Forms of Discrimination against Women (1979), on the Elimination of All Forms of Racial Discrimination (1966), on the Rights of Persons with Disabilities (2006) and on the Protection of the Rights of All Migrant Workers and Members of their Families (1990) emphasize equal opportunities and education for all, regardless of gender, race, disability and migrant status, respectively.

The right to pre-primary education is not an explicit right under international law (UNESCO and Right to Education Initiative, 2019). While the CRC Articles 28 and 29 provide a legal basis for the right to education for all children, only primary, secondary and higher education are specifically identified levels in the CRC and other conventions (UN General Assembly, 1989)). Articles 6 (2) and 29 (1) (a) of the CRC state that the right to education begins at birth and is linked to young children's development.

General Comment 7 (GC7) of the CRC is most explicit about implementing all child rights of the CRC during the early childhood period, but also falls short of requiring states to offer free and compulsory pre-primary education. The CRC's discussion around education rights calls on countries (State Parties, specifically) to acknowledge the responsibility of parents, while also providing education opportunities for all children to ensure their rights to maximum development. In paragraphs 28 to 32, GC7 encourages the provision of quality ECCE with equal opportunities for all children and "recognizes with appreciation" the availability of free pre-primary education for one year (UN CRC, 2006). GC7 analyses how the CRC's focus on inclusive education needs to be expanded to cover ECCE. This is further reinforced in regard to children with disabilities through General Comment 9 (2006) on The Rights of Children with Disabilities.⁷ Other international laws, such as the Convention against Discrimination in Education and the Convention on the Elimination of All Forms of Discrimination Against Women, do explicitly prohibit discrimination at all levels of education, including early childhood, for vulnerable groups.

The notions of "free" and "compulsory" are clearly defined in the General Comments 11 and 13 of the International Covenant on Economic, Social and Cultural Rights, but only with regards to primary education.⁸ The nature of "free" education is defined as not requiring any charge to children, parents or guardians. Fees are considered a barrier and disincentive to education, thereby requiring states to eliminate them with a concrete plan of action. The nature of "compulsory" aims to protect children, enables their rights for access to education and underscores that neither parents, guardians nor the State can prohibit or make this access optional. Furthermore, the state must also guarantee the quality and relevance of education with regards to the child (UN CESCR, 1999a, 1999b).

Regional human rights instruments and protocols in North America and Latin America and the Caribbean, Europe and Africa also provide insight on the direction taken by regions to implement international legal foundations. For the most part, the right to free and compulsory education is considered at the elementary phase (in North America

⁷ Inclusive early childhood care and education: background paper prepared for the International Forum on inclusion and equity in education, every learner matters <https://unesdoc.unesco.org/ark:/48223/pf0000370417>.

⁸ The General Comment's definition is associated with Articles 13 and 14 of the International Covenant which are related to securing compulsory and free primary education to all children.

and Latin America and the Caribbean) or as part of basic education (in Africa).⁹ Effective monitoring of human rights treaties is essential to measure progress in State Parties, but also to reveal challenges in implementing the treaties. Coherent indicator sets should examine three levels of implementation – namely structure, process and outcomes – to provide a comprehensive portrait of the state of any right (Vaghri et al, 2019). The implementation to the right to education is particularly complex to evaluate as it is monitored across the various international committees and organizations (e.g. UNESCO) mandated by the specific convention. The monitoring of the implementation of the CRC with regards to pre-primary education provides a useful example to underscore existing difficulties in evaluating national efforts in a coherent manner.

The Committee on the Rights of the Child, based in the Office of the High Commissioner for Human Rights (OHCHR), monitors the implementation of the CRC, mainly through the review of reports submitted regularly by States Parties. In these reviews, the CRC Committee makes recommendations to countries to improve upon the implementation of the CRC. With regards to pre-primary education, examples of CRC Committee recommendations include that states expand access to pre-primary education to take note of SDG Target 4.2, draft early childhood development policies, provide quality programming and training, reach vulnerable populations and allocate adequate financial resources for the development and expansion of pre-primary education.¹⁰

A comprehensive review of existing indicators related to the implementation of the CRC found that CRC monitoring efforts are considered particularly weak on structural indicators (i.e. policies, laws, financing) put in place by governments (Vaghri et al, 2019).¹¹ The development of the GC7 Indicators Framework aimed to provide a comprehensive set of indicators to promote the development of data about young children in order to monitor GC7. In effect, under the GC7 Framework, data on early childhood are collected and organized into 15 child rights themes, based on the rights enshrined in the Convention (Human Early Learning Partnership, 2012). Despite the inclusion of a coherent set of indicators, pre-primary education remains embedded within the broader definition of ECCE and, as such, is not monitored. Indicator 13 of the GC7 Framework monitors the service provision (i.e. implementation) of ECCE, rather than the presence of a legal framework.

Given that the international human rights framework is not fully explicit and does not “clearly enshrine” rights to free and compulsory ECCE as in relation to “basic” and “primary” education, the international community often relies on global policy statements and frameworks to encourage the expansion of national education obligations during the early childhood period (UNESCO and Right to Education Initiative, 2019, p. 165). In 2000, 164 national education ministers adopted the Dakar Framework for Action and the Education for All (EFA) Goal 1 on ECCE, which provided a strong foundation advocating for the global expansion of ECCE “especially for the most vulnerable and disadvantaged children” (UNESCO, 2000). In 2010, governments reaffirmed in the Moscow Framework for Action and Cooperation that ECCE is “part of the right to education and the main foundation for holistic human development” (UNESCO, 2010, para. 6). Notably, the Framework called upon governments to reinforce the rights-based framework around the early childhood period and to “develop the legal frameworks and enforcement mechanisms that are conducive to the implementation of the rights of children” (UNESCO, 2010, para. 11).

More recently, the Education 2030 Framework for Action, establishes the importance of the ECCE period as “the foundation for children’s long-term development, well-being and health” (UNESCO, 2015a, para. 35). It further encourages countries to develop national strategies including the development of “integrated and inclusive policies and legislation that guarantee the provision of at least one year of free and compulsory quality pre-primary education, paying special attention to reaching the poorest and most disadvantaged children through ECCE services” (UNESCO, 2015a, para. 37). Furthermore, “basic education” can be extended beyond primary and lower secondary

9 See Organization of American States (<http://www.oas.org/juridico/english/treaties/a-52.html>) and the African Member States of the Organization of African Unity (<https://www.acerwc.africa/acerwc-full-text/>).

10 Based on search results available at <https://uhri.ohchr.org/en/search-human-rights-recommendations>.

11 An example of a structural indicator could be “Time frame and coverage of the plan of action adopted by State party to implement the principle of compulsory pre-primary education free of charge for all” (OHCHR, 2012).

education to include pre-primary education as is the case in several countries for decades (e.g. Brazil, Panama, Thailand).

With the advent of the SDG Target 4.2 on the provision of “early childhood development, care and pre-primary education”, countries are confronted with the challenge of the provision of at least one year of free and compulsory pre-primary education. Government commitments to reaching this target are measured primarily through the guaranteed right to education, monitored by the number of years of free and compulsory pre-primary education guaranteed in legal frameworks (Target 4.2.5). It is noteworthy that SDG commitments to young children are much broader than SDG Target 4.2 on education. Other commitments to protect early childhood are interspersed across those targets related to malnutrition (SDGs 2.1 and 2.2), maternal and child mortality (SDGs 3.1 and 3.2), water and sanitation (SDGs 6.1 and 6.2) and protection from violence (SDG 16.2). Together, these targets underscore the complexity of legal and policy interactions which constitute a possible framework for an international ECCE agenda.

3.2. Pre-primary education in the context of COVID-19

Throughout most of 2020, the world has attempted to prevent and contain the spread of COVID-19 through school closures, lockdowns and other types of protective measures. These disruptions have a broad range of socioeconomic consequences for children and families, which are coming to light after months of restrictions in many countries. Global concerns, which have appeared with relation to the health pandemic measures, include:

- **Increased household poverty:** Initial projections report that up to 86 million children could enter poverty by end 2020, increasing the total number of children in poverty in low- and middle-income countries to 672 million (Save the Children and UNICEF, 2020).
- **Instability in the home environment:** Higher levels of parental stress and depression negatively impact children’s well-being and development, as parents withdraw from essential nurturing interactions and care.¹² Disruptions in interactions with extended family members, deaths from COVID-19 and other illnesses and displacement can create additional challenges in providing a nurturing home environment for young children.
- **Risks of malnutrition:** The health pandemic could increase nutrition risks for young children: 47 million children under age 5 had acute malnutrition (“wasting”) before the pandemic and an estimated additional 6.7 million children are at risk. Eroding malnutrition detection mechanisms, poor access to fresh food supplies in communities and lack of school meals are some of the nutrition-related consequences of COVID-19 which can have devastating long-term impacts on childhood development (Fore et al., 2020).
- **Increased isolation for vulnerable populations:** Children in vulnerable households (defined in section 2.4) might no longer be receiving much needed support from regular education and social service mechanisms. An estimated 9.7 million children may never return to school, thereby exacerbating any pre-existing disparities. Girls in particular are at risk of experiencing greater violence in the home and could be at higher risk of not returning to school once they open due to child marriages, teenage pregnancies and caring for younger siblings (OECD, 2020; Wagner and Warren, 2020).¹³

¹² For research evidence on neurodevelopment, see Harvard University’s Centre on the Developing Child (Harvard University, 2020).

¹³ For emerging country-based evidence, see the World Education Blog series of COVID-19 related posts (<https://gemreportunesco.wordpress.com/tag/covid19/>).

The right to free and compulsory pre-primary education serves as a critical protective measure to support young children and their families during emergencies and crises, such as the COVID-19 health pandemic. Schools are assigned a dual protective role: schools provide children with a nurturing environment and act as a safety net. Under usual circumstances, schools provide children with a safe and secure environment where they receive developmental stimulation to enhance their psychological well-being and build the foundations for their holistic development across all developmental domains (cognitive, language, social, emotional, physical). Schools can also act as a safety net, and provide children their protection on the basis of child rights. When in school, children come into contact with supportive adults who have the capacity to address health, justice and other professionals to support the children's well-being and development.

Protecting the rights of learners from an early age is a key driver for sustaining gains in poverty alleviation and the realisation of other human rights, and education needs to be maintained in response to the COVID-19 pandemic (UNDESA, 2020). Providing children with access to pre-primary schools can mitigate some of the short- and long-term consequences of the pandemic. When children attend school, the government has a greater ability to monitor and protect all children from the negative impacts of social isolation, including malnutrition, domestic violence and abuse. Giving children the opportunity to build their socioemotional skills in a quality pre-primary environment – even during emergencies – also builds resilience (Plan International, 2013). Furthermore, as schools open across the world, it is important to keep in mind that the immediate effects of this pandemic are likely to be compounded with an economic recession, further weakening the situation of vulnerable households. Early childhood experts called for states and donors to invest in ECCE programs as a pathway to economic and social recovery (Yoshikawa et al., 2020).

3.3. Efforts to implement free and compulsory pre-primary education

Effectively, the intersection of the international conventions and frameworks such as the Convention on the Rights of the Child, the Moscow Framework for Action and Cooperation, the Education 2030 Framework and the SDGs could be interpreted as the right to the provision of free and compulsory ECCE for all children, and specifically to at least one year of pre-primary education preceding primary school. Yet, given that Education 2030 and SDG Target 4.2 do not create a legal obligation, free and compulsory pre-primary education remains an elusive policy objective for many countries (Arkadas-Thibert, 2012). While SDG Target 4.2 provides the policy motivation for a commitment to equal access to quality ECCE, the missing rights framework enables other national priorities to be formulated and promoted at the expense of ECCE.

Nonetheless, the inclusion of ECCE within the SDGs and the earlier Education for All (EFA) Goal 1 on early childhood has been a notable driving mechanism for regions and countries to advocate for the expansion of pre-primary education, with some success in establishing its rights aligned with those for free and compulsory primary education. At the end of the EFA period (2000–2015), however, only 40 countries had instituted compulsory pre-primary education: 14 were in Latin America and the Caribbean and another 10 in Central and Eastern Europe (UNESCO, 2015b). Children of six European countries have a legal entitlement to ECCE as of birth (European Commission, 2014b).¹⁴

In Latin America, high levels of inequality in access to and learning outcomes in primary education provided an advocacy base to expand ECCE along the lines of EFA Goal 1 on early childhood across various countries in the region.¹⁵ Given that ECCE has been shown to mitigate the impact of inequalities especially for children from disadvantaged families, the Economic Commission for Latin America and the Caribbean (ECLAC) established the goal of universal preschool education by 2015 (raising the net enrolment rate of children between 3 and 5 years of age to 100%) for all countries of the region (UNESCO and ECLAC, 2005).

¹⁴ According to available information.

¹⁵ EFA Goal 1 specifies the goal around ECCE as "Expanding and improving comprehensive early childhood care and education, especially for the most vulnerable and disadvantaged children."

The European Union has more recently created policy frameworks as guidance documents for its Member States, but these do not have the weight of legal obligations or statutory duties. Among these are the Education and Training 2020 Strategy and the European Pillar of Social Rights. Both recognize the importance of early childhood for lifelong learning and for reducing inequity among vulnerable households. The 2020 Strategy calls for the participation of at least 95 per cent of children between the age of four and compulsory school age and Principle 11 of the European Pillar of Social Rights states that children have “the right to affordable early childhood education and care of good quality” (European Commission, 2014a; European Commission, 2018; European Commission et al., 2017). Furthermore, the European Union stopped short of recommending free and compulsory ECCE in the Recommendation on High-Quality ECCE systems in 2019 (Council of the European Union, 2019).

3.4. National policy contexts

The provision of pre-primary education is not necessarily aligned with legal entitlements and protections available in national legal frameworks. Most countries develop national policies which define the provision and components of ECCE and how this level of education fits into the national education system. However, these texts do not provide legal guarantees or rights to ECCE as laws and decrees do, and obligations to children can remain unclear in a government’s specific obligations. Moreover, federal countries provide national guidance which can be reinforced or altered at the sub-national level.

UNESCO recently reviewed established legislation with regards to SDG Target 4.2 and found that the provision of free and compulsory pre-primary education was not explicit in the legislation of 10 of the 11 low- and middle-income countries reviewed (Afghanistan being the exception).¹⁶ Furthermore, national legal texts and norms at this education level were usually underdeveloped relative to those established for primary and secondary education levels. Yet, the lack of legal standards bore no relationship to the provision of pre-primary education which was reported to be universal in some of these countries (UNESCO, 2017b).

A comprehensive approach to understanding the nature of the legal protection would effectively consider the following main aspects of implementation of pre-primary education and facilitate reliable cross-country comparisons:

- **Analysis of national legal framework and policies:** an initial identification of the status of free and compulsory pre-primary education requires delving into national texts (e.g. constitutions, laws, strategies, policies, decrees) and how they relate to education policy documents.
- **Definition of “compulsory education”:** Countries differ in their approach either by making access mandatory (i.e. state obligation for supply of pre-primary education) or by requiring children to be enrolled as of an official age (i.e. parental obligation). Both obligations can co-exist, but at the implementation level, the interpretation often favours one more than the other.
- **Evaluation of implementation:** The comparative level of implementation can be measured using various statistics collected through UIS or other cross-country data collection mechanisms. Indicators could include school life expectancy in ECE, the share of children entering primary school with ECE experience or participation rate in organized learning (one year before the official primary entry age) (Target 4.2.2).
- **Nature of pre-primary education:** For cross-country comparisons, differences in policies need to be considered. Countries elect to implement compulsory pre-primary education of varying duration (e.g. scope of ages covered) and intensity (e.g. half-day, full-day). Financing mechanisms, geography and sub-national governance can cause differences in implementation capacity as well.

¹⁶ Afghanistan, Bangladesh, Cambodia, Democratic Republic of the Congo, Haiti, Madagascar, Mali, Mozambique, Myanmar, Nepal and Senegal, <https://unesdoc.unesco.org/ark:/48223/pf0000260460>.

- **Implementation of “free education”:** The identification of *free* access to pre-primary education within a country should be examined in addition to informal participation costs required of parents. Costs for uniforms, school materials, food, transportation and informal teacher payments can act effectively as barriers to education for the most vulnerable families.
- **Implementation dates:** The national date of policy implementation can have various steps or levels of implementation (e.g. pilot, sub-national, targeted population) and can be difficult to determine with precision. Using that date to compare pre- and post-policy effects must therefore be carefully validated. Moreover, policy development can precede formal institutional arrangements which enable enrolment or financing to increase significantly in the post-implementation period (i.e. supply of pre-primary teachers, classrooms).

3.5. Impact of the implementation of free and compulsory pre-primary education

The impact of removal of formal school fees (“user” fees) and the introduction of compulsory education has been the subject of numerous studies at primary and higher education levels. For example, the removal of school fees across primary schools in a sample of 56 developing countries led to a statistically significant increase in time spent in school and school enrolment, with the impact being stronger for children of mothers with lower educational attainment. The impact is also sensitive to whether the next education level has free and compulsory education (Bhalotra et al., 2014). Nonetheless, available evidence around the removal of user fees in education is mixed.

Cross-country evidence on formal school fees at the pre-primary level is more scarce. Nevertheless, the global EFA review found that the regions with the strongest growth in enrolment (as measured by the gross enrolment ratio) between 1999 and 2012 were those with compulsory pre-primary education, mostly notably in Central and Eastern Europe and Latin America and the Caribbean (UNESCO, 2015b).¹⁷ Studying the impact of adopting free and compulsory education, however, is often confounded with the implementation of new expansion policies for pre-primary education. In national studies, the adoption of legal frameworks is sometimes identified, as it can even occur concurrently with new policy development and implementation. Cross-country studies in this area, however, are more limited in number and scope.

The literature review conducted for this study found one cross-country study which had an explicit examination of legal frameworks at cross-country levels. This recent study of Latin American laws and policies with regards to free and compulsory pre-school showed evidence of increasing enrolment in pre-primary education within two decades of policy implementation in all countries.¹⁸ Specifically, the rate of increase of the Adjusted Net Enrolment Ratio (ANER) one year before the official primary school entry age (%) had distinct patterns depending on the country.¹⁹ Yet the author also cautions that adopting compulsory preschool is not sufficient to create full participation: “the institutionalization of compulsory preschool in the Latin American region had positive effects toward the democratization of ECE and learning opportunities for the age group of children immediately preceding entry into the primary education cycle over the last decades. Yet, the effect of universalization is not a reality in half of the countries of this region” (Arrabal, 2019, p. 8).

The introduction of compulsory pre-primary education can cause a soar in the demand for ECCE by parents, but enrolment is often linked to socioeconomic status and area of residence. Choi (2004) examined the impact of the introduction of compulsory education on enrolment data in 19 Latin American countries. The soar in enrolment for

¹⁷ This examination was a descriptive exercise.

¹⁸ Based on the review of education laws, all 17 Latin American countries in the study have mandatory pre-primary school attendance as age 5 years. The study included Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, Venezuela. The review conducted for this study, however, which is based on legal frameworks, finds that coverage is much lower for those countries which have adopted legal frameworks for free and/or compulsory education in Latin America (see Section 4).

¹⁹ ANER one year before the official primary school entry age is the percentage of children at the intended age a year before entry into primary education who are enrolled in either pre-primary or primary education.

children of the official compulsory age creates an “enrolment gap between ages” (EGBA), whereby lower (i.e. pre-compulsory) ages have lower enrolment rates. The EGBA can be more pronounced in some countries than in others, depending on the duration of compulsory education, and is associated with compulsory pre-primary education. While the EGBA shows the success of compulsory policies in increasing enrolment at the upper age range of pre-primary education, it also highlights potential ineffectiveness at the lower age groups. One year of compulsory pre-primary schooling at age 5 for example might not significantly increase enrolment ratios, as children might have already attended. But “schoolification” of that last year before primary education can be an unwanted consequence. That is, the curriculum might shift to have a greater focus on the acquisition of foundational literary and numeracy skills and in pedagogical methods which are more adapted for older children.

The introduction of compulsory education provides a positive factor for school readiness and can also have an impact on student outcomes in later education levels. One global review found that at least one year of free and compulsory pre-primary education is associated with a 10 to 12 percentage point increase in primary school graduation rates for low- and lower-middle-income countries (Earle et al., 2018).

The lack of compulsory education measures for pre-primary education does not necessarily imply low enrolment ratios. In many European countries, ECCE or pre-primary education was developed to meet the needs of increased female participation in the labour force, rather than child development goals. As such, legal obligations mandating compulsory pre-primary participation came after existing high enrolment rates. As an example, in 2019, France instituted mandatory pre-primary education for ages 3 to 5, although it had pre-primary gross and net enrolment ratios above 90 per cent for the past few decades. Primary education has been mandatory in France since 1882, yet the 1989 law allowed parents to request access to pre-primary school for children as of the age of 3 years. The 2019 law had the objective of increasing access among the most vulnerable populations, and also of requiring local financing contributions to state-subsidised pre-primary schools (UNESCO GEM, 2018).

The quality of the learning environment in ECCE is a critical factor for reaching immediate and later education outcomes for young children. Early childhood development is composed of phases which are particularly sensitive to external stimuli, including family and community interactions and the hygiene and security of the physical environment. Notably, international evidence corroborates the need for age-specific interventions. Child-centred pedagogies, trained teachers, and safe and nurturing environments often differ significantly from those offered in higher levels of education.²⁰ Play-based learning, for example, is a critical component of early childhood pedagogies to foster learning for all children. Parental fees tend to be associated with higher quality environments and positive effects on learning in several countries in sub-Saharan Africa, Canada and the United States (Neuman et al., 2011).²¹

These findings come with the caveat that the attribution of trends in pre-primary education to national policy development and implementation is – as in other policy contexts – a difficult task. Quantitative or longitudinal data can provide an initial observation of changes before and after the validated date of implementation. Further research using key informant interviews in qualitative research can provide additional supporting evidence of the attribution.

²⁰ The evidence on quality early childhood education, pedagogies and workforce development is broad. See cross-country studies, such as (Britto et al., 2016; European Commission, 2014b; Naudeau et al., 2011; OECD, 2016).

²¹ Evidence from Guinea, Cape Verde, Canada and the United States.

4. Global and regional trends with regards to the adoption of free and compulsory education legal frameworks

Universal, equal access to pre-primary education for all children is an ambitious goal in many countries, underscored by the intention to achieve SDG Target 4.2 by 2030. The expansion of education systems to include pre-primary education can be monitored through the human rights perspective. This section examines the provision of pre-primary education as guaranteed by the adoption of free and compulsory legal frameworks at a national level. A total of 68 countries have adopted either free or compulsory education (or both).

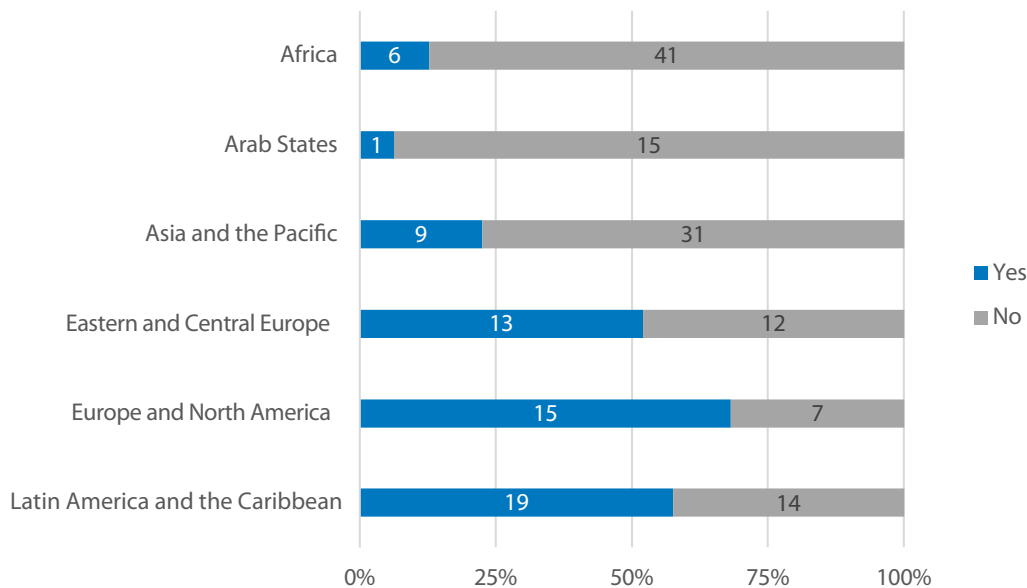
The section examines the right to free and compulsory pre-primary education separately in 183 and 184 countries, respectively.²² A separate analysis follows to identify those countries where both rights coexist. While children of the official pre-primary school age might have a right to access pre-primary education per the national legal framework, the realisation of these rights is not always feasible. The following Section 5 examines legal frameworks in the context of changes in the education outcomes of children of pre-primary school age.

4.1. Legal provisions for free pre-primary education

Of the 183 countries with available data, slightly more than one-third (34 per cent or 63 countries) have established free pre-primary education in national legal frameworks (Figure 1). The majority of these countries are located in Latin America and the Caribbean, Europe and North America and Eastern and Central Europe, where more than half the countries have adopted the right to free pre-primary education. The countries with free pre-primary education are mostly in upper-middle and high-income groups (Figure 2).

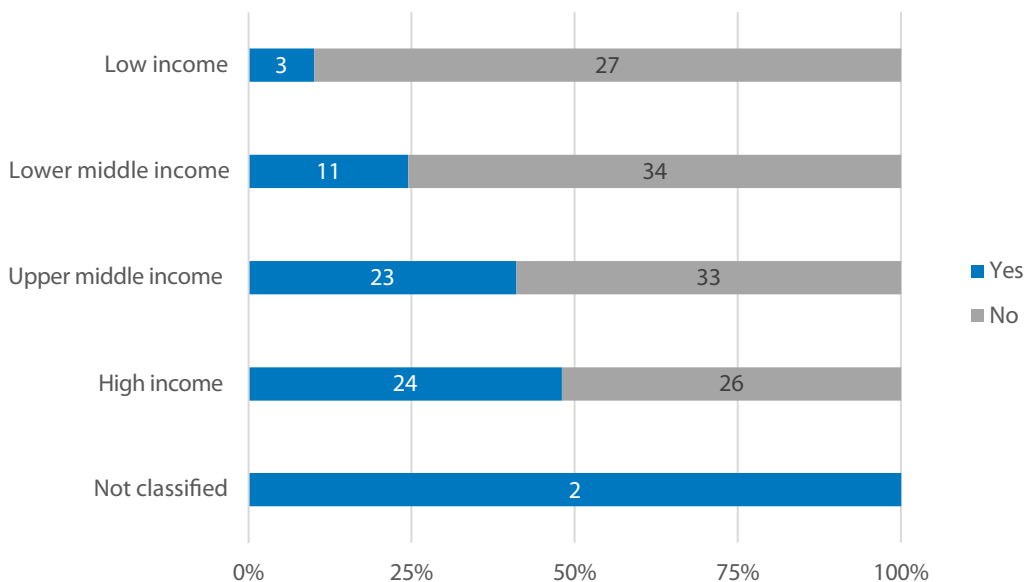
The total number of years of free pre-primary education varies across the 63 countries, with two-thirds of countries having adopted legal provisions for one or two years (68 per cent or 43 countries). Three countries have adopted legal provisions for four years of pre-primary education: Georgia, Sweden and Togo (Figure 3).

²² In Iraq, information was only available on the status of compulsory pre-primary education, but not on free access. Otherwise, research was able to identify information on both rights for all other countries.

Figure 1. Legal provisions for free pre-primary education, by region

Note: The number on the bars indicates the number of countries within the region. “Yes” indicates the presence of a legal framework adopting free pre-primary education. 183 countries are included.

Sources: See Annex 1.

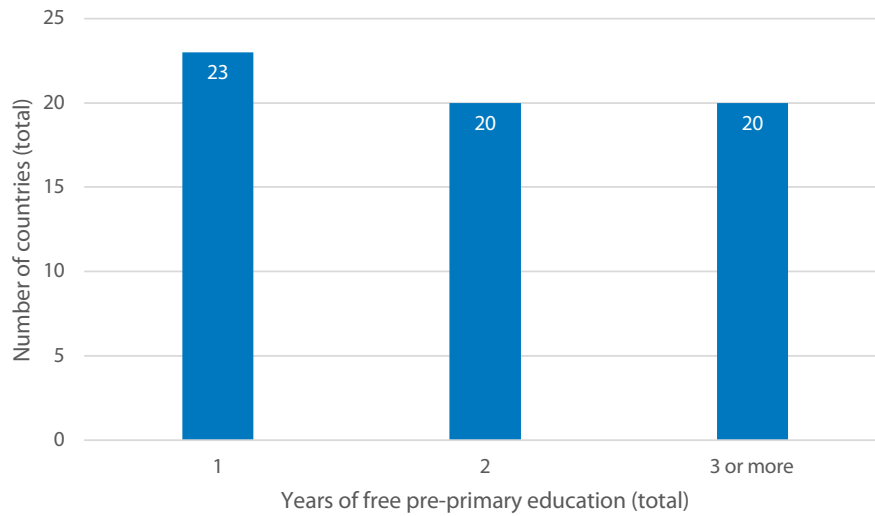
Figure 2. Legal provisions for free pre-primary education, by income group²³

Note: The number on the bars indicates the number of countries within the income group. “Yes” indicates the presence of a legal framework adopting free pre-primary education. The two non-classified countries are Cook Islands and Niue. 183 countries are included.

Sources: See Annex 1.

²³ Low-, lower-middle, upper-middle-, high-income countries as of July 2019.

Figure 3. Total years of free pre-primary education adopted in legal frameworks



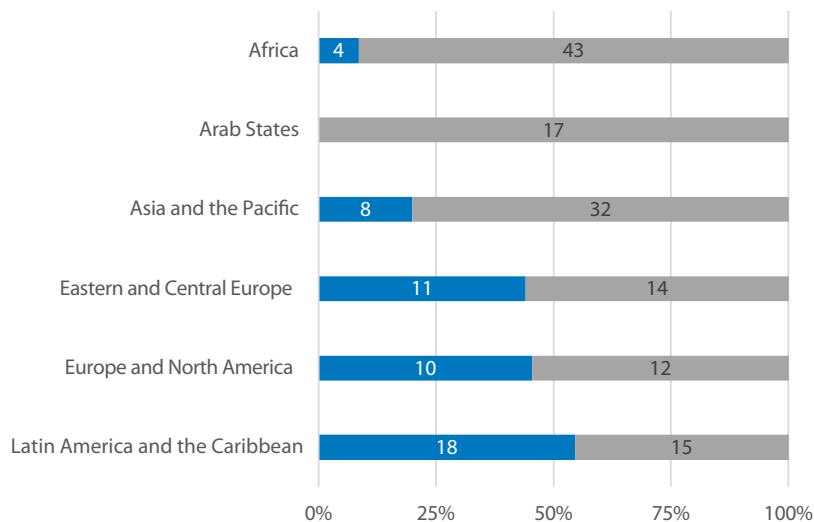
Note: 63 of the 183 countries which have adopted legal provisions for free pre-primary education are included.

Sources: See Annex 1.

4.2. Legal provisions for compulsory pre-primary education

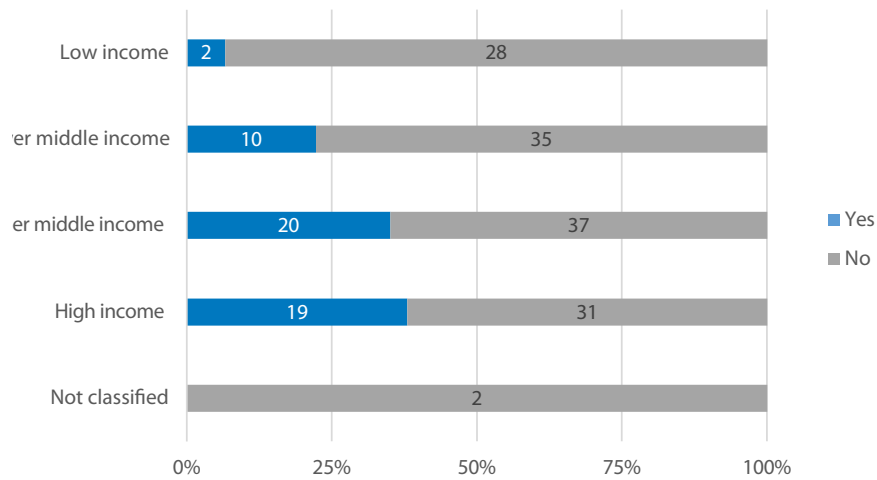
The introduction of compulsory pre-primary education is examined separately: fewer countries have made this level of education obligatory than have made it free. Of the 184 countries with available data, 51 countries (28 per cent) have adopted in national legal frameworks pre-primary education as a compulsory level of education (Figure 4). The majority of these countries are located in Latin America and the Caribbean, Europe and North America and Eastern and Central Europe. The countries adopting compulsory pre-primary education provisions are mostly in upper-middle and high-income groups (Figure 5).

Figure 4. Legal provisions for compulsory pre-primary education, by region



Note: The number on the bars indicates the number of countries within the region. “Yes” indicates the presence of a legal framework adopting compulsory pre-primary education. 184 countries are included; not all countries within a region are included.

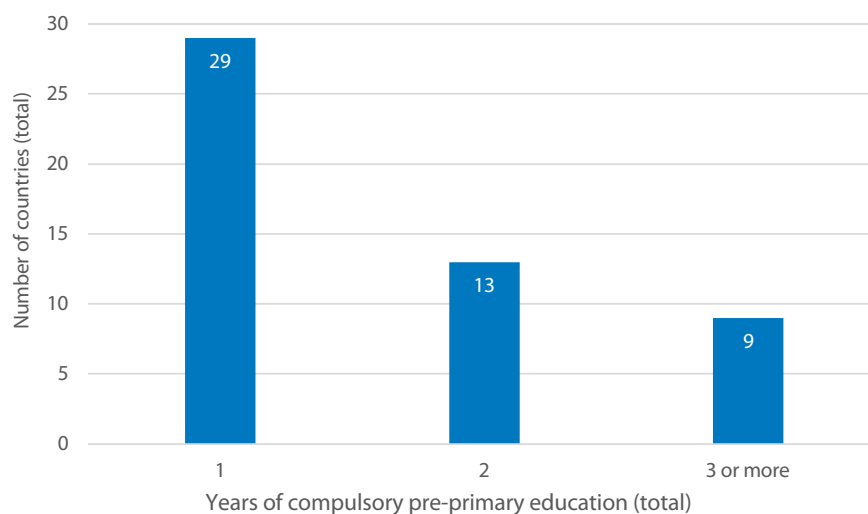
Sources: See Annex 1.

Figure 5. Legal provisions for compulsory pre-primary education, by income group

Note: The number on the bars indicates the number of countries within the income group. "Yes" indicates the presence of a legal framework adopting compulsory pre-primary education. The two non-classified countries are Cook Islands and Niue. 184 countries are included; not all countries within each group are included.

Sources: See Annex 1.

Figure 6 shows the duration of compulsory education in those 51 countries having adopted the relevant legal framework. The majority of countries (57 per cent or 29 countries) opted for one year of pre-primary education, while another quarter (26 per cent or 13 countries) instituted two years of compulsory pre-primary education. Seven of the nine countries with three or more years of pre-primary education are located in Europe and Latin America and the Caribbean (El Salvador, France, Guatemala, Mexico, Peru and Venezuela, B. R).

Figure 6. Total years of compulsory pre-primary education

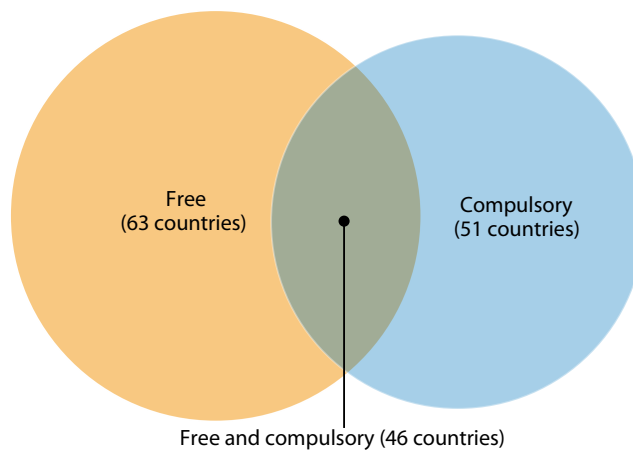
Note: 51 of the 184 countries which have adopted compulsory pre-primary education are included.

Sources: See Annex 1.

4.3. Legal provisions for both free and compulsory pre-primary education

A share of countries has opted to make pre-primary education both free and compulsory, which encourages parents to meet the expectations established by SDG 4.2. Figure 7 shows the relationship among the various categories of legal provisions: free, compulsory and both free and compulsory. Forty-six countries across the world have adopted legal provisions for both free and compulsory education for children of pre-primary school age. Five countries have opted to not remove fees despite the compulsory attendance requirement: Bosnia and Herzegovina, Czechia, Marshall Islands, Tonga and Vanuatu. Another 16 countries have adopted legal provisions for free pre-primary, education but have not made this level compulsory.

Figure 7. Legal provisions for free and compulsory pre-primary education

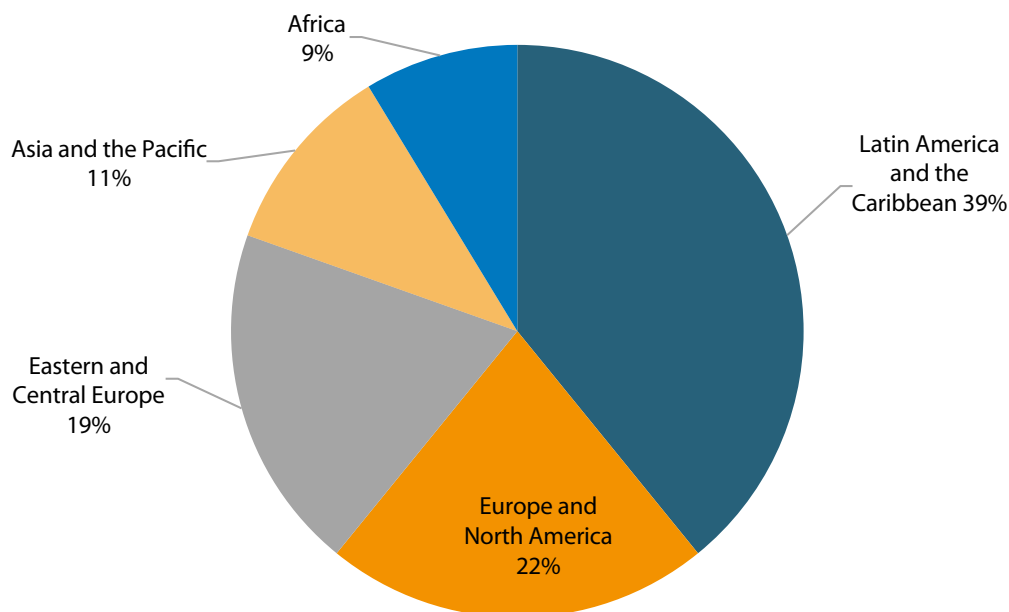


Note: 68 of the 194 countries in the database are represented in this figure. Those excluded have neither free nor compulsory pre-primary education.

Sources: See Annex 1.

Of the 46 countries which have adopted legal provisions for both free and compulsory education for children of pre-primary school age, the vast majority (80 per cent) are located in Europe, North America, Eastern and Central Europe and Latin America and the Caribbean (Figure 8).

Figure 8. Distribution per region of countries having adopted legal provisions for free and compulsory pre-primary education

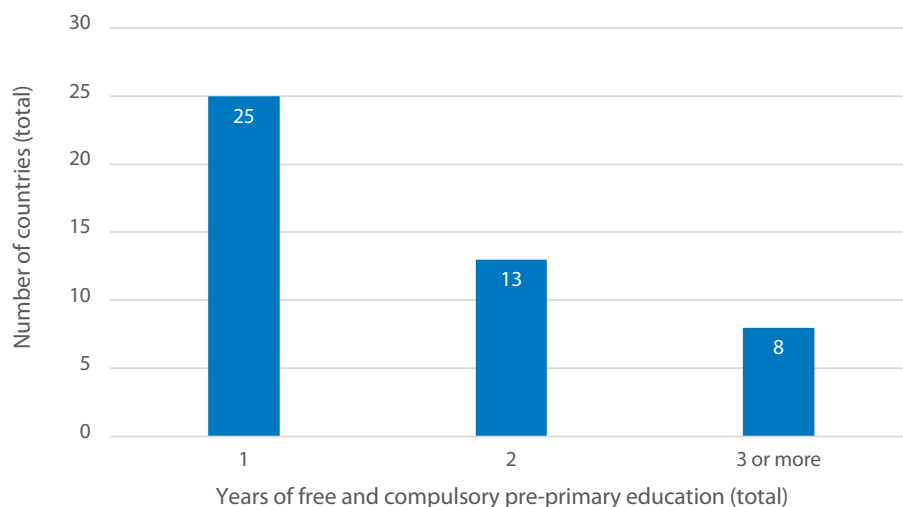


Note: In total, 46 countries are included in the figure, of which 18 countries are in Latin America and the Caribbean, 10 in Europe and North America, 9 in Eastern and Central Europe, 5 in Asia and the Pacific and 4 in Africa.

Sources: See Annex 1.

The duration of free and compulsory education indicated in legal provisions varies across the 46 countries (Figure 9), with the distribution being quite similar to that of countries with compulsory pre-primary education (see Figure 6). The majority (54 per cent or 25 countries) opted for one year of free and compulsory pre-primary education, while 28 per cent have two years and another 17 per cent have three or more years.

Figure 9. Total years of free and compulsory pre-primary education in legal frameworks



Note: Only includes those 46 countries having adopted legal provisions for free and compulsory pre-primary education.

Sources: See Annex 1.

Some countries have established longer periods of free pre-primary education than the compulsory period. This is the case in 8 of the 46 countries (Table 2). The age which is considered compulsory varies per education system, but is always the year preceding entry into primary education. For example, Paraguay and Sweden guarantee three and four years of free pre-primary education, respectively, but only one year is compulsory (age 5 in the former, age 6 in the latter).

Table 2. Countries with different periods of free and compulsory pre-primary education

Country	Duration of free pre-primary education ((years	Duration of compulsory pre-primary education (years	Difference (years)
Sweden	4	1	3
Paraguay	3	1	2
Poland	3	1	2
Republic of Moldova	3	1	2
Ukraine	3	1	2
Greece	2	1	1
Netherlands	2	1	1
Uruguay	3	2	1

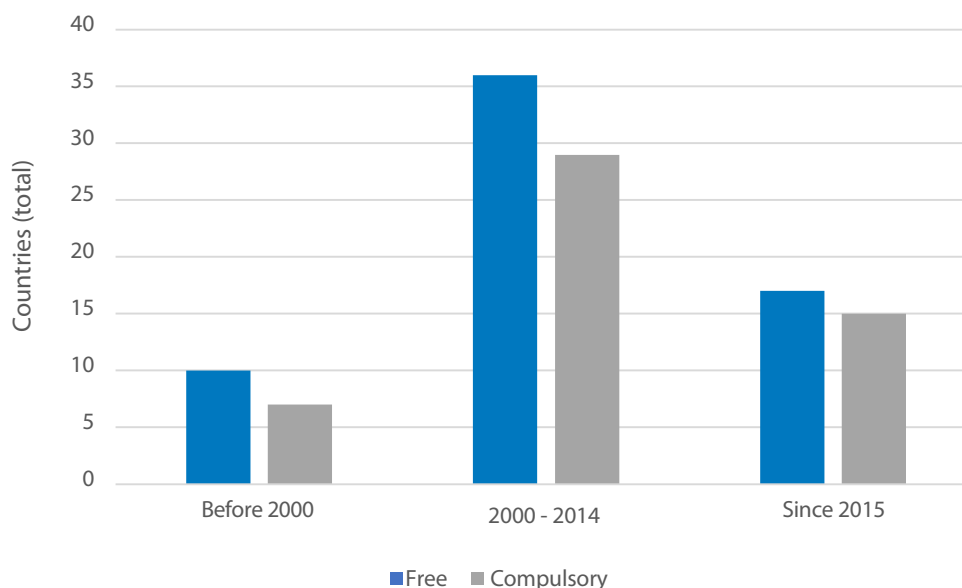
Sources: See Annex 1.

4.4. Year of adoption of legal provisions

The year of adoption of legal provisions recognizing or guaranteeing the right to free and compulsory education is available for 68 countries examined in the preparation of this study. This date corresponds to the most recent year in which the legal framework stated the mention of a free and compulsory provision. As such, the year can correspond to when the right was first introduced in legal frameworks or as a recent amendment of an older law. Despite the inherent weakness in understanding the real year of adoption of legal provisions in many countries, it is interesting to examine the date of the legal mentions in light of concurrent global education movements to promote early childhood care and education.

The years 2000 and 2015 are selected as marker years in the analysis because they represent defining moments in the global advocacy support for pre-primary education. These years represent respectively the years of the beginning and end of the Education for All period.²⁴ Figure 10 shows that in a majority of countries, the rights to free or compulsory pre-primary education were mentioned in legal frameworks adopted between 2000 and 2015. Since 2015, an additional 17 and 15 countries include mentions to provide, respectively, free or compulsory pre-primary education. In the 46 cases where the right to both free and compulsory pre-primary education exist in legal frameworks, nearly all countries (40 of the 46) adopted both rights during the same year.

Figure 10. Adoption date of legal provisions for free or compulsory pre-primary education



Note: Data are for 68 countries. The date with regards to the adoption of legal provisions for free pre-primary education is available for 63 countries and with regards to the right to compulsory pre-primary education for 51 countries. In some cases, it was not possible to ascertain the exact year in the national provisions related to pre-primary education, so the most recent year of the modified act or constitution is applied. Angola, Afghanistan and Cuba do not specify the duration of pre-primary school in the relevant constitution or law, but are included here.

Sources: See Annex 1.

²⁴ Global advocacy for pre-primary and early childhood education began with Jomtien in 1990, but gained more momentum with the early childhood Goal 1 in the Education for All agenda (2000-2015).

4.5. Specific legal provisions for target groups

A group of 17 countries were examined on the right to free and compulsory education as they apply to vulnerable populations through the Right to Education Initiative's case studies (Annex 2). All countries have adopted at least one specific legal provision targeting vulnerable groups who can benefit from facilitated or priority access to pre-primary education. Most often, these protected groups include children from low-income households, children with disabilities and, to a lesser degree, children from indigenous groups (Table 3). France was the only country of the group with a universal, non-discriminatory statute and therefore does not include specific vulnerability legal provisions. France has a legal provision for compulsory education for all children as of age 3 (since 2019) to age 16. Even though compulsory education is considered a long-established right free of charge for all children, the legal right to education for specific vulnerable groups is reinforced through specific administrative notes ("circulaires") by relevant ministries (usually Ministry of Education).

Table 3. Special legal provisions for vulnerable groups within a selected group of countries

Country	Vulnerability characteristics				
	Poverty or income-tested [^]	Disability or special needs	Refugee status	Single parent household	Ethnicity, indigenous, language or national origin
Australia	X				X
Canada (Alberta province)		X			
Canada (Québec province)	X	X			
Cyprus	Priority	Priority		Priority	
Germany	X				
Greece		X	X		X
India					X
Italy	X				
Japan	X	X			
Norway	X				X
Republic of Korea	X	X			X
Romania	X				
Russian Federation	X	X			
Spain	X	X			X
United Kingdom (England, Wales)	X	X			
United Kingdom (Scotland)	X	X			
United States	X	X			

Notes: Canada, Germany, the United Kingdom and the United States are federal entities and provisions are usually established at the sub-national level. In the case of Germany and the United States, provisions indicated are those established at the national level.

Countries usually provide special grants, subsidies, tax credits or reduced fees to facilitate access for children of socio-economically disadvantaged families.

Sources: See Annex 2.

The examples below provide an overview of the types of provisions implemented across these countries:

- Greece and the Republic of Korea facilitate access to pre-primary education (“nipiagogeio” and “kindergartens”, respectively) for children from mixed nationality households or where the maternal language is not the national language. Such programmes provide special language support and cultural education for integration.
- The United States, which has no national legal provisions for free or compulsory education (as a federal system), has adopted specific national legal provisions to provide access to pre-primary education – consistent with the state provision on education – to children with disabilities, children from low-income households and homeless children. Nearly all 50 states have a universal provision for at least one year of pre-primary education (often called preschools or kindergartens) usually for five-year-olds, but earlier ages tend to have a less even coverage in public educational institutions.²⁵
- In Turkey, special rights have been attributed to children with special needs, whereby pre-primary education is considered compulsory and free (although some fees can be charged for meals, cleaning and materials).
- In Norway, children (ages 4 to 5) from low-income households in certain municipalities have the right to 20 core hours per week of free pre-primary education. Kindergartens are financed locally, but children from age 1 are guaranteed access by national law.
- Through the Norwegian Constitution and Norway’s ratification of the UN Convention of 20 November 1989 on the Rights of the Child (UNCRC) and Indigenous and Tribal Peoples Convention, Norway extends special rights to the indigenous Sami peoples to ensure that Sami children are supported during early education to develop their indigenous language, knowledge and culture.

²⁵ Compulsory school age is determined by the state, and ranges from five to eight years; most children begin compulsory school at age six.

5. Education outcomes related to the adoption of free and compulsory legal provisions for pre-primary education

This section aims to explore the various changes in education outcomes which can evolve from the adoption of legal provisions for free and compulsory pre-primary education at the national level. Fourteen countries (Table 1) were selected on the basis of a clear date of legal adoption, which serves as a marker for comparing pre- and post-trends in education inputs and outcomes. As noted earlier (see Section 2), for these countries, these dates approximate when access to early childhood education was introduced or broadened, but require additional examination to fully understand the mechanisms which caused the changes.

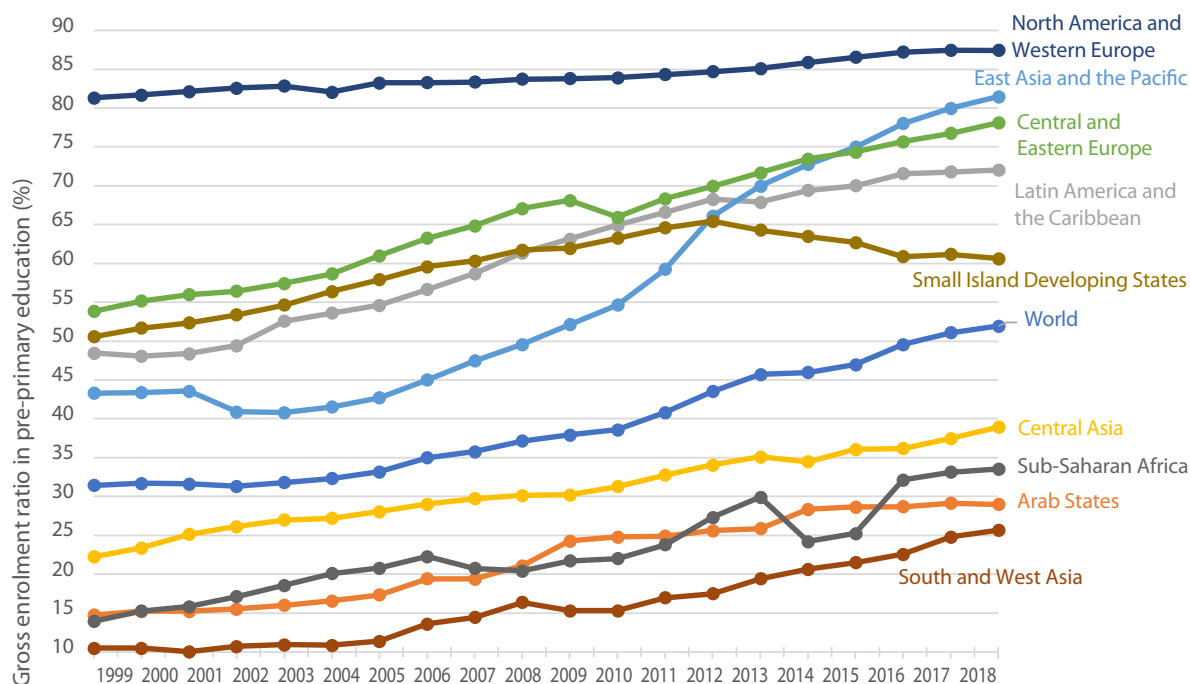
This section examines interactions between the adoption of legal provisions and changes in education outcomes which might occur within national policy environments. Despite some observed relationships, causality cannot be established within the limits of this study. As indicated in the literature review (Section 3), few global studies have demonstrated the impact of the adoption of legal provisions on education systems and more in-depth, rigorous examinations are needed. As such, this section simply describes trends in education outcomes around legal implementation dates since 1999 within these fourteen countries.

A country can adopt legal provisions around free and compulsory pre-primary education at different stages of policy development on this education level. In some countries, the legal framework is adopted after access to public pre-primary is already universally accepted and attended (e.g. France). Other countries might have developed private provision in response to parental demand. In most countries, however, the legal framework serves as a rights-based incentive to accelerate policy development, but the education system might not yet have the capacity (e.g. financial, human resources, infrastructure) to enrol a larger proportion of children.

5.1. Pre-primary enrolment

The expected consequence of adopting and implementing free and compulsory education in pre-primary education is to increase enrolment in that education level. Since 1999, there has been a general global upward trend in pre-primary enrolment in all regions (Figure 11).²⁶ The gross enrolment rate at that education level has increased from 31 per cent in 1999 to 52 per cent in 2018 at a global level. Some regions outpaced others in their growth (e.g. East Asia and the Pacific, Latin America and the Caribbean, Central and Eastern Europe). Regional GER figures ranged from highs of 87 per cent in North America and Western Europe to a low of 26 per cent in South and West Asia.

²⁶ The choice of the gross enrolment ratio over the age-specific and more precise adjusted net enrolment ratio corresponds better to the data available for the period and regions examined.

Figure 11. Gross enrolment ratios in pre-primary education, 1999-2018, by region

Source: UIS (2020).

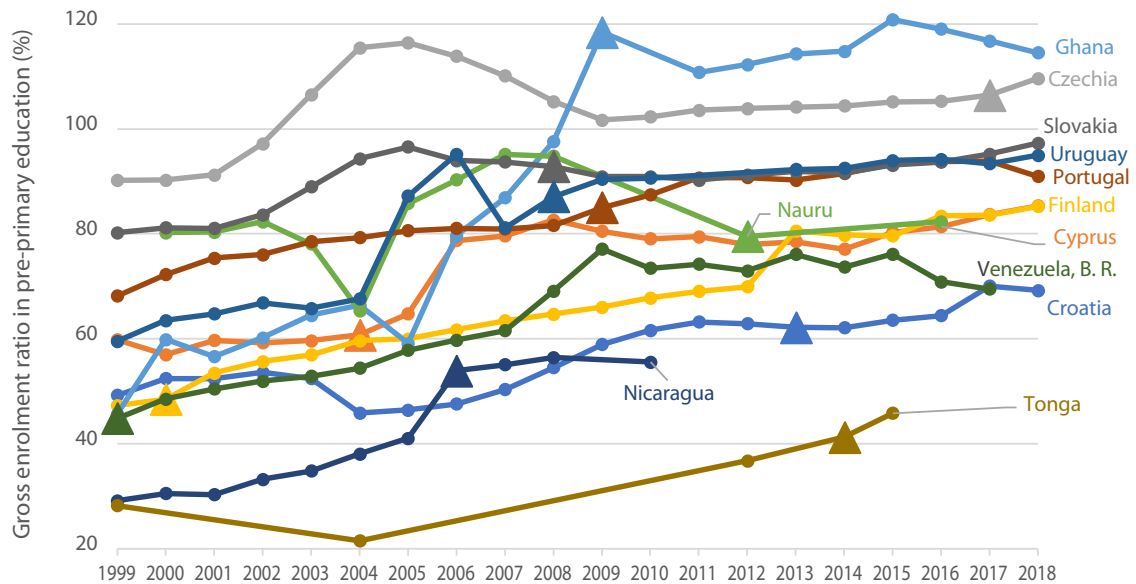
In the limits of this study, it is not possible to disentangle the effect of adopting legal frameworks on pre-primary enrolment from other possible measures taken in national education policies. Yet, it is interesting to note that average enrolment ratios doubled for those countries adopting legal provisions for free or compulsory education between 1999 and 2018 (Table 4). The average for those countries without a legal framework on pre-primary education also increased – and from a higher base rate in 1999 – but at a much slower pace (11 percentage points).

Table 4. Gross enrolment ratios in pre-primary education, by free and compulsory status, 1999 and 2018

Countries	(%) Average pre-primary GER	
	1999	2018
With free or compulsory pre-primary	41.4	82.8
With no legal frameworks for pre-primary	52.9	63.0

Note: GER is gross enrolment ratio. Data are not available for all countries in the given year and the number of countries included per year varies. Of the 68 countries with legal provisions adopting free or compulsory or both legal frameworks, 58 and 44 report enrolment data for 1999 and 2018, respectively. Of the 173 countries with no legal framework adopted, 82 and 87 report enrolment data for 1999 and 2018, respectively.

Sources: UIS (2020); see Annex 1.

Figure 12. Gross enrolment ratios in pre-primary education, 1999-2018, selected countries

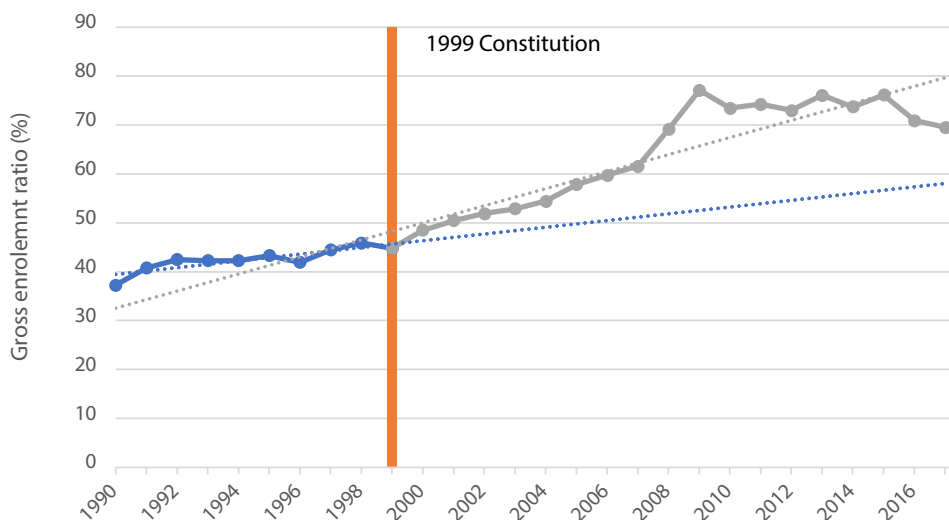
Notes: The triangle indicates the year (or the following year if no data for the same year) in which the free and/or compulsory legal framework was implemented in the country. Georgia and Spain are not included: data for Spain are available only for 2013-2018 and data are unavailable for Georgia after 2008.

Sources: UIS (2020); see Annex 1.

On the basis of 12 countries with available data, the overall trend relative to the adoption of legal frameworks for free and compulsory education also indicates improvement during that period (Figure 12). Ghana appears to show a particular spike in enrolment three years around the adoption of free and compulsory kindergarten (two years duration) in the 2008 Education Act. The GER rose from 59 percent in 2005 to 118 percent in 2009, at a significantly higher rate than previously. The legal framework change in 2008 possibly reinforced and secured the policy goal of universal enrolment. Similarly, in 2006, Nicaragua adopted a legal framework for the last year of initial education as free and compulsory (with expectations of gradual extension to lower levels). This change could possibly explain the jump in the GER from 41 percent to 53 percent between 2005 and 2006. Other countries, such as Slovakia and Uruguay, however, have little or no change in GER after the implementation of new legal frameworks.

While these differences cannot be interpreted in terms of their policy significance or causality, they do point to the need to further examine the relationship between the adoption of legal frameworks and enrolment within a country. For example, one possible explanation for unchanged GER growth is that the education environment does not immediately absorb the legal requirements. The supply of pre-primary classrooms and teachers might not yet be available to reach all eligible children. Also, parental demand for education could be slow to respond to new legal provisions and fail to enrol children at the compulsory age. In short, depending on the response capacity of education systems, different trends in pre-primary GER can occur around the legal framework adoption for free and compulsory education.

The case of the Bolivarian Republic of Venezuela provides sufficient years of data to examine the addition of free and compulsory pre-primary in 1999 as part of its new Constitution. Figure 13 shows the difference in GER growth patterns based on pre-1999 and post-1999 GER values. Since 1990, pre-primary enrolment increased in Venezuela, (B. R.), but at a faster pace after 1999. The post-1999 difference in the slopes between the dotted lines indicates this changing trend in enrolment growth. That is, after 1999, the rate of growth in the GER was higher (as indicated by the slope in the grey dotted line) than in the preceding period (as indicated by the blue dotted line). It is possible that

Figure 13. Gross enrolment ratio in pre-primary education, Venezuela, B.R., 1990-2017

Notes: The blue dotted line indicates a linear projection based on the 1990-1999 period, assuming the same average growth rate. The grey dotted line indicates a linear fit based on the growth rate during the 1999-2017 period. The difference between the two lines could be examined further to determine the possible impact from the 1999 Constitution. Latest year available for data is 2017.

Sources: Ministerio de Educación y Deportes República Bolivariana de Venezuela (2006); UIS (2020).

the 1999 Constitution was supported by education policies – all else being equal – which encouraged the boost in pre-primary enrolment.²⁷ Again, further analysis of the national education legal and policy environments is required to evaluate such a hypothesis.

5.2. Pre-primary teachers

An increase in enrolment would be expected as a natural consequence of (or in preparation for) the adoption of legal provisions for free and compulsory pre-primary education. Responsive education sector planning would incorporate increases in inputs, including the number of classrooms, materials and trained teachers in pre-primary education. This section focuses particularly around the recruitment of teachers, using pupil/teacher ratios (PTR) as a proxy for maintaining quality in pre-primary classrooms at a reasonable level.²⁸ Although there is no set international standard for child-to-teacher ratios at the pre-primary level, a generally accepted benchmark recognizes that 15 children to one trained adult in a pre-primary setting is an important factor in a high-quality environment.²⁹ In addition, SDG Target 4.c states the need for a substantial increase in trained and qualified teachers at all levels, including pre-primary education (UNESCO, 2017a).³⁰ In 2018, 46 percent of pre-primary teachers were trained in low-income countries compared to 85 percent in the world (UNESCO GEM, 2020).

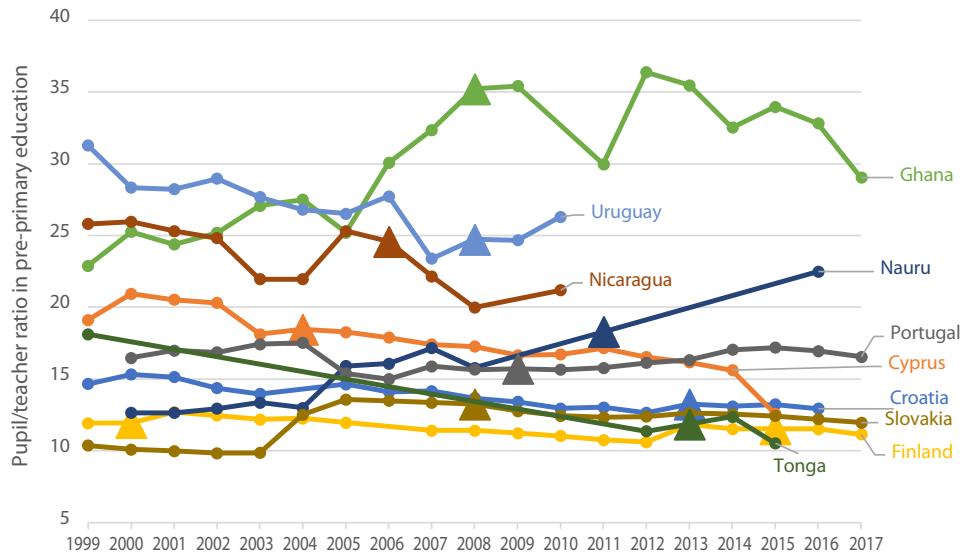
27 Other factors may be responsible for the increase in pre-primary GER and further exploration is required to determine causation.

28 There is mixed evidence around the importance of class size as a predictor of quality in classrooms, especially at the pre-primary level. The pupil-teacher ratio should be sensitive to the child's age and national norms and standards usually take into account age of the children. Quality can be ascertained through other factors (e.g. teacher training, learning environments, pedagogy), but such indicators are not readily available at the pre-primary level at a cross-country basis (Naudeau et al., 2011; Sayre et al., 2015).

29 The UNICEF Report on early childhood education and care in high-income countries established a minimum 15:1 ratio of pre-school children (4-5-year-olds) to trained staff and that group size should not exceed 24 as one of the five benchmarks related to quality (UNICEF, 2008). The SABER framework recommends "established" or "advanced" norms as a maximum 15:1 teacher (not specified as trained) to child ratio (Neuman and Devercelli, 2013).

30 Qualified teachers are those with minimum academic qualifications expected to teach at the pre-primary level. Trained teachers have the professional qualifications required, such as completion of a training course, which fulfil the minimum requirements to enter a teaching position. These might be the same or different systems depending on the country (UNESCO, 2017a).

Figure 14. Pupil/teacher ratios in pre-primary education, selected countries, 1999-2017

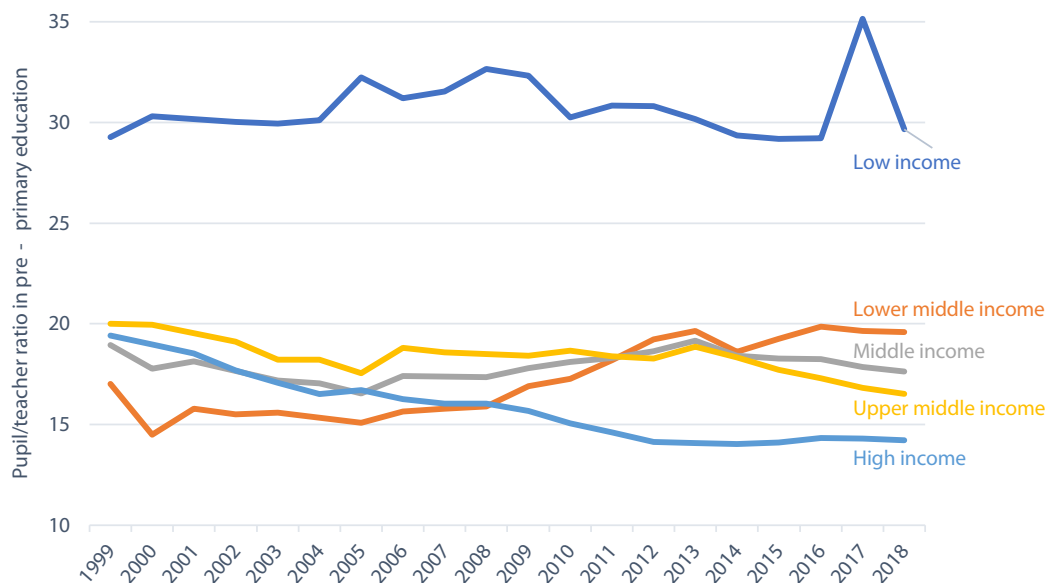


Notes: Georgia, Spain and Venezuela (B. R.) are not included for lack of data around the implementation years. The triangle indicates the year in which the free and compulsory legal framework was implemented in the country. Latest year available is 2017.

Sources: UIS (2020); see Annex 1.

As comparative data on trained or qualified teachers are not available for this group of countries, Figure 14 shows the levels and variation in the PTR in pre-primary education since 1999. No single, specific trend can be distinguished relative to the adoption of legal provisions for free and compulsory education. In Cyprus, Nauru and Uruguay, the PTR increased after the adoption date, while in Ghana and Nicaragua, it decreased in the immediate years following the adoption date. The implementation of free (in 2000) and subsequently compulsory (2015) in Finland seemed to have no effect on the PTR, which was already below the 15:1 benchmark.

Figure 15. Pupil/teacher ratio in pre-primary education, per country income group, 1999-2018



Notes: Income groups are based on the World Bank classification (see Annex 1).

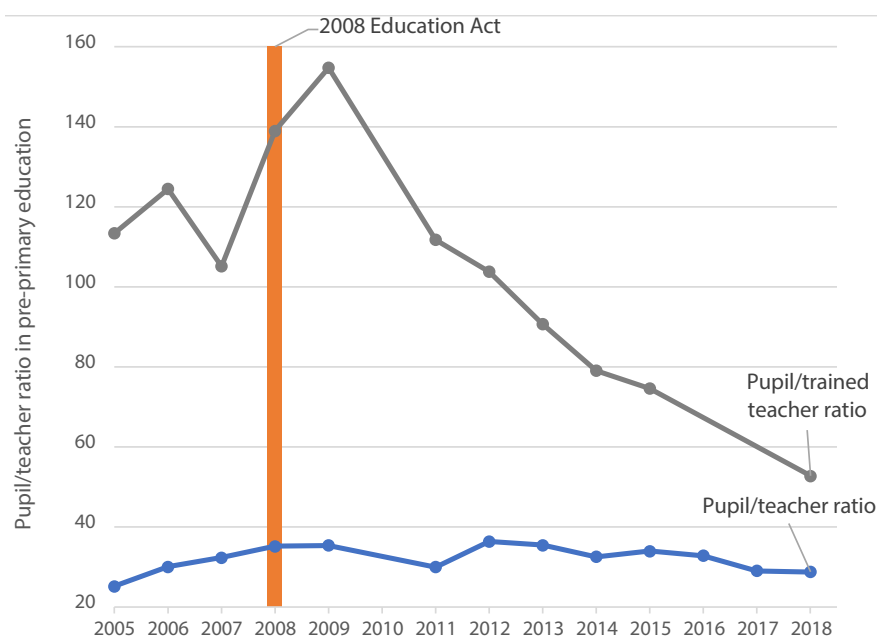
Source: UIS (2020).

For the most part, with the exception of Croatia, Finland, Slovakia and Tonga, these countries are above the 15:1 benchmark. As a reference point, the global PTR in pre-primary education was 17.5 in 2018, near the value for middle income countries or most of the 1999-2018 period. PTR falls as income rises in countries, but has increased in lower middle countries since 1999 (Figure 15). It would be relevant to examine the country's total investment in education as a share of total government expenditures, as teacher payroll can account for three-quarters of education expenditures.

Teacher pedagogical processes (i.e. child-adult interactions) contribute favourably to student learning and development at the pre-primary education level. Global evidence has shown that the quality and age-appropriateness of teacher–child interactions are a key aspect of classroom quality in predicting children's outcomes. Furthermore, professional initial and continued development plays an important part in improving the quality of staff pedagogy (Lazzari et al., 2013; Neuman et al., 2015; OECD, 2017). As such, examining the extent of teacher training compared to more generalised PTRs can provide some insight on how governments met quality expectations when expanding or formalising pre-primary education.

The case of Ghana provides sufficient data to examine changes around the adoption of the Education Act in 2008, which made two years of kindergarten free and compulsory. As enrolment doubled after the adoption of this legal framework (see Section 5.1), the PTR fluctuated between 30:1 and 35:1 (Figure 16). The trained teacher ratio, however, increased significantly to 155:1 in 2009, indicating a reduced share of trained pre-primary teachers and, accordingly, a lower level of preparedness among teachers. Closer examination of national education and training policies would reveal the impetus for the downhill trend in the trained PTR since 2009, where the ratio peaked at 155:1. In 2018, more than half of all pre-primary teachers are trained and the trained PTR has lowered to 53:1 (UIS, 2020). It is important to note that a decade has passed since the introduction of the Education Act and that PTR levels (general and trained) are still too high to be considered quality environments per international standards. Several government policies supported the legal framework and scale-up of pre-primary education – most notably, the physical addition of kindergarten to primary schools, decentralized governance, the development of the National Early Childhood Care and Development Policy and a kindergarten curriculum—but teacher training lagged and was not effectively aligned with the new curriculum (UNICEF, 2011; Wolf et al., 2017).

Figure 16. Pupil/teacher ratios in Ghana, 2005-2018



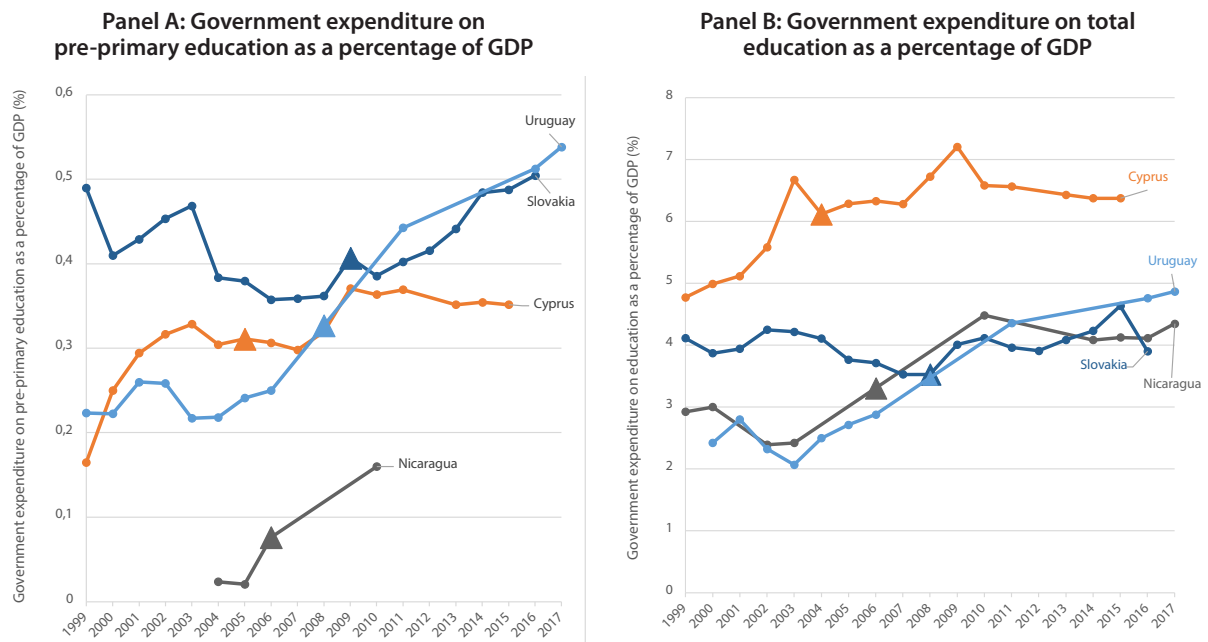
Sources: UIS (2020); see Annex 1.

5.3. Financing commitment to pre-primary education

Proclaiming a rights-based commitment to universal pre-primary education is a laudable goal, but can be financially constraining or challenging in some countries. One cost estimate of the provision of one year of universal pre-primary education (per SDG Target 4.2) in low- and lower-middle-income countries was alarming: governments would have to increase total annual costs from four to six times the 2012 levels.³¹ The estimates were calculated assuming a significant increase in pre-primary enrolment to reach universal access as well as higher per-student expenditure to improve quality and address marginalization. Accordingly, the expenditure would need to almost triple current spending as a percentage of gross domestic product (GDP) over the period, causing a large financing gap (UNESCO, 2015c). Another cost estimate found that reaching free and universal pre-primary education by 2030 would require US\$4 billion and US\$40 billion per year in low-income and lower-middle income countries, respectively (Education Commission, 2016).

Currently, however, government and donor spending on pre-primary education remains low and is positively correlated with income levels in countries (Zubairi and Rose, 2017). Recent reports have underscored the urgency of following the 2013 UNESCO recommendation that a minimum of 10 percent of all education spending (total education budget) be allocated to pre-primary education (Education Commission, 2016; UNICEF, 2019b).³² With regards to GDP, estimates suggest that all low- and middle-income countries will have to raise their total education expenditures to 8.5 percent of GDP by 2030. This amounts to a target 0.4 per cent of GDP spending on pre-primary education (Education Commission, 2016).³³

Figure 17. Government expenditure on education as a percentage of GDP, selected countries, 1999-2017



Notes: The triangle indicates the year in which free and/or compulsory legal framework was adopted in the country. Cyprus, Nicaragua and Uruguay have adopted both free and compulsory pre-primary education; Slovakia has only adopted free pre-primary. Latest data available are from 2017.

Sources: UIS (2020); see Annex 1.

31 Based on reaching 100 percent pre-primary gross enrolment ratio by 2030 and a ratio of 20 children for one adult.

32 In 2013, UNESCO recommended that 10% of total public education expenditure be dedicated to pre-primary education and that 6% of gross national product (GNP) be spent on all public expenditures on education (UNESCO, 2013). Since the UNESCO proposal also suggests that 20% of total government expenditure should be on education, it led to the baseline proposal that 2% (or 10% of the 20%) of total government expenditure be spent on pre-primary education (UNESCO, 2015c).

33 Based on author's calculations on Table 3.

Among the country cases examined with regards to the adoption of legal frameworks on free and compulsory education, Cyprus, Nicaragua, Slovakia and Uruguay have financing data around their respective adoption dates (Figure 17). In these four countries, the share of government expenditure in education generally – and pre-primary education more specifically – increased as a percentage of GDP during the past 20 years. The positive relationship with adoption dates suggests that increased government expenditure in education (and pre-primary education) occurred during the same period and continued after adoption. Panel B shows that the rate of increase in pre-primary education spending varies across the four countries.

It is also worth observing – in light of changes in the rights framework – whether pre-primary education obtains a greater share of total education spending relative to other education levels. Globally, on average, low- and middle-income countries distribute 2 to 7 percent of total education spending to the pre-primary level compared to 10 per cent in high-income countries (Zubairi and Rose, 2017). For those high-income countries with data available, spending on pre-primary education has risen (Table 5). This appears to be generally the case in most countries with data available, with the exception of Spain.

Table 5. Changes in pre-primary expenditure relative to total government spending on education, selected countries

Country (year of adoption)	Expenditure on pre-primary as a percentage of government expenditure on education (%)		
	1999	Near year of adoption	2016
Cyprus (2004)	3.46	4.98	5.52
Finland (2015)	5.47	10.81	11.01
Portugal (2009)	5.23	6.83	8.06
Slovakia (2008)	11.90	10.26	12.93
Spain (2006)	7.37	12.84	10.87
Uruguay (2008)	9.18	8.68	10.77

Notes: All countries are high-income countries. Uruguay is 2000 instead of 1999; Cyprus is 2014 instead of 2016; Portugal is 2015 instead of 2016. Year of adoption is for the legal provisions for free and/or compulsory pre-primary education, except for Finland where it is the adoption year of provisions for compulsory pre-primary education. Portugal, Slovakia and Spain adopted the free provision only.

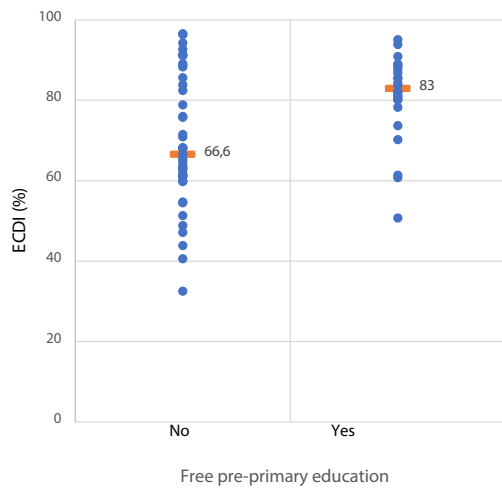
Sources: UIS (2020); see Annex 1.

5.4. Children's development

Children's development can be measured through a variety of developmental and learning assessments at national levels, but few tools have been developed with a cross-country comparative objective. The Early Childhood Development Index (ECDI), which was developed by UNICEF and implemented since 2009, is one of the first global population-based measures of holistic early childhood development applied in low- and middle-income countries (Loizillon et al., 2017).

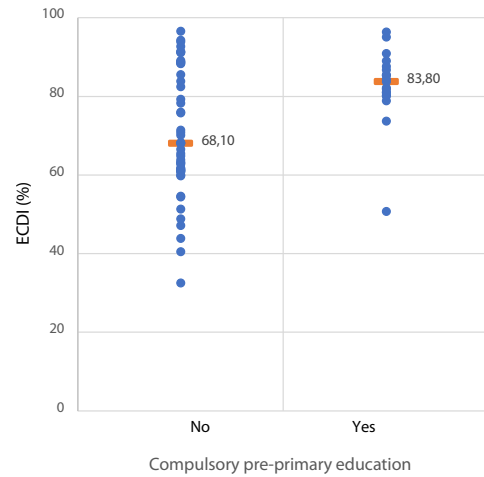
The ECDI measures the developmental status of children using a 10-item index across four developmental domains and is calculated as a percentage of children who are developmentally on track in at least three of the four domains (see Annex 4). It is collected through the implementation of UNICEF's household-based Multiple Indicator Cluster Survey (MICS) in more than 60 low- and middle-income countries (UN DESA, 2018). With the advent of Target 4.2, an international consortium of early childhood experts consisting of academic experts and researchers in early childhood development measurement have undertaken methodological work to develop an improved measure of holistic early childhood well-being based on the ECDI.³⁴

³⁴ Custodian and partner agencies for this indicator include: UNICEF, UNESCO-UIS, OECD, World Bank and WHO.

Figure 18. ECDI in countries based on adoption of free pre-primary education

Notes: The ECDI is a percentage of children aged 36-59 months who are developmentally on-track in at least three of the following four domains: literacy-numeracy, physical, socio-emotional and learning. The ECDI was measured between 2010 and 2018 depending on the country. The orange bars indicate the median per category.

Sources: UIS (2020); see Annex 4.

Figure 19. ECDI in countries based on adoption of compulsory pre-primary education

Notes: The ECDI is a percentage of children aged 36-59 months who are developmentally on-track in at least three of the following four domains: literacy-numeracy, physical, socio-emotional and learning. The ECDI was measured between 2010 and 2018 depending on the country. The orange bars indicate the median per category.

Sources: UIS (2020); see Annex 4.

Using the national level ECDI, this analysis examined the relationship between child development with the adoption of legal provisions for free and compulsory pre-primary education. Given that the ECDI is a one-time measure in most countries (between 2010 and 2018), this analysis provides a proxy for observing the possible relationship that implementing pre-primary education rights could have on children's overall development.

Figure 18 shows visually that those countries which have adopted legal provisions for free pre-primary education have higher children development levels (ECDI) on average than those countries which have not adopted this right.³⁵ The spread of the ECDI scores is narrower and the ECDI median (halfway point on the line) is higher (83 percent compared to 66.3 percent).

Similarly, Figure 19 shows that those countries which have adopted legal provisions for compulsory pre-primary education also have higher ECDI rates overall than countries which have not adopted this right.³⁶ The median ECDI for the countries with a framework for compulsory pre-primary education is highest at 84 percent, 17-percentage points higher than for countries without a framework for free pre-primary education. That is, adopting legal provisions for free and compulsory education has a significant relationship with ECDI levels. These positive relationships between early childhood development and guaranteed rights to pre-primary education are highly relevant from a policy perspective. Yet, they do not indicate direction or causality and could stand to be further examined.³⁷

³⁵ The difference is statistically significant at the $\alpha=0.05$ level.

³⁶ The difference is statistically significant at the $\alpha=0.05$ level.

³⁷ In short, these two variables might be subject to interaction effects. That is, perhaps those countries favouring the optimal development of children are the same as those that adopt pre-primary rights.

6. Findings and conclusions

Beyond the recognition of human rights, the impetus to adopting legal provisions for free and compulsory pre-primary education is the guaranteed extension of access to this education level for children of pre-primary school age (i.e. increasing supply). The public provision of specific education inputs can be expected to change as a result of the legal adoption, such as specific pre-primary teacher training and recruitment or dedicated financing for this education level. The expectation that parents and guardians will enrol their children requires an additional step into the understanding of human behaviours around the education of young children (i.e. factors associated with increased demand). Parents of young children make decisions around early childhood education which are not wholly independent of the supply characteristics, namely quality, distance from home, convenience related to parents' working schedule and cost (including informal costs of food, uniforms, supplies).³⁸

The literature review found that few studies examine the cross-country impacts of the adoption of legal provisions for free and compulsory pre-primary education. National studies are often based on education policy and planning frameworks, rather than the implementation of a rights-based framework. Consistent with the legal framework research conducted for this study, the examination of national contexts found that legal developments with regards to pre-primary education are much weaker than for primary and secondary education levels. Considerable attention has been harnessed around the expansion of primary and secondary education in the last decades. The growing body of international evidence around the benefits of pre-primary education explains in part the need to make significant progress to guarantee that right at the early childhood age. Yet, the international human rights framework is not fully explicit in including the early childhood period as it is for "basic" and "primary" education and the international community relies on global frameworks, conventions and policy statements, such as the Moscow Framework for Action and the SDG Targets, to encourage the expansion of pre-primary education as part of national education obligations.

For those countries that have ratified the Convention on the Rights of the Child, implementing education rights in early childhood is legally justified and required.³⁹ Setting specific legal frameworks – such as the introduction of at least one year of free and compulsory pre-primary education – can fundamentally alter the policy implementation landscape and harness the benefits of life-long learning for all children. One Latin American study found evidence that free and compulsory education enabled an increase in enrolment and generated demand by parents, but was not sufficient to create full participation. Compulsory pre-primary education for the year preceding primary school can help children prepare for school in terms of acquiring foundational literacy and numeracy skills. The quality of the learning environment is important for child development purposes and international evidence underscores the benefits of trained teachers, nurturing, child-centred pedagogies and play-based learning.

The research on the legal frameworks conducted for this study surveyed the status of legal provisions for free and compulsory education in 193 countries. The following main findings emerged:

- Pre-primary education is a well-determined and defined right in too few countries considering SDG Target 4.2 and the international framework guaranteeing the right to education for all children of pre-primary age. Of the 193 national legal frameworks examined in this study, 63 countries have adopted free pre-primary education and 51 countries have adopted pre-primary education as a compulsory level.⁴⁰

38 These factors have been studied extensively at programme levels and are seen as determinants in enrolment. Quality can be broadly defined here as including the physical and human dimensions.

39 Since 2015, 196 countries have ratified the CRC. The United States is the sole country which has not ratified the CRC.

40 Data on free and compulsory pre-primary education were available for 183 and 184 countries, respectively.

- More than half the countries with available data in Latin America and the Caribbean, Europe and North America and Eastern and Central Europe have adopted legal frameworks which guarantee free pre-primary education. The majority of the countries with compulsory pre-primary education are located in the same regions, and most are of upper-middle and high-income groups.
- Many countries select adopting legal provisions for both free and compulsory rights at the same time. In the 46 cases where the right to both free and compulsory pre-primary has been adopted, nearly all countries (40 of the 46) introduced both rights in the same year.
- The qualitative data collected from public sources in 17 countries found that specific legal provisions targeted vulnerable groups so that they can benefit from facilitated or priority access to pre-primary education. Most often, these protected groups include children from low-income households, children with disabilities and, to a lesser degree, children from indigenous groups.
- Despite the low take-up of legal frameworks, enrolment in pre-primary education has been increasing since 1999 in all regions. Generally, the average rate of increase appears higher in those countries which adopted legal provisions for the right to free and compulsory pre-primary education. Country case studies revealed, however, that not all countries showed a change in enrolment following the adoption date of the legal framework.
- Countries with free or compulsory pre-primary education have higher rates of early childhood well-being – as measured by UNICEF’s Early Childhood Development Index (ECDI) – than countries which have not adopted this right.
- Country case studies also showed that the adoption of free and compulsory education might be affected by negative effects in some countries, especially with regards to education quality. In Ghana, the quality of pre-primary education was reduced initially due to the inadequate level of teacher preparedness. The initial years, following the adoption of two years of free and compulsory pre-primary education in Ghana, saw an increase in the ratio of pupils to trained teachers. Over the following decade, the ratio subsequently improved and targeted policy measures expanded the quality of education.
- All of the four countries with available evidence (Cyprus, Nicaragua, Slovakia and Uruguay) appeared to increase on government expenditures in pre-primary education as a percentage of GDP following the adoption of legal frameworks for free and compulsory education.

This study has shown that additional research would be beneficial to understand the impact of changes in rights-based legal frameworks around the expansion of quality pre-primary education. The research questions identified at the beginning of this study aimed to identify the impact of the adoption of free and compulsory pre-primary education. Although information was insufficient within the scope of this study’s mandate, country case studies are necessary to examine in detail the impact of changes in pre-primary rights. In-depth national research would be able to take into consideration other factors beyond legal frameworks, including education policies and financing, to account for influences in changes in education inputs and outcomes. Given the importance of the issue of meeting international legal and policy goals, it is highly recommended that case studies be selected to provide regional and income diversity.

Being able to advance global progress towards SDG Target 4.2 requires setting legal foundations to ensure the adoption of the right to ECCE. Monitoring this right would enable a better measure for Target 4.2.5 on the introduction of at least one year of free and compulsory pre-primary education. The fundamental rights of children in early childhood are enshrined in national policy debates and frameworks, but they require further legal protection to be able to guarantee non-discriminatory rights to pre-primary education for all children.

Considerations for policy-makers and other education stakeholders

In light of the research conducted for this study, legal frameworks in most countries are not yet adequate enough to implement international rights and goals for universal pre-primary education. The study identified several legal and policy weaknesses in the frameworks which restrict the full implementation of the right to free and compulsory pre-primary education. These concerns undermine national policy objectives to prepare children before entrance to primary school. Policymakers may consider the following levers to promote the inclusion of early childhood and pre-primary education as a human right within long-term education and development objectives. These four levers may be considered to accompany efforts to adopt legal frameworks to implement international rights and goals for universal pre-primary education.

- *Governance and financing:* The importance of early childhood as a foundational stage for human development, lifelong learning and poverty reduction underscores the adoption of Target 4.2 for universal quality ECCE. Despite international rights and policy objectives, insufficient government prioritisation in ECCE is a short-sighted policy direction. Stronger governance in ECCE requires incorporating an intersectoral perspective to planning and decision-making, that is, ensuring the involvement of relevant stakeholders. This broad group could include relevant government actors (e.g. responsible for the areas of health, education and social protection), civil society (e.g., unions, parents' organizations), local and regional authorities and the non-state actors. ECCE generally has been chronically underfunded in most countries (below the 10 percent of government education expenditure benchmark), falling behind other national investment priorities. Budgets fall well below the levels, which can implement quality programmes for all children, despite international evidence suggesting that the return on investment at this stage in life has significant positive implications for long-term national development objectives.

Creating more secure governance and financing commitments to the provision of pre-primary education for all eligible children is essential. The sustainability of a rights-based framework for free and compulsory education requires public domestic financing strategies to scale up pre-primary education.⁴¹ Innovative financing mechanisms such as earmarked taxes, impact bonds or private contributions can provide supplemental options to traditional financing mechanisms.⁴² From a governance perspective, the years of formal ECCE preceding primary education are not always under the mandate of the Ministry of Education. In those cases, pre-primary education (ISCED 020) is not included as part of the general education continuum and falls behind in terms of national education planning, implementation and financing.

- *Legal clarity:* This study found that legal frameworks, policy statements and objectives are not always coherent within a country, and, in some cases, can even lead to confusion or be contradictory. The definition of free and compulsory pre-primary education needs to be aligned and concordant across all national legal frameworks and policy documents, including implementing texts. This research found several examples where legal texts were not clear about the free and compulsory nature of pre-primary education and the age at which it started, even though national education plans defined pre-primary education as part of basic education. Furthermore, legal frameworks and, to some extent, policy documents require supplemental regulatory texts (e.g. bylaws, circulars, decrees, etc.) in order to provide clear, practical measures and details for implementation. Policy documents can provide necessary objectives for free and compulsory pre-primary education, but require legal obligations to be enforceable. In sum, legal frameworks and national policy documents need to be aligned, coherent and applicable.

⁴¹ UNICEF recently published a guide on public financing mechanisms for ECCE (UNICEF, 2019a).

⁴² For recent discussions on sustainable and innovative financing in ECCE, see for example Gardiner and Gustafsson-Wright (2016) and UNESCO (2019).

- *Societal expectations:* Parents often believe that children should begin school when the government states it is free and compulsory. Public and private ECCE provision can exist before the official entrance age to compulsory school; parents choose to enrol their children in these establishments according to a variety of factors, including their care needs, beliefs, and household budget. When pre-primary education is not considered a mandatory level of education, it weakens the perceived value of pre-primary education from the perspective of parents, teachers and communities. This can reinforce existing inequities in access to education for vulnerable groups. International evidence has found that children from vulnerable families are most likely to benefit from participation in quality early childhood learning opportunities, with positive effects even at later education levels.
- *Early childhood development:* International evidence supports implementing pre-primary education as a distinct period in children's cognitive and social development. Particular attention needs to be paid to the broad developmental domains (i.e. cognitive, language, socio-emotional, physical) which demarcate the early childhood period from later development periods. As such, pre-primary education needs a focus on child-centred pedagogies, holistic curricula (i.e. including health, nutrition, protection and social welfare) and greater specificity in initial and in-service training. This requires developing technical expertise across relevant departments (e.g. curriculum development, learning materials, teacher training, physical infrastructure) to be sensitive to – and include an explicit focus on – early childhood teaching, learning and well-being frameworks. Moreover, ministries responsible for pre-primary education need to work with their technical counterparts in other sectors (e.g. health, nutrition, protection, social welfare) to ensure that children are receiving multi-sectoral support to their education. Supporting a comprehensive approach to the specificity of the early childhood period requires the adoption, and monitoring of the implementation of, relevant national legal and policy frameworks. These would enable children's rights as developed in the international rights framework to protect and prepare children for lifelong learning.

Monitoring and evaluating progress across these four fields is necessary for better accountability, planning and policy-making within the education sector. National and international surveys provide insight on access to pre-primary education for different population groups and geographic areas, and can enable better planning on reaching vulnerable populations. But collecting key indicators on the provision for free and compulsory pre-primary education goes beyond enrolment ratios. Pre-primary education systems need to develop with the capacity to monitor the quality of its programmes, including teacher training, financing, infrastructure and learning outcomes. National quality standards can create the benchmarks against which to monitor the quality within classrooms. Further, monitoring the provision of the right to pre-primary education also requires observing aspects related to multi-sectoral governance and community participation.

Monitoring the implementation of the right to pre-primary education is guided by collective standards which have been agreed to at international, regional and national levels. Prioritising the needs of young children and fulfilling their right to free and compulsory pre-primary education is highly relevant during the unique context of the current global health crisis. More than 155 million children at the pre-school level have been affected by the COVID-19 disruption to education and many more remain out of school (UNESCO, 2020). In many countries, the education response to COVID-19 has neglected pre-primary education to the advantage of older children. Given the importance of this development period, governments need to pay special attention to ensure that early learning and the wellbeing of young children is given due consideration when education is disrupted as well as, in all other circumstances. The adoption of legal frameworks for free and compulsory pre-primary education is the first step in guaranteeing that these rights are maintained in times of emergencies and crises, and beyond.

7. Bibliography

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8. Annexes

Annex 1:

Data on free and compulsory pre-primary education⁴³

Information on the existence of free and compulsory pre-primary education in countries' legal and policy frameworks was collected to create a register. The desk research examined existing data sources, including material developed by UNESCO (UIS, UNESCO Observatory on the Right to Education, Education Sector Plans supported by IIEP and EDP, 1960 Convention consultations), EURYDICE, and Ministry of Education websites, to collect the following data and information:

- Adoption of free and compulsory pre-primary education (time of adoption, length of pre-primary being compulsory, ages concerned, number of hours made free and/or compulsory, incentives to encourage attendance/provision);
- Enrolment rates, education financing, and school readiness (i.e. SDG 4, target 4.2.1 data);
- Actual passages of legal/policy provisions concerning free and compulsory pre-primary education;
- Reasons for countries to adopt/NOT adopt free or compulsory pre-primary education, needs for support and advice in implementing provision of free and compulsory pre-primary education.

The data collected on free and compulsory education includes 193 countries, spanning 6 regions and 4 income groups as shown in the tables below:

Region	Countries (total)
Africa	47
Arab States	19
Asia and the Pacific	44
Eastern and Central Europe	25
Europe and North America	25
Latin America and the Caribbean	33
Total	193

Country income groups	Countries (total)
High income	55
Upper-middle income	58
Lower-middle income	46
Low-income	31
Uncategorised*	3
Total	193

*Cook Islands, Niue and Palestine are not categorised by the World Bank, July 2019 classification (most recent available).

Data on free education were available from 183 countries. Ten countries did not have readily available information either because they are federal countries for which a single national right cannot be ascertained (i.e. through the constitution or national law) or because data were simply not available. These are: Australia, Belgium, Canada, Germany, Iraq, Japan, Jordan, Lao PDR, Nepal and Palestine.

Region	Countries (total)
Arab States	3
Asia and the Pacific	4
Europe and North America	3
Total	10

Data on compulsory education were available for 184 countries. Nine countries did not have information available on this right for the same reasons as noted above, with the exception of Iraq, for which information was available. The nine countries are: Australia, Belgium, Canada, Germany, Japan, Jordan, Lao PDR, Nepal and Palestine.

In some cases, data on free and compulsory education could not be ascertained in terms of the duration from the publicly available resources, so no analysis on this question was possible.

⁴³ Data collected until December 2019

Countries and territories	Free pre-primary education (number of years)	Compulsory pre-primary education (number of years)
	AFRICA	
Angola	0	0
Benin	2	0
Botswana	0	0
Burkina Faso	0	0
Burundi	0	0
Cabo Verde	0	0
Cameroon	0	0
Central African Republic	0	0
Chad	0	0
Comoros	0	0
Congo	3	0
Côte d'Ivoire	0	0
Democratic Republic of the Congo	0	0
Djibouti	0	0
Equatorial Guinea	2	2
Eritrea	0	0
Eswatini	0	0
Ethiopia	0	0
Gabon	0	0
Gambia	0	0
Ghana	2	2
Guinea	0	0
Guinea-Bissau	0	0
Kenya	1	1
Lesotho	0	0
Liberia	0	0
Madagascar	0	0
Malawi	0	0
Mali	0	0
Mauritius	0	0
Mozambique	0	0
Namibia	0	0
Niger	0	0
Nigeria	0	0
Rwanda	0	0
Sao Tome and Principe	0	0

Countries and territories	Free pre-primary education (number of years)	Compulsory pre-primary education (number of years)
Senegal	0	0
Seychelles	0	0
Sierra Leone	0	0
Somalia	0	0
South Africa	0	0
South Sudan	0	0
Togo	4	4
Uganda	0	0
United Republic of Tanzania	0	0
Zambia	0	0
Zimbabwe	0	0
ARAB STATES		
Algeria	1	0
Bahrain	0	0
Egypt	0	0
Iraq	n/a	0
Jordan	n/a	n/a
Kuwait	0	0
Lebanon	0	0
Libya	0	0
Mauritania	0	0
Morocco	0	0
Oman	0	0
Palestine	n/a	n/a
Qatar	0	0
Saudi Arabia	0	0
Sudan	0	0
Syrian Arab Republic	0	0
Tunisia	0	0
United Arab Emirates	0	0
Yemen	0	0
ASIA AND THE PACIFIC		
Afghanistan	0	0
Australia	n/a	n/a
Bangladesh	0	0
Bhutan	0	0
Brunei Darussalam	0	0

Countries and territories	Free pre-primary education (number of years)	Compulsory pre-primary education (number of years)
Cambodia	0	0
China	0	0
Cook Islands	2	0
Democratic People's Republic of Korea	1	1
Fiji	0	0
India	0	0
Indonesia	0	0
Iran (Islamic Republic of)	0	0
Japan	n/a	n/a
Kazakhstan	1	1
Kiribati	0	0
Kyrgyzstan	2	0
Lao People's Democratic Republic	n/a	n/a
Malaysia	0	0
Maldives	0	0
Marshall Islands	0	1
Micronesia (Federated States of)	0	0
Mongolia	0	0
Myanmar	0	0
Nauru	2	2
Nepal	n/a	n/a
New Zealand	0	0
Niue	1	0
Pakistan	0	0
Palau	0	0
Papua New Guinea	0	0
Philippines	1	1
Republic of Korea	1	0
Samoa	0	0
Singapore	0	0
Solomon Islands	0	0
Sri Lanka	0	0
Thailand	0	0
Timor-Leste	0	0
Tonga	0	1
Turkmenistan	1	1

Countries and territories	Free pre-primary education (number of years)	Compulsory pre-primary education (number of years)
Tuvalu	0	0
Vanuatu	0	3
Viet Nam	0	0
EASTERN AND CENTRAL EUROPE		
Albania	0	0
Armenia	0	0
Azerbaijan	0	0
Belarus	3	0
Bosnia and Herzegovina	0	1
Bulgaria	2	2
Croatia	1	1
Czechia	0	1
Estonia	0	0
Georgia	4	0
Hungary	3	3
Latvia	2	2
Lithuania	1	1
North Macedonia	0	0
Poland	3	1
Republic of Moldova	3	1
Romania	3	0
Russian Federation	0	0
Serbia	1	1
Slovakia	1	0
Slovenia	0	0
Tajikistan	0	0
Ukraine	3	1
Uzbekistan	0	0
EUROPE AND NORTH AMERICA		
Andorra	0	0
Austria	1	1
Belgium	n/a	n/a
Canada	n/a	n/a
Cyprus	1	1
Denmark	1	1
Finland	1	1
France	3	3

Countries and territories	Free pre-primary education (number of years)	Compulsory pre-primary education (number of years)
Germany	n/a	n/a
Greece	2	1
Iceland	0	0
Ireland	0	0
Italy	0	0
Luxembourg	2	2
Malta	0	0
Monaco	0	0
Montenegro	0	0
Netherlands	2	1
Norway	0	0
Portugal	2	0
San Marino	3	0
Spain	3	0
Sweden	4	1
Switzerland	2	2
Turkey	2	0
United Kingdom of Great Britain and Northern Ireland	2	0
LATIN AMERICA AND THE CARIBBEAN		
Antigua and Barbuda	0	0
Argentina	2	2
Bahamas	0	0
Barbados	0	0
Belize	0	0
Bolivia (Plurinational State of)	2	2
Brazil	1	1
Chile	1	1
Colombia	1	1
Costa Rica	2	2
Cuba	1	0
Dominica	0	0
Dominican Republic	1	1
Ecuador	2	2
El Salvador	3	3
Grenada	0	0
Guatemala	3	3
Guyana	0	0

Countries and territories	Free pre-primary education (number of years)	Compulsory pre-primary education (number of years)
Haiti	0	0
Honduras	1	1
Jamaica	0	0
Mexico	3	3
Nicaragua	1	1
Panama	2	2
Paraguay	3	1
Peru	3	3
Saint Kitts and Nevis	0	0
Saint Lucia	0	0
Saint Vincent and the Grenadines	0	0
Suriname	0	0
Trinidad and Tobago	0	0
Uruguay	3	2
Venezuela (Bolivarian Republic of)	3	3

Note: 193 countries and territories are included.
Data were collected until December 2019.

N/A not applicable

Annex 2:

Qualitative data on free and compulsory pre-primary education in a selected group of countries

Detailed qualitative data were collected from public sources in 17 countries based on a two-part questionnaire organized by the Right to Education Initiative. A concise set of questions were distributed to a network of pro bono law firms who provided research assistance to the Right to Education Initiative by seeking out:

- information concerning the existence of free and compulsory pre-primary education within their country's legal and policy framework;
- actual legal/policy documents featuring the provision;
- information concerning target groups, the definition of 'free', qualification or training requirements for pre-primary educators, curriculum.

The countries are:

Australia	Norway
Canada	Romania
Cyprus	Russian Federation
France	Republic of Korea
Germany	Spain
Greece	United Kingdom (England and Wales)
India	United Kingdom (Scotland)
Italy	United States
Japan	

Questionnaire

PART A

SUMMARY

- Are there provisions for free and/or compulsory pre-primary education in national legislation?
- Are there provisions for free and/or compulsory pre-primary education in policy at the national level?
- Are there specific provisions in law or policy that provides pre-primary education for a particular target group?
- What is the definition of "free" pre-primary education?
- Does the legal or policy framework specify a qualification or training requirement for pre-primary education teachers?
- Is there a pre-primary education curriculum?
- Are there any court decisions/judgements or other adjudicative decisions on the right to free and compulsory pre-primary education?

PART B

ANALYSIS

- What provisions are there for free and/or compulsory pre-primary education in national legislation? The specific provision, the name of the law and its year of adoption must be specified.
- What provisions are there for free and/or compulsory pre-primary education in policy at the national level? The specific provision, the name of the policy and its year of adoption must be provided.
- Is there specific provision in law or policy that provides pre-primary education for a particular target group (e.g. migrants and refugees; socio-economically disadvantaged children; children with disabilities)?
- What is the definition of 'free' pre-primary education? For example, how many hours or days of pre-primary education are free? Are free meals or free transport offered?
- Does the legal or policy framework specify a qualification or training requirement for pre-primary education teachers? If so, please indicate the name of the law or policy, the year in which the law or policy was adopted, and the qualification or training required.
- Is there a pre-primary education curriculum? If yes, please indicate the date of issuance of the curriculum, the name of the curriculum and the age group to which it applies. Please also attach a copy of the curriculum, if it is readily available.
- Are there any court decisions/judgements or other adjudicative decisions on the right to free and compulsory pre-primary education? If so, the name of the case and a brief summary, including the case's *ratio decidendi*, must be provided. If readily available, copies of the decisions should be attached.

Annex 3 :

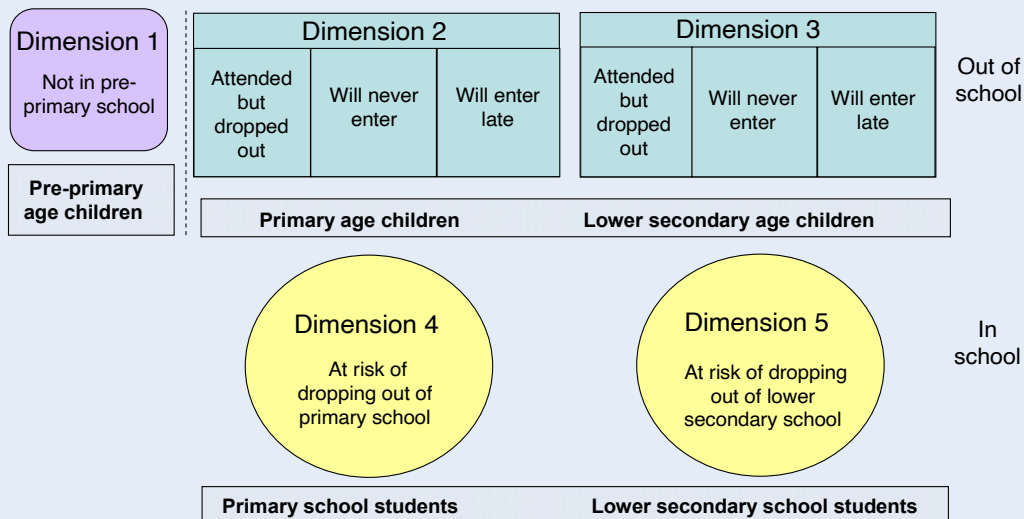
Out-of-School Children Initiative (OOSCI) for children of pre-primary school age

UNICEF and UIS launched the OOSCI at the beginning of 2010 to improve data collection on children who are not attending school or are at risk of exclusion. Children of pre-primary age are considered out of school (Dimension 1 out of 5 dimensions of exclusion) and are counted as the share of those children not attending pre-school the year before the official entry age to primary school. In addition to those children of pre-primary age who are not participating in pre-primary or primary education, two other groups of children also are included in Dimension 1 of exclusion:

- Children of primary school age or older who are in pre-primary education;
- Children participating in non-formal education, unless the programme is officially recognized as a pathway to the formal education system.

The text accompanying the figure below highlights the role of pre-primary education in improving primary school outcomes and reducing school exclusion.

Figure 1: Five Dimensions of Exclusion (5DE)



There are several important aspects to note regarding the 5DE. First, the distinct shape and colour of **Dimension 1** in Figure 1 reflects the notion that while pre-primary school is important as preparation for primary education, it is also distinct from formal programmes at primary or higher levels of education. Dimension 1 represents a group of children who do not benefit from pre-primary education and who may therefore not be adequately prepared for primary education, placing them at risk of not entering into primary education or, if they do enter, at risk of dropping out. Although pre-primary education programmes may be longer than one year, the 5DE propose a standard approach for all countries by focusing on pre-primary participation of children in the year preceding the official entrance age into primary school. This is done in the interest of simplicity and to allow cross-national comparisons. As an example, if the official primary entrance age in a country is 6 years, Dimension 1 includes children aged 5 years who are not in pre-primary or primary education. Children who attend non-formal or non-recognized pre-primary education programmes should be identified as a distinct group if the data are available.

Source: UNICEF and UIS (2011, p. 11).

Annex 4 :

Construction of the individual domain scores and total ECDI

The overall ECDI score is calculated based on separate measures in each of the four developmental domains. Every surveyed child is identified first as being on track in each of the four domains. If three out of the four domains are on track, the child is considered to be on track overall (or ECDI = 1). At the country level, aggregated results are calculated separately for each of the four domains, and the total ECDI (ranging from 0–1) is constructed as the proportion of children who are developmentally on track in at least three of the four domains.

Responses to 10 questions (EC8–EC17) are used to determine whether children are developmentally on track in four domains:

(1) Literacy-numeracy – Developmentally on track if at least two of the following are true: EC8=1 (Can identify/name at least ten letters of the alphabet), EC9=1 (Can read at least four simple, popular words), EC10=1 (Knows the names and recognizes the symbols of all numbers from 1 to 10)

(2) Physical – Developmentally on track if one or both of the following are true: EC11=1 (Can pick up a small object with two fingers, like a stick or a rock from the ground), EC12=2 (Is not sometimes too sick to play)

(3) Social-emotional – Developmentally on track if at least two of the following are true: EC15=1 (Gets along well with other children), EC16=2 (Does not kick, bite or hit other children), EC17=2 (Does not get distracted easily)

(4) Approaches to learning – Developmentally on track if one or both of the following are true: EC13=1 (Follows simple directions on how to do something correctly), EC14=1 (When given something to do, is able to do it independently)

Total ECDI – Percentage of children who are developmentally on track in at least three of the four domains (literacy-numeracy, physical, social-emotional and approaches to learning).

Source: Loizillon et al., (2017).



United Nations
Educational, Scientific and
Cultural Organization

Education
Sector

Right to pre-primary education

A global study

Early childhood care and education is increasingly recognized as an essential element in realizing a wide range of educational, social and economic rights. Children from vulnerable households and communities stand to gain most from access to quality early learning opportunities. With about 50 per cent of children globally not yet enrolled in pre-primary education, enabling their inclusion remains a central question for education policymakers, stakeholders and parents.

This Study provides a global overview and an analysis of the adoption of legal provisions for free and compulsory pre-primary education at national level. By offering a rights-based perspective to the implementation of pre-primary education, it aims to complement existing literature on SDG Target 4.2, which focuses mainly on policy outcomes.

The results show that pre-primary education is a well determined and defined right in too few countries. Yet, the benefit of free and compulsory education observed is that children appear to have higher rates of early childhood well-being.

In light of the research conducted and its main conclusions, a set of levers to promote the inclusion of early childhood and pre-primary education as a human right within long-term education and development objectives are presented in terms of governance and financing, legal framework, societal expectations, monitoring and evaluation and early childhood development overall.

Prioritizing the needs of young children and the fulfilment of their right to free and compulsory pre-primary education is a critical opportunity for governments to make positive differences in children's lives and to achieve broader national, social and economic goals.

