

Human rights bodies statements on private education

(September 2014 – July 2016)

Synthesis paper - Version 6 - July 2016

The UN Committee on the Rights of the Child (CRC), the UN Committee on Economic, Social and Cultural Rights (CESCR), the UN Committee on the Elimination of all forms of Discrimination Against Women (CEDAW) and the African Commission on Human and Peoples' Rights (ACHPR) have addressed the issue of the role of non-State actors in education in four States in the last two years. These add to more than 60 other concluding observations previously issued by these Committees (the full list will be published in 2016).

The concluding observations clearly reflect the trend of the growth of unregulated private providers of education that the Global Initiative for Economic, Social and Cultural Rights and other organisations have been <u>researching</u>. They also demonstrate the growing concerns raised by human rights experts regarding the impact this trend has on the right to education as protected under international human rights law. As a response, the Committees have made eight types of recommendations focusing on monitoring, regulating, and addressing the impacts:

- "Assess and address the consequences of the rapid development of private education in the State party and its impact on the full realization of children's right to education" (CRC, Ghana)
- 2. "Take **all possible means** to eliminate the disparities that exist between private and public schools" (CESCR, Chile) or "ensure that the significant increase in private education does not lead to growing inequality in access to good-quality education" (CESCR, Morocco)
- 3. "Strengthen **regulations** and expand **monitoring** and **oversight** mechanisms for private education institutions" (CESCR, Uganda), or "**regulate and monitor** the quality of education provided by private informal schools in line with the Convention" (CRC, Kenya)
- 4. "Ensure that **teachers** from the public sector contribute to the improvement of education [...] rather than being used by the private sector" (CRC, Morocco)
- 5. **"Establish a clear regulatory framework**, under which all private education providers are obliged to report regularly to designated public authorities on their financial operations, in line with **prescriptive regulations**, covering matters such as school fees and salaries, and to declare, in a fully transparent manner, **that they are not engaged in for-profit education** as recommended by the **Special Rapporteur on the right to education**" (CRC, Brazil)
- 6. "Phase-out the transfer of public funds to the private education sector and review its policies with regard to fiscal and tax incentives for enrolment in private education institutions in order to ensure access to free quality education at all levels, in particular nurseries and pre-schools, for all children by strictly prioritizing the public education sector in the distribution of public funds" (CRC, Brazil)
- 7. **"Stop the purchase of standardized teaching** and school management systems by municipalities from private companies." (CRC, Brazil)



8. "prioritize free primary quality education at public schools over private schools and informal low cost schools" (CRC, Kenya)

The list of the relevant statements – list of issues (list of written questions sent to States prior to a State review) and concluding observations – made by the CRC, CESCR and CEDAW since September 2014 are listed below, by country.

STATE	BODY AND DOCUMENT	KEY EXTRACTS
Brazil	CRC, Concluding observation: Brazil, CRC/C/OPAC/B RA/CO/1, paras. 75-76 (28	 75. The Committee is concerned about the increased involvement of the private sector in education, in particular: (a) The high fees in private schools which exacerbate existing structural discrimination in access to education and reinforce educational inequalities;
	October 2015) http://bit.ly/1U XafTL	(b) The increase in public funding for the private education sector, including to profit-oriented education institutions as well as in the form of fiscal and tax incentives for enrolment in private education and funding for nurseries, pre-school and special education institutions through public-private partnerships ("conveniamentos"); and,
		(c) The increasing purchase by municipalities of standardized teaching and school management systems from private companies, which include teaching and teacher training materials and school management packages which may not be adequately customised for effective use.
		76. The Committee reminds the State party of its primary responsibility for guaranteeing and regulating education and reiterates the importance of public investment in education. In this regard the Committee recommends that the State party take into consideration the recommendations made by the Special Rapporteur on the right to education (A/HRC/29/30) and establish a comprehensive framework of regulations for private education providers. The Committee further recommends that the State party: (a) Establish a clear regulatory framework, under which all private education providers are obliged to report regularly to designated public authorities on their financial operations, in line with prescriptive regulations, covering matters such as school fees and salaries, and to declare, in a fully transparent manner, that they are not engaged in for-profit education as recommended by the Special Rapporteur on the right to education (A/HRC/29/30, para. 125);
		(b) Phase-out the transfer of public funds to the private education sector and review its policies with regard to fiscal and tax incentives for enrolment in private education institutions in order to ensure access to free quality education at all levels, in particular nurseries and pre-schools, for all children by strictly prioritizing the public education sector in the distribution of public funds; and,



		(c) Stop the purchase of standardized teaching and school
		management systems by municipalities from private companies.
Chile	CESCR	Please also provide information on the reform of the education
	List of issues,	system under way in the State party. Report on any measures
	E/C.12/CHL/Q/	adopted to eliminate fee-paying and selective systems that
	4, para. 24 (22	restrict equitable access to education and indicate what concrete
	Dec. 2014)	steps the State party has taken to reduce the inequality caused by
	http://bit.ly/1L	the current education system.
	<u>BxJGc</u>	
Chile	CESCR	30. The Committee welcomes the education reform undertaken by
	Concluding	the State party and the efforts made to extend the coverage of
	observations	primary education. However, it remains concerned that the lack of
	E/C.12/CHL/CO	resources and, occasionally, the poor quality of public education
	/4, para. 30 (19	continues to result in high levels of segregation and
	June 2015)	discrimination along socioeconomic lines , which has the effect of
	http://bit.ly/1R	limiting social mobility in the State party (art. 13).
	<u>WOPkD</u>	The Committee recommends that the State party should:
		(a) Take the necessary measures to ensure that the reform of the
		education system eliminates all mechanisms that result in the
		discrimination and segregation of students based on their social
		or economic background and, inter alia, ensure the effective
		implementation of the Inclusive Education Act, which regulates
		school admissions, eliminates partial fee-paying and stipulates that
		educational establishments receiving State support must be
		non-profit-making;
		(b) Take the necessary measures to eliminate the sharp
		disparities in quality of education that currently exist between
		private, subsidized and public schools and to ensure that all schools
	ana	have adequate infrastructure and suitably trained teaching staff;
Chile	CRC	With regard to the current education reform bill, please indicate
	List of issues,	how the authorities intend to put an end to segregation in the
	CRC/C/CHL/Q/4	education system and guarantee the right to equality and non-
	-5, para. 14 (5	discrimination in terms of access to education and within schools.
	March 2015)	Please indicate whether there are plans to abandon the voucher
	http://bit.ly/1L	system and the student selection process in all public, subsidized
	nc6eL	and private schools.
Chile	CRC,	The Committee notes law No. 20845 on educational inclusion,
	Concluding	regulating the admission of students, removing mixed funding and
	observations,	prohibiting profit in educational establishments receiving State
	CRC/C/CHL/CO	funding. However, the Committee is concerned about:
	/4-5, paras. 67 –	(a) The high level of segregation in the school system, the
	68 and 69 - 70	differences in the quality of education, the still limited coverage of
	(15 October	rural areas and the deterioration of the material conditions in public
	2015),	educational institutions;
	http://bit.ly/1X	
	RUqg8	(d) The absence of a regulatory and monitoring framework
		regarding private educational establishments.
		2. The Committee recommends that the State party:
		(a) Promptly take measures to decrease segregation and to
		promote an egalitarian and inclusive educational system,
		prohibiting all schools, independently of the source of funding,
		public or private, to select students on arbitrary criteria or
		socio-economic background;



		(b) Emphasize the quality of education and accelerate the
		allocation of increased targeted resources to education, in
		particular in free public schools;
		(c) Provide quality training for teachers, and dedicate resources
		to improve adequate and accessible infrastructure;
		(d) Increase efforts to improve conditions in schools in remote and
		rural areas and eliminate disparities in access to quality
		education between urban and rural areas;
		[]
		(g) Promote the development of competencies, instances and
		procedures for children at the school level for the peaceful
		resolution of conflicts, in particular those of a political nature;
		(h) Develop and implement a regulatory and monitoring
		framework for the private educational sector ensuring respect
		for the principle of non-discrimination and promoting
		l
		inclusion and respect for diversity;
		Aims of education
		The Committee is concerned about education being strictly
		evaluated according to instrumental and cognitive standards
		and indicators, excluding values and attitudes such as equality
		of rights between men and women, development of empathy,
		respecting commitments, participation in democratic life and
		respect for the environment.
		In the light of its general comment No. 1 (2001) on the aims of
		education, the Committee recommends that the State party ensure,
		in all free, semi-private and private schools, that education
		contributes to the development of the fullest potential of every
		child, the development of respect for human rights, the
		preparation of the child for responsible life in a free society
		and the development of respect for the natural environment.
France	CECCD	7. Le Comité [] note également avec préoccupation que les
	LUESUK.	1 7. LE COMME 1I MOLE Egalement avec Di EUCCUDALIUM QUE LES
	CESCR,	
	Concluding	« diligences obligatoires dans les champs des opérations » appliqués
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	Concluding observations: France, E/C.12/FRA/CO	« diligences obligatoires dans les champs des opérations » appliqués dans le cadre de l'aide au développement de l'État partie, telles que l'avis « développement durable » et la démarche de maîtrise des risques environnementaux et sociaux, n'assurent pas une pleine
	Concluding observations: France, E/C.12/FRA/CO /4, paras. 7 – 8	« diligences obligatoires dans les champs des opérations » appliqués dans le cadre de l'aide au développement de l'État partie, telles que l'avis « développement durable » et la démarche de maîtrise des risques environnementaux et sociaux, n'assurent pas une pleine protection des droits consacrés par le Pacte (art. 2(1)).
	Concluding observations: France, E/C.12/FRA/CO /4, paras. 7 – 8 and 11 (24 June	« diligences obligatoires dans les champs des opérations » appliqués dans le cadre de l'aide au développement de l'État partie, telles que l'avis « développement durable » et la démarche de maîtrise des risques environnementaux et sociaux, n'assurent pas une pleine protection des droits consacrés par le Pacte (art. 2(1)). 8. Le Comité [] recommande également de développer des
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Ghana	CRC	The Committee is, however, concerned that the education system
diidiid	Concluding	continues to face serious challenges, and is particularly
	observations	concerned about:
	CRC/C/GHA/CO	(f) Private education developing very quickly , without the
	/3-5, para. 57 –	necessary supervision regarding the conditions of enrolment, the
	58 (9 June 2015)	quality of education provided, and the transparency and efficiency
	http://bit.ly/1R	in the management of education resources
	wblz <u>I</u>	In the light of its general comment No. 1 (2001) on the aims of
	WOIL	education, the
		Committee recommends that the State party: (h) Assess and
		address the consequences of the rapid development of private
		education in the State party and its impact on the full
		realization of children's right to education in accordance with
		the Convention and ensure the effective and efficient regulation
		and monitoring of private education providers, through the
		Private School Desk within the Ghana Education Service
Ghana	CEDAW	However, the Committee remains concerned about:
Gilaila	Concluding	(e) The lack of education facilities and of qualified teaching
	Observations,	professionals, especially in rural areas, and the trend towards
	CEDAW/C/GHA	privatisation of education and the priority given to schooling of
	/CO/6-7, para.	boys over girls, especially in rural areas.
	32 (7 November	
	2014)	
	http://bit.ly/1L	
	<u>nbTrY</u>	
Haiti	CRC, Concluding	Education, including vocational training and guidance
	Observations:	
	Haiti,	58. The Committee welcomes the measures adopted in the context
	CRC/C/HTI/CO/	of the policy of mass education. It is, however, concerned that
	2-3, paras 58 –	efforts remain largely insufficient and that only a limited number of
	59 (29 January	the targets of the Operational Plan have been achieved. While
	2016)	welcoming efforts made, the Committee is also deeply concerned
	http://bit.ly/1TI	that a significant number of children still do not have access to
	<u>aPTM</u>	education, in particular children in street situations, children with
		disabilities, children in conflict with the law, children in remote
		areas, children engaged in labour, internally displaced children and
		children who have been expelled from the Dominican Republic. It
		also notes with concern that:
		(a) The later children enter schooling, the shorter they
		benefit from the Programme for Free Compulsory Universal
		Education (PSUGO) , which aims at providing education for
		children between 6 and twelve years of age;
		(b) Disparities remain in access to education between
		girls and boys and in particular between rural and urban areas;
		(c) Pregnant girls, young mothers and rape victims are
		frequently forced or pressurized to drop out of school;
		(d) Educational infrastructure is poor, schools are
		poorly equipped, particularly in rural and remote areas, few
		teachers are adequately qualified, and salaries are not regularly
		paid, leading to frequent cancellation of classes;
		(e) The education sector is dominated by private
		schools, which are often not officially authorized and
		monitored by the authorities and charge high fees exacerbating



		existing structural discrimination in the access to education, particularly affecting children in poverty; (f) "Ghost schools" have mismanaged funds received in the context of PSUGO; (g) The Office National pour le Partenariat en Education (ONAPE), supposed to improve the public-private partnership is not operative.
		59. The Committee reminds the State party its primary responsibility for guaranteeing and regulating education and urges the State party to provide for free access to primary education and to take all necessary measures to guarantee access to education for children in vulnerable situations . It also recommends that the State party: ()
		(c) Increase the budget allocated to education, rehabilitate the infrastructure of the educational system, including by building additional schools , ensuring that schools are adequately equipped; (d) Ensure that teachers are adequately qualified, expand and improve both pre-service and in-service teacher
		training, and provide adequate salaries for teachers paid in a timely manner; (e) Establish a comprehensive regulatory framework for and regularly monitor private education providers, to ensure that they comply with quality standards, regularly report on their financial operations to relevant authorities, including on school
		fees and salaries, and that they do not engage in for-profit education; (f) Ensure that public-private partnerships do not impede access to quality education for all children and guarantee that they do not serve private interests or entail any form of commercialization of education.
Kenya	CESCR List of issues, E/C.12/KEN/Q/ 2-5, para. 30 (16 October 2015) http://bit.ly/1N 1Sq1C	30. Please provide information on the measures taken to increase the number of public primary schools and enhance the quality of public schools, particularly in informal settlements and remote rural areas since the introduction of the free primary education policy. Please explain how the State party has regulated and monitored" informal private schools (or low-cost private schools) " to ensure quality education."
Kenya	CESCR, Concluding Observations, E/C.12/KEN/CO /2-5, paras. 57- 58 (4 March 2016),	57. The Committee is concerned that the State party has not dedicated sufficient resources to finance school facilities and qualified teachers, to ensure effective enjoyment of the right to free primary education for all. It is also concerned that inadequacies in the public schooling system have led to the proliferation of so-called "low-cost private schools" which has led to segregation or discriminatory access to education particularly for
	http://bit.ly/1p biMFP	disadvantaged and marginalized children, including children living in informal settlements and arid and semi-arid areas (arts. 13 and 14). 58. Recalling that the State has the primary responsibility in ensuring to right to education, the Committee recommends that the



		State party take all necessary measures to strengthen its public education sector. The State party should increase the budgetary allocation to primary education and take all necessary measures to improve the access to and quality of primary education for all without hidden costs, particularly for children living in informal settlements and arid and semi-arid areas. It also recommends that the State party bring the Registration Guidelines for Alternative Provision of Basic Education and Training in line with Articles 13 and 14 of the Covenant and other relevant international standards; that it ensure that all schools, public, private, formal or non-formal, are registered; and that it monitor their compliance with the guidelines.
Kenya	CRC Concluding Observations, CRC/C/KEN/CO /3-5, paras. 56 – 57 (2 February 2016) http://bit.ly/1S NEIRX	56. The Committee welcomes the increase in enrolment and completion rates at primary and secondary education. However, the Committee is concerned about: (d) Low quality of education and rapid increase of private and informal schools, including those funded by foreign development aids, providing sub-standard education and deepening inequalities. 57. With reference to the Committee's general comment No. 1 (2001) on the aims of education, the Committee: (b) Guarantee the legal right to free mandatory education for all, without direct or hidden costs, including non-Kenyan citizens such as in particular refugee children. In doing so, prioritize free primary quality education at public schools over private schools and informal low cost schools and regulate and monitor the quality of education provided by private informal schools in line with the Convention;
Morocco	CESCR List of issues, E/C.12/MAR/Q/ 4, para. 25 (19 March 2015) http://bit.ly/1d gc]ce	Please provide information on the establishment of private schools and the impact that privatization would have on the education system, in particular to prevent school dropout, to combat inequalities in access to education and to ensure full application of the principle of compulsory and free primary education for all .
Morocco	CESCR, Concluding observations, E/C.12/MAR/CO /4, paras. 47-48 (22 October 2015)	"47. Le Comité s'inquiète de l'ampleur de la privatisation de l'éducation, qui peut conduire à une forme de ségrégation avec une éducation de qualité réservée seulement à ceux qui peuvent payer une scolarisation privée d'élite. » "The Committee is concerned about the spread of private education, which could lead to a form of segregation, with good-quality education restricted to those who can pay for private, elite schooling" « 48. Le Comité demande instamment à l'État partie de prendre des mesures additionnelles pour [] pour éviter que l'importance croissante de l'enseignement privé se traduise par une inégalité croissante dans l'accès à un enseignement de qualité. »



		"The Committee urges the State party to take additional measures to improve school enrolment rates among girls in rural areas and ensure that the significant increase in private education does not lead to growing inequality in access to good-quality education."
Morocco	CRC Concluding Observations CRC/C/MAR/CO /3-4, paras. 60 - 61 (19 September 2014), http://bit.ly/1fA XKvb	60. The Committee is however concerned that the education system continues to face serious challenges. The Committee is particularly concerned that: (c) The lack of transparency and efficiency in the management of education resources reportedly leads to the effective use of only two thirds of the resources to improve the education system; (d) Private education is developing very quickly, especially at primary level without the necessary supervision regarding the conditions of enrolment and the quality of education provided, which has led to the reinforcement of inequalities in the enjoyment of the right to education as well as teachers increasingly engaging in private lessons in public schools and giving priority to the work they undertake in private schools; 61. The Committee recommends that the State party: (b) Conduct a proper assessment of the shortcomings of the Emergency Plan 2009-2012 and on the basis of the lessons learned adopt all necessary measures to ensure an effective and efficient utilization and control of the financial resources allocated to the education system; (c) Assess and address the consequences of the rapid development of private education in the State party and ensure that teachers from the public sector contribute to the improvement of education in Morocco rather than being used by the private sector by effectively enforcing Ministerial Circular No. 109 of 3 September 2008;
Nepal	CRC Concluding Observations, CRC/C/NPL/CO /3-5, paras 57- 58, http://bit.ly/1X V2Rue	 57. [] The Committee is concerned about: (b) Decreases in the proportion of the budget allocated to State provided education combined with the emergence of private schools, which exacerbates segregation and discrimination in the education system while reducing overall quality of education available to children. 58. [] The Committee recommends that the State party: (c) Take appropriate regulatory measures to ensure that private providers of education do not undermine social cohesion, or exacerbate segregation and discrimination, in particular by effectively regulating fees, syllabus, admission criteria and diversity of student backgrounds, and other barriers to access, and ensure the adequate implementation of the legislation, as well as ensure child friendly school infrastructure in private schools.
Pakistan	CRC Concluding Observations, CRC/C/PAK/CO /5, paras. 61-62	61. [] The Committee is concerned that: (h) Privatisation of education with a lack of measures to ensure the compliance of private schools with minimum educational standards, curriculum requirements and qualification for teachers.



	(3 June 2016) available at http://bit.ly/1tk shor	62. [] The Committee recommends that the State party: (g) Prevent privatization of schools and establish mechanisms to monitor the compliance of private schools with minimum educational standards, curriculum requirements and qualification for teachers.
Uganda	CESCR List of issues E/C.12/UGA/Q/ 1, para. 32 (22 December 2014) http://bit.ly/1Q PVIbs	32. Please also provide information on the impact the growth of private education in the State party has had on the right to education of girls and children living in poverty . Please also indicate steps taken to improve quality of education and qualifications and skills of teachers.
Uganda	CESCR Concluding observations: Uganda, E/C.12/UGA/CO /1, para. 36 (24 June 2015) http://bit.ly/1B K60r0	36. It also expresses concern at the: (c) Widening of the gap in access to quality education resulting from the increase in the provision of private education and disproportionately affecting girls and children of low-income families; Recalling its general comment No. 13 on right to education, the Committee recommends that the State party assumes primary responsibility for the provision of quality education to all children. To this end it should: (b) Allocate sufficient resources to the education sector with a view to improving infrastructure of schools including sanitation, working conditions of teachers, and teaching materials; (c) Strengthen regulations and expand monitoring and
Uganda	ACHPR, Concluding Observations and Recommendatio ns on the 5th Periodic State Report of the Republic of Uganda (2010 – 2012), http://bit.ly/1Y 3HGmm	80. The increase in the establishment of private schools, which has been encouraged by the Government, allegedly raises the concern of the Government gradually releasing itself from the obligation to provide quality public education, which could result in discrimination against children from low-income households; 116. Increase its investment in public education to match the increasing enrolment, and ensure the quality thereof, to avoid forcing parents to resort to private schools, as well as to regulate the quality of education being provided by private schools;
United Kingdom	CRC, Concluding observations: United Kingdom, CRC/C/GBR/CO /5, paras. 16-17 (3 June 2016), available at http://bit.ly/10 eyD1M.	 16. In the context of international development cooperation the Committee is concerned about the State party's funding of low-fee, private and informal schools run by for-profit business enterprises in recipient States. Rapid increase in the number of such schools may contribute to sub-standard education, less investment in free and quality public schools, and deepened inequalities in the recipient countries, leaving behind children who cannot afford even low-fee schools. 17. The Committee recommends that the State party ensure that its international development cooperation supports the recipient States in guaranteeing the right to free compulsory primary education for all, by prioritizing free and quality primary education in public schools, refraining from



		funding for-profit private schools, and facilitating registration and regulation of private schools.
United Kingdom	CESCR, Concluding observations: United Kingdom, E/C.12/GBR/CO /6, paras. 14 - 15 (24 June 2016), available at	14. [] The Committee is particularly concerned about the financial support provided by the State party to private actors for low-cost and private education projects in developing countries, which may have contributed to undermine the quality of free public education and created segregation and discrimination among pupils and students (arts. 2, 13 and 14). The Committee calls upon the State party to adopt a human rights-based approach in its international development cooperation, by:
	http://bit.ly/29t k8ZW	(a) Undertaking a systematic and independent human rights impact assessment prior to decision-making on development cooperation projects;
		(b) Establishing an effective monitoring mechanism to regularly assess the human rights impact of its policies and projects in the receiving countries and to take remedial measures when required;
		(c) Ensuring that there is an accessible complaint mechanism for violations of economic, social and cultural rights in the receiving countries committed in the framework of development cooperation projects.
Zimbabwe	CRC, Concluding Observations: Zimbabwe, CRC/C/ZWE/CO /2 (7 March 2016)	69. In the light of its general comment No. 1 (2001) on the aims of education, the Committee recommends that the State party continue to strengthen programmes and policies to ensure the accessibility of quality education for all children in Zimbabwe. In particular, the Committee urges the State party to: []
	http://bit.ly/1U ZeHlH, para. 69.	[] (e) Regulate both public and private educational institutions through the setting of standards to ensure quality education and regularly monitor schools to assess the implementation of these standards;

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