A Methodological Guide to Human Rights Research & Advocacy on the Role of Private Actors in Education

This guide has been developed to provide practical advice on conducting research in order to support human rights advocacy on privatisation in education, using regional and international mechanisms (focusing on UN treaty bodies). It draws on the experiences of the Right to Education Project and the Global Initiative on Economic, Social and Cultural Rights in engaging in similar work in various countries over the last few years.

If you would like more information about engaging in the UN review process on the issue of private actors in education, check the following short explainers: on the general approach[1] and on the mechanisms.[2]

This guide will be regularly improved to reflect ongoing efforts. Your feedback is very much welcome. Please contact Delphine Dorsi at: delphine.dorsi@right-to-education.org or Sylvain Aubry at: sylvain@globalinitiative-escr.org

---

[1] http://bit.ly/23JRSqO
[2] http://bit.ly/1STKXzX

Contents

Tips

- Plan your efforts around the dates of the human rights mechanisms you're engaging with.

- Clearly identify what information you need.

- Find evidence, whether data you collect yourselves or use existing data, from reliable sources.

- Find the raw data and laws/policies yourself. Don't rely on secondary sources of data.

- Make your ideas clear. In your report each paragraph should contain only one idea.

- Read and respond to the State's report made to the body you're engaging with.

- References should be as precise as possible.

- Embed social mobilisation in your research and work.

1. Plan

Before doing anything, plan well:

- Identify deadlines for submission of reports and allow ample time to conduct your research. You can find relevant dates from the website of the human rights body you're considering engaging with.[3]
- Make a communications and advocacy plan from the start, and coordinate it with your other activities. Think in particular of when recommendations or other documents will be issued by UN treaty bodies, as they provide good hooks for advocacy.
- Identify what resources and technical support you will require.
- Identify potential local, national and/or international partners and involve them early to ensure ownership and interest. In particular, embed social mobilisation in your plans from the beginning.

Then conduct basic research and refine your plan:

- Identify exactly what information you need to look for (see below).
- Review your plans and change if necessary.
- Strengthen partnerships with allies.

---

[3] For the UN Committee on the Rights of the Child:
http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/SessionsList.aspx?Treaty=CRC;
For the UN Committee on Economic, Social and Cultural Rights:
http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/SessionsList.aspx?Treaty=CESCR ;
For the UN Committee on the Elimination of All Forms of Discrimination against Women:
http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/SessionsList.aspx?Treaty=CEDAW

2. Research

A. What to research?

Generally, you are looking for evidence that the existence or growth of private education (or 'privatisation')[4] is having a negative effect on the enjoyment of human rights. This involves looking at the following four questions:

1. What forms of private actor involvement occur in your country?

To start, you have to know what 'privatisation' is. Private education grows either because the number of private schools increases, sometimes replacing public schools, or because public schools are increasingly managed in the way a business would be (for example: private sources of funding, charging fees, standardised testing, outsourcing services to private actors, etc.), sometimes through public-private partnerships. For the sake of simplicity, the growth of private education in any of these ways will be called 'privatisation'. **So the first step in conducting your research is establishing the ways in which education is privatised in your country, and the scale of the phenomenon.**

In some countries, the issue is not so much privatisation because private education has for a long time. Thus the issue is the existing involvement of private actors in education. If this is the case, this should be made clear in your report.

More information: For more information about the different types of private actors in education and privatisation, see the following article by David Archer on *Rights-Based Responses to Non-State Education Provision: A tentative typology and some critical reflections.*[5]

---

[4] For further information on privatisation in education: http://www.right-to-education.org/issue-page/privatisation-education
[5] http://bit.ly/1SMgzdX

2. Is there a harmful impact on human rights?

Research on existing human rights law has shown that that there are five circumstances where the development of private education negatively impacts on the enjoyment of human rights. This means that you will need to research the following five questions:

1. Has privatisation in education in your country led to the increase, entrenchment or creation of discrimination or segregation?
2. Do those who attend private schools do it *fully and genuinely* out of choice or by default because of the poor quality of public education? Is there the choice of quality free education?
3. Is the development of private education leading to the 'commodification' of education thus affecting the humanistic nature of education, which should be aimed at developing the full potential of the child with regards to all her/his emotional and cognitive abilities, *and/or* is privatisation affecting public education?
4. Is private education adequately regulated, both in law and in practice, and is there full accountability?
5. Has the growth of private education occurred in a transparent and democratic manner, in accordance with the principle of participation?

More information: Further information on these five areas in is available in table format here.[6] We'll soon be providing a list of sub-questions, or indicators, for each.

For more information on the different forms of privatisation, see the menu on PERI's website.[7]

3. How is the State involved?

It's important to ascertain whether privatisation is occurring as part of a 'natural' process, and the State is just not doing much to control/stop/limit it, or whether the State is actively promoting it, as part of its policies. So you want to know things such as:

---

[6] http://bit.ly/synthesisprivatisationV5
[7] http://www.periglobal.org/

- Are there incentives to promote/support private education: fiscal, political, or other(s)?
- Does the State adequately monitor the effects of the development of private education?
- How are human rights protected in the country?

Another way the State can be involved and be held responsible is by being passive, this is by turning a blind eye to the growth of private actors, which can be a form of hidden incentive.

4. What should you focus on?

Depending on your resources and the scale of the issue in your country, **you will probably need to make choices on what to focus on**:

> Tip: Start by doing some basic research on private actors and the education system in the country before deciding on what to focus on.

- **Level of education**: Most commonly, research focuses on primary and secondary education because it's where private actor growth has been most rapid, most controversial, and because at the primary level States' human rights obligations are the strongest. Higher education and early childhood education are more complex from a human rights perspective.
- **Form of privatisation or private actors' involvement**: You may want to focus on a particular type of private school: low-fee private schools, elite schools, religious schools, etc. You may also choose to focus on other forms of privatisation, such as public-private partnerships.
- You might also focus on one or several **issues**; for instance one or more of the five questions mentioned above, or a **specific group**, such as girls or persons with disabilities. Most likely, however, in order to grasp the topic, you will have to cover all of these.

B. Where to research?

You will need to conduct rigorous research in the following order. Begin with desk research before considering collecting your own data.

- **Desk research**

Start by trying to get an understanding of the forms of privatisation occurring in your country. There may already be reports that have been written by other organisations, for example: UNICEF, government bodies, the education council, NGOs, or academics. The PERI website is a good start, as it is the most comprehensive source of literature on the topic.[8] Don't go in depth at this point; just try to get an overview and a sense of what is happening.

1. It's very important to get primary sources of data (i.e. raw data which has not yet been analysed by others). **Look at data and laws/policies yourself before you look at analyses made by others**. There are essentially two types of primary data:

    a. **Statistics:**
        - UNESCO Institute for Statistics (UIS) is the first source.[9] You can also check whether your country has an UIS profile. [10]
        - The Wide Inequality Database is a great tool to identify inequalities with regards to different aspects of education, based on various grounds.[11]
        - The website of the Ministry of Education, the office of the Prime Minister, or a government portal on access to data.
        - The national statistical institute.
        - Regional organisations collecting data, such as the OECD,[12] UWEZO[13] (in East Africa), etc.
        - Household surveys conducted by the World Bank or others.
        - The World Values Survey.[14]
        - Using the research engine Zanran.[15]
        - The World Bank[16] (use with caution).

---

[8] http://www.periglobal.org/
[9] http://data.uis.unesco.org/
[10] http://www.uis.unesco.org/DataCentre/Pages/country-profile.aspx?code=UGA&regioncode=40540
[11] http://www.education-inequalities.org/
[12] https://data.oecd.org/
[13] http://www.uwezo.net/publications/reports/
[14] http://www.worldvaluessurvey.org/
[15] http://www.zanran.com/

> Statistics mostly help you to get a sense of what data is available, the scale of privatisation, and whether there is any discrimination (question 1 of 5 above).

b. **Laws and policies:**[17]

- The constitution.
- The legal and policy framework on education; the key document(s) shaping education in the country.
- More specific measures that implement the legal and policy framework.
- Other pieces of legislation that may affect private education. In particular, look at financial regulations, for instance, the taxation regime for private educational providers.

The Planipolis department of UNESCO also collects key documents on education for each country.[18] The Right to education project has also published a compendium of national laws that regulate private actors in education.[19]

> Laws and policies should mostly help you to have a sense of whether the State is supporting directly private education or not and whether adequate regulations are in place (question 4 of 5 above).

2. Check news reports, both current and past, and sign-up to Google alerts[20] or similar so you don't miss important developments.

3. Don't forget to look at the **State report** from your country to the treaty body you are working on – and even to other treaty bodies.[21] Choose your human rights body here,[22] then go to 'sessions' on the top right and identify your country.

---

[16] http://saber.worldbank.org/index.cfm
[17] UNESCO hosts a database on the right to education, which is very helpful in finding these kinds of documents: http://www.unesco.org/education/edurights/index.php
[18] http://planipolis.iiep.unesco.org/format_liste2_en.php
[19] http://www.right-to-education.org/resource/national-laws-private-provision-education
[20] https://www.google.com/alerts

This will be instrumental in helping you to identify the government's stance on privatisation and how seriously it takes the issue of privatisation, and potentially to find additional information.

4. Look at the **concluding observations (recommendations)** related to your country that have been made on the topic by human rights bodies. You can look in each report of the bodies following the same procedure as in the previous point, but easiest way is to go to the Universal Human Rights Index. [23]

You can find out that way whether issues related to privatisation has been raised before, what was recommended, and whether the government has taken any step to address those.

TIP: Run an advanced search by selecting 'right to education' and other relevant parameters. You can also search by keywords, such as 'private education'.

At this point, you should be well situated to decide what to focus on (level of education, form of privatisation, specific issue, etc.).

5. After you have gone through primary sources of data, you should also look at secondary sources:

- Academic articles. Try searching on Google Scholar[24] and on PERI.[25] For articles that you cannot access without paying, contact colleagues in the international network, it's very likely someone will have access.
- Government reports on the implementation of its policies. The Planipolis website[26] can help to find those but you should also research beyond that.

---

[21] Right to Education Project, Digest of Observations and Recommendations of Treaty Bodies on the Role of Private Actors and the Right to Education (2000-2015), July 2015: http://ow.ly/REF2z and GI-ESCR, CRC, CESCR and CEDAW statements on private education, September 2014 – March 2016, 2016: http://bit.ly/1SP0Ckr
[22] http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx
[23] http://uhri.ohchr.org/
[24] http://scholar.google.com/
[25] http://www.periglobal.org/
[26] http://planipolis.iiep.unesco.org/format_liste2_en.php

- Reports from national human rights institutions.
- Reports from other national bodies, such as the Economic and Social Council, or the Education Council, if they exist
- Reports from NGOs.
- Check the Right to Education Project's[27] and the Global Initiative for Economic, Social and Cultural Rights's[28] websites for more sources.

- **Collecting your own data**

The next step, if you have the capacity, is to collect your own data, to fill in the gaps in information, or to strengthen existing data.

To collect data you can use the following methods, amongst others:

TIP: Collecting data can be expensive and time-consuming. Clearly identify what you need, and if necessary, define priorities and make choices, to make sure you can collect quality data.

- **Conduct interviews**. This is a key tool that you'll almost always use. Whether you use a structured questionnaire or a looser questionnaire with only areas of enquiries, make sure you use a questionnaire. You can interview all types of stakeholders, including: State authorities, international agencies (UNICEF, UNESCO, World Bank, etc.), private school owners, etc. Interview stakeholders that will give you different points of view.

TIP: It's often best to use a combination of these methods.

- **Conduct a survey** amongst a target population. To do so, you can go directly to schools if you have the authorisation, work with the parents of the local communities of chosen schools, or use other means such as through an organisation

---

[27] http://www.right-to-education.org/resources/issues/110
[28] http://bit.ly/privatisationproject

working on the topic. Be careful: the sampling of the population you're surveying will define the quality of the data collected.

- **Conduct observations**, going on site and observe the teaching conditions, the types of pupils, the curriculum used, the quality of facilities, etc.
- **Conduct focus groups**, for instance with: parents, teachers, pupils, school inspectors, etc.

Whatever option you use, make sure you prepare well, and **you identify clearly in advance what information you need to collect.**

3. Write the report

This is, of course, the key phase. In terms of format, it should:

- Be short (10 – 15 pages maximum, check if there are exact requirements for the body you are engaging with).
- Be clear and precise.
- Be based on facts. If there's a point you want to make but have no evidence, generally refrain from doing so – apart from a few exceptions.
- Have numerated paragraphs.
- Highlight issues that are most important.
- Stick to the human rights framework (i.e. no general judgement, no personal attack, etc.).

Before you write the report, make sure that you know exactly what you want to say. Plan what the report will include, and most crucially, identify what the areas of concerns you want to list are. To help you know whether you arguments are clear before you start writing, try filling in this sentence:

TIP: You may even start by making a short bullet-point summary of your key points before starting to write.

> **"Private education is not, in itself, necessarily contrary to human rights standards, but in (country) I have identified the following concerns:**
>
> **1. ...**
>
> **2. ...**
>
> **3. ... ...**

> **More information:** You can look for the example at the structure of the reports made for Morocco[29] or Ghana. [30]

The five types of circumstances where the development of private education can harm human rights mentioned above should help you to identify those concerns.

You may use the **following structure** for your report:

Short summary in a box
I.   **Introduction**
- Presentation of the organisations writing the report
- Status of ratification of treaties, presentation of the process engaged in
- Aim and methodology of the research

II.   **Description of the issues, covering, in order:**
- Introduction to the global privatisation issue
- Introduction to the education system in the country
- Introduction to the forms of privatisation in the country and focus of the report

III. **State policy**
How is the State involved; whether it has encouraged privatisation

IV. **Impacts**
- Areas of concern 1
  - Legal framework applicable
  - Arguments/data
- Areas of concern 2
  - Legal framework applicable
  - Arguments/data
- Areas of concern X…
  - Legal framework applicable
  - Arguments/data

V.   **Recommendations *or* list of issues**

---

[29] http://globalinitiative-escr.org/?p=1139
[30] http://globalinitiative-escr.org/?p=1425

Regarding the **recommendations**, try to be as precise as possible (if possible quoting specific laws or cases to be addressed), but remain very brief, a few lines maximum. If you want to have longer recommendations, at least make a shorter version.

Introduce each paragraph with a sentence summing up the idea you are about to introduce, and then develop it throughout paragraph, sticking to arguments related to this specific idea.

Remember that, although you're trying to be as precise and rigorous as possible, you do not necessarily have to make a scientific demonstration of every point you're making. You need to present at least enough evidence to raise serious questions, which the State will have to respond to.

Choose the arguments that seem to be the strongest to you, and that will impact the country. You may sometimes need to be creative to demonstrate a point, especially when data is missing. A common strategy is to make a comparison with other countries, that may have chosen a different system, or that have different outcomes. It's best to make comparisons to countries that are similar in terms of size and economic development, and if possible culturally (i.e. in the same region or cultural group).

Finally, make sure that:

- You have no more than one idea per paragraph.
- The different concerns are clearly laid out and not mixed.
- Do not quote specific persons or cases if it can put people in danger, or if they did not consent.
- You should only put information that supports your point, and make clear how each piece of information contributes towards your reasoning.
- As much as possible your arguments should respond directly to the State's report.
- You must reference everything you say, as precisely as possible, quoting primary sources (e.g. statistics directly from National Statistics Institute or UNESCO, and not

statistics quoted second-hand) where possible, and specifying the page/paragraph/provision number.

4. Advocacy, communication, and mobilisation

Some general advice:

- Make short, visual summaries.[31]

- Write sharp, short, and to the point press release.[32]

- Use graphs in the report.

- Plan your communications strategy, including the use of social media.

- Get in touch with journalists early on.

- Coordinate national and international activities.

- Embed social mobilisation into your activities.

- Research meetings can be used to do advocacy, and vice versa, while doing advocacy meetings, still look for information.

- You can find journalists on Twitter. Keep a list of all journalists who could be interested as you go. Also keep a list of all the people you should share the report and subsequent advocacy documents with.

- Look for groups or pages on Facebook, LinkedIn, or other social media, where you may be able to share some of your documents.

More information: You can find an example of how advocacy was conducted in Geneva in this blog. [33]

---

[31] Such as: http://bit.ly/visualmorocco
[32] For instance: http://bit.ly/1qUzIw5
[33] http://bit.ly/1wmre2K . Also see this explainer which has more examples: http://bit.ly/1qZyxAc

5. Resources

On methodology:

Three short explainers outlining the experience and how to work on privatisation issues using human rights:

- General methodology to use human rights tools to address privatisation issues: http://bit.ly/23JRSqO
- How to use mechanisms for advocacy: http://bit.ly/1STKXzX
- Case studies: http://bit.ly/1qZyxAc

A guide from OHCHR on how to submit information to the UN Committee on the Rights of the Child: http://www.ohchr.org/Documents/HRBodies/CRC/GuideNgoSubmission_en.pdf

On privatisation and the role of private actors in general:

- Education International's blog:
  http://www.educationincrisis.net/themes/privatisation
- Global Initiative for Economic, Social and Cultural Rights's project page on privatisation: http://bit.ly/privatisationproject
- Right to Education Project's page on privatisation:
  http://www.right-to-education.org/issue-page/privatisation-education