Privatisation in education affecting the rights to free education and non-discrimination in Ghana
Findings from a research in two districts

Alternative Report Submitted by the Ghana National Education Campaign Coalition
with the support of the Global Initiative for Economic, Social and Cultural Rights

Presented to the United Nations Committee on Rights of the Child at its Sixty Ninth Session for its consideration of the review for Ghana

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The main organisations submitting this report are:

- The Global Initiative for Economic, Social and Cultural Rights (GI-ESCR), which is an international non-governmental human rights organisation which seeks to advance the realisation of economic, social and cultural rights throughout the world, tackling the endemic problem of global poverty through a human rights lens. It was established and it is in consultative status with the United Nations Economic and Social Council (ECOSOC). See more on [http://globalinitiative-escr.org/](http://globalinitiative-escr.org/).

- The Ghana National Education Campaign Coalition (GNECC)¹ is a network of civil society organizations, professional groupings, educational/research institutions and other practitioners interested in promoting quality basic education for all. Formed in 1999, the coalition has steadily grown over the years with a current membership of over 200 organizations. GNECC envisions a society which provides quality, relevant and enjoyable basic education for all irrespective of one’s age, income level, gender, physical or other disabilities, geographical location, ethnic, religious and socio-economic background.

¹ [http://www.gneccgh.org/](http://www.gneccgh.org/)
KEY ISSUES ADDRESSED IN THE REPORT

This report was conducted as a follow-up to a previous report presented to the UN Committee on the Rights of the Child (CRC) in August 2014. It also reacts to the response made by the government of Ghana on the concerns raised by the CRC of privatisation in education. The report finds the following:

- Private Schools in Ghana are increasing largely because of the failure of the State to provide adequate public education, which contravenes its obligation to realise the right to education as provided in both the constitution of Ghana and the Convention on the Rights of the Child.
- Private Schools do not necessarily provide better education than government schools, but parents are willing to incur significant costs to send their child to these institutions and sometimes have no choice but to do so.
- This leads to further social stratification and socio-economic segregation, and means the poorest continue to be left behind. The impact of this that students from lower socioeconomic backgrounds are unable to receive the same opportunities as their financially better-off peers, thus leading to an even greater divide along economic lines in a community.

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I. Introduction and methodology

1. The Ghana National Education Campaign Coalition (GNECC), the Global Initiative for Economic, Social and Cultural Rights, and their partners presented a report to the Committee on the Rights (CRC) of the Child in August 2014, raising concerns with regards to the rise of private education actors in the country and the impact it has on the realisation of children’s rights, in particular the right to education.\(^2\) The report highlighted in particular discrimination and inequalities arising from the privatisation in education as it is taking place in the State Party, including through the development of so-called "low-cost" private schools, which provide sub-standard fee-paying education to poor people.

2. Following the review, the CRC included a question related to private education in its list of issues to the State party. In its point 14, the CRC asked the Ghanaian authorities to “provide detailed information on the reasons behind the increase in private education and the low quality of public education, including lack of teachers and teacher absenteeism, in the State party, limiting access to quality education for children who cannot afford private school tuition”.\(^3\) The Committee recognised that the growth of private education could thus be violating the right to education as provided in the International Convention on the Rights of the Child (ICRC) and in the constitution of Ghana.

3. In its response to the list of issues, the State Party did acknowledge “contribution of the private sector to education in Ghana”, and the fact that nearly one in five children is educated in a private institution. This confirms the diagnosis we had made in the previous report. However, the Government refutes the existence of de facto privatisation in Ghana, and considers that “this is not to suggest that the education sector in Ghana is being rapidly privatised”. However, as recalled in Part II of this report, there has been a massive and rapid increase of private education in the years, with for instance the number private primary schools alone growing by 45.7% increase in just five years.\(^4\)

4. Instead of taking note of this fact and “provide detailed information on the reasons behind the increase in private education and the low quality of public education”, as requested by the CRC, the Ghanaian government highlights various interventions it has introduced with the aim of increasing access to basic education and enrolment in schools, such as the Capitation Grant, School Feeding Programs (SFPs), free textbooks and free uniform programs. Yet, it fails to mention the challenges with implementing interventions such as the Capitation Grant and SFPs. For instance, not all public schools are beneficiaries of the SFPs and there are often delays in the disbursement of the Capitation Grant to schools, hampering the ability of these institutions to operate effectively. Poor children who are forced to enrol in private schools are denied the benefits of these interventions.

5. In addition, the State Party mentions the establishment of an office to monitor and regulate the operations of private schools. However, the Private School Desks within the Ghana Education

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\(^3\) CRC/C/GHA/Q/3-5.

Service and Districts Education Offices, which have the mandate to supervise such schools, are often understaffed and under-resourced, rendering them ineffective in undertaking their responsibilities.5

6. **Rather than replying to the concerns raise, the State Party actually confirms that is has embarked on developing a public-private partnership policy in the education sector.** As we had previously highlighted, the privatisation of the education sector, which is a fact in Ghana thus confirms that the privatisation that is taking place in the education sector is the result of the legal and policy frameworks adopted by the government, which recognise and favour private education complementing public delivery of education at all levels (Education Act 2008, ESP), as well as targeted policies and incentives such interventions with tax breaks and non-salary inputs (such as textbooks and in-service training).

7. Therefore, we are deeply concerned about the response of the State Party, which, firstly, does not acknowledge the fact that education is being privatised in the country; while, secondly, reaffirming its policies in support of the private sector in education, despite the concerns that were raised; and, thirdly, not responding to the crucial issues about the impact of privatisation in education on fundamental children’s rights. **This failure of recognising the facts and concerns which the CRC and civil society have raised is deeply worrying as it implies that the Government is not ready to assess and review its policies in the light of its human rights obligations.**

8. The previous report essentially analysed evidence drawn from existing data and studies. In order to deepen the evidence-base and the reflection on the topic, and to inform the assessment of the education situation in Ghana against human rights standards, GNECC conducted in February 2015 a study in selected public and private schools in two peri-urban communities in the Greater Accra region of Ghana: Ga South and GA West. The study critically assesses the argument that Low-Fee Private Schools (LFPS) present low income households an alternative to the public school system. The study exposes the inadequacies of public provision particularly in peri-urban communities despite significant need, therefore creating space for private schools in such areas. It also shows how government support for private education (both directly and indirectly) is creating disparities in educational opportunities for different groups.

9. Interviews were conducted with a total of 24 children, 6 head teachers, 24 teachers and 23 parents on the availability of school in the community, physical accessibility to the schools; perceptions about quality of service delivered; and financial costs. In both the Ga South and Ga west districts, one public school, one school classified as a low-fee private school and one high fee school was selected for the study.6 Additional information was gathered from interviews with the District Education Directors from each district; teacher Unions (the Ghana National Association of Teachers (GNAT) and National Association of Graduate Teachers (NAGRAT)), two non-governmental organisations (ActionAid Ghana and Ibis Ghana), the UNESCO Ghana office,

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5 Interview with an officer at the private schools unit.
6 Private schools were categorised as low fee or high fee based on location of the school (i.e. whether the school was located in the poorer or wealthier part of the community) and the cost of tuition. For the low fee private schools tuition ranged between $5.50 – $6.190 while for the high fee schools tuition costs ranged between $138.8 – $166.6)
and an education expert, so as to clarify and validate the data collected. Other secondary sources were also consulted and triangulated with the findings.

10. The main limitation of the study was the sample size of the interviews due to limited resources, as compared to the large size of population in the selected districts. The results can therefore not automatically be generalised to the whole country. However, the findings confirm the results of many other studies, thereby raising crucial concerns which the government has to respond to.

II. Key findings of the last report

11. The previous report submitted by the GNECC and its partners highlighted that within the last decade, there has been an unprecedented growth of private basic schools owing to government policies which have encouraged private participation in education. The 2014 Education Sector Performance Report notes that “the proportion of pupils in private schools has been generally increasing over the past five years”. Private primary schools alone have almost doubled from 4,371 in 2008/2009 to 6,370 in 2013/14, a 45.7% increase in just five years. However, these statistics only take into account registered schools. There are many informal schools in the State Party, and the proportion of private education is likely to be much higher than that.

Figure 1. Growth of the private sector (2009-2013) in the three level of basic education, in percentage of total enrollment

<table>
<thead>
<tr>
<th>Year</th>
<th>Junior High</th>
<th>Primary</th>
<th>Kindergarten</th>
</tr>
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<tbody>
<tr>
<td>2009/10</td>
<td>17.4</td>
<td>18.6</td>
<td>19.5</td>
</tr>
<tr>
<td>2010/11</td>
<td>17.6</td>
<td>19.3</td>
<td>20.8</td>
</tr>
<tr>
<td>2011/12</td>
<td>19</td>
<td>22.1</td>
<td>22.2</td>
</tr>
<tr>
<td>2012/13</td>
<td>20.3</td>
<td>23.1</td>
<td>23.6</td>
</tr>
<tr>
<td>2013/14</td>
<td>20.1</td>
<td>23.3</td>
<td>24.6</td>
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12. The previous report also the emergence of private schools targeting poor people, the so-called “low cost” or “low fee” private schools. Low-fee private schools (LFPS) are independent, for-profit private schools that target low-income households and that claim to offer a quality education. It is estimated that there are over 7,000 such schools in Ghana with more than 500,000 children enrolled – and many of them are unregistered, and are thus not counted in the official figure of 6,370 private schools.

13. Attending these schools is generally not a choice: parents are merely trying to avoid the poor performance of government schools, real or perceived. Closer analysis shows that most LFPSs are not be better than the public schools or even accessible to the poorest people in Ghana, and that attending private schools involves making huge sacrifices for families.

14. There are great concerns that the rapid growth of private schools is creating segregation between households according to their wealth and is worsening existing socioeconomic disparities across Ghana. Currently, primary net attendance ratio for pupils from the wealthiest households is 85% compared to 61% for students coming from the poorest households. 15% of children from rural areas are out of school compared to 8% of children from urban areas. Also, 32% of the poorest in urban areas are out of schools compared to 28% of the poorest in rural areas depicting disparities in access to education both within and between socioeconomic groups and geographical areas. Yet the private schools are a mainly urban phenomenon designed to cater for the most advantaged groups in societies – the elite and the middle class. By allowing more private schools to be established while public schools are starved of resources increases and worsens inequalities in the education system.

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13 Ibid., p. 140.
III. Overview of the districts surveyed

Figure 3. Situation of the Ga West and Ga East districts in the Greater Accra region, in Ghana

15. The Ga West and Ga South districts are some of the fast developing peri-urban communities in Ghana. Ga West district is the second largest out of the six districts in the Greater Accra Region with a total population of 262,742. It occupies a land area of approximately 710.2 sq. km with Amasaman as its capital. Majority of its residents (75.6%) are engaged in private, informal employment, in particular crafts and related trade. Relatively few residents are engaged in formal work. Its inhabitants fall into the lower income and middle income brackets. The district has a total number of 311 basic schools (kindergarten, primary and junior high), of which 105 (34%) are public and 206 (66%) are private. Almost half of the public schools (about 50) are located in the rural and deprived areas of the district.

16. Ga South district is the second largest district in Greater Accra with a total population of 485,643. Its administrative capital is Weija, a fast developing peri-urban settlement located at the boundary between Accra and the Central region. The majority of its residents are employed...
in the private informal sector where the predominant economic activities are trading and fishing.\textsuperscript{20} There are 391 basic schools in the district, of which 79 (26\%) are public and 312 (74\%) are private.\textsuperscript{21}

![Different types of private schools in Ga West district: on the left, a high fee private school; on the right, a low fee private school](image1.jpg)

**IV. Five standards enshrined in international human rights law to assess the role of private actors in education**

17. Privatisation in education is a growing global phenomenon threatening the right to education in many countries. An increasing body of research is examining the impact of these developments on human rights and social justice. In 2014 Mr Kishore Singh, the UN Special Rapporteur on the right to education (SR RtE) presented a report to the UN General Assembly\textsuperscript{22} which examines State responsibility in the face of the explosive growth of private education providers, from a right to education perspective, and lays out some of the principles applicable.

18. Based on our work analysing the situation with regards to privatisation in education in seven other countries, and following extensive consultation with education CSOs at the domestic, regional and international level, and with human rights and education academics and experts, we

\textsuperscript{20} http://ghanadistricts.com/districts/?r=1\&_=169\&sa=6691, retrieved 11/3/15.
\textsuperscript{21} Figure provided by Ga South District Education Directorate (February 2015).
\textsuperscript{22} Report of the UN Special Rapporteur on the Right to Education, A/69/402 (24 September 2014).
have developed the following draft principles, which set out how international human rights law applies to privatisation in education, drawing in particular on articles 28 and 29 of the ICRC and article 13 of the ICESCR.

**Private actors in education: draft human rights analysis framework**

While private providers of education are permitted, States must ensure that the involvement of private actors in the provision of education:

1. Does not lead to the creation of extreme disparities in access to quality education or discrimination of any kind, and does not lead to segregation or division in societies in general or education in particular;
2. Provides for a true alternative choice to quality free education, and does not replace the public system, as the State retains the responsibility to offer quality, free education for all;
3. Does not lead to the marketisation of education such that education is no longer directed to the full development of a child's personality, talents and mental and physical abilities, but instead only to profit-making and achieving measurable outcomes - which would be contrary to the aims of education recognised in human rights law;
4. Maintains the highest quality standards and is adequately regulated, both in law and in practice, with adequate inspection staffing, effective accountability mechanisms, and without corruption; and
5. Is the result of a participatory policy formulation process and continues to be subject to democratic scrutiny and to the human rights principles of transparency and participation.

19. The following research on the two first areas of this framework: segregation and discrimination, and the right to quality free education.

V. **The right to free quality education**

A. Applicable legal standards

20. Article 25 of Ghana’s constitution states clearly that “basic education shall be free, compulsory and available to all”. 23 It goes further in Article 38 to direct the State to “provide educational facilities at all levels and in all the Regions of Ghana, and shall, to the greatest extent feasible, make those facilities available to all citizens...and to see to the...provision of free, compulsory and universal education.”24

21. Article 28 require States parties to ‘make primary education compulsory and available free to all’ and to progressively introduce free secondary education. Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which protects the right to education, takes a similar position.

22. According to the Committee on Economic, Social and Cultural Rights (CESCR), interpreting article 13 of the ICESCR:

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24 Ibid. Article 38 (2).
First, it is clear that article 13 regards States as having **principal responsibility for the direct provision of education in most circumstances**; States parties recognize, for example, that the “development of a system of schools at all levels shall be actively pursued” (art. 13 (2) (e)). Secondly, given the differential wording of article 13 (2) in relation to primary, secondary, higher and fundamental education, the parameters of a State party’s obligation to fulfill (provide) are not the same for all levels of education. Accordingly, in light of the text of the Covenant, **States parties have an enhanced obligation to fulfill (provide) regarding the right to education**, but the extent of this obligation is not uniform for all levels of education. The Committee observes that this interpretation of the obligation to fulfil (provide) in relation to article 13 coincides with the law and practice of numerous States parties.25

23. It should also be noted that Article 13 (3) of the ICESCR protects the liberty of parents and legal guardians to choose for their children schools “other than those established by the public authorities”, thereby assuming that there is a system of public schools available, which private schools provide an alternative too. The SR RtE made it explicitly clear by emphasizing that:

> education must be safeguarded as a public good. Drawing upon the adverse impact of privatization in education and the consequent growing disparities in education, Governments should ensure that private providers only supplement public education, the provision of which is the Government’s responsibility, rather than supplant it. [...] It is important to ensure that States do not disinvest in public education by relying on private providers.

24. The Committee on the Rights of the Child has also provided guidance on the implementation of the ICRC in the context of privatisation in General Comment No. 5:

> The Committee emphasizes that enabling the private sector to provide services, run institutions and so on does not in any way lessen the State’s obligation to ensure for all children within its jurisdiction the full recognition and realization of all rights in the Convention (arts. 2 (1) and 3 (2)).26

25. The CRC also addressed the issue of privatisation during its Day of Discussion on ‘The private sector as service provider and its role in implementing child rights’ in 2002. The Committee made a number of recommendations including:

> The Committee further recommends that, in order to ensure economic accessibility, policies on services, in particular health care and education services, be so formulated as to reduce the financial burden on low-income groups, particularly the poor, for example by reducing and eliminating user fees for those groups that cannot afford them, especially the poor.27

26. UN treaty bodies, including the CRC, have made a number of observations on the impact of privatisation and fees on the realisation right to education, with a direct link between the right to free education and the right to non-discrimination. For instance, with regards to Colombia, the Committee noted that the legislative provision that allows costs to be levied by schools upon

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25 CESCR, General Comment 13, para. 48 – emphasis added.
26 Committee on the Rights of the Child, General Comment 5, CRC/GC/2003/5, para 44.
those who can afford to pay ‘has created a discriminatory educational system marked by arbitrary fees and social exclusion.’

27. Building on these principles, the SR RtE cautioned in his last annual report that privatisation ‘throws overboard the fundamental principle of equality of opportunity in education, which is common to almost all international human rights treaties’. Access to education based upon the capacity to pay fees, which is a consequence of privatisation, ‘flies in the face of prohibited grounds of discrimination’.

28. Similarly the CESCR’s concluding observations have highlighted the negative and discriminatory impact of tuition fees. Despite the existence of scholarships and bursaries in Canada, the Committee expressed ‘concern about the discriminatory impact of tuition fee increases on low-income persons.’ It connected the importance of free education with the realisation of the right to non-discrimination, including discrimination on socio-economic grounds. In the case of Nepal, the CESCR was concerned that ‘in practice primary education is not completely free due to various fees charged to parents, such as for school supplies and uniforms’.

29. Further, in its review of the Republic of Korea, the CESCR clearly highlighted that access to education should not be based on financial capacity or, in the case of higher education, solely based on ability. It expressed its concerns with the ‘high associated costs of education required to be paid by parents,’ ‘the deepening inequality in education,’ and ‘the fact that the chances of entering a high-level university for students are often determined by their parents’ ability to afford after-school tutoring or private education.’ The CESCR recommended that the Republic of Korea ‘ensure that education is equally accessible to all and without discrimination, on the basis of ability, not financial capacity.’

B. Findings

30. As mentioned previously, there is a much greater proportion of private schools than public schools in both Ga West and Ga South – respectively 66% and 74% of private schools. In Ga West district there are 105 public schools with a total enrolment of 37,228 while there are 206 private basic schools enrolling 55,465 students. Similarly, Ga South has 79 public basic schools and 312 private basic schools although the public schools have a higher number of enrolments with a total enrolment of 40,990 whereas total private enrolment stands at 32,585.

33 CESCR, Concluding Observations: Republic of Korea, E/C.12/KOR/CO/3 (2009), para. 76.
31. The sheer number of private schools in either district relative to public schools shows the government failure to adequately cater for the educational needs of children in these districts. As noted by one District Officer:

“There are more private schools than public schools in the community. The classrooms are full but the structures are not enough and as a result the classrooms are crowded. We have a problem with infrastructure and furniture…..Government is not able to provide the infrastructure to absorb all the children even though we are told to not deny any child access to school. We have been told by the authorities to put the excess children under trees, that is why we still have schools under trees and some schools are running shift [sic]”

32. The heads of private schools interviewed for the study also indicated that the schools were established in response to a lack of public schools within the communities. Thus, children living in the same community are denied equal opportunity to access to school as a result of the lack of or inadequate provision by the State. This forces some parents to find private schools for their children, even where it is beyond their economic means. The only alternative available then, is that the child must travel long distances to learn in an overcrowded classroom.

34 Interview with Deputy Director for Education, Amasaman.
33. The majority of parents interviewed whose children were attending low-fee private schools said they would have chosen a public school for their children if there were more public schools within their community. Parents were also looking for a school that was close to where they live to ensure the safety of their children. Some responses from parents about the reasons for their choice of school included:

**Question: Will you send your child to a public school if there were more in the community?**

- “Yes, if there are more public schools and the conditions are ok”. Parent, LFPS, Ga West
- “If the schools were available and teaching goes on well, I will send my child there.” Parent, LFPS, Ga South
- “Would prefer a public school but because the public schools are not many that is why I sent them to a private school.” Parent, Low fee private school, Ga South
- “No, because public schools of today are not like old times. Teachers have no time for the children as compared to private schools” Parent. Low fee private school, Ga West
- “Yes, if they have good and qualified teachers”. Parent, High fee private school, Ga West

**Question: Given same distance and quality will you choose a public or private school?**

- “I prefer to send my ward to government school where I wouldn’t pay much like that of private schools”. Parent, Low-fee private school
- “I will choose a public school because the private school is killing in terms of fees” Parent, Low-fee private school

34. Distance is an important criterion of choice of schools for parents. The study found 87% of parents interviewed who said their child attend the school which is closest to their homes.
Parents often opt for the school closest to where they live for security and to avoid added indirect costs such as transport costs. This confirms findings in other countries, which highlight that households, in particular poorer ones, often attend schools which are closest to them.\textsuperscript{35}

35. A key reason for the rapid growth of private schools in newly developing urban communities is thus the inadequate number of public schools in relation to the number of children of school going age. This was confirmed in interviews of head teachers of the private schools when they were asked their reasons for establishing a school in the community.

**Question: What is the reason for establishing the school in the community?**

- “Due to lack of schools in the community” Head Private School in Ga South
- “There were many children in the community who were not attending school. Apart from one public school there was only one nursery and illiteracy was high in the community. When I moved here with my family we had to send the children to a school which was far away to give the best education to our children. I therefore decided to set up a school to help the children.” Head Low Fee private school in Ga West
- “There was no school in the community so it was established to ease the burden of finding a quality basic school for children by their parents” Head Private School in Ga West
- “To help educate children in the community as government schools were not adequate” Teacher, Royal Priesthood Academy

36. Another way to see the inadequacy of the public education system is by looking at how public schools in the area function. A head teacher of one of the public schools noted that they had to organize some classes under trees since they did not have enough classes to accommodate all the children. The other public school opted to run a shift system (where one set of school children go to school from morning to mid-day, and another set comes from midday to early evening) because of the sheer number of children in the school. As most of the public schools are full, and in some cases overcrowded, parents are constrained to look for an alternative and in most cases the immediate option is a private school.

37. However, the study also showed that some low-fee schools had overcrowded classrooms. Classrooms designed for 30-35 students had between 40-45 students and these classrooms did not have enough lighting or ventilation. It was evident that even though there are paying more for education the children in such private schools were not really better off than those in the public schools in terms of the classroom conditions. In some instances, the children attending low fee schools have to settle for worse conditions than their government school peers – but the parents still feel that they have to try something other than the public school, not out of choice, but out of desperation to get better education conditions.

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38. A strong perception that all private schools are of better quality convinces parents to make important sacrifices to put their child in a private school, even if it is a low-quality low-fee school. This is due to the fact that at the national level, learning assessments have confirmed this perception. For instance, in the 2013 National Education Assessment 81% of pupils in private schools had a pass mark in mathematics whereas only 55% of primary 6 pupils in public schools had a pass. Similarly, 74% of P6 pupils in private schools could read and understand the English language well compared to just 30% of P6 pupils in public schools. These assessments however are limited to a very narrow aspect of the school curriculum and therefore not enough to assess the differences in quality between public and private schools, and, crucially, they do not take into account the difference between the origins of the children attending these schools, as private schools overwhelmingly take more advantaged pupils, which is described next.

VI. The Right to non-discrimination: Segregation effects of privatisation in Ga West and Ga South

A. Applicable legal standards

39. Equality and non-discrimination are immediate and crosscutting obligations in the ICRC (and the ICESCR), which require States parties to respect and ensure the rights set out in the ICRC without discrimination. International human rights bodies have stressed the importance of non-discrimination.

40. The States Parties’ obligations with respect to non-discrimination under both the ICRC and the ICESCR are immediate (as opposed to being subject to progressive realisation) and require States to pay particular attention to vulnerable or marginalised groups. Non-discrimination also applies to the distribution of government funds and resources for education.

41. In General Comment 5 the CRC elaborated:

This non-discrimination obligation requires States actively to identify individual children and groups of children the recognition and realization of whose rights may demand special measures. For example, the Committee highlights, in particular, the need for data collection to be disaggregated to enable discrimination or potential discrimination to be identified. Addressing discrimination may require changes in legislation, administration and resource allocation, as well as educational measures to change attitudes.

42. Following its General Day of Discussion on private actors and the ICRC, the CRC adopted the following recommendation relating to non-discrimination:

Likewise, the general principle of non-discrimination as enshrined in article 2, …. assume[s] particular importance in the context of the current debate, with the State party equally being obliged to create standards consistent and in conformity with the Convention. For instance, privatization measures may have a particular impact on the right to health (art. 24), and the right to education (arts. 28 and 29), and States parties have the obligation to ensure that privatization does not threaten accessibility to services on the basis of criteria prohibited.

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36 National Education Assessment 2013
37 Article 2 ICRC; article 2(1) ICESCR.
38 CRC General Comment 5, UN Doc CRC/GC/2003/5, para 12.
especially under the principle of non-discrimination. Such obligations of the State party are also applicable in the context of article 4.39

43. The CRC also addressed this issue in its General Comment 16 (on the ICRC and private actors) where it stated that States must ensure that the provision of essential services by private actors ‘does not threaten children’s access to services on the basis of discriminatory criteria.’40

44. General Comment 20 of the CESCR also specifies that any kind of discrimination, whether direct or indirect, formal or substantive is prohibited. Applying the obligation not to discriminate, as well as the principles of equal opportunity and effective participation in society for all, the CESCR emphasised in its General Comment 13 that the State has an obligation to ensure that privatised education ‘does not lead to extreme disparities of educational opportunity for some groups in society.’41

45. The issue has also been addressed by the CRC in its general observations. Most recently, in the case of Morocco, the CRC expressed concern that the fast development of private education ‘has led to the reinforcement of inequalities in the enjoyment of the right to education.’42 It has also recommended that Lebanon place stronger emphasis on public education so as to ‘prevent any risk of discrimination.’43

46. Socio-economic segregation is directly linked to discrimination. In a recent list of issues, the CRC explicitly expressed its worry about segregation on a socio-economic basis. It requested Chile to explain the impact of privatization in education and its measures “to put an end to segregation in the education system and guarantee the right to equality and non-discrimination in terms of access to education and within schools”.44

47. As stated by the SR RtE, ‘[p]rivatization in education cripples the universality of the right to education as well as the fundamental principles of human rights law by aggravating marginalization and exclusion in education and creating inequities in society’, and it ‘favours access to education by the privileged’. High levels of privatisation in education have been shown to affect particularly marginalised and vulnerable groups, such as girls, as shown in a recent submission made to the CEDAW.45

B. Findings

48. The study confirmed that in line with government policy public schools did not charge tuition fees as a result of the introduction of the Capitation Grant, SFPs, Free School Uniform and Exercise

39 Committee on the Rights of the Child, Report on the Thirty-First session, CRC/C/121, 11 December 2002, para 4
40 Committee on the Rights of the Child, General Comment No. 16 (2013) on State obligations regarding the impact of the business sector on children’s rights, UN Doc CRC/C/GC/16, para. 34.
41 CESCR, General Comment 13, para. 30.
42 CRC, Concluding Observations: Morocco, CRC/C/MAR/CO/3-4 (2009), para. 60.
44 CRC, CRC/C/CHL/Q/4-5, para. 14.
Books Programs which have helped to remove cost barriers to education for poor households.46 This notwithstanding challenges with implementation of the interventions such as delays in disbursements of the capitation grant made it difficult for the schools to be run effectively. However public schools do require of pupils other financial contributions, such parent- teacher association dues; examination fees, printing costs and in some cases exercise books with approval from the local education authorities.

Figure 5. Fees charged by school type.

<table>
<thead>
<tr>
<th></th>
<th>Fees paid per term (Ghanaian Cedi)</th>
<th>Fees paid per term ($ USD)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low fee private schools</td>
<td>20 - 223</td>
<td>5.5 – 61.9</td>
</tr>
<tr>
<td>High fee private schools</td>
<td>500 – 600</td>
<td>138.8 – 166.6</td>
</tr>
<tr>
<td>Public schools</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

49. On the other hand, private schools involved in the study were fee-paying, however there were variations in the tuition fees of each school. Costs ranged from about $5.5 – $61.9 a term in LFPS and $138.8–$166.6 a term in the high fee private schools. In addition, both low fee and high fee private schools required that students to pay for snacks, school maintenance and Parents-Teacher Associations dues. Exercise books and textbooks were either supplied by the school at a fee or parents had to buy it themselves. According to the parents interviewed, education fees constituted 50 to 60 percent of their incomes, thus affecting their capacity to pay for their other needs.

50. Despite the relatively low fees charged by low-fee schools, they are still unaffordable for many parents. The schools complained that because some of the parents were unable to pay the required fees, and they resorted to moving the children from one school to another creating instability for the child. Notably a headmaster of one LFP remarked:

"Because some parents cannot pay the fees they keep moving from one school to another. The parents withdraw their children without informing and before you know it they are in another school uniform. Because of this we are planning to start taking such parents to court for no-payment of fees."47

51. While all parents said they spend a significant proportion of their incomes on education, irrespective of the type of school, parents who had children in low-fee private schools indicated that they spend between 50-60 percent of their income on education.

52. As a result, private schools participate to create or amplify a socio-economic segregation in education, a phenomenon which has been described in Ghana as "cream skimming".48 Most of the students in the surveyed public basic schools and low-fee private schools came from low-income

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46 GLSS 6 p. 16.
47 Head teacher, Low fee private school, Ga West.
households while students in high fee schools were mostly from middle and high income families. Such segregation in turn creates discrimination, as different children have access to different quality of facilities, according to their ability to pay.

53. Nevertheless, in any case, both children in low-fee and public schools often have access to poor quality facilities, as compared to children whose parents can afford to pay for high-fee private schools, as it appeared clearly during the study.

**Question: Are facilities in the school adequate for effective teaching and learning?**

<table>
<thead>
<tr>
<th>In low-fee private schools</th>
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</thead>
<tbody>
<tr>
<td>“Facilities are not adequate; we have shortfalls in many areas. As more children enrol, more classrooms tables and chairs are needed.” Teacher, LFP, Ga West</td>
</tr>
<tr>
<td>“Teachers’ salaries are low, infrastructure is not the best, classrooms are overcrowded and sanitation facilities are poor.” Teacher, LFP, Ga South</td>
</tr>
<tr>
<td>“The teaching learning materials are not adequate for effective learning. There is also lack of Pre-Technical learning materials.” Teacher, LFPS, Ga West</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>In public schools</th>
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</thead>
<tbody>
<tr>
<td>“The school lacks furniture, no common room for teachers who are at the mercy of weather” Teacher, Public School, Ga West</td>
</tr>
<tr>
<td>“There is no connection to the national grid for the teaching of Information Communication Technology, there are no washrooms and textbooks are inadequate in relation to ratio of pupils” Teacher, Public School, Ga South</td>
</tr>
<tr>
<td>“There are no washroom facilities, inadequate text books, ICT, Teaching Learning Materials. The school is not walled and there is no canteen for students to buy food or seat to eat what they brought from home.” Teacher, Ga South</td>
</tr>
<tr>
<td>“The KG does not have a permanent classroom” Teacher, Public School, Ga West</td>
</tr>
<tr>
<td>“There are about 8 schools with common urinal, the population of the school is greater than most of the facilities” Teacher, Public School, Ga West</td>
</tr>
<tr>
<td>“Inadequate textbooks, low quality furniture especially that of teachers and the lack of a cupboard to store book” Teacher, Ga West</td>
</tr>
</tbody>
</table>

### VII. Conclusion

54. The study confirms that parents who opt to send their child to a private school can be obliged to do so due to the absence of a public school within their community, or because of the perception of better performance in private schools. Yet, most parents who patronize the private schools spend a substantial part of their incomes on tuition but are not necessarily getting better quality of education for their children than those in public schools. The study also confirms that the increasing demand for quality basic education has not been satisfied through government provision, leading to a privatisation of the education sector in the State Party. Such failure constitutes a violation of children’s right to a free quality education.
55. Additionally, the research has shown and confirmed previous findings that the privatisation in education, as it is happening, results in a socio-economic segregation in the education system in the State Party, which itself leads to discrimination. This constitutes another clear violation of children’s rights under the ICRC.

**Recommendations**

The State Party must:

1. Target more investments into the provision of public schools in both urban and rural communities to ensure all children have an equal opportunity to enjoy the right to free quality education;

2. Invest in improving the quality of public basic schools in order to ensure that all children, regardless of socioeconomic background, have the chance to receive a decent education;

3. Adequately monitor the development of private education and its impact on the realisation of the right to education, and effectively regulate private schools to ensure that they meet minimum standard of education delivery.