



REPORT

WORKSHOP ON EDUCATION PRIVATIZATION AND HUMAN RIGHTS IN KENYA

AMNESTY INTERNATIONAL OFFICES, NAIROBI

Introduction

Hakijamii in partnership with the Global Initiative on Economic and Social Cultural Rights (GI-ESCR) and the Privatization in Education Research Initiative (PERI) held an interactive two day workshop on 30th and 31st October 2014 as part of the project's overall objective to build capacities of civil societies and stakeholders on issues of privatization in education. The objectives of the workshop were;

- To discuss the human rights framework on privatisation in education
- To build capacities on using the human rights framework and mechanisms
- To discuss advocacy plans and prepare collective action to work on privatisation in education
- To get inputs and feedback on the work done so far on privatisation and human rights

Field visits

Prior to conducting the workshops, representatives from GI-ESCR and PERI and Hakijamii conducted field visits to the Ministry of Education- Quality and Standards department, Bridge International Academies secretariat, and the Mathare informal settlement;-a public school, an informal school, one bridge international academy. The visits were very instrumental in collection of basic data through interviews and observation.

Participants

Participants in the workshop represented civil society groups including organizations promoting the right to education and children's rights, Lawyers, the National Teachers Union and international organizations engaged in promoting education. A total of 15 different organizations consisting of Civil society, Community Based Organizations, and the national union of Teachers were represented. These organizations are intended to be key partners in the research, advocacy and litigation of privatization of education in Kenya.



Presentations

Introducing the privatization project

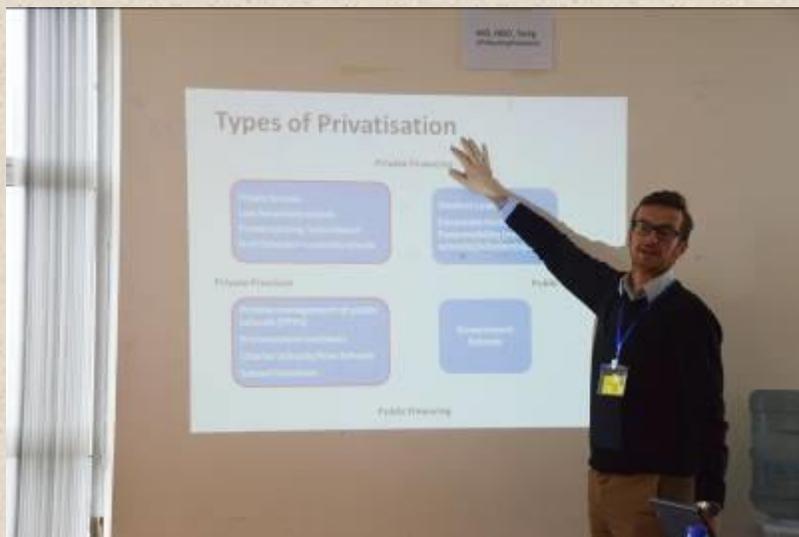
The workshop began with a round of introductions by the participants.

Ian Macpherson from PERI then started off the workshop by introducing the concept of privatization to the participants.

He started by giving a brief history on the history and main goal of the project. He indicated that the project began as a response to an evident growth of low cost primary schools, emerging as private suppliers of basic education. However, very little study and attention has been given on the effects of these schools on the right to education. Very little has also been done to understand how they operate, which led to the need to establish the privatization project.

Secondly, he explained to the participants the types of privatization existing in the education sector. These types are categorized mainly in terms of financing and provision of education.

He also mentioned the evident support of global development partners towards privatization of education such as the World Bank, IFC and DFID, a worrying trend by development partners that has been promoting marketization of education.



Ian from PERI presenting on the privatisation project



Privatization and human rights project

Sylvain from GI-ESCR introduced the specific activities of the project to the participants. He indicated that it was part of a bigger project involving six countries of research. In depth research on privatization being conducted in Uganda, Ghana and Kenya, while lighter research will be done in Nepal, Chile and Brazil. The project will borrow from the success of similar work done in Morocco, replicating to the other project areas.

Privatization and the right to education

Sylvain from GI-ESCR took on presentation on privatization and the right to education

The presentation covered three main areas;

1. The protection of the right to education in Kenya
2. The content of the right to education
3. Privatisation and the right to education

The right to free and basic is guaranteed in Kenya's constitution in articles 43 and 53. Several other treaties ratified by Kenya such as the ICESCR and the CRC also guarantee the right to free and compulsory basic education, without discrimination of any kind. He went further to explain the content/elements of the right to education. He noted that the constitution of Kenya recognises treaties ratified by Kenya as part of the laws of Kenya, which reiterates the obligation of the state in this regard.

The constitution also in articles 21 places a duty on the state to observe, fulfil and protect human rights including the right to education. The right to education is also reinforced by article 13 of the ICESCR and Article 28 of the CRC which, by being ratified, form part of the laws of Kenya.



Sylvain from GI-ESCR presenting on international mechanisms

He informed the participants that in determining whether privatization is affecting the right to education, one needs to ask the following questions;

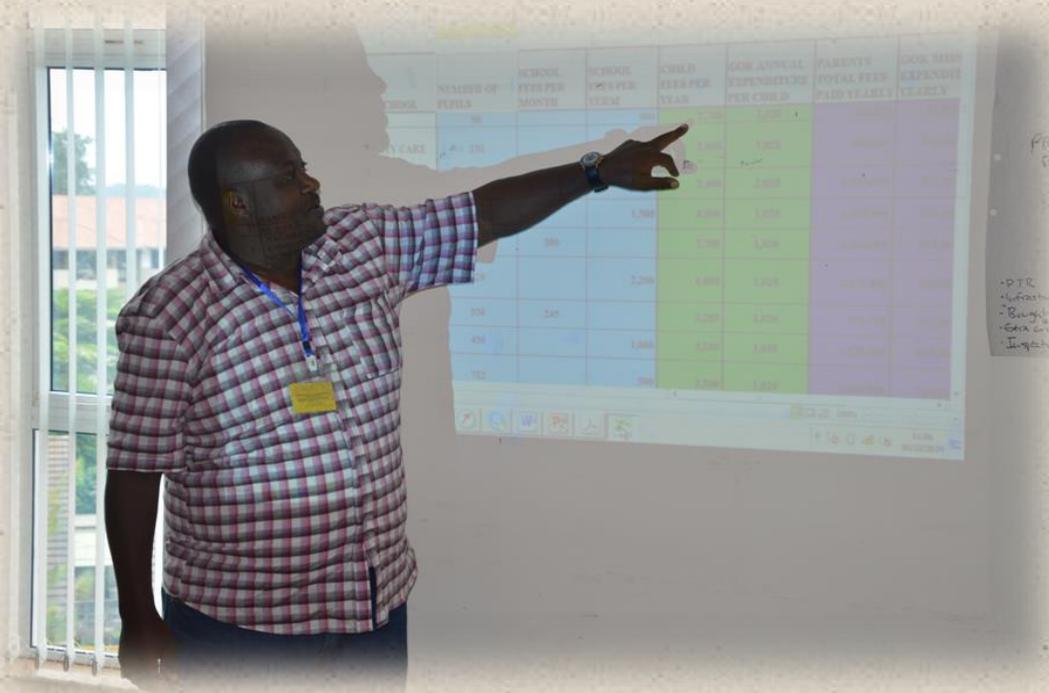
1. Has privatisation in education has led to furthering and entrenching of discrimination?
2. whether people who attend private schools do it out of choice, or because of the poor quality of public education
3. whether the development of private education has led to a 'commodification' of education
4. whether private education is adequately regulated, both in law and in practice
5. whether the growth of private education has been done in a transparent and democratic manner or in accordance with the principle of participation

Mathare situation

Mathare is an informal settlement situated in Kenya's capital city- Nairobi. Just as is the case in many other informal settlements, Mathare residents are faced with acute shortage of basic services. Representatives of a community group in the area who have been working closely with Hakijamii presented the situation about access to education in Mathare. The informal settlement, which is one of the areas in Nairobi that is most hit by the tremendous mushrooming of low fee primary schools, has only 1 public school, and about 25 low fee private schools. The presentation went to show that the



decision by most parents to take their children to these private schools is out of lack of choice, as the public schools are not available, and also a perception by parents that public schools are of poor quality.



A representative of the Mathare group presents figures showing that low fee schools actually charge more than public primary schools

Using International Human Rights Frameworks for Advocacy

Sylvain from GI-ESCR introduced the participants to the international frameworks for advocacy. He began by introducing the different international treaties that guarantee the right to education and their respective monitoring mechanisms. He also explained the roles of the committees.

Participants were also informed on the process of alternative report writing, the stages involved all the way up to submission, presentation and the concluding observations.

Video Documentaries

Sylvain from GI-ESCR took the participants through the UN treaty bodies. An example of a session involving Rwanda was shown to the participants. A video on privatization of education in Chile was also shown to the participants which helped the participants understand the social ramifications of



privatization of education. Finally, a video on tools for advocacy on the right to education by Equal Education, South Africa, was shared with the participants. The video was very instrumental in emphasizing the role of advocacy, and how different advocacy techniques, and litigation, as a last resort, can be used to bring issues of education into light.

Group Discussions



Participants during discussions after group work

Strategies to launch a test case

Sylvia from Hakijamii briefed the participants on the situation in mathare and why hakijamii thought that it would present a good case for litigation on privatization in education. She highlighted first, the fact that parents who take their children to the low cost schools were doing so out of lack of choice, as public school education is not available in the area. Secondly, the low cost schools in the area are neither monitored nor regulated by the ministry of education, and from the field visits conducted to these schools, the standards required for operating schools are completely ignored. Facilities are lacking, classrooms are congested, and yet these schools charge more fees than the average payments made by children in public schools. The state also is seen to be providing direct support to some of these schools which operate under the guise of 'informal schools'. It is evident in this area that the state has left the supply of basic education to private actors who sell it as a market commodity. It is in this regard, that hakijamii has considered launching a test case, on the mathare area. With a favourable judgment, this could be used nationally to address the issues of privatization in education. Hakijamii, PERI and GI-ESCR took this opportunity to get the views of the participants on this intended case.



Sylvia from Hakijamii presenting on the intended litigation test case

Research Focus

Hakijamii will focus on collecting data on the quality of education offered in low cost primary schools in line with standards set by the ministry of education. It will also focus on collecting data on availability, accessibility and quality of public primary schools. In terms of availability, the research will be instrumental in laying down a strategy for launching the test case on privatization and the right to education.

Data collection will be done through interviews with government officials, questionnaires with parents, teachers, private school owners, desk research, and observation from visit visits among others.

Next Steps

Hakijamii to source for data from other sources such as;

- Women educationists' researchers of Kenya
- Government of Kenya
- Uwezo Kenya

Partners;

- Private schools association of Kenya
- Transparency international



- Elimu yetu
- Hilde back foundation
- Parents association
- Teachers union

Create a digital platform for exchange

- Facebook and/or
- Mailist

Primary data/empirical evidence

- CBOs in mathare, kisumu, kibera, mukuru and homabay to do mapping of LFPS with assistance from Hakijamii. Do an analysis of the 4A's
- Also collect data through questionnaires (parents, teachers and students) which will be developed with assistance from hakijamii and GI-ESCR

Marcy from Hakijamii to communicate with the Kibera resident (who passed exam but couldn't access secondary education because of high fees) for an interview to support the research

Consider using local forums- forum at Uhuru Park or city hall to raise awareness

Validation meeting in February

Agreed Timelines

Nov- December Gather data

January Local forums (use local media- journalists, community radio, 'free' newspapers, and urban radio talk shows)

Feb- Validation meeting

March Submit report

April Media work

May National campaign/petition ahead of CESCR report

June Pre-session CRC



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