

Human rights bodies statements on private education September 2014 – March 2016

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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 private 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 on the topic (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 [researching](#). It also demonstrates the growing concerns raised by human rights experts regarding the impact this trend has on the right to education as protected under the three treaties monitored by these committees. As a response, the committees have made at least eight types of recommendations focusing on monitoring, regulating, and addressing the impacts:

1. “**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 countries’ alphabetical order.

STATE	BODY AND DOCUMENT	KEY EXTRACTS
Brazil	CRC Concluding observations CRC/C/OPAC/BRA/CO/1, paras. 75-76 (28 October 2015) http://bit.ly/1UXafTL	<p>75. The Committee is concerned about the increased involvement of the private sector in education, in particular:</p> <p>(a) The high fees in private schools which exacerbate existing structural discrimination in access to education and reinforce educational inequalities;</p> <p>(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 (“convenimientos”); and,</p> <p>(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.</p> <p>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:</p> <p>(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);</p> <p>(b) Phase-out the transfer of public funds to the private education sector and review its policies with regard to fiscal and</p>



		<p>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,</p> <p>(c) Stop the purchase of standardized teaching and school management systems by municipalities from private companies.</p>
Chile	<p>CESCR List of issues, E/C.12/CHL/Q/4, para. 24 (22 Dec. 2014) http://bit.ly/1LBxJGc</p>	<p>Please also provide information on the reform of the education system under way in the State party. Report on any measures adopted to eliminate fee-paying and selective systems that restrict equitable access to education and indicate what concrete steps the State party has taken to reduce the inequality caused by the current education system.</p>
Chile	<p>CESCR Concluding observations E/C.12/CHL/CO/4, para. 30 (19 June 2015) http://bit.ly/1RWOPkD</p>	<p>30. The Committee welcomes the education reform undertaken by the State party and the efforts made to extend the coverage of primary education. However, it remains concerned that the lack of resources and, occasionally, the poor quality of public education continues to result in high levels of segregation and discrimination along socioeconomic lines, which has the effect of limiting social mobility in the State party (art. 13). 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 have adequate infrastructure and suitably trained teaching staff;</p>
Chile	<p>CRC List of issues, CRC/C/CHL/Q/4-5, para. 14 (5 March 2015) http://bit.ly/1Lnc6eL</p>	<p>With regard to the current education reform bill, please indicate how the authorities intend 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. Please indicate whether there are plans to abandon the voucher system and the student selection process in all public, subsidized and private schools.</p>
Chile	<p>CRC, Concluding observations, CRC/C/CHL/CO/4-5, paras. 67 - 68 and 69 - 70 (15 October 2015), http://bit.ly/1XRuqg8</p>	<p>The Committee notes law No. 20845 on educational inclusion, regulating the admission of students, removing mixed funding and prohibiting profit in educational establishments receiving State funding. However, the Committee is concerned about: (a) The high level of segregation in the school system, the differences in the quality of education, the still limited coverage of rural areas and the deterioration of the material conditions in public educational institutions; [...] (d) The absence of a regulatory and monitoring framework regarding private educational establishments. 2. The Committee recommends that the State party:</p>



		<p>(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;</p> <p>(b) Emphasize the quality of education and accelerate the allocation of increased targeted resources to education, in particular in free public schools;</p> <p>(c) Provide quality training for teachers, and dedicate resources to improve adequate and accessible infrastructure;</p> <p>(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;</p> <p>[...]</p> <p>(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;</p> <p>(h) Develop and implement a regulatory and monitoring framework for the private educational sector ensuring respect for the principle of non-discrimination and promoting inclusion and respect for diversity;</p> <p style="text-align: center;">Aims of education</p> <p>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.</p> <p>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.</p>
Ghana	<p>CRC List of issues CRC/C/GHA/Q/ 3-5, para. 14 (10 October 2014) http://bit.ly/1TNeorh</p>	<p>Please 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 tuitions.</p>
Ghana	<p>CRC Concluding observations CRC/C/GHA/CO /3-5, para. 57 - 58 (9 June 2015) http://bit.ly/1Rwblzi</p>	<p>The Committee is, however, concerned that the education system continues to face serious challenges, and is particularly concerned about:</p> <p>(f) Private education developing very quickly, without the necessary supervision regarding the conditions of enrolment, the quality of education provided, and the transparency and efficiency in the management of education resources</p> <p>In the light of its general comment No. 1 (2001) on the aims of education, the Committee recommends that the State party: (h) Assess and address the consequences of the rapid development of private</p>



		<p>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</p>
Ghana	<p>CEDAW Concluding Observations, CEDAW/C/GHA/CO/6-7, para. 32 (7 November 2014) http://bit.ly/1LnTrY</p>	<p>However, the Committee remains concerned about: (e) The lack of education facilities and of qualified teaching professionals, especially in rural areas, and the trend towards privatisation of education and the priority given to schooling of boys over girls, especially in rural areas.</p>
Haiti	<p>CRC, Concluding Observations: Haiti, CRC/C/HTI/CO/2-3, paras 58 – 59 (29 January 2016) http://bit.ly/1T1aPTM</p>	<p>Education, including vocational training and guidance</p> <p>58. The Committee welcomes the measures adopted in the context of the policy of mass education. It is, however, concerned that efforts remain largely insufficient and that only a limited number of the targets of the Operational Plan have been achieved. While welcoming efforts made, the Committee is also deeply concerned that a significant number of children still do not have access to 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:</p> <p>(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;</p> <p>(b) Disparities remain in access to education between girls and boys and in particular between rural and urban areas;</p> <p>(c) Pregnant girls, young mothers and rape victims are frequently forced or pressurized to drop out of school;</p> <p>(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;</p> <p>(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;</p> <p>(f) “Ghost schools” have mismanaged funds received in the context of PSUGO;</p> <p>(g) The Office National pour le Partenariat en Education (ONAPE), supposed to improve the public-private partnership is not operative.</p> <p>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</p>



		<p>to education for children in vulnerable situations. It also recommends that the State party:</p> <p>(...)</p> <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(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.</p>
Kenya	<p>CESCR List of issues, E/C.12/KEN/Q/ 2-5, para. 30 (16 October 2015) http://bit.ly/1N1Sq1C</p>	<p>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.”</p>
Kenya	<p>CESCR, Concluding Observations, E/C.12/KEN/CO /2-5, paras. 57- 58 (4 March 2016), http://bit.ly/1pbiMFP</p>	<p>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 disadvantaged and marginalized children, including children living in informal settlements and arid and semi-arid areas (arts. 13 and 14).</p> <p>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.</p>



Kenya	<p>CRC Concluding Observations, CRC/C/KEN/CO /3-5, paras. 56 – 57 (2 February 2016) http://bit.ly/1S NEIRX</p>	<p>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.</p> <p>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;</p>
Morocco	<p>CESCR List of issues, E/C.12/MAR/Q/ 4, para. 25 (19 March 2015) http://bit.ly/1d gcjce</p>	<p>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.</p>
Morocco	<p>CESCR, Concluding observations , E/C.12/MAR/CO /4, paras. 47-48 (22 October 2015)</p>	<p>“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. »</p> <p>“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”</p> <p>« 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. »</p> <p>“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.”</p>
Morocco	<p>CRC Concluding Observations CRC/C/MAR/CO /3-4, paras. 60 – 61 (19 September 2014),</p>	<p>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</p>



	http://bit.ly/1fAXKvb	<p>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;</p> <p>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;</p>
Uganda	<p>CESCR List of issues E/C.12/UGA/Q/1, para. 32 (22 December 2014) http://bit.ly/1QPVIbs</p>	<p>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.</p>
Uganda	<p>CESCR Concluding observations: Uganda, E/C.12/UGA/CO/1, para. 36 (24 June 2015) http://bit.ly/1BK6OrO</p>	<p>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;</p> <p>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 oversight mechanisms for private education institutions</p>
Uganda	<p>ACHPR, Concluding Observations and Recommendations on the 5th Periodic State Report of the Republic of Uganda (2010 – 2012), http://bit.ly/1Y3HGmm</p>	<p>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;</p> <p>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;</p>



Zimbabwe	CRC, Concluding Observations: Zimbabwe, CRC/C/ZWE/CO/2 (7 March 2016) http://bit.ly/1UZeHlH , para. 69.	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 : [...] (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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