

NCE Nepal conducted a research study for the collection of cases from 35 successful public schools of Nepal and tried to explore the factors that lead to the success of a school. This was taken from one of the schools operating with the high level of performance as well as good learning achievements.



Asia South Pacific Association
for Basic and Adult Education

Learning Beyond Boundaries

EDUCATION PRIVATISATION: A Threat to the Right to Education

The Asia South Pacific Association for Basic and Adult Education (ASPBAE), together with national education campaign coalitions in the Asia-Pacific region, launched a coordinated campaign to highlight the impact of low funding and commercialised education on the Right to Education (RTE). A major component of the campaign was engagement with UN Human Rights (HR) Committees and its review mechanisms to highlight specific concerns in meeting state obligations to the right to education. In this Digest, ASPBAE presents the summaries of the parallel reports prepared by the national education coalitions in Pakistan, Nepal, Philippines and Mongolia which were submitted to the concerned UN treaty bodies as part of Human Rights review processes undertaken in Geneva Switzerland in 2016. The parallel reports focused in particular on demonstrating how privatisation and commercialisation of education, have served to undermine the right to education, laying bare the issues on poor financing, inequity and the lack of effective regulation of private provisioning in education. Apart from the parallel report summaries, the Concluding Observations of the Committees that are relevant to the education issues raised are also presented in this Digest.

The Right to Education

Education has long been formally recognised as a human right since the adoption of the Universal Declaration of Human Rights in 1948, and its confirmation and elaboration in numerous international human rights treaties. The provisions of international law on the right to education emphasise the need to provide equitable access to quality education for all without discrimination, including and especially the marginalised and vulnerable population groups. These disadvantaged groups include underprivileged children, girls and women, ethnic and religious minorities, indigenous peoples, lower castes and excluded groups, migrants, and persons with disabilities, among others.

Under international law, states are duty-bound to protect and fulfill the right to quality education of all its

citizens. The new global education agenda as articulated in Sustainable Development Goal No. 4 (SDG 4) and the Education 2030 Framework for Action adopt a strong human rights perspective and offer a clear commitment to equity, inclusion and gender equality. Education 2030 asserts that governments “have the primary responsibility to deliver on the right to education, and a central role as custodians of efficient, equitable and effective management and financing of public education” (*Education 2030 Framework for Action*, para 78).

The Rising Privatisation of Education

However, there is a growing trend towards the privatisation in and of education globally and in the Asia-Pacific region. States have increasingly allowed the private sector and non-State actors to play a greater role in policymaking,

school management, financing, and the provision of education at all levels. The low and insufficient financing of education created further pressure on the public school system and facilitated the proliferation of low-fee private schools and public-private partnership (PPP) arrangements in the education sector.

Countries have been consistently underinvesting in public education. In 2014, 51 out of 138 countries with data, including 28 from the Asia Pacific region, spent less than the global benchmark of 4%-6% of GDP. The Asia Pacific remains the least spender amongst all regions, with Central Asia allocating only 2.8% of GDP for education, while South Asia and East/Southeast Asia allocate 3.8% and 3.9% of GDP, respectively. Countries which invest the least in education are among the most privatised education systems in the world.

The lack of financing for public education has had adverse impacts on provisioning for quality education – leaving families, including poorer families, to seek other alternatives. Private providers have expanded in the face of this demand and further entrenches segregation and discrimination in education systems. Private school enrolment has consistently increased in all levels of education. Globally, enrolment in private pre-primary institutions increased from 29.1% in 2000 to 41.5% by 2016. Similarly, enrolment increased from 10.1% to 17.1% in private primary schools, and from 19.2% to 26.3% in private secondary schools during the same period.

The increase had been fairly rapid particularly in South Asia where about a third of 6 to 18-year old students attend private schools (Dahal and Nguyen, 2014 as cited in UNESCO, 2015, p. 93). In the Asia-Pacific region, developing countries with the highest rate of enrolment in primary and secondary private schools are Pakistan, Nepal, India, and Bangladesh in South Asia; Indonesia, Philippines, Timor Leste, and Brunei Darussalam in Southeast Asia; and Cook Island, Samoa, and Solomon Islands in the Pacific.

ASPBAE and the national education coalitions have consistently challenged the privatisation drive in education with evidence gathered from various studies that show its adverse impact on access, equity, and

the right to education. They have launched sustained information campaigns and lobbied for higher and better funding of public education, and called on governments to prevent the proliferation of the largely unregulated, fee-paying private schools by adopting and enforcing appropriate regulatory and accountability measures related to the establishment and operation of private schools. In some countries, the national education coalitions have brought their respective governments (state and provincial levels) to the courts through public interest litigation cases.

In the last three years starting 2015, ASPBAE and the national education coalitions in Pakistan, Nepal, India, Philippines, and Mongolia, launched a coordinated campaign to engage Human Rights treaty bodies, notably the Committee on the Rights of the Child (CRC) and the Committee on Economic, Social and Cultural Rights (CESCR), on the issues of under-financing, the widening privatisation, and the lack of effective regulation of private actors in education.

The coalitions, along with their partners, submitted parallel reports to the concerned HR Committees as part of the country review process. They argued that privatisation exacerbates inequality in education access and leads to segregation. It widens gender disparity, putting girls at a disadvantage, and undermines the public education system. They called on the respective governments to increase funding for public education and address inequalities and discrimination in school systems.

These lobbying initiatives scored significant breakthroughs with the findings and recommendations of the HR treaty bodies, taking on board the assertions and recommendations of civil society. This Digest presents the summary of the parallel reports which characterise the education performance and challenges, describe the state of education financing, explore the privatisation trend in education and concomitant issues, and closes with corresponding recommendations. The Concluding Observations of the reviewing HR committees are also presented at the end of each parallel report. •



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Learning Beyond Boundaries

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Privatisation, Commercialisation and Low Government Financing in Education: Infringing on the Right to Education of Filipinos

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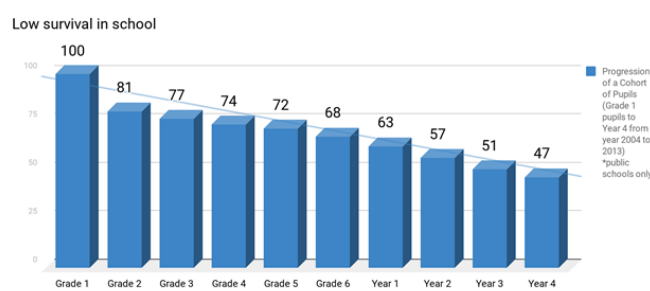
BACKGROUND

The Philippines has ratified the main treaty protecting the right to education, including the International Covenant on Economic, Social and Cultural Rights; the Convention on the Rights of the Child; the Convention on the Elimination of All Forms of Discrimination Against Women; the Convention on the Rights of Persons with Disability; and the Convention Against Discrimination in Education. The Philippine 1987 Constitution guarantees “the right of all citizens to quality education at all levels” and ensures “a system of free public education in the elementary and high school levels.” Substantive educational rights have also been guaranteed in subsequent laws passed which reiterate the constitutional right to free basic education among the school-age population and young adults, including alternative learning systems for out-of-school youth and adult learners. Policy follow-through on educational commitments has likewise been adopted such as the Philippine Development Plan 2011-2016 that laid down “achieving universal coverage in basic education” as one of the government’s social development priority strategies.

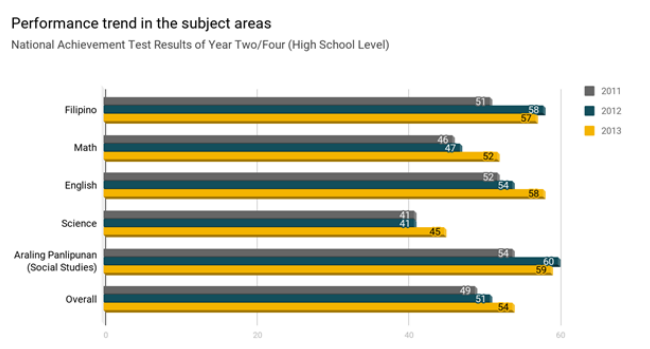
REALISATION IN PRACTICE: FAR FROM FULFILLMENT

Despite the presence of legal and policy framework, the realisation of the right to education is far from being fulfilled for a large number of Filipinos, particularly for the poorest and most excluded groups. The Philippine Education for All (EFA) Review 2015 Report acknowledged the significant gaps to fully achieve the EFA targets, with only 75% of the relevant age group completing basic education.¹ Millions of children drop

out of school every year and only 75.3% survive to complete six years of primary education.² Some 10% or 6.9 million Filipinos aged 10-64 years old were functionally illiterate in 2013.³ Statistics noted that of 100 children who started Grade 1 in 2004, only 68 survived to Grade 6 and only 47 reached year 4 (or Grade 10) in 2013.



Source of basic data: Department of Education (DepEd)



Source of basic data: Department of Education (DepEd)

2 Ibid.

3 Philippine Statistics Authority. 2013 Functional Literacy, Education and Mass Media Survey (FLEMMS).

1 Department of Education. Philippine Education for All 2015 Review.

Group of grade school students of General Tiburcio de Leon Elementary School

CHILDREN 5-17 YEARS OLD CURRENTLY NOT ATTENDING SCHOOL BY AGE GROUP, PHILIPPINES (2009-2013 - IN THOUSANDS)

Age Group	2009	2010	2011	2012	2013
PHILIPPINES	4,344	4,153	3,660	3,500	3,249
5-9 years old	1,646	1,477	1,175	909	812
10-14 years old	771	763	649	688	628
15-17 years old	1,927	1,913	1,836	1,904	1,809

Source: Philippine Statistics Authority, 2013

The quality of basic education, particularly at the secondary level, has remained consistently low, with Percentage Scores at or less than 60%. The students' overall performance in the National Achievement Test (NAT) shows that they are learning only half (54% in 2013) of what they should have acquired at the appropriate level of schooling.

The Philippines ranked the highest in the number of out-of-school children in 2012 among eight ASEAN countries, as indicated in the International Labour Organization (ILO) and the Asian Development Bank (ADB) 2014 publication. Furthermore, the Philippine Statistics Authority (PSA) reported that there were 3.249 million children 5-17 years old who were not attending school in 2013, the highest in the ASEAN region.

Official statistics show that there has been no significant reduction in drop-out rates among primary and secondary students in the last ten years, with drop-outs especially high in the poorest regions of the country. It has been found that poverty is a significant factor contributing to high drop-out rates, and the consistent underfunding of public school system worsens the situation in the country's education system.

THE PRIVATISATION DRIVE AND ITS IMPACT

The Philippine government has manifested a preference for Public-Private Partnership (PPP) that leads to further privatisation of education in the country. The administration of President Benigno Aquino III looks at PPP as a "cornerstone" development strategy and has come up with clear legal provisions and plans promoting private sector involvement in education.⁴

EDUCATION SERVICE CONTRACTING

The last two decades witnessed the significant growth in the coverage of the Education Service Contracting (ESC), a PPP scheme in education mandated by law that provides public subsidies for students enrolled in eligible private schools. The scheme allows private schools to charge top-up fees to cover the difference between the subsidy and the fees charged by the schools. As one of the world's largest and longest running PPP in education, ESC programme was further expanded beginning 2010, targeting one million student grantees every year with corresponding increases in subsidies and budget allocation.

The World Bank review of the ESC shows that the programme fails to reach the poor as was envisaged. Most ESC grantees come from relatively well-off families due to the top-up fees that are way beyond the capacity of the poor to pay.⁵ Private schools also tend to select better-performing students to reflect well on their academic standing. Choosing ESC beneficiaries on the basis of their academic performance as criteria for assistance instantly discriminates against a certain group of individuals. Equally important to note is that most private schools are located in the urban and semi-urban areas that are evidently not accessible to students from the rural areas. These findings imply the huge impact of segregation and discrimination of the programme on the basis of socio-economic status, ability to shoulder the top-up fees, location,

academic performance, and enforcement of private school criteria, when, in actuality, this scheme was created in order to provide support for underprivileged students. In the end, the poorest are left to enroll in low-performing and poorly financed public schools.

SENIOR HIGH SCHOOL (SHS) VOUCHER PROGRAMME

Even without the benefit of a thorough evaluation of the impact of the ESC programme on the right to education, the government introduced a scheme similar to ESC to cover senior high school students through a Voucher Programme. The programme aims to expand the PPP initiative to give subsidies to incoming senior high school students eligible for enrolment in private schools starting School Year 2016-2017.⁶ This scheme will further privatise the education system and discriminate against the poor due to top-up fees that are needed to cover the full cost of private education. Without covering the full cost of private schooling and without clear guarantees on admission, the programme systematically discriminates against the poorer, the lower-performing, and the rural-based students.

AFFORDABLE PRIVATE EDUCATION CENTERS (APEC)

Another step taken by the government favoring the private sector is the agreement signed in 2013 that allowed the operation of the Affordable Private Education Centers (APEC), a chain of commercial schools established as a joint venture between Pearson PLC Corporation, the largest global education conglomerate, and the Ayala Group, one of the largest corporations in the Philippines. APEC claims to supply "affordable" private education to large numbers of "economically disadvantaged" Filipino students who are willing to pay for basic education. However, it has been found that the lowest-income families in the Philippines (Class E) would have to expend, on average, an estimated 40% of their annual household income to send even one child to an APEC school.

These schools operate in cramped spaces in rented commercial buildings with poor ventilation, without the required facilities and campuses in violation of existing regulations governing private schools. In addition, teachers hired by APEC are typically unlicensed and, therefore, paid lower wages and without benefits in comparison to regular public school teachers. Yet, the government opted to accommodate the operation of these schools with limited restriction by making a number of regulations lax. APEC and its corporate shareholders intend to capitalise on an overburdened and under-resourced system by selling 'for-profit education services at nominally low fees' but on a massive scale through the voucher system.⁷ With 250,000 students, each already paying more than US\$500 per year, APEC may potentially become a highly lucrative venture.⁸

LACK OF REGULATION OF PRIVATE SCHOOLS

The ICESCR and the ICRC have emphasised that private educational institutions should be allowed to operate under

4 Executive Order No. 8 s, 2010. <http://www.gov.ph/downloads/2010/09sep/20100909-EO-0008-BSA.pdf>

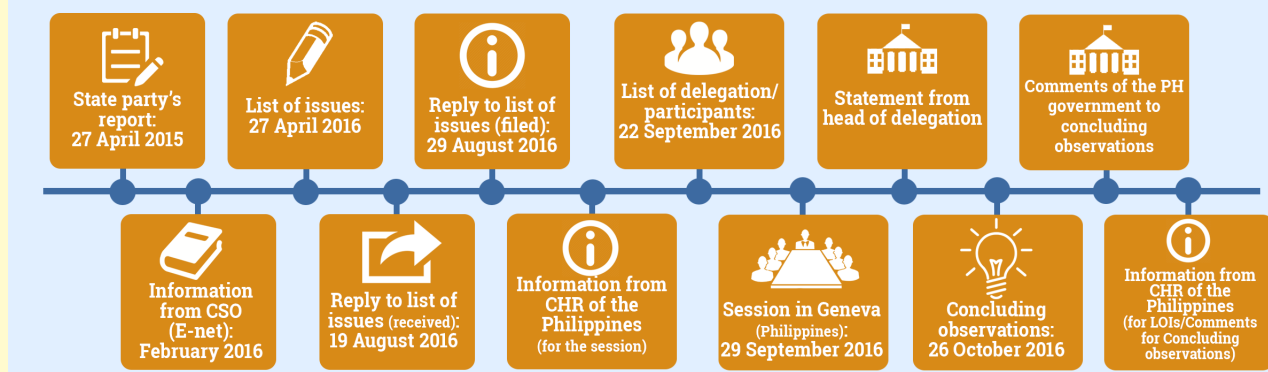
5 The International Bank for Reconstruction and Development/The World Bank. (2011). Philippines Private Provision, Public Purpose. A review of the Government's Education Service Contracting Program. Executive Summary. pp. 3.

6 Department of Education. Policy Guidelines on the Implementation of Senior High School (SHS) Voucher Program. Department Order (DO) No. 11 (Series of 2015). April 2015.

7 Education International. Corporatised education in the Philippines: Pearson, Ayala Corporation and the emergence of Affordable Private Education Centers (APEC).

8 Education International. Corporatised education in the Philippines: Pearson, Ayala Corporation and the emergence of Affordable Private Education Centers (APEC). http://download.ei-ie.org/Docs/WebDepot/Philippine%20Study/Research_C.%20Riep_APEC%20Philippines_final.pdf

PHILIPPINES (Session 59 of the CESCR: 19 September to 7 October 2016)



the condition that they comply with the aim of education and conform to the minimum standards as may be laid down by the State.⁹ In its General Comment 16, the CRC highlights that *"legislation and regulation are essential instruments for ensuring that the activities and operations of business enterprises do not adversely impact on or violate the rights of the child"*.¹⁰ Similarly, the Philippine Constitution stipulates that the State *"shall exercise reasonable supervision and regulation of all educational institutions"* even as it recognises the role of private educational institutions.

The policies and actions taken by the government in recent years show a deliberate push towards the privatisation of education. The lack of clear and adequate regulatory framework allowed the growing involvement of private actors in education with limited government restrictions. The share of the private sector in basic education has remained significant particularly at the secondary level which accounts for about 20% of total enrolment. The newly approved voucher programme aims to enrol 40% of incoming senior high school students in eligible private schools. The private education industry has become one of the most lucrative industries in the Philippines in terms of revenue to cost ratio, ranking second based on the 2010 government survey of industries. The high revenue margin is true for all levels of education, with secondary education having the highest revenue to cost ratio.¹¹

The World Bank study on the ESC raised the issues of fiscal transparency and accountability, citing that the Secretary of the Department of Education is also the ex-officio chair of the private organisation that is administering the programme. The introduction of voucher programme for senior high school also encouraged the emergence of low-cost private schools and corporate chain schools but without the necessary regulatory framework. The accommodations given by the government for the operation of APEC schools serve to prove that there is a predisposition towards the unregulated commercialisation of basic education. Because of the lax government regulations on school buildings, facilities, and premises, these schools had the leeway to operate as a number of government regulations on school buildings, facilities, and premises was relaxed.¹²

LOW GOVERNMENT FINANCING

Article 2.1 of the ICESCR in combination with Article 13 clearly articulates the obligation of the States to ensure that the maximum available resources are devoted to achieving educational outcomes. The Philippine Constitution reinforces this obligation with a provision that requires the State to assign the highest budgetary priority to education. Despite the increase in nominal spending for education, the government expenditure level in relation to Gross Domestic Product (GDP) has remained consistently low at less than 3%, which is way below the UNESCO benchmark of 6% of GDP. Unfortunately, the Philippines is one of the lowest education spenders in Asia and the least per pupil spender in the ASEAN region, with a very low percentage of 9.3 as shown below.

What is even more disturbing to note is that the budget allocation for programmes catering to the poor and disadvantaged groups, including the out-of-school, remains virtually unchanged at less than 1% of the total budget for basic education.¹³ On the other hand, the allocation for subsidies to private schools under the ESC programme has increased significantly over the last two decades. This indicates a bias towards privatisation in education. Ultimately, financing is still a critical issue that accounts for the poor quality of education in the country, as well as a large number of out-of-school children and youth. It also supports fee-charging private actors' development in education.

CONCLUSION AND RECOMMENDATIONS

It is clear that the policies and programmes adopted by the Philippine government have facilitated the unregulated growth and expanding role of the private sector in education. This development has so far failed to improve access to and quality of education in the country. On the contrary, these policies and programmes that resulted to greater commercialisation of education services have discriminated against the poor and vulnerable groups and, thus, increased inequality in education. The cost of private schooling, including private schools that are under PPP arrangement, is way beyond the reach of the poorest families.

The transfer of funds from the public sector to the private sector weakens the public school system and diminishes its role in education. The proliferation of private, for-profit, and fee-charging educational institutions infringes on the right

⁹ CESCR, Article 13 (4).

¹⁰ CRC, General Comment 16, para. 53.

¹¹ 2010 Annual Survey on Philippine Business and Industry - Economy-Wide for All Establishments: Final Results; Reference Number: 2013-37, Release Date: Wednesday, March 27, 2013.

¹² Education International. Corporatised education in the Philippines: Pearson, Ayala Corporation and the emergence of Affordable Private Education Centers (APEC).

¹³ Alternative Budget Initiative (ABI), Social Watch Philippines, 2014. (Basic Data from Department of Budget and Management (DBM)).

to free and quality basic education. It is, therefore, crucial to address the growing privatisation and commercialisation of education to safeguard education as a basic human right and as a public good.

In view of the foregoing discussion, it is recommended that the State Party ask the following questions:

- What concrete steps are being taken to ensure free public primary and secondary education?
- What steps are being done to raise the education budget to meet UNESCO benchmarks?
- What are the key problems that account for the large number of out-of-school children?
- How does the State ensure that its partnerships with private actors fulfill rather than undermine the right to education?
- How does the State monitor, regulate and evaluate the operation of private actors in education to ensure compliance with national laws and international treaties?

It is then recommended that the Philippine Government:

- Substantially increase the education budget consistent with international benchmarks.
- Regulate and monitor private education providers in view of the potential wide-ranging impact of the commercialisation of education on the enjoyment of the right to education.
- Collect and make public data on the admission policy, facilities, performance and fees charged by private schools.
- Conduct a transparent review of the Education Service Contracting Programme, the Senior High School (SHS) Voucher Programme, and the APEC schools, and to take all necessary measures to ensure equal access and equity, and the fulfillment of the right to education.
- Review the SHS Voucher Programme and amend the relevant provisions to eliminate top-up fees, guarantee equitable access without discrimination, and ensure that the programme gives priority to the most excluded groups.

EXCERPTS ON THE RIGHT TO EDUCATION

Concluding Observations on the Philippines

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (CESCR)

26 OCTOBER 2016

55. While welcoming the important step achieved by the Enhanced Basic Education Act of 2013, the Committee is concerned that:

- (a) The insufficient level of resources dedicated by the State party to financing school facilities and qualified teachers, and to ensuring the effective enjoyment of the right to free primary and secondary education for all;
- (b) The proliferation of so-called “low-cost private schools” at the primary and secondary level owing to inadequacies in the public school system, which have been expanded to the senior-high school level through the Senior-High School Voucher Programme;
- (c) The low-quality of education provided by these private schools, the top-up fees to cover the full cost of private education imposed on parents, and the lack of regulation by State authorities of these schools, which have led to the segregation or discriminatory access to education, particularly for disadvantaged and marginalised children, including children living in rural areas; and
- (d) The high percentage of children with disabilities who are not fully included in the educational system (arts. 13 and 14).

56. Recalling that the State has the primary responsibility in ensuring the right to education, the Committee recommends that the State party take all the measures necessary to:

- (a) Strengthen its public education sector, through including increasing the budget allocated to primary and secondary education, with a view to improving access to and the quality of primary and secondary education for all, without hidden costs, particularly for children of low income families and children living in the rural areas;
- (b) Ensure that all schools, including the low-cost private schools, are registered and monitor their compliance with the Implementing Rules and Regulations of the Enhanced Basic Education Act of 2013 and the relevant guidelines;
- (c) Review the Education Service Contracting scheme to address its adverse impacts on the right to education of disadvantaged and marginalised children and their parents; and
- (d) Improve access to inclusive education for children with disabilities.

The Civil Society Network for Education Reforms (E-Net Philippines) is a network of 150 organisations that came together to advance education rights of all Filipinos. It is envisioned to have a Philippine Society where quality education is a basic human right; everyone has access to multi-cultural, gender-fair and liberating life-long education.

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NGOs Supplementary Report to the UN Committee on the Rights of the Child in Accordance with the Fifth Periodic Report of the Government of Mongolia

BACKGROUND

As one of the first countries to ratify the Convention on the Rights of the Child (CRC), Mongolia has promulgated laws and legislation with the aim of protecting and promoting the rights of children.¹ In line with the right to education, Article 5.1.4 of the country's Law on Education states that, "Mongolian citizens shall all be given equal opportunities of receiving education in their mother tongue, and they shall not be subject to educational discrimination on account of race, creed, age, sex, social status, economic position, employment status, religion or opinion."² Child protection must be mainstreamed in the sectors of health, education, and social protection with corresponding human and financial resources and mechanisms for monitoring and evaluation. Unfortunately, most of these commitments have remained unfulfilled.

REFORMS IN THE EDUCATION SECTOR

The Law on Education has not been amended in recent years. Nonetheless, the Government Activity Plan for 2012-2016 includes a goal entitled "Educated Mongolian Citizen," which aims to implement the National Program "Proper Mongolian Child" to support proper child development and encourage teachers to adapt one-on-one approach in their work with children.

The National Program offers many positive attributes with clear and sound direction, objectives, actions, and timeline. Unfortunately, the continuity of reforms and activities in

the education sector has been weak due to the fragility and instability of the public sector, which negatively impacts on access to and quality of education. Moreover, the increasing enrolment in preschool and general education brought about by higher birth rates starting 2006 has added pressure on the availability of schools and kindergartens. The increasing pressure on the school system is exacerbated by the decreased budgetary appropriation for education.

In 2011, a clause in the Law on Education enacting that the education spending should be equal to at least 20% of the state budget was invalidated.³ For this reason, the state budget allocation for education spending fell to 18.2% in 2012.⁴

QUALITY OF EDUCATION

Although actions to improve the national standards, curricula, and their implementation are already in progress, there is still a lack of knowledge on child rights and dignity, as well as a lack of holistic approach to child development. Instruction on the rights of a child and the rights to health and reproduction is viewed as secondary, as there is a tendency to perceive education as a "market commodity", instead of a social benefit.

There are initiatives underway to create a new methodology for teacher performance evaluation, which will be introduced to schools and kindergartens and focus efforts on developing each and every child. However, in Ulaanbaatar, the capital city of Mongolia, the student-teacher ratio is 30:1 on average, with the ratio reaching over 40:1 in many classrooms.

Because of the insufficient number of available schools and functional dormitories, some schools are overworked and

1 CRC and Mongolia, available on https://www.unicef.org/mongolia/overview_2571.html

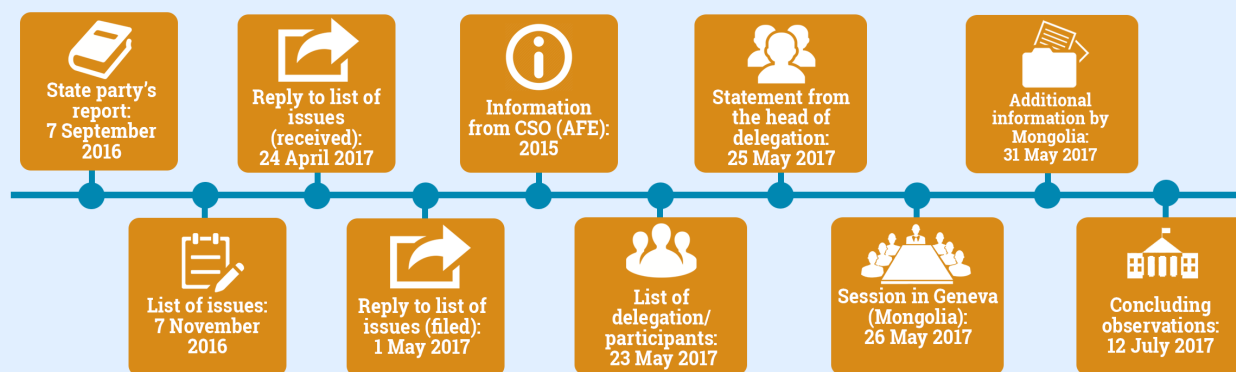
2 Turiin, Medeelel, 2002, No. 19 (256), pp. 649-662, available on http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=71503&p_country=MNG&p_count=137

3 Law on annulment of some part of the law on Education, Article 1, 23.12. 2011
4 Mongolian Educational Alliance, "Education Sector Review", 2013, p.24-25



From a photo exhibition 'Illustrating social diversity' that shows 7th grade students in Golomt Complex, Nalaikh District, Ulaanbaatar, April 2018

MONGOLIA (Session 75 of the CRC: 15 May to 2 June 2017)



become overcrowded. This leads to a lack of instructional materials, educational tools, equipment and computers for student use. Teachers also need proper professional development and training to meet the students' specific needs. Therefore, policies must be implemented to address these issues.

Private schools are naturally obliged by the law to adhere to all policies, regulations, and standards. But, no systematic approach to the assessment of their obligation is in place. In addition, these schools charge tuition on top of the funding that the government has allocated based on per-student expenditure from the state budget. This worsens the conditions of public schools and places a huge burden on the parents who pay for their children's education.

ACCESS AND EQUITY IN EDUCATION

A report by UNESCO states that there is a high literacy rate among youth aged 15-24 in Mongolia, but it has diminished significantly over the years.⁵ This indicates the declining access to and the increasing inequality in education. About 4.7% of all primary school age children and 14.6% of secondary school children are not able to access education.⁶ Ultimately, the children from poor, migrant, herding families, as well as children with disabilities, find it the most difficult to fully enjoy their right to free, quality education.

The Law clearly states that public schools must be free of charge. Even so, parents still need to pay for dormitory services because the children must stay in dormitories to go to school. Hence, school drop-out rates increase as the expenses incurred in sending children to school escalates. These expenses include school supplies, dormitory services, transportation fees, and other additional fees necessary for the improvement of school conditions. This aggravates the exclusion of children from low-income families, causing them to drop out of school.⁷

Children from herding families, especially families from remote rural areas, need to live in dormitories to reduce travel costs and attend school. However, only a few dormitories are operational nationwide,⁸ which results in overcrowding and fails to offer a comfortable and conducive environment for the students. This situation also results to increased incidence of bullying and

other forms of violence experienced by the students that leads to more cases of absenteeism and drop-outs.⁹

RIGHT TO EDUCATION OF CHILDREN WITH DISABILITIES

With numerous laws and sector-specific programs on disabled citizens' right to education, the Mongolian government has committed to provide an appropriate environment for the learning of children with disabilities by ensuring equal access to education and delivering rehabilitation services. Although the government tasked the schools to accommodate students with disabilities, NGOs perceive that their efforts to date are insufficient.

A majority of children with disabilities (62.26%) have not been able to enrol in kindergartens and in schools during the academic years 2014-2015.¹⁰ What is particularly disturbing to note is that a majority of children with severe disabilities have not been able to enrol in any educational institution. In the case of secondary schools in rural areas and unofficial learning centres, children with disabilities are assigned to a single classroom regardless of their age and the type of disability. Given the limited skills of educational institutions in handling children with disabilities, capacity-building should be prioritised to equip teachers and school administrators with adequate skills to work with children with special needs.

Overall, there is a lack of policies, programmes, and funding to respond adequately to the education and learning needs of children with disabilities, particularly in making the schools accessible, providing a suitable and inclusive learning environment, and upgrading capacities to handle children with special needs.

EDUCATION AND MARGINALISED CHILDREN

Mongolia has made considerable progress in changing the legislation with the aim of protecting the rights of minority groups and enabling equal opportunities for citizens. Notably, the Kazakh group, the largest ethnic minority group in the country, has been granted the right to obtain an education in their native language. In addition, the country has made significant steps in protecting LGBT (Lesbian, Gay, Bisexual, and Transgender) rights through an LGBT rights-based approach. However, it is still important to note that children from ethnic and sexual minority groups continue to experience difficulties in gaining access to education.

The health education course taught in secondary school, covering topics on sexual orientation and gender identity,

⁵ UNESCO & UNESCO Institute for Statistics, "Adult and youth literacy: National, regional and global trends, 1985-2015", 2013, x. 40

⁶ Education for All! Civil Society National Coalition, "Independent evaluation report of the public education goals of Mongolia", 2014, p. 40-41

⁷ Government of Mongolia "The Fifth National MDG Report" 2013, p. 69

⁸ Capital city Department of Education, Secondary school pupils and the City "Education Statistical Yearbook (II) and 2013-2014 academic year", 2014, p 44-45.

⁹ NAC, UNICEF "Situation analysis of the right to protection implementation of dormitory children" 2014, p.40

¹⁰ The APDC, "Education enrollment and quality survey", 2014



From a photo exhibition 'Illustrating social diversity' that shows 5th grade students in Secondary School no. 120, April 2018

may help pave the way in eliminating the negative attitudes in the society, such as discrimination, intolerance and violence towards sexual minority persons.¹¹ Unfortunately, a decision was made in 2014 to eliminate this course from the general education curriculum and combine it with biology and physical training courses. This ended the only opportunity for the youth to understand these concepts and gain the necessary knowledge and mindset at the right time of their development.

The Mongolian education system lacks the necessary funding and mechanisms to provide bilingual education. Hence, there are persisting issues in teacher education and textbook development. This is reflected in students who finish secondary schools in Bayan-Olgii province and fail to enjoy their right to education. Due to their limited Mongolian language proficiency, they have little chance of enrolling in desired higher education institutions and usually face discrimination.¹² It is also Kazakh students who live in other provinces or cities lack opportunities to learn their native language, as well as their culture and traditions.

EXTRA-CURRICULAR AND CULTURAL ACTIVITIES IN SCHOOLS

The national programme states that schools must organise activities in order to develop the children's talents and skills, as well as support them through school-based activities.¹³ However, such opportunities are not extended to all and only children with high academic performances or with exceptional talents can participate in such activities and related competitions. Moreover, the expenses for these activities are mostly covered by parents. This virtually excludes the participation of children from poor and marginalised families. It is unfortunate that most local governments allocate only meagre funds, if at all, for extracurricular, leisure and, cultural activities.¹⁴

- 11 2014 UN, USAID "Being a LGBT in Asia: Mongolian National Report" 2014
- 12 "Education for All" Civil Society Coalition, "Implementation of the rights to education of students from Bayan-Olgii province studying in Ulaanbaatar", Case collection and analysis, 2011
- 13 Government Resolution #295, "Right Mongolian Child Program: Sub-program on Talent", 2013
- 14 National University's School of Law / UNICEF, "Assessment on the implementation of the Law on the Protection of Children's Right", 2011, p. 26

FINANCING OF THE EDUCATION SECTOR

The graph below shows that education spending as a percentage of the Gross Domestic Product (GDP) increased considerably during the period 2012 to 2014 compared to the previous years. However, the spending levels started to drop starting in 2015. This is below the international benchmark of allocating 6% of the GDP to the education sector. With the persisting gaps in education access, equity and quality, the low and declining government expenditure on education is a serious concern that infringe on the right to education in Mongolia.

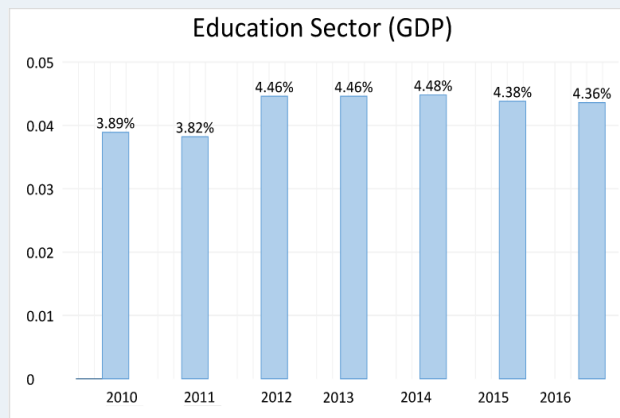


Figure 1. Government Expenditure on the Education Sector (GDP, in Percentage)

Source: National Statistics Office of Mongolia, 2017



From a photo exhibition 'Illustrating social diversity' that shows 11th grade in Secondary School no. 62, April 2018

CONCLUSION AND RECOMMENDATIONS

Education plays a crucial role in ensuring that the children, youth, and adults of Mongolia are equipped with the knowledge they need to participate in the society effectively. Hence, it is important that the Mongolian government make the necessary efforts to improve the quality as well as increase the financing of the education system. In line with the major challenges discussed, it is then recommended that the Government of Mongolia:

- Increase the overall budget for education, ensuring higher per student expenditure in preschool, primary, and secondary education to successfully implement the government's program for education as a priority sector, and to achieve the goal of "Educated Mongolian Citizen."
- Strengthen the stability of education sector policies and ensure that funding allocation adheres fully to the principle of equity and inclusion.
- Increase the number of schools and create a child-friendly school environment where children are able to obtain good quality education in a secure and inclusive setting; adopt appropriate policies to enable children from poor family to access formal and alternative preschool education.
- Stop public funding of private schools and strengthen the government's monitoring of the admission policies and curricula of private schools for effective regulation and operational control.
- Develop and implement programmes which aim to provide children with disabilities equal access to education; monitor cases of drop-out among disabled children especially in rural areas, and take affirmative action to enable them to return back to school.
- Equip newly constructed and renovated schools and kindergarten facilities with doors, stairs, and lanes accessible to children with disabilities.
- Increase funding allocation for capacity building and training to improve knowledge and skills of teachers, school administrators, and other staff on child rights and protection to acquire better understanding, respect and the appropriate attitudes towards minority groups and their culture.
- Allocate adequate funding to create equal opportunities for children to engage in sports, leisure and art activities to cater to their diverse talents and interests.

EXCERPTS ON EDUCATION, LEISURE AND CULTURAL ACTIVITIES

Concluding Observations on Mongolia
COMMITTEE ON THE RIGHT OF THE CHILD (CRC)
12 July 2017

38. While noting the effort made by the State party to implement some of its previous recommendations (see CRC/C/MNG/CO/3-4, para. 60), the Committee is concerned at the lack of consistency and continuity of government policies on education, which hinders progress on critical issues that need urgent attention, and, with reference to its general comment No.1 (2001) on the aims of education, strongly recommends that the State party:

- (a) Strengthen efforts to guarantee equal access to education by all children at all levels, paying particular attention to the specific needs of boys, including those living in monasteries, children with disabilities, children in remote rural areas, children from herder families, children from low-income families and children from ethnic and linguistic minorities, such as Kazakh children;
- (b) Ensure that pregnant teenagers and adolescent mothers are supported and assisted in continuing their education in mainstream schools;

(c) Explore and implement alternative forms of primary education for children of herder families other than boarding schools, such as accredited online classes and programmes and travelling schools;

(d) Take concrete measures to improve access to and retention in primary and secondary schools and ensure the availability of qualified teachers, transportation to schools, learning and instructional materials and adequate physical infrastructure, including access to clean water and sanitation facilities;

(e) Strengthen measures to combat violence against children in schools at all levels, including through trainings for teachers on educational methods that encourage positive, non-violent forms of discipline and by establishing mechanisms to prevent and protect children from violence;

(f) Allocate sufficient financial resources for the development and expansion of early childhood education, based on a comprehensive and holistic policy of early childhood care and development.

AFE Mongolia

All for Education (AFE Mongolia) is a national CSO coalition of 23 highly committed NGOs, groups and individuals that represent children and youth, ethnic and sexual minorities, parents of children with disabilities, teacher's union, human rights and women's rights groups, child protection NGOs, consumer rights NGO, and local groups in 4 aimags and 2 remote districts. Since September 2010, AFE has been working for the advancement of education policy and system in the lens of human rights through capacity building and dialogues.

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SUMMARY OF PARALLEL REPORT (INDIA)

Privatisation and Infringement on the Right to Education

BACKGROUND

India is a signatory to the Education for All (EFA) Goals and other treaties related to the education and development of children. It is also a signatory to a number of international covenants, treaties and declarations that aim to ensure the right of children to education, such as the Jomtien Declaration 1990, the World Education Forum 2000, the Incheon Declaration "Education 2030," and the Sustainable Development Goal 4 in UN. It is the State's obligation under the international law to ensure that all children, young people, and adults enjoy their right to education.

With the enforcement of the RTE Act, the Indian Constitution now provides free and compulsory education for children between the ages of 6 and 14. The Act aims to bring out-of-school children into the formal education system and improve the quality of teaching and learning. While these measures are noteworthy, another potentially controversial measure has been advanced, that is the government's support for Private-Public Partnerships in the education sector.

CURRENT SITUATION

With more than a million elementary schools in the country, India is operating the biggest education system in the world. The 8-year compulsory schooling in the elementary level follows the notification of the 'Right of Children to Free and Compulsory Education Act 2009'. Thus, the elementary education in the country means universal schooling from Class I to Class VIII. Naturally, many challenges and concerns emerge in the areas of the school system, quality of education, and enrolment rates.

Massive Number of Out-of-School Children. Based on the 2011 census figures, there were 233,583,108 children from ages 6 to 14 in India. However, the total enrolment figures for 2011-12 (page 27 of the DISE 2012-13 Flash Statistics) only had 199,055,138 students in schools ("including enrolment in unrecognised schools and madrasas"). This means that over 34.5 million children covered by the RTE Act were not enrolled in school. With an estimated 1.64% increase in the population per year, there would be 237,420,972 children from age 6 to 14 in 2012 but the DISE enrolment figures for 2012-13 show that only 199,710,349 students were enrolled in school.

Drop-Out Rates of Children in Government Schools. The DISE data in 2013-2014 presents that the enrolment rates in elementary schools have decreased by 2.3 million. This signifies that more than 2 million children dropped out at the lower primary level.

During the academic year 2010-11, the total number of children (both in government and private unrecognised schools) at

¹ District Information System for Education (DISE)

Government + Private Total (No. of children decreased/increased in brackets)			
Year	Grand Total (1-5) (Govt. + Private schools + Unrecognised)	Grand Total (6-8) (Govt. + Private schools + Unrecognised)	Grand Total Elementary (1-8) (Govt. + Private school + Unrecognised)
2010-11	134.41	574.48	191.85
2011-12	136.79 (+2.38)	616.89 (+4.24)	198.48 (+6.26)
1012-13	134.78 (-2.00)	649.26 (+3.24)	199.70 (+1.23)
2013-14	132.41 (-2.38)	655.49 (+0.62)	197.96 (-1.75)

Table 1: Total Number of Children Missing from Schools

Campaign on Girl-Child education, India





elementary schools (Grades 1 to 8) was 191.85 million. In the following years, this figure increased to 198.48 million (increase 6.26 million) and 199.70 million (increase 1.23 million). However, during 2013-14, the total enrolment decreased to 197.96 million (decrease 1.75 million) as shown in Table 1.

Further data needs to be culled in order to discover how 2.38 million children dropped out from schools during 2013-14 at the primary level and a total of 1.75 million children dropped out from the elementary schools. This is still a huge question that needs to be addressed.

Increase in the Number of Children in Private Schools. Table 2 shows that the enrolment in private schools has increased, while the enrolment in government schools has decreased. For all class levels, enrolment in government primary schools consistently dropped through the years. Meanwhile, enrolment in private schools gradually increased in all classes.

AGONY OF THE PRIVATISATION AND COMMERCIALISATION OF THE SCHOOL SYSTEM IN INDIA

There are around 14.5 lakh (1.45 million) elementary schools² in India with the enrolment of more than 19.5 crore (195 million) students in 2015-16 (Flash Statistics, DISE, 2015-16). The last decade has witnessed growth in both the number of private schools and the proportion of children in India enrolled in them. The proportion of private schools rose from 19.49% in 2007-08 to 23 percent in 2015-16. The share of enrolment of children (in 6-14 age groups) in private schools has increased from 19.3% to 37.9% during this period. These figures show significant variation across the different states in India.

In some states, the proportion of children enrolled in private unaided schools is relatively higher, such as in Telangana (52.6%), Haryana (51.7%), Uttar Pradesh (51.4%), and Rajasthan (49.2%), while there are less in states such as Bihar (4.7%), West Bengal (6.9%), Odisha (12.1), and Jharkhand (14.8) (Flash Statistics, U-DISE, 2015-16).

India is no exception to the worldwide trend of education privatisation, the growth of private schools, and the rise in the corporate involvement in public and private schools. In the move to advance the privatisation of education, the Government of India has issued a concept note to launch the "Public- Private Partnership (PPP)." It has then made its intention to engage the private sector in education, as mentioned in the Twelfth Five-Year Plan documents: *"In the Twelfth Five-Year Plan, possibilities will have to be explored for involving the private sector more meaningfully to achieve the objective of expansion and quality improvement."*

The decline of public education and the growth of private education in the country can also be attributed to two major factors. Firstly, the meagre education budget that does not match demand. India has the largest youth demographic in the world, with half the country's population of 1.2 billion under the age of 25, but the education budget hovers at around 3.8% of the gross national product (GNP) (Government of India, 2016). Moreover, in 1968, the Indian state had committed to 6% of the GNP for its education budget, a target still unfulfilled to this day. The lack of political will to finance public education has legitimated the corporate sector "solution" to and involvement in education.

Secondly, in 1991, the Indian state launched far-reaching reforms to liberalise, deregulate, and privatise the public sector, including social sectors such as health and education (Nayyar, 2008; Venkatnarayanan, 2015). As a result, state governments, in Andhra Pradesh and elsewhere, divested themselves from government schools, shrinking the size of the sector and adversely impacting on quality. Studies have also shown that "the government's reduced priority toward providing sufficient resources to elementary education has indirectly increased the privatisation of schools at elementary level" (Venkatnarayanan, 2015).

LOW FEE PRIVATE SCHOOLS

Low-Fee Private Schools (LFPS) have been seen as an alternative to the government school in terms of access and providing quality education.³ The Unnikrishnana vs State of Andhra Pradesh and the judgement from the Supreme Court of India, 1993 that make it illegal for any school to operate for profit in India do not stop many people from doing so, cloaking their activities in the rhetoric of social service.⁴ There are numerous schools, both in urban and rural parts of India, with the sole motive of profit making. Major challenges appear due to weak regulatory mechanisms of the private schools in terms of registration and recognition of schools, teacher certification, availability of physical infrastructure, and fee hike, among others.

The affordability of the LFPS to the poorest and most disadvantaged sections of the society is another major concern that needs serious attention.⁵ It has been found that even if the parents stretch their budgets and send their children to these schools, the proposition poses a question of sustainability

² The elementary stage consists of a primary stage comprising Classes I-IV (in some states I-IV), followed by a middle stage of education comprising Classes VI -VIII (in some states V-VIII or VI -VII).

³ Tooley, J., 2001. Serving the needs of the poor: the private education sector in developing countries. In: Hepburn, C. (Ed.), Can the Market Save our Schools?. Vancouver :The Frazer Institute,
⁴ Srivastava, P. (2007). Neither voice nor loyalty: School choice and the low-fee private sector in India. (Research Publications Series, Occasional Paper No. 134). New York: National Center for the Study of Privatization in Education, Columbia University
⁵ Härmä, J. (2010). The Limits of Marketisation of Primary Education in India. (Create India Policy Brief 2). Brighton: University of Sussex.



CLASSES	GOVERNMENT SCHOOL			PRIVATE SCHOOL		
	2011-2012	2012-2013	2013-2014	2011-2012	2012-2013	2013-2014
Total Enrolment I to V	68.63	66.04	64.54	31.37	33.96	35.46
Total Enrolment VI to VIII	62.17	60.42	60.30	37.83	39.58	39.70
Total (I to VIII)	66.61	64.20	63.13	33.39	35.80	36.87

Table 2: Percentage of Children Enrolled in Government and Private Schools – A Comparison

Taken during the Global Action Week for Education in India

for these families. It has been found that ‘some low-income parents spend up to 50% of their income on the education’ of their children. The macro-level data indicate that going to a private school is a mark of social privilege and that, for example, rural Schedule Caste females are very unlikely to find themselves in a private school.⁶ These findings bring out the equity issues in the low fee private schools.

STATUS OF EDUCATION FINANCING IN INDIA

The total education budget of the Union Government has consistently been falling from a level of 14.2% in 2012-2013 to 13.1% of total expenditure in 2016-17. It may be recalled that this percentage used to be 16-17% of the national budget in the early 1990s. The state is abdicating its responsibility and is inching progressively towards leaving things to the vagaries of market forces.

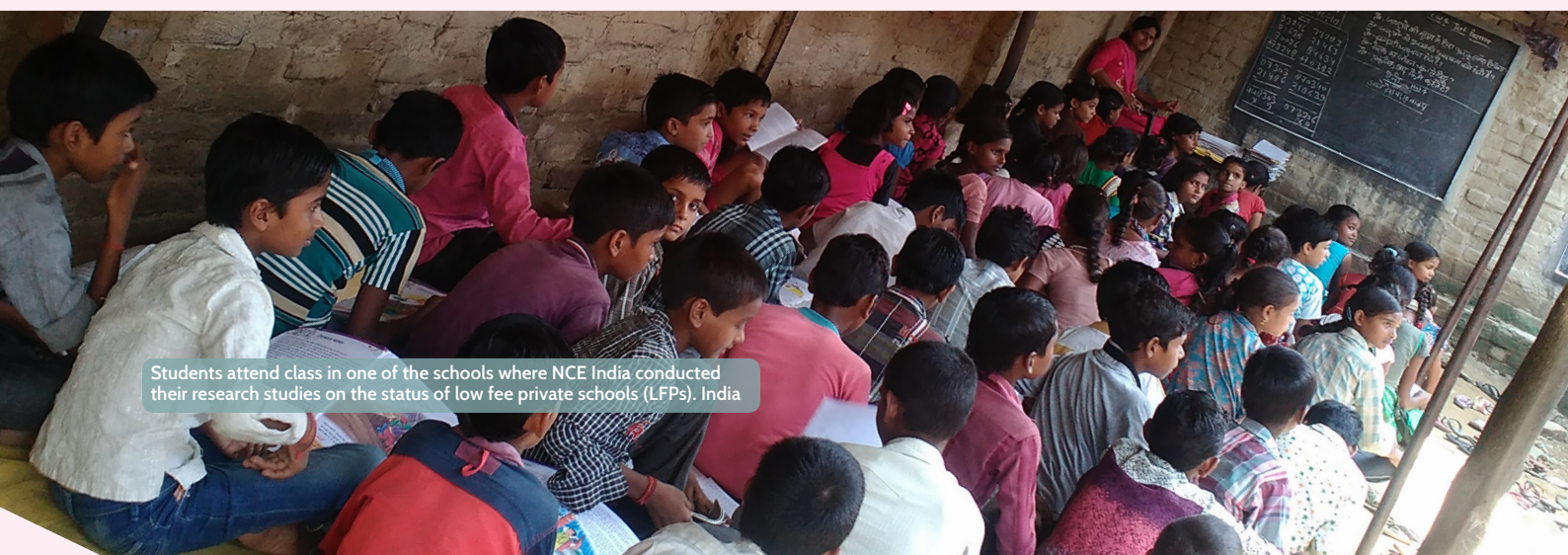
The implementation of the RTE Act remains underfunded, with less than 6% of GDP being allocated for education. The financial estimates for the implementation of the Right to Education have been revised to Rs. 228,674 crores (Rs. 22.8674 billion) over a seven-year period from 2008-09 to 2014-15. To finance the RTE, the government approved a total outlay of Rs. 2.31 lakh crores (Rs. 2310 billion) over a five-year period from 2010-11 to 2014-15. This includes the 13th Finance Commission (FC) grant of Rs. 24,068 crores (Rs. 240.68 million) for the states for the period 2010-11 to 2014-15. The government acknowledges that they have failed to provide the adequate resources to implement this critical legislation.

6 ibid

CONCLUSION AND RECOMMENDATIONS

As a signatory to multiple international treaties protecting the right to education of all, India is under the international law's obligation to assume its responsibility of providing elementary education to children. However, this responsibility is being transferred to private sectors that are running schools for profit, which is an issue of serious concern. It is then recommended that the Government of India:

- ★ Ensure the proper implementation of the RTE Act and allocate the estimated budgetary requirements. The poor quality of government schools can be attributed to insufficient budgetary allocations. Hence, it is important that more funds be allocated to the system. The government should also take strict measures in implementing the RTE Act as the failure of government education system has led to the mushrooming of private schools.
- ★ Strengthen the public education system in order to provide equal opportunities to all its citizens. The privatisation and the commercialisation of education promote and cause segregation in the society, especially on the basis of socio-economic backgrounds and gender.
- ★ Monitor private schools and their services by implementing strict regulatory and accountability mechanisms. There are private schools claiming that they adhere to the rules and regulations. However, it is still imperative that the state machinery strictly monitor their operation.
- ★ Regulate the fee hike of private schools by strengthening the implementation of fee regulatory mechanisms.



Students attend class in one of the schools where NCE India conducted their research studies on the status of low fee private schools (LFPs). India

EXCERPT ON THE REPORT OF THE WORKING GROUP UNIVERSAL PERIODIC REVIEW (UPR) OF INDIA 17 JULY 2017

The Working Group of the Human Rights Council conducted a Universal Periodic Review of India and submitted its report on 17 July 2017. During the review process, member states raised questions, made comments, and gave recommendations to the State under review. Some of the major questions raised were on the specific measures to promote and protect the right to education; the steps taken to eliminate discrimination against girls and other marginalised groups; the financing requirement for universal and free education; and the measures implemented to eradicate violence based on gender, caste, and socio-economic status.

The member states gave recommendations that will guide the government of India to take further action to solve the issues in its education system. They called on the State to intensify its efforts to provide inclusive and quality education for all. In particular, they emphasised the need to improve the access to education of girls, children of scheduled castes and tribes, as well as persons with disabilities. In line with this, they also recommended that the State enhance the quality of education by increasing the government spending and eradicating discrimination, prejudice, and violence based on gender, caste, and socio-economic status.

UPR QUESTIONS AND RECOMMENDATIONS

The following are some of the questions and recommendations raised by the member states and accepted by the Government of India:

- * Mexico: What legislative and policy measures have been taken to ensure universal, compulsory and free education, especially those aimed at eradicating discrimination, particularly discrimination that affects girls, marginal groups and persons with disabilities? What measures have been taken to transition from segregated education for children with disabilities into inclusive education?
- * Increase investment in universal, mandatory and free education by giving priority to measures to eradicate discrimination and exclusion that affect girls, children with disabilities, Dalits and marginalised persons.
- * UK: What other steps could the government of India take to promote and protect the rights of persons belonging to minority groups, as enshrined in India's constitution?
- * Slovakia: Expand the scope of the Right of Children to Free and Compulsory Education Act.
- * Czech Republic: Step up its efforts against caste-based violence, discrimination and prejudice, including by eradicating all forms of caste-based discrimination in the educational system.
- * Iraq: Increase the government expenditure in the field of education.
- * Lao: Continue efforts to ensure that all children have access to education at all levels and all categories.
- * Myanmar: Continue to take steps to provide inclusive and quality education for all.
- * Brunei: Step up its efforts to carry out the second phase of its Education for All programmes to focus on providing affordable and quality secondary education in the country.
- * Kyrgyzstan: Accept more efforts to increase girls' secondary education, including ensuring that schools are girl-friendly in all parameters.
- * Holy See: Continue to ensure access to education for all, especially children of scheduled castes and tribes.
- * Oman: Continue efforts aimed at improving the access of persons with disabilities to education, vocational training and healthcare.
- * Australia: Ensure that girls with disabilities are afforded the same right to education as all children.

NCE - India

National Coalition for Education (NCE) is a conglomeration of networks working on the Right to Education comprising of Parliamentary Forum for Ensuring Right to Education; All India Primary Teachers Federation (AIPTF), a union of more than 3 million primary teachers; All India Federation of Teachers Organisation (AIFTO), a union of 1.2 million teachers; All India Secondary Teachers Federation (AISTF) with 0.85 million teachers; All India Association for Christian Higher Education (AIACHE), an association of 300 college principals; World Vision India (WVI), a foundation working for children education and development and People's Campaign for Common School System (PCCSS), a rights based mass organisation advocating for common school system in India.

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Segregating Education, Discriminating Against Girls: Privatisation and the Right to Education in Nepal in the Context of the Post-Earthquake Reconstruction

Submitted May 2016

BACKGROUND

As a party to the International Convention on the Rights of the Child (ICRC), Nepal protects its citizens' right to education through its newly-adopted Constitution of Nepal of 2015.¹ Article 31 of the Constitution guarantees the right to education, stating that, 'Every citizen shall have the right to compulsory and free basic education, and free education up to the secondary level.' It also provides for the 'right to equality' at article 18, which mandates that, 'There shall be no discrimination in the application of general laws on the grounds of origin, religion, race, caste, tribe, sex, physical conditions, disability, health condition, matrimonial status, pregnancy, economic condition, language or geographical region, or ideology or any other such grounds'. However, issues on the privatisation of education in the country continue to emerge and threaten the citizens' right to compulsory and free basic education and right to equality.

CURRENT SITUATION

According to 2014 official statistics, community (public) schools represented 84.1% of all schools, and institutional (private) schools accounted for 15.9% of the total.² This trend was stable in 2015 with 15.3% of children officially enrolled in private schools. A majority of those private schools are registered as companies and operate through user fees.³

1 Available from <http://www.ilo.org/dyn/natlex/docs/MONOGRAPH/100061/119815/F-1676948026/NPL100061%20Eng.pdf>

2 Ministry of Education, 'Nepal Education in figures 2014 At-a-glance', 2014, available at http://moe.gov.np/SoftAdmin/content/Nepal_Education_Figure_2014.pdf.

3 Government of Nepal National Planning Commission, 'Earthquake 2015 Post Disaster Needs Assessment. Vol. B: sector reports' (2015), available on http://www.npc.gov.np/images/download/PDNA_volume_BFinalVersion.pdf, p. 52.



Figure 1. Percentage of children attending private school, both sex, according to official statistics (UNESCO, primary level) and the Living Standard Survey (all levels)

Source: Central Bureau of Statistics, National Planning Commission Secretariat, Government of Nepal, Nepal Living Standards Survey 2010/11, Statistical Report, Volume one, November 2011, p. 84, and <http://data.uis.unesco.org/>.⁴

The number of private schools is even underestimated due to the high number of unregistered private schools that are not accounted for the official statistics. For instance, the 2010/2011 Living Standard Survey shows that 27% of children attend private schools.⁵ Overall statistics also mask high disparities between urban areas, where 56% in average, and up to 80% of children, are enrolled in private schools, and rural areas where 20% of children attend private schools. The Constitution of Nepal (2015) articulates that the private sector investment in the

4 Figures from the Living Standards Survey actually cover two years (e.g. 1995/96), and these figures been approximated to correspond to the second applicable year in this graph.

5 Central Bureau of Statistics, National Planning Commission Secretariat, Government of Nepal, Nepal Living Standards Survey 2010/11, Statistical Report, Volume one, November 2011, p. 99.

NEPAL (Session 72 of the CRC: 17 May to 3 June 2016)



Taken during the monitoring of successful public schools conducted by NCE Nepal

education service should be regulated and managed. Despite this, the number of private schools continues to grow due to the policies supporting private schools and the lack of monitoring and information on what constitutes education quality.

INEQUALITIES AND SEGREGATION CREATED BY PRIVATISATION IN EDUCATION

According to the Living Standard Survey 2011, the household expenditure is 8.4 times higher for those attending private primary schools compared to public primary schools. Similarly, the cost is 6.9 times higher in lower secondary private schools and 4.7 times higher in secondary private schools. In that case, the cost of private schooling is not affordable for most of the poor in Nepal. In addition to the cost, other non-financial barriers, such as entry processes, prevent children of low-income households from attending those schools. In a context where social prestige has close ties to the socio-economic background and plays an influential role in the choice of school, these types of entrance requirements create barriers to education access, especially for socio-economically and other disadvantaged households.

DESCRIPTION	PRIMARY		LOWER SECONDARY		SECONDARY	
	Public	Private	Public	Private	Public	Private
Monthly Fee	116	4,841	235	7,985	554	10,640
Exam and admission fees	119	1,469	324	2,369	795	4,901
Uniform	342	936	546	1,135	675	1,131
Textbooks and other	379	1,704	766	2,346	1,424	2,582
Transportation	7	371	7	611	28	1,008
Tuition / coaching	84	367	152	756	882	2,353
Tiffin	286	1,477	475	2,065	1,029	2,521
Total	1,333	11,165	2,505	17,267	5,387	25,136
Percentage higher for private schools compared to public schools		8.38		6.89		4.67

Figure 3. Per capita annual education expenditure by level of education, Nepal (in Nepali rupees).⁶

Besides the tuition fees, households have to cover other expenses, such as transportation, lunch, or uniforms, which are also considerably higher in private schools in comparison to public schools. These costs are essential to take into account as private schools conceal the real costs of education through the lowering of the tuition and the increase in miscellaneous fees, such as the admission fees.

Consumption Quintile	Community/ Government School/ College	Institutional/ Private School/ College	Other School/ Colleges
Poorest 20%	92.7%	6.4%	0.9%
Second	86.5%	11.2%	2.3%
Third	79.1%	19.8%	1.1%
Fourth	64.3%	34.7%	1.0%
Richest 20%	39.0%	60.1%	0.9%
Average	71.9%	26.8%	1.2%

Table 1. Type of school attended by individuals currently in school according to their income quintile (Figure is in red when above the average)⁷

- 6 Source: raw data from the Nepal Living Standards Survey 2010/11, quoted in G. Subedi, M.G. Shrestha, M. Suvedi, 'Dimensions and implications of Privatisation of Education in Nepal: the case of primary and secondary schools', in Ian Macpherson, Susan Robertson and Geoffrey Walford (eds.), Education, Privatisation and Social Justice: Case studies from Africa, South Asia and South East Asia (Symposium Books, Oxford, 2014) 113, p. 127.
- 7 Source: Central Bureau of Statistics, National Planning Commission Secretariat, Government of Nepal, Nepal Living Standards Survey 2010/11, Statistical Report, Volume one, November 2011, p. 99.

According to the statistics, 60.1% of the pupils enrolled in private schools belong to the 20% richest quintile of the population, while 92.7% of the pupils enrolled in government schools belong to the poorest quintile of the population. As a result, the education system is a highly segregated society according to socio-economic background. This threatens not only the students' right to education but also their right to equality. Moreover, it emphasises what the UN treaty bodies have explicitly recognised—that socio-economic segregation is directly linked to discrimination and contrary to the right to education.

EFFECTS OF THE GAP BETWEEN PUBLIC AND PRIVATE EDUCATION

The privatisation in education in Nepal has caused segregation in the following areas:

1. Discriminates against parents from marginalised socio-economic groups with regard to educational opportunities: Rich households spend 45.8% of their income on food and 7.6% on education. They can afford high-quality, expensive, private schooling and provide their children with more opportunities for growth, such as good English proficiency, which is considered the key to a better future.

In contrast, poorer households have to spend 71.6% of their income on survival (food) and only 3.4% on improving their situation through education. Hence, they are unable to provide their children with better educational opportunities.

Consumption Quintile	Share of income spent on Food	Share of income spent on Education
Poorest	71.6	3.4
Second	70.2	3.9
Third	66.6	4.6
Fourth	61.3	5.7
Richest	45.8	7.6

Table 3. Share of the distribution of household income on food and education⁸

2. Discriminates on the grounds of gender and occupation and descent: 41% of the children enrolled in private schools are Brahmin/Chhetri, which is the most advantaged ethnic group. Additionally, at the primary and secondary levels, private schools have 57% boys, against 43% girls, whereas public schools have 52% of girls and 48% of boys⁹

The case seems to be worsening.¹⁰ This reflects the stereotypical social value that places more importance on boys' education than girls' education.

	Boys	Girls
Private Schools	57%	43%
Public Schools	48%	52%

- 8 Source: Central Bureau of Statistics, National Planning Commission Secretariat, Government of Nepal, Nepal Living Standards Survey 2010/11, Statistical Report, Volume one, November 2011, p. 36.
- 9 Ministry of Education, 'Nepal Education in figures 2014 At-a-glance', 2014, p. 7. See also study on a few schools: Pramod Bhatta, 'Public Desire for Private Schooling in Nepal' in Ian Macpherson, Susan Robertson and Geoffrey Walford (eds.), Education, Privatisation and Social Justice: Case studies from Africa, South Asia and South East Asia (Symposium Books, Oxford, 2014) 113, p. 127.
- 10 See the Kantipur Daily of 16 March 2015 which reports that the number of girls in private schools decreased this year by 3% as compared to last year.

3. Undermines the right to free compulsory education: The growth of privatisation in education weakens the public sector's reputation. As public schools have to educate the most disadvantaged children, they also become 'stigmatised',¹¹ with many private school parents believing that the public schools' lack of user fees automatically devalues them in comparison to private schools.¹² One parent even remarked that they feel embarrassed to send their children to the government school, saying that, "People who are of lower status than us—even poor people—are going hungry and sending their children to private schooling."¹³
4. Lowers the quality of the overall education system: Segregation lowers the general quality of education as it affects both underprivileged and privileged children who miss out on an important part of a quality education. By segregating the latter, the privileged parents are preventing them from "sharing the life and experiences of the "children of the poor and coming into contact with the realities of life [...] [and also] render the education of their own children anaemic and incomplete."¹⁴ It is also important to note that the highest performing education systems across OECD countries are those that combine quality with equity.¹⁵
5. Weakens Social cohesion: High social segregation risks create and entrench prejudices, stereotypes, and defiance among the different groups in society. For instance, in a household survey, 59% of parents believed that the dual schooling system in Nepal was unfavourable to the social cohesion of the country since the present system is producing two classes of citizens who are schooled in vastly different ways.¹⁶

THE IMPACT OF THE EARTHQUAKE ON PRIVATISATION

Nepal experienced a devastating earthquake in April 2015 that caused unprecedented destruction with about 9,000 casualties, and over 22,000 injuries. This includes the death of 584 students and 49 teachers. Furthermore, 8,242 community (public) schools have been affected by the earthquake: 25,134 classrooms were fully destroyed and another 22,097 were partially damaged. Overall, the public sector suffered more in terms of damages and losses when compared to private sector. Of the total effect, 92% accrues to the public sector and only 8% to the private sector.

The earthquake revealed that it is challenging for the government to monitor and regulate private schools effectively. After the catastrophe, the education sector was severely affected and the government closed all schools temporarily. But once the government decided to reopen schools, private school owners refused to reopen their schools because of their inability or lack of willingness to spend money to establish Temporary Learning Centres. In the end, many private schools did not establish Temporary Learning Centres. Instead, they conducted classes in red-

stickered buildings,¹⁷ which are hazardous to the students and the teachers.

The government required that the private schools do not charge any fees for the period of school closure. However, private schools rejected the government's decision and still charged fees, which included the two months of temporary closure. The earthquake's aftermath could potentially be the reason for reconstructing and improving the education system. However, organisations in the country are concerned that it could become a field to increase the involvement of the private sector.

FINANCING IN PUBLIC EDUCATION

Nepal is in the reconstruction process which requires more than the budget of normal time. In addition, to ensure the right to free and compulsory basic education as provisioned in the Constitution, it is essential to allocate at least 15% to 20% of the total national budget for education, and at least 4% to 6% of Gross Domestic Product (GDP), consistent with the international benchmark set by UNESCO. However, the education budget has been decreasing every year.

As of 2014, Nepal was spending not more than \$338.5 USD per primary pupil per year in parity of purchasing power, which is lower in comparison with India (\$435 USD in 2012), Bhutan (\$1,019.7 USD), Thailand (\$4,072.5 USD in 2012), Vietnam (\$1,189.1 USD in 2012), and Sri Lanka (\$430.9 USD in 2012).¹⁸ According to the official statistics, Nepal spends only 12.9% of its national budget for education, and 4.1% of its GDP for education (GoN, 2015) which are still below the desirable level of education expenditure.

CONCLUSION AND RECOMMENDATIONS

The constitution of Nepal envisions free and compulsory basic education and compulsory secondary education. However, it lacks the vision of translating the provision of education rights to reality given the inadequate budget for education which continues to decrease every year.

The School Sector Development Plan will guide the education sector for the coming seven years. The government has introduced the partnership with the private sector but failed to specify the modalities and framework. This is another entry door that encourages the privatisation of education throughout the country.

The segregation and discrimination engendered by the privatised Nepali education system is both a human rights violation in itself and a source of other human rights breaches. It also constitutes an additional threat to peace, in an already unstable context. This should be taken seriously in a country where the history of schooling provision [...] since the 1950s 'is one of ongoing tensions and continual reinterpretation of the relative significance of state and non-state actors as education providers', and 'a story of educational aspirations and the shifting nature of the divide between those able to pursue their schooling dreams and those who are thwarted in their efforts.'¹⁹

11 Using the expression from Priyadarshani Joshi. 'Parent decision-making when selecting schools: The case of Nepal' op. cit., p. 18.

12 Ibid.

13 Ibid.

14 India Education Commission, 'Education and national development: Report of the education commission, 1964-66 – Volume I', India ministry of education, National Council of Educational Research and Training (1966), para. 1.37.

15 OECD, Equity and Quality in Education: Supporting Disadvantaged Students and Schools, OECD Publishing (2012).

16 Subedi, Govinda, Shrestha, Mandan Gopal, Suvedi, Mukti, op. cit., p. 129.

17 Red-stickered or red-tagged structures are buildings that have been inspected and deemed unsafe. No access is granted until completion of detailed engineering evaluation, retrofit or rebuilding. From "Guidelines for Seismic Assessment of Damaged Buildings", by P. Bazzurro, C.A. Cornell, C. Menun, and M. Motahari, 2004, p.6. available on http://www.iitk.ac.in/nicee/wcee/article.1708_13/pdf

18 Data from <http://data.uis.unesco.org/>.

19 Martha Caddell (2007), op. cit.

Beyond the tragedy and its aftermath, the earthquake provides an opportunity to improve the educational system and to provide children with free, quality education. But this does not seem to be the case as the authorities are showing more interest in providing support to the private sector. Such an approach, which has already been experienced in Haiti and New Orleans, would gravely risk undermining the right to education of generations to come.

IN LINE WITH ALL OF THESE, IT IS THEREFORE RECOMMENDED THAT THE CESCR RAISE THE FOLLOWING ISSUES:

- * How is the state party going to implement the provision of the constitution which mandates the regulation of private schools?
- * How will the state party ensure that the provision of constitution: 'right to open and run schools and educational institutions' and provision of PPP in other policies will not lead towards privatisation and will not create segregation?
- * How will the government ensure that schools receiving public funds do not charge additional fees to parents and private schools don't charge more than government's policies?
- * How does government take immediate steps for ensuring school safety in private schools?
- * By when will the state take specific measures to ensure socio-economic and ethnic diversity in all schools, both public and private, with the view to promote social cohesion and solidarity in society?
- * How and by when will the state ensure that the education sector will get a budget that is consistent with its international commitments?

THE FOLLOWING ARE SOME OF THE RECOMMENDATIONS FROM THE UN COMMITTEE ON THE RIGHTS OF THE CHILD:

- * Take appropriate regulatory measures to ensure that private providers of education do not further threaten social cohesion, and are not a cause of segregation and discrimination, in particular by effectively regulating fees and removing other barriers to ensure equitable access to education, and by strictly implementing relevant legislations such as the Institutional School's Fee Fixation Guidelines which requires two-thirds of parents approval of schools fees;
- * Increase its efforts, including the scaling-up of domestic resource

mobilisation through an expanded domestic tax base, increase efforts to address tax avoidance, and implementing appropriate financing strategies, so as to ensure the effective and actual provision of free quality education to all without discrimination, in all parts of the country, in particular for the most marginalised;

- * Ensure that all private schools, both existing and new ones, are registered as trusts, so that such schools can focus on the development of the child's personality, talents and mental and physical abilities to their fullest potential rather than on making profits from pupils, including poor children
- * Take specific measures to ensure socio-economic and ethnic diversity in all schools, public and private, with the view towards promoting social cohesion and solidarity in society;
- * Focus the reconstruction efforts and resources on rebuilding a public education system that is able to fulfil the right to education and reposition the education system towards free quality public education, including by analysing the human rights impact of other previous reconstruction experience such as in Haiti and New Orleans so as not to repeat policies violating the right to education;
- * Refrain from engaging in public-private partnerships in education unless in exceptional circumstances as part of a plan to build a strong public system providing free quality education and only after conducting a prior human rights impact assessment to demonstrate that the programme prioritises on reaching the poorest and does not undermine the right to education; provided further that the public private partnerships are used as a temporary stopgap measure and do not lead to privatisation of education, and that they are consistent with other human rights requirements laid out by the UN Special rapporteur on the right to education in the August 2015 report to the UN General Assembly (A/70/342); and
- * Take immediate steps in monitoring school safety in private schools that have been affected by the earthquake and adopt legislation to require public and private schools to take adequate measures to mitigate the risk of possible disasters.

EXCERPTS ON THE EDUCATION, LEISURE AND CULTURAL ACTIVITIES

Concluding Observations on Nepal COMMITTEE ON THE RIGHT OF THE CHILD (CRC) 8 JULY 2016

"The Committee welcomes the Constitutional provisions on free and compulsory basic education and free secondary education. However, the Committee is concerned about:

- (a) This Constitutional provision not yet being enshrined in legislation;
- (b) Decreases in the proportion of the budget allocated to State provided education combined with the emergence of private schools, which exacerbates segregation and discrimination in the education system while reducing overall quality of education available to children;
- (c) The high number of children who are out of school due to hidden fees;
- (d) The high drop-out rate of girls between primary and secondary school and during secondary, due to lack of separate toilets and menstrual hygiene;
- (e) The low enrolment rate and high drop-out rate of indigenous children;
- (f) Significant gaps in the quality of education between rural and urban areas; and,
- (g) Inadequate development of early childhood care and education.

In the light of its general comment No. 1 (2001) on the aims of education, the Committee recommends that the State party:

- (a) Enact legislation to ensure the effective implementation of the Constitutional right to education;
- (b) Implement appropriate financing strategies, so as to ensure the effective and actual provision of free quality education to all without discrimination, in all parts of the country, in particular for children in most marginalised situations; and,
- (c) Take appropriate regulatory measures to ensure that private providers of education do not undermine social cohesion, or exacerbate segregation and discrimination, in particular by effectively regulating fees, syllabus, admission criteria and diversity of student backgrounds, and other barriers to access, and ensure the adequate implementation of the legislation, as well as ensure child friendly school infrastructure in private schools;
- (d) Ensure regulatory and enforcement frameworks, including reporting mechanisms, to combat the phenomenon of schools and/or teachers subjecting children to hidden costs for attending school;"

NCE-Nepal

The National Campaign for Education-Nepal (NCE-Nepal) is a national level network of 339 members working for rights to education in Nepal. Its members include I/NGOs, teacher organisations, education journalists and community based organisations. It was established as a national chapter of Global Campaign for Education Nepal (GCE Nepal) in 2003 and it was registered as NCE-Nepal in 2009. It focuses on evidence-based policy advocacy to ensure the equitable quality inclusive education for all.

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**NCE
NEPAL**

Privatisised Education in Pakistan and the Right to Education: A Right Out of Reach?

Submitted April 2016

BACKGROUND

Pakistan has signed and ratified the main treaties relating to the protection of the Right to Education, including the International Covenant on Economic, Social and Cultural Rights (ICESCR); Convention on the Rights of the Child (CRC); and the Convention on the Rights of Persons with Disabilities (CRPD). In the country, education has only recently been made a fundamental, justiciable and enforceable right in the Pakistan Constitution, through its 18th Amendment in 2010, and the introduction of Article 25(a), which stipulates that: “the state shall provide free and compulsory education to all children of the age five to sixteen years in such a manner as may be determined by law”¹. The right to education is confirmed in the Right to Free and Compulsory Education Act 2012, which all the provinces^{[2] [3] [4]} and the territories⁵ have passed, with the exception of Khyber Pakhtunkhwa.⁶ Despite these provisions on the right to quality education for all, the privatisation of education remains largely prevalent in the country.

CURRENT SITUATION

Pakistan continues to face enormous education challenges, having the world's second highest out-of-school population with the total number of out-of-school children ranging from

8.8 million to 25 million.⁷ Almost one in every five children of primary school age is not in school, and this proportion increases at higher education levels. More than half of all out-of-school children are girls and children from poor households are more likely to be out of school compared to children from high-income families.⁸

In brief, a widening gap persists among children according to their socio-economic strata and gender. A survey by UNESCO (2012) found that most of the children who have never been to school are more likely to be underprivileged girls from rural areas (70%). The majority of children in rural and urban slum areas from low-income families attend public schools that lack appropriate facilities, teachers, and suitable learning materials, such as textbooks.⁹

The educational challenges currently faced by Pakistan are mainly the result of consistent insufficient education spending by successive governments. The graph below shows that Pakistan only spent 2.14% of its GDP on education from 2014 to 2015,¹⁰ failing to reach the country's longstanding target as reiterated by the current federal government, of spending 4% of the Gross Domestic Product (GDP) on education by 2018,¹¹ and not to mention the international benchmark of 6% of GDP.

- 1 Pakistan Constitution . Art.XXV , Sec. a.
- 2 See: http://rtepakistan.org/wp-content/uploads/2012/12/The_Sindh_Right_of_Children_to_Free_and_Compulsory_Education_Act_2013.pdf
- 3 See: http://rtepakistan.org/wp-content/uploads/2014/07/The_Balochistan_Compulsory_Education_Act_2014.pdf
- 4 See: <http://punjablaws.gov.pk/laws/2580.html>
- 5 See: http://rtepakistan.org/wp-content/uploads/2012/12/Act_2012_Right_to_Free_and_Compulsory_Education_National_Assembly_Secretariat_Islamabad.pdf
- 6 See the status of RTE in Khyber Pakhtunkhwa: <http://rtepakistan.org/legislation/kpk/>

- 7 Alif Ailaan (2014) 25 million brokenpromises: the crisis of Pakistan's out of school children. Islamabad:Alif Ailaan. <http://bit.ly/1FkolZ0> [Retrieved 28 January 2016]
- 8 Ibid.
- 9 Ministry of Education, Trainings and Standards in Higher Education Academy of Educational Planning and Management, Pakistan (June 2014). Pakistan Education for All Review Report 2015 <http://unesdoc.unesco.org/images/0022/002297/229718E.pdf> [Retrieved 8 April 2016]
- 10 Government of Pakistan (2013) Pakistan Economic Survey 2014- 15: Education. Ministry of Finance http://www.finance.gov.pk/survey/chapters_15/10_Education.pdf [Retrieved 7 April 2016]
- 11 Ibid., p. 174.



A group of nine year old girls in rural Sindh. This is one of the most vulnerable groups of schoolgoing children at the risk of dropping out after grade 5. Poverty, early marriages, as well as the lack of separate schools for girls are some of the reasons why more girls drop out.

Although education is mandated to be free, households bear a large part of education costs,¹² which prevents many underprivileged families from accessing education. According to the EFA Global Monitoring Report, about two-thirds of total expenditure on education comes from households.¹³

SUPPORT OF THE STATE FOR THE EXPANSION OF PRIVATE ACTORS IN EDUCATION

Insufficient national education spending combined with a rapidly growing population¹⁴ and international pressure on the State to advance its efforts in achieving universal primary education has resulted in proactive State support for the expansion of private education.¹⁵ Instead of increasing public education spending, Pakistan chose to prioritise the development of partnerships with the private sector through public funds. As a result, the country has experienced unprecedented growth in the number of private schools, with a dramatic expansion of the so-called low-fee private schools in poor urban areas and rural villages.

According to Annual Status of Education Report (ASER)¹⁶, approximately 59% of children in urban areas and 23% in rural areas were enrolled in private schools in Pakistan in 2012.¹⁷ The enrolment of children in private schools has increased at the primary level while public school enrolment has declined between 2009 and 2012. The growth of low-fee private schools has been particularly salient in both the Punjab and Sindh Provinces where the governments have proactively promoted the expansion of Low-cost private schools through public-private partnership (PPP) modalities that are managed and financed through the Punjab Education Foundation and the Sindh Education Foundation respectively.¹⁸

One example of which is the Promoting Private Schooling in Rural Sindh Project of the Sindh Education Foundation, a quasi-governmental agency of the Sindh provincial government. With the support of the World Bank, this agency encourages private entrepreneurs to set up and operate private primary schools in underserved villages.

Public funds are increasingly diverted towards the expansion of private schools and PPPs in education. Pakistan's current National Education Policy (NEP) 2009 and its predecessors (1998-2010) encourage private investment in education and promote PPPs with the aim of meeting the country's education goals. The NEP 2009 makes provision for special incentives

Education Expenditure as a percentage of GDP



Source: Pakistan Economic Survey 2014-15²⁴



Students attend their school assembly at a Sindh Education Foundation-run school in Sindh, Pakistan. (Picture by Manzoor Bhatti/KewalLahvana)

for schools which are set up by the private sector and includes land, tax exemptions, domestic rather than commercial rates for utilities, and grants for the establishment of schools in rural or poor urban areas, as provided through the Education Foundations.¹⁹

THE IMPACT OF PRIVATISATION IN EDUCATION ON THE RIGHT TO EDUCATION

The rapid growth of PPP initiatives and the expansion of low-cost private schools still failed to reach the poorest families. This may have been due to the cost of attending these schools, including the tuition fees and the non-fee expenses, such as uniforms, textbooks, and transportation. According to an Oxfam International report, the cost of attending low-fee private schools in Pakistan is about one-quarter of household income, and "taking the average number of children per household into account, sending all children to school would cost 127 percent of that household's income."²⁰

As a result of the privatisation of education in Pakistan, the education system is highly segregated by socio-economic status. The ASER 2015 data shows that only 9% of children from the poorest households are enrolled in private schools, while most (87%) attend public school. In comparison, a much larger percentage (38%) of children from the wealthiest families are in private schools.

¹² In addition to fees, these costs typically include daily transport, uniforms, meals, and textbooks.

¹³ UNESCO (2015) Education for All Global Monitoring Report: Achievements and Challenges. UNESCO: Paris.

¹⁴ Pakistan's population is estimated at approximately 180.71 million in 2011 with an average growth rate of 2%.

¹⁵ Institute of Social and Policy Studies (2010) Private Sector Education in Pakistan: Mapping and Musing I-SAPS: Islamabad. <http://bit.ly/1qxhLJ5> [Retrieved 7 April 2016]

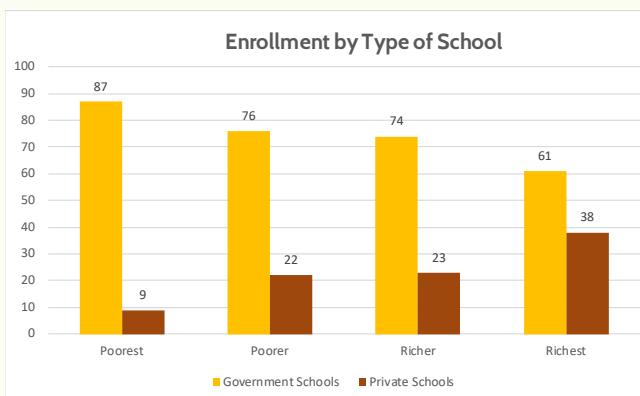
¹⁶ ASER is a citizen-led initiative that aims to provide reliable estimates on the schooling status of children aged 3-16 years residing in all rural and few urban districts of Pakistan

¹⁷ AlifAilaan. 2014. 25 million broken promises: the crisis of Pakistan's out-of-school children. Islamabad: AlifAilaan. Pp.6.

¹⁸ Malik, R. and Rose, P. (2015) Financing Education in Pakistan: Opportunities for Action. Country Case study for the Oslo Summit on Education for Development Country report prepared for the Oslo Summit on July 6-7, 2015. <http://bit.ly/1KfBx3F> [Retrieved 7 April 2016]

¹⁹ UNESCO. (2010). Secondary education regional information base: Country Profile. Bangkok: UNESCO Asia and Pacific Regional Bureau for Education.

²⁰ Oxfam International (2014) "Working For the Many: Public Services Fight Inequality" <https://www.oxfam.org/sites/www.oxfam.org/files/bp182-public-services-fight-inequality-030414-en.pdf> [Retrieved 8 April 2016]



Source: ASER national report 2015

Segregation is also manifested by the fact that the private schools attended by the richest and the poorest are not the same. The poorest children tend to attend low-fee private schools, which are the only ones their families can pay for, while the richest attend elite and expensive private schools.²¹ Among the poor and the poorest groups, micro-segregation is further created, particularly in the low-fee schools with different fees.

Various reports also discovered that private schools tend to situate in urban areas and wealthier rural communities and not in poor rural areas. This prevents access for households located in poor rural areas and implies that they are geographically segregated.²² There is also clear inequality of access to private schools for girls. In rural Pakistan, girls from the poorest households are 31% less likely to attend private schools than the poorest boys.²³

THE ABSENCE OF REGULATIONS FOR PRIVATE SCHOOLS IN PAKISTAN

One of the major concerns that the State needs to address is the fact that low-fee private education provision is still encouraged by the State and by both bilateral and multilateral donors despite the absence of a State-led and State-implemented regulatory framework for private schools.²⁴ With almost no entry restrictions on new education providers and only minimum criteria to establish an educational institution, private schools in the country can be easily registered without taking accountability for suitable premises, qualified faculty, pupil-teacher ratio, and necessary facilities.²⁵

The lack of basic data on private schools in Pakistan proves that there is inadequate investment in monitoring and that the State fails to regulate them effectively. A study found that "a major issue that emerges from the review of private education is the lack of data and research, even about some basic characteristics of the sector. For example, policymakers do not have access to reliable knowledge about characteristics of different types of private schools."²⁶

21 Jamil, B. R., Javaid, K., & Rangaraju, B. (2012). Investigating dimensions of the privatization of public education in South Asia. PERI.

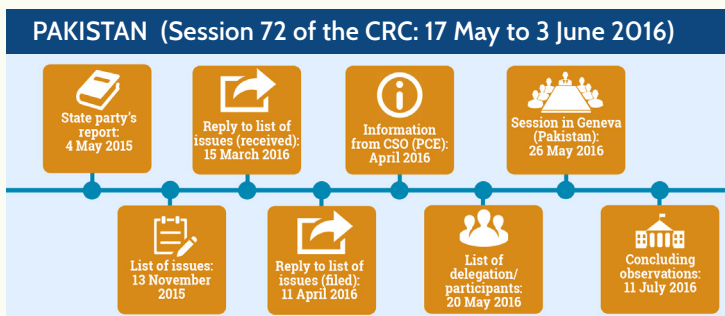
22 Ibid.

23 Alcott, B. M. and Rose, P. M. (2015) "Schools and learning in rural India and Pakistan: Who goes where, and how much are they learning?" *Prospects*, 45(2): 345-363

24 Malik, R. and Rose, P. (2015) *Financing Education in Pakistan: Opportunities for Action*. Country Case study for the Oslo Summit on Education for Development Country report prepared for the Oslo Summit on July 6-7, 2015. <http://bit.ly/1KfBx3F>. [Retrieved 7 April 2016].

25 Haider, M. S. (2015, December 26). Why isn't the standard of education in Pakistan's private schools regulated? Retrieved April 13, 2016, from *Express Tribune*: <http://blogs.tribune.com.pk/story/29386/why-isnt-the-standard-of-education-in-pakistans-private-schools-regulated/>

26 Institute of Social and Policy Sciences, "Private Sector Education in Pakistan: Mapping and Musing" (2010), available from [http://www.aserpakistan.org/document/learning_resources/2014/Private_Tuitions/Private%20Sector%20Education%20Report-I-SAPS%20\(1\).pdf](http://www.aserpakistan.org/document/learning_resources/2014/Private_Tuitions/Private%20Sector%20Education%20Report-I-SAPS%20(1).pdf)



This issue is particularly severe when it comes to PPPs in which regulation and monitoring are crucial. The quality of private schools is also questioned due to the lack of effective regulation by the government. According to the statistics collected by ASER in 2015, the facilities of private schools in rural areas are similar to those of public schools, and even tend to have less trained teachers.

CONCLUSION AND RECOMMENDATIONS

Pakistan continues to face several intersecting economic and social challenges. Although education's fundamental and instrumental role in a country's development is blatant, the State makes little effort to realise its citizens' right to education. This is evidenced by the extremely low spending on education and the explicit policy of relying on the private sector to provide education that reinforces segregation and fails to be regulated adequately. Hence, the citizens' right to education is infringed upon and the realisation of all human rights in Pakistan is undermined.

It is then recommended that the CRC address the following questions:

1. What steps are undertaken by the State party to strengthen the free public primary and secondary school system of quality in line with its obligations under international human rights law?
2. What steps are undertaken by the State party, as a matter of priority, to effectively continue segregation and discrimination of the most disadvantaged children in the education system?
3. How will the State concretely ensure that private schools receiving public funds under existing public-private partnership schemes do not do not charge fees and other expenses which lead to segregation and exclusion of poor families?
4. Why has the State not done any human rights assessment of the impact of its policies of public-private partnerships in education?
5. How does the State intend to monitor, regulate, and evaluate the operation of private actors in education to ensure compliance with national laws and international treaties, and to ensure the right to education for all without discrimination?
6. What steps are being taken by the State to allocate sufficient financial resources towards public education as a matter of priority?
7. What steps are undertaken by the State party to ensure that provisions are made for the effective introduction and implementation of laws and policies in its provinces for the realisation of the right to education as sanctioned by Article 25A of the Constitution?

Based on the above questions, it is recommended that Pakistan:

- ★ Substantially increase the education budget and redistribute funds to strengthen the public sector and to match as a minimum the international target of 6% of GDP and 20% of the annual budget as a matter of urgent priority, and immediately create a plan to develop free public education across the country in the shortest possible time.
- ★ Take all necessary measures to avoid any direct or indirect harmful impact of the private education sector and to ensure that the private sector contributes to the fulfilment of the right to education for all in Pakistan, and immediately set out a plan to effectively regulate the private schools.
- ★ Institute an appropriate regulatory and monitoring framework for monitoring the enforcement of Article 25a of the Constitution, ensuring that all education providers are meeting the minimum norms and standards as laid out by the State within a human rights framework.
- ★ Provide the necessary human and regulatory capacities to ensure the effective implementation of the existing regulations with regard to the provision of education by private providers, and halt the further development of private education until the State has developed more comprehensive regulations and human capacities to adequately monitor private schools.
- ★ Take concrete steps to ensure that a Right to Education Law is introduced in Khyber Pakhtunkhwa and that all provinces develop a timeframe for the introduction and implementation of the legislation for the effective realisation of the right to education as sanctioned by the Constitution.

- ★ Conduct a rigorous and independent assessment of the impact of various public-private partnership policies in the education sector on the right to education.
- ★ Regularly collect and generate data on private school fees and social diversity amongst the pupils attending private and public schools available to the public, so as to be able to transparently identify and understand inequalities.



EXCERPTS ON THE ALLOCATION OF RESOURCES AND THE RIGHT TO EDUCATION

Concluding Observations on Pakistan, COMMITTEE ON THE RIGHTS OF THE CHILD (CRC), 11 July 2016

Allocation of resources

1. The Committee notes that there has been an increase in the State party's social welfare expenditure in recent years. However, it is concerned that, despite its commitments in the previous dialogue with the Committee, the State party's budget allocation to health and education sectors remains extremely low. It is also concerned that there is no systematic budget tracking mechanisms from a child rights perspective and that the allocated budget for children is not spent appropriately.

H. Education, leisure and cultural activities (arts, 28, 29, 30 and 31)

Education, including vocational training and guidance

2. The Committee welcomes the MDG Acceleration Programme of 2013 which is aimed at targeting out of school children and school infrastructure. However, it is concerned about:

- Lack of a compulsory education law in KP and Gilgit-Baltistan, and poor enforcement of the education laws in provinces where they exist;
- The large number of children (47,3% of all children aged 5 to 16 years) who are out of school, of which the majority never attended any school;
- The high drop-out rate of girls, which reportedly is as high as 50% in Balochistan and KP and 77% in FATA;
- Persisting large gender, regional and urban-rural disparities in enrolment of children in schools;

- Poor school infrastructure that is damaged by natural disasters or armed groups and lack of basic facilities such as drinking water, toilets, electricity and walls;
- Poor quality of education due to shortage of qualified teachers and teacher absenteeism, among others, as well as content of curricula and teaching methods promoting gender and religious discrimination;
- Large numbers of attacks on schools, especially secular and girls' schools, in the reporting period, including targeted killing of teachers as well as the use of school buildings by armed groups;
- Privatisation of education with a lack of measures to ensure the compliance of private schools with minimum educational standards, curriculum requirements and qualification for teachers; and
- Limited and inadequate pre-school education.

3. In the light of its general comment No. 1 (2001) on the aims of education and taking note of Sustainable Development Goal 4, the Committee recommends that the State party:

- Ensure universal, free and compulsory primary education for all children in the country through adopting relevant laws and policies at national, provincial and territorial levels;
- Prevent children from dropping out of school, including by facilitating access to schools and providing financial support to children from disadvantaged families, and emphasise the importance of education for

girls by overcoming deeply rooted attitudes preferring boys and their wellbeing to those of girls;

- Raise awareness and encourage communities and parents in particular to enrol children, especially girls, and those who reside in underrepresented provinces and rural areas in schools;
- Prioritise construction and reconstruction of school infrastructure, especially those affected by natural disasters or conflict and allocate sufficient resources to provide basic facilities, including drinking water, toilets and heating;
- Improve the quality of education, and provide quality training and incentives for teachers, with particular emphasis on rural areas and ensure monitoring of the curricula and teaching methods in order to prevent unlawful content of the teaching and/or behaviour;
- Take measures to protect schools, in particular secular and girls' schools and prevent possible attacks, including targeted attacks on teachers, as well as prevent occupation of schools by armed groups;
- Prevent privatisation of schools and establish mechanisms to monitor the compliance of private schools with minimum educational standards, curriculum requirements and qualification for teachers; and
- Allocate sufficient financial resources for the development and expansion of early childhood care and education, based on a comprehensive and holistic policy of early childhood care and development.

EXCERPT ON THE REPORT OF THE WORKING GROUP

UNIVERSAL PERIODIC REVIEW (UPR) OF PAKISTAN

29 DECEMBER 2017

The Working Group of the Human Rights Council conducted a Universal Periodic Review of Pakistan and submitted its report on 29 December 2017. During the review process of the UPR working group, member states are encouraged to raise questions, make comments, and give recommendations to the State under review. For Pakistan, the member States expressed their concern over the condition of the education system. They raised questions on the provision of free and compulsory education, on inclusive and quality education, and on the funding of education. The member states further asked the State party on the measures taken by the government to ensure the increase in enrolment rates at all levels, improve the literacy rate of girls, reduce the school dropout rates, and guarantee access to education, especially for girls and children in rural areas.

The working group member states then provided their recommendations that will guide the State in improving their human rights situation, particularly on protecting and fulfilling the right to education. They highlighted the need to increase the government spending on education and strengthen the efforts to ensure that all children can enjoy their right to free, quality, and compulsory education, regardless of their social status, gender, ethnicity, and background. In addition, they urged Pakistan to implement more effective policies on education that will benefit all children, particularly the girls, women, elders, and those in rural areas. The following are some of the accepted questions and recommendations raised by the member states:

UPR QUESTIONS AND RECOMMENDATIONS

- * Slovenia: ...specific measures taken to prevent early and forced child marriages, to improve literacy rate of girls and to reduce and prevent School dropout, particularly among girls and children in rural areas.
- * Belgium: How is Pakistan putting this principle (Article 25a of the Constitution) into practice to ensure that enrolment rates at all levels of education are increased?

- * Estonia: How is guaranteed children's access to education, especially for girls and children living in rural areas?
- * Sweden: ...what has been done to promote support structures and adequate resources for the protection of women?
- * Spain: Ensure better and greater access of women and girls to education with the aim of empowering them.
- * Syria: Increase the government spending on education to provide compulsory public and private education.
- * Sierra Leone: Ensure that minority groups, including scheduled castes, are not discriminated against in education...
- * Georgia: Step up efforts to ensure the provision of free and quality primary and secondary education.
- * Kyrgyzstan: Intensify efforts to ensure that all children enjoy the right to education and protection from discrimination and violence.
- * Norway: Implement federal and provincial laws on the right to education to ensure universal access.
- * Bulgaria: Step up efforts to ensure the access of all children to quality education, regardless of social status, gender or ethnicity.
- * Oman: Undertake more efforts to ensure equal access to elementary and secondary education for both genders.
- * Singapore: Continue to invest resources to ensure that all children between the ages of 5 and 16, in particular girls in difficult regions, have access to quality basic and secondary education.
- * Argentina: Take urgent measures to protect women and girls against discrimination and gender disparities, in particular by ensuring their access to education.

PCE

Pakistan Coalition of Education (PCE) is a network of more than 200 members present in 1000 Union Councils of 65 Districts of Pakistan. The network focuses on evidence based policy advocacy to promote and strengthen public education system as fundamental right and public good. PCE engages with grass roots, disadvantaged and vulnerable communities through awareness raising, capacity building and mass mobilisation in order to have their say in policy planning and implementation processes. The coalition also brings voices of marginalised communities to relevant policy forums at national, regional and global level through engagement with provincial/national policy makers and key officials at national, regional and global meetings. PCE is also engaged parallel reporting to UN committees such as UPR, CRC, CESR etc.

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Concluding Note

ASPBAE reiterates its call on governments to abide by the recommendations of the UN Committee on the Rights of the Child (CRC) and the Committee on Economic, Social and Cultural Rights (CESCR) based on the reviews done by these committees on the compliance of State Parties to the provisions of international law pertaining to the right to education. As culled from the concluding observations in their reviews of Nepal, India, Philippines, Mongolia, and Pakistan, the CRC and CESCR called on the State Parties to increase the budget for basic education; improve and strengthen the public education system; ensure free and compulsory basic education without hidden costs; address segregation and discrimination in educational institutions; prevent the privatisation of schools; and monitor, regulate, and evaluate the operation of private education providers.

Similar recommendations have been articulated by the United Nations Human Rights Council (UNHRC) contained in its resolution adopted in July 2015 (A/HRC/29/L.14) that recognised the “wide-ranging impact of the commercialisation of education on the enjoyment of the right to education” and calls for “significant importance of public investment in education.” In the succeeding year, another resolution (A/HRC/32/L.33)

was adopted by the UNHRC during its 32nd Session on the right to education which calls for a regulatory framework for education providers that is “guided by international human rights obligations, that establishes, inter alia, minimum norms and standards for the creation and operation of educational services, addresses any negative impacts of the commercialisation of education, and strengthens access to appropriate remedies and reparation for victims of violations of the right to education.”

ASPBAE and national education coalitions in the Asia-Pacific region will continue advocacy efforts to counter the drive towards privatised and commercialised education and work for stronger public education systems that ensure quality education and learning for all, enjoying significantly higher budgets allowing prioritised allocations to reach the most marginalised and excluded groups. ASPBAE is, likewise, committed to cooperate with all stakeholders in promoting the right to education in accordance with international law, and in achieving the new education agenda and targets as articulated in the Sustainable Development Goal No. 4 and the Education 2030 Framework for Action towards inclusive and equitable quality education and lifelong learning for all.

About ASPBAE

The Asia South Pacific Association for Basic and Adult Education (ASPBAE) is a regional association of more than 200 organisations and individuals working towards promoting quality education for all and transformative and liberating, lifelong adult education and learning. It strives to forge and sustain an Asia-Pacific movement dedicated to mobilising and supporting community and people's organisations, national education coalitions, teachers' associations, campaign networks, and other civil society groups and institutions in holding governments and the international donor community accountable in meeting education targets and commitments, ensuring the right of all to education, and upholding education as an empowering tool for combating poverty and all forms of exclusion and discrimination, pursuing sustainable development, enabling active and meaningful participation in governance, and building a culture of peace and international understanding. ASPBAE publications form an integral part of ASPBAE's information, education, and advocacy activities and efforts, and seek to support sharing and learning among education stakeholders, advocates, practitioners, analysts, and policymakers. The reader is therefore encouraged to write to ASPBAE if they wish to use the material contained herein for reproduction, adaptation, and translation and to provide feedback that could help in further improving these publications.



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