

EDUCATION: A RIGHT OR A PRIVILEGE? THE KENYAN PERSPECTIVE

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Abstract

This study aims to facilitate debate about the State's efforts in taking a rights-based approach in the education sector. The study reviewed the progress that has been made to legitimize and implement the right to education in Kenya. An underlying argument in this study is that the State has an obligation to respect, protect and fulfill the right to education. Using a human rights based approach, the study found that the State had made progress in making education available, accessible, acceptable and adaptable in Kenya. First, availability of education had been enhanced through fiscal interventions. Second, accessibility to education had been enhanced through legal commitments to international human rights instruments and entrenched in the constitution and various laws, sessional papers and policies. Third, acceptability of education had been enhanced through curriculum reforms. Fourth, adaptability had been enhanced through the private provision of education. Despite this progress, there remain gaps that need to be addressed if the right to education is to be realized. These include exclusion of marginalized children in schools, low transition from primary to secondary schools, violation of the right to education by employment and marriage laws, non-competence based curriculum and affirmative policies that disadvantage marginalized children from private schools.

Key words: Human rights based approach, right to education, available education, accessible education, acceptable education and adaptable education

Introduction

The right to education is affirmed by Article 26 of the Universal Declaration of Human Rights (UDHR) and has since been enshrined in a range of international human rights instruments. Although the right to education is universal, it is up to the State to respect, protect and fulfill this right. Failure to honor this obligation leads to the violation of the right to education, which not only perpetuates inequalities but also denies citizens their fundamental entitlements. As long as there is no equal access to education for all, the question of whether education is a right or a privilege arises.

It has been argued that State education systems can be empowering, on the one hand, but also oppressive on the other hand. As Haran and Tormey (2003) argue the education system can influence antiracism and liberation but more often than not, it has been known to add to the many racist problems, which exist in modern society. In a similar vein, Bourdieu (2001) asks us to consider the school as an important reproductive agent that on the one hand socializes an individual, but on the other hand enhances social inequalities among girls and boys and perpetuates male domination. Other scholars argue that the

education system can be an enabler of class inequalities, social division and fragmentation as opposed to social solidarity and cohesion (Smith, 2003; Collins & Yeskel, 2005).

The State education in Kenya has been criticized for reinforcing various inequalities. For example, the education system during the colonial era was stratified along racial lines with separate education systems for Europeans, Asians and Africans. Compared to European and Asian education, African education was characterized by limited access, low allocation of education revenue, selective and punitive public examinations and a racially biased school curriculum. This racially differentiated system was motivated by the need to dominate Africans politically and economically by the colonial government (Anderson, 1970; Kilemi, 1991; Republic of Kenya, 1964; Woolman, 2001). Gendered inequalities need to be considered in cases where negative stereotypes about girls are frequently reflected in teaching practices and in textbooks and other educational material (Republic of Kenya, 1999). Class inequalities are distinct if one considers that girls and children from poor households are the most affected by low enrolments, low transition rates, dropout rates and completion rates (Republic of Kenya, 2005).

Problem Statement

Although there has been a shift in State policies towards including children in public education in Kenya, some critics are skeptical about the effectiveness of these policies. In his article “Universalizing Primary Education in Kenya: The Elusive Goal”, Somerset (2009) argues that the State has launched three Free Primary Education programs first in 1974, second in 1979 and third in 2003, with impressive initial gains in improved access though difficult to sustain. In the same vein, it is argued that the right to free education is ultimately unfulfilled without resources. Ruteere (2006) notes, “to the hungry, the sick, and the children without access to education, the mere text of their rights is comforting but not satisfying” (Ruteere, 2006:13). Although the State is praised for offering a common curriculum that gives all students access to similar knowledge, it is argued that this does not necessarily guarantee an equal education: “Each school enacts the curriculum according to the resources available, the teachers training, teachers beliefs and decision making” (Brayon, 2013: 40). Further, Milligan (2011) faults the State for excluding local participation in favor of neo-imperial powers in the formulation of the secondary education policies. Whereas the State has made progress in promoting the right to education, little research has been done to systematically assess the extent to which the progress witnessed now relates to the Human Right Based Approach in advancing education for all. This paper seeks to fill this void.

Literature Review

The Human Rights Based Approach (HRBA) is a conceptual framework that is based on international human rights standards and operationally directed to promoting and protecting human rights. The HRBA conceptualizes human rights as the supreme, inherent, and inalienable rights to life, to dignity, and to self- development. The State is expected under the rights based approach to respect, protect and fulfill these human rights while ‘rights-holders’ are expected to claim their rights. These rights are derived from the Universal Declaration of Human Rights (UDHR) and other international human rights

instruments. Using this approach, all policies and programs are required to further the realization of human rights as laid down in these international human rights instruments. The HRBA requires that human rights and human rights principles are integrated in all aspects of programming work. It sets the guiding principles for ensuring that human rights are upheld in institutions that adopt these principles. It focuses on the principles of universality and inalienability; indivisibility; interdependence and inter-relatedness; non-discrimination and equality; participation and inclusion; accountability and the rule of law (UNDP, 2003; UNFPA, 2004, OHCHR, 2009).

The human right to education espouses the principles of equality and non-discrimination, participation and accountability, and quality standards. According to Article 26 of the Universal Declaration of Human Rights (UDHR), “Everyone has the right to education. Education shall be free at least in the elementary and fundamental stages. Elementary education shall be compulsory”. The right to education also finds expression in the UNESCO Convention against Discrimination in Education (UNESCO, 1960), Beijing Declaration and Platform for Action (1995), the International Covenant on Economic, Social and Cultural Rights (UN, 1966), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (UN, 1979), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (UN, 1979), the United Nations Convention on the Rights of the Child (CRC) (UN, 1989), the African Charter on the Rights and Welfare of the Child (OAU, 1999), the African Charter on Human and Peoples Rights (ACHPR, 2003), Education for All (EFA) (UN, 1990) which emanated from the Universal Declaration of Human Rights (UDHCR) and Millennium Development Goals (UNESCO, 2000).

Methodology

The underlying objective of this paper is to examine the role of the State in promoting the right to education in Kenya. The conceptual framework of this article is based on the 4A framework (availability, accessibility, acceptability and adaptability). The framework was developed by Katarina Tomaševski’s who was the first UN Special Rapporteur on the right to education and founder of the Right to Education Project. The UN committee on the Universal Economic, Social and Cultural Rights (ICESCR), in its General Comment No. 13 (UNCESR, 1999) thereafter adopted the framework. The 4A framework was developed to elaborate the right to education and is based on the human rights values of non-discrimination, equal opportunity and participation. The dimensions of the 4A framework are described below:

- i. Available: This embodies two different State obligations: the right to education as a civil and political right requires the State to permit the establishment of educational institutions by non-state actors, while the right to education as a social and economic right requires the State to establish them, or fund them, or use a combination of these and other means so as to ensure that education is available.
- ii. Accessible: Under this dimension the State is obliged to secure access to education for all children in the compulsory education age-range, but not for secondary and higher education. Moreover, compulsory education ought to be free of charge while post-compulsory education may entail the payment of tuition

- and other charges and could thus be subsumed under ‘affordability.’
- iii. Acceptable: Under this dimension the State must provide content of education that is relevant, culturally appropriate and of quality and that the human rights of all those involved must be respected and upheld. The scope of acceptability also includes censorship of school textbooks as a human rights violation. It also focuses on the language rights of indigenous and minority communities. Prohibition of corporal punishment is also a criterion of acceptability.
 - iv. Adaptable: This dimension requires the State to provide an education that adapts to the diverse needs of children, the changing needs of society and to different contexts. It emphasizes that education ought to adapt to the best interests of each child in accordance with the Convention on the Rights of the Child.

Using a right based approach this study focuses on the progress that the State has made in making education available, accessible, acceptable and adaptable. Specifically, the study employs the 4 A framework to examine how the State in Kenya makes education (a) available through fiscal interventions; (b) accessible through legislation that promotes equal access to education; (c) acceptable through curriculum reforms; and (d) adaptable through provision of private education. Through content analysis, various government reports and legislation were examined and analyzed along the four dimensions as stated.

Findings and Discussion

The study’s findings are organized around the 4 A typology as follows:

i. Availability of Education

The 4A framework dimension that focuses on making education ‘available’ takes into account the fiscal interventions made by the State to meet its obligation for the right to education. Making education available requires that the State observe the principle of equal opportunity, which is concerned that no child is left out or excluded from enjoying the right to education. Equitable distribution of education is a powerful driver towards achieving Education for All (EFA) and hence the right to education.

The major fiscal reforms introduced by the State towards the achievement of equitable access to education in Kenya include the provision of Free Primary Education (FPE) in 2003 and the Free Day Secondary Education (FDSE) in 2008. Under the FPE program, primary schools are given a capitation grant of Kshs. 1020 per child. These funds are disbursed into two accounts, namely, the School Instructional Management Bank Account (SIMBA) for the purchase of learning and teaching materials; and the General Purpose Account (GPA) that caters for repairs, maintenance, water sanitation and conservancy expenses. The government subsidy to public secondary schools under the FDSE program is based on an annual capitation grant of KES 10,265.00 per student that is disbursed to schools annually in three tranches. However, the parents are required to meet the boarding fee component. Other fiscal reforms related to free schooling include State support to low-cost primary boarding schools in Arid and Semi-Arid Lands

(ASALs) and additional annual capitation grant of Kshs. 2000 per pupil for all children enrolled in special education institutions and units attached to regular primary schools. With the introduction of these fiscal interventions it was hoped that the children who had been kept out of school due to poverty would access education (Republic of Kenya and UNESCO, 2012).

As a result of the Free Primary Education (FPE) initiative, it was reported during the launch of the Education for All - End Decade Assessment (EFA-EDA) in 2010 that Kenya had increased enrolment and participation at all levels of education, near gender parity at primary and secondary levels of education and increased opportunities for life skills and lifelong learning (Ongeri, 2011). As at 2011, the FPE initiative can be said to have achieved near Universal Primary Education (UPE). The Gross Enrolment Ratio (GER) at primary level stood at 109.8 % (109.8 % and 109.9 % for boys and girls respectively) in 2010. This is an indication that there are underage or overage children enrolled in the system (EMIS, 2011). The Net Enrolment Rate (NER) in Kenya stood at 91.4% (90.6% and 92.3 % for boys and girls respectively) though it falls short of the EFA target of 100% NER by 2010. This situation is attributed to the exclusion of children in Northern Kenya (Arid and Semi-Arid Lands), girl child in areas with negative socio-cultural attitudes, and child labor in agricultural, fishing and tourist potential areas (Republic of Kenya, 2012). Primary completion rates have been increasing at a rate of over 70% between 2004 and 2010. A positive trend has also been recorded in the transition rates from primary to secondary school increasing from 56% in 2004 to 72.5 % in 2010.

As a result of the Free Day Secondary Education (FDSE) initiative, enrolment rates have increased. From 2008, when the initiative was implemented, the secondary Net Enrolment Rate (NER) recorded a sharp increase from 28.9 % to 35.8% in 2009. This increase represents a rise of 10% compared to the 2% annual increase realized before the implementation of FDSE. However this increase slowed down in 2010 with a NER drop from 35.8 % in 2009 to 32% in 2010. Secondary enrolments were constrained by lack of adequate schools compared to primary schools (Republic of Kenya 2012). Although near gender parity (equal numbers of males and females relative to their respective populations) has been achieved, great disparities have been reported in the ASAL, rural areas and urban informal settlements (Republic of Kenya, 2012).

ii. Accessibility of Education

The accessibility dimension requires the State to eliminate the barriers that prevent equal access to the right to education. Under this dimension an analysis was done on the role of the State in addressing non-discrimination in education. International human rights instruments recognize the barriers to the right to education. States that are signatories to these instruments have an obligation to eliminate discrimination. These commitments are binding on the State as a matter of international law.

Kenya is a signatory to the several international human rights instruments that make it a right of every human being to access education. These include: the International Covenant on Economic, Social and Cultural Rights (UN, 1966), Beijing Declaration and

Platform for Action (1995), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (UN, 1979), the United Nations Convention on the Rights of the Child (CRC) (UN, 1989), the African Charter on the Rights and Welfare of the Child (OAU, 1999), the African Charter on Human and Peoples Rights (ACHPR, 2003), Education for All (EFA) (UN, 1990) which emanated from the Universal Declaration of Human Rights (UDHR) and the Millennium Declaration from which the Millennium Development Goals (MDGs) derive (Republic of Kenya, 2007).

The Constitution of Kenya, 2010 guarantees that every person has the right to education and that every child has the right to free and compulsory basic education (GOK, 2010). A person with any disability is entitled to access educational institutions and facilities for persons with disabilities that are integrated into society to the extent compatible with the interests of the person. It guarantees that measures shall be taken, including affirmative action programs, to ensure that the youth access relevant education and training. Further, the Constitution commits to design affirmative action programs that ensure that minorities and marginalized groups are provided special opportunities in educational and economic fields.

The State has entrenched the right to education in various national laws, sessional papers and policies. Under the Education Act (2013), Children's Act (2001) and Disability Act (2003) and in sessional papers, namely, Education Sessional paper No. 1/ 2005 and Sessional Paper No. 14/2012 the State guarantees the right of every learner to equitable access to education, quality and relevant education including protection against unfair discrimination. More importantly, the current Education Act (2013) guarantees the right to free and compulsory basic education. In addition, there are several education policies that address the human rights issues of non-discrimination, equal opportunity and participation such as the Education Sector Policy on HIV and AIDS (2004), Gender Policy in Education (2008), the National Special Needs Education Policy framework (2009), Alternative Provision of Basic Education and Training Policy (2009), and the National Policy Framework for Nomadic Education (2010).

From a rights perspective, the critique for legislation in Kenya is that there are some laws that compromise or violate the right to access basic education. For example, there are no provisions for access to basic education for offenders aged 17-18 years of age in the Prisons Act (Cap 90). The National Youth Service Act (Cap 208) allows persons who are children to be engaged in the Youth Service or to serve in the armed forces when they should be accessing education and training. The Industrial Act (Cap 237) allows children aged between 15 and 18 years in activities in industry. The Employment Act (Cap 226) allows for the employment of children between 16 and 18 years.

The Marriage Ordinance Act (Cap 150), Hindu Marriage and Divorce Act (Cap 157), Mohammedan and Divorce Act (Cap 155) and the Kadhis Courts (Cap 11) allow for the solemnization of marriages of the girl child before the age of 18 years (Republic of Kenya, 2007).

iii. Acceptable Education

As previously discussed, the acceptability dimension of the A4 framework requires the State to provide relevant, culturally appropriate and quality content. This dimension was analyzed by examining the State's human rights obligation to provide acceptable education. In so doing a review is made of the curriculum reforms undertaken by the State to provide relevant, culturally appropriate and quality content.

The central concern of the first Kenya Education Commission (GOK, 1964) was to reform the education system inherited from the colonial government. The principle preoccupation of this report was to introduce an education system that promoted national unity and inculcated in the learners the desire to serve their nation (Simuyu, 2001). Just as racism was central to the colonial education system, so was nationalism central to the post-colonial education system. Reversing the education system of the colonial government and replacing it with one that supported a human rights-based education was therefore an immediate concern for the post- colonial government.

The early curriculum reforms were therefore geared at making the content of education culturally appropriate. These reforms included the overhauling of the existing racist curriculum and replacing it with the Kenyan content, particularly in history, geography and music. Africanized textbooks were published by the Jomo Kenyatta Foundation gradually to replace colonial textbooks. The Kenya Institute of Education was mandated to produce a new curriculum. The State to this extent, conformed to the Convention on the Protection and Promotion of Diversity in Cultural Expressions, which obligates States to respect cultural diversity in educational programs (UNESCO, 2005). Nevertheless, the State was criticized in 1974 for promoting Eurocentric literature. This motivated the introduction of reforms, which saw the introduction of African oral literature and other Third World literature in schools (Kay, 1975; Woolman, 2001).

The State also allowed the use of Kiswahili and mother tongue to be used as languages of instruction in early grade learning. This is in tandem with the UNESCO convention against discrimination (1960), which provides for the right to use and to be taught in one's own language provided it does not exclude the minorities and that it is not using a lower standard than the one generally provided. However, it is noted that Kenya adopted English, a non-African language, as its language of instruction. This nevertheless is a challenge that faces several African States that do not have ethnically neutral languages (Kay, 1975; Woolman, 2001; Sa, 2007).

In 1985 the State introduced curriculum reforms aimed at making the content of education relevant to the learners. This was based on the recommendations of the report of the Presidential Working Party on Second University in Kenya (Mackay, 1981), which called for an overhaul of the content and structure of the education system. Under a new 8-4-4 system, which comprised of 8 years of primary schooling, 4 years of secondary schooling to be eligible for 4 years of university education, the State introduced a broad based curriculum that was meant to offer learners with pre-vocational skills in technical education. The 8-4-4-education system thus replaced the 7-4-2-3-education model of 7 years of primary schooling, 4 years of secondary schooling, and 2 years of advanced

secondary schooling to be eligible for 3 years of university education that had been critiqued for being too academic for direct employment and elitist and individualistic (Republic of Kenya and UNESCO, 2012; Simuyu, 2001).

It is worth noting that the Commission of Inquiry into the Education System of Kenya (Koech Report, 2000) recommended for the reorganization of the content and reduction of subjects in the 8-4-4-curriculum towards improving the quality of education. Although this report was never implemented, the Kenya Institute of Education (KIE) nevertheless revised the curriculum in 1992 and 2002 and the following issues were addressed: curriculum overload, overlaps within and across subjects and mainstreaming of emerging issues such as HIV and AIDs, child labor, environmental degradation and gender issues, among others (Republic of Kenya, 2010).

The right to quality education may however be compromised if one considers that the summative evaluation of the curriculum undertaken in 2010 revealed that the primary school curriculum does not adequately equip the learners with the necessary competencies to meet the demands of a knowledge based economy as per the aspirations of Kenya's Vision 2030. The primary education curriculum content was found to pay minor attention to inculcation of practical technological and entrepreneurial skills necessary for economic development. Gaps were found in the achievement of objectives on appreciation of aesthetic values and use of leisure time (Republic of Kenya, 2010).

iv. Adaptable Education

The 4A framework requires the State to be responsive to the diverse needs of individual learners, the changing needs of society and the different contexts to which education systems should be adaptable. The 'adaptability' dimension reviewed the State's human rights obligation to provide private education. It has been argued that children from private schools are often unrecognized or unregistered; yet it is evident that these schools not only serve the elite and middle class, but also the poor (Tooley & Dixon, 2005). This is contrary to the UNESCO Convention against Discrimination in Education, which states that children have the right to private education. Moreover, Patrinos, Barrera-Osorio, Guáqueta (2009) argue that while the State plays an important role in delivering access to education, making high quality education accessible requires innovative programs and initiatives such as supporting private education. Increasing private provision of education raises interesting questions as to who gets private education. Does private supply of education enlarge the circle of opportunity? Has private supply of education translated into greater inclusion or increased exclusion? This section examined the role of the State in promoting the right to private education and whether the best interests of the child are upheld.

In response to the challenges of promoting access to education, the State has allowed private schools to complement public provision of education in Kenya. A total of 924,192 primary school children representing 10.8% of total primary education were enrolled in private schools in 2008. At the same time 171,097 secondary school children representing 12.31% of total enrolment were enrolled in private secondary schools (Republic of Kenya, 2011). In this context, it can be argued that the State has upheld the right to

private education.

However, the State has been criticized by the private education sector for violating the right to private education with respect to its admission criteria for public national secondary schools. In 2011 the Ministry of Education implemented a quota system that allowed children from public primary schools to take larger slots in national secondary schools than their counterparts from private primary schools. 'Private' children constituted a dilemma because they constituted about 10% of the total primary school population and about 50% of this minority was being admitted to the national secondary schools due to their superior performance in the Kenya Certificate Primary Education (KCPE). The solution was affirmative action to cushion the 'public' children (Opiyo, 2011; Glennerster et al, 2011).

Not unexpectedly, there was an outcry from the private education stakeholders following the implementation of this quota system. It was reported in a local newspaper that; "the Government is punishing pupils over its failure to furnish public schools for fair competition" (Anyuor, 2012). The quota system was challenged in court by the Kenya Private School Association, which viewed it as discriminatory and oppressive. The court ruled in favor of the State, saying that the policy introduced by the Ministry of Education was not in any way discriminative. The judges observed that if merits were the only qualification to be considered in form one selection, it would mean that private schools would take the large share in top national schools (Maina, 2011).

Affirmative action, such as the quota system, aimed at giving 'public' children an advantage in attaining admission in national secondary schools, does not take into account that there are children from poor households attending private schools. Tooley and Dixon (2005:1) found that "in the slum of Kibera, Nairobi, Kenya (reportedly the largest slum in sub-Saharan Africa)... the large majority of poor children attended private, not public, schools". From the rights of the child perspective, education policies need to be adapted to the local reality that private education is not a privilege for the wealthy.

Conclusion

The goal of this article was to review the progress made by the State in promoting the right to education. The study used the 4A framework (availability, accessibility, acceptability and adaptability) to examine the State's effort in legitimizing and implementing the right to education. Preliminary evidence suggests that the State has made relative progress in promoting the right to education.

The State has made efforts to make education available through fiscal interventions such as the Free Primary Education (FPE) and Free Day Secondary Education (FDSE) initiatives. Other fiscal reforms related to free schooling include the support to low-cost primary boarding schools in Arid and Semi-Arid Lands (ASALs) and all children enrolled in special education institutions and units attached to regular primary schools. As a result, the State has realized increased enrolment and participation at all levels of education, near Universal Primary Education (UPE), near gender parity at primary and

secondary levels of education and increased opportunities for life skills and lifelong learning.

Nevertheless, these fiscal initiatives have tended to exclude the children in Northern Kenya (Arid and Semi-Arid Lands), girl child in areas with negative socio-cultural attitudes, and child labor in agricultural, fishing and tourist potential areas, yet these are the children who ought to have been included. Furthermore, equal access to secondary education is a challenge as is evident in the 70% transition rate of children from primary to secondary schools. According to Lewin (2007) access to education is not meaningful unless it results in reasonable chances of transition to lower secondary grades, especially where these are within the basic education cycle. There is need, therefore, for the State to increase the number of secondary schools to cope with the admission of children coming out of the primary cycle if the right to education is to be achieved.

Additionally, the State has enhanced accessibility to education through its legal commitments to international human rights instruments and has entrenched these commitments in various laws, sessional papers and policies. Kenya is a signatory to several international human rights instruments that make it a right of every human being to access education. The right to education has been enshrined in: (a) the newly promulgated Constitution of Kenya (2010); (b) laws such as the Education Act (2013), Children's Act (2001) and Disability Act (2003); (c) Sessional papers such as Education Sessional Papers No.1/ 2005 and Sessional Paper No. 14/2012; and (d) policies such as the Education Sector Policy on HIV and AIDS (2004), Gender Policy in Education (2008), the National Special Needs Education Policy framework (2009), Alternative Provision of Basic Education and Training Policy (2009), and the National Policy Framework for Nomadic Education (2010).

Notwithstanding, the right to education is still violated by several laws, namely, the Prisons Act (Cap 90), the National Youth Service Act (Cap 208), the Industrial Act (Cap 237), the Employment Act (Cap 226), the Marriage Ordinance Act (Cap 150), Hindu Marriage and Divorce Act (Cap 157), Mohammedan and Divorce Act (Cap 155) and the Kadhis Courts (Cap 11). There is need to reform these laws so as to achieve the right to education.

Further, the State has made progress towards providing relevant, culturally appropriate and quality content through various curriculum reforms. First, the State has made education content culturally appropriate by Africanizing the curriculum and textbooks, which during the colonial era had excluded African knowledge. Second, the State has attempted to make education content relevant by introducing a broad based curriculum meant to offer learners with pre- vocational skills in technical education under the new 8-4-4 (8 years of primary schooling, 4 years of secondary schooling to be eligible for 4 years of university education) education system. Third, to improve the quality of education content, the State undertook other curriculum reforms aimed at addressing issues such as curriculum overload, overlaps within and across subjects and mainstreaming of emerging issues such as HIV and AIDs, child labor, environmental degradation and gender issues. If the right to quality content is to be achieved, the 8-4-4-curriculum will need further reform to address the issues of Vision 2030, practical

technological and entrepreneurial skills and aesthetic values.

Finally and in the context of making education adaptable to different contexts, the State has supported the provision of private provision of education. However the right to private education appears to be violated with the introduction of affirmative policies that disadvantage children from private schools and seem to be at odds with the right to private education as enshrined in the UNESCO Convention against Discrimination in Education. Moreover, children from poor households, who should be included in education, are disadvantaged when they attend private schools through such policies. In this context, the State is obliged to ensure that the right to private education is respected, protected and fulfilled.

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