

# What do the new data on Bridge International Academies tell us about their impact on human rights? A five-point analysis.

East African Centre for Human Rights (Kenya), Initiative for Economic and Social Rights (Uganda),  
and Global Initiative for Economic, Social and Cultural Rights

7 December 2016

Education International and the Kenya National Union of Teachers published on Monday a [report](#) (“the report”) about Bridge International Academies’ (BIA) operations in Kenya (for more background see <http://bit.ly/commerceduc>). The report, as well as the accompanying [video testimonies](#), include rich new data and evidence about BIA’s activities and impacts. Part of BIA’s response to the criticisms has been to insist that it acts to [protect children’s rights](#). A specific question in point is thus: what do these data tell us about the contribution towards or impairment of the right to education by BIA?

To respond to this question, reference can be made to existing assessment criteria used to monitor the implementation of the right to education. In an [article](#) published in September in the Oxford Education Review (see also the [blog post](#) that sums it up), Sylvain Aubry from the Global Initiative for Economic, Social and Cultural Rights and Delphine Dorsi from the Right to Education Project identified five preliminary areas to assess the role of private schools against human rights standards. Accordingly, the international legal framework is as follows: human rights law does not prohibit the existence of private schools and requires States to respect parents’ freedom to set up or choose a school other than a State school; however, it mandates States to ensure that the existence of private schools does not undermine the right to education, which can be assessed using the five areas of assessment proposed in the article.

Although these five areas are made for assessing States’ compliance with their legal obligations, they can also be used to reflect on the impact of specific school models, in order to guide States’ actions. They are particularly applicable in the case of BIA’s operations in Kenya as, with over 400 schools in the country, they’ve constituted a small parallel education system which has a systematic impact on those dimensions of the right to education which the five areas intend to capture. The five areas are reviewed in turn below, with the page number from the report of where the data were found indicated in parenthesis.

## 1. “Private schools should not create or increase discrimination or socio-economic segregation in the education system”

The report shows that sending three children to BIA would require a family within the poor communities BIA operates in to spend at least between 27 per cent and 34 per cent, and up to 44 – 138 per cent of average household income (p.49). Yet, the school has very strict enforcement mechanisms of the fees (p.43), including through financial incentives for teachers (p.29 and appendix 4), leading children who cannot afford fees to miss school (p.44). The report also reveals that BIA uses various mechanisms that could lead to pupils’ selection, in particular a “placement test” given to children on admittance, which may, on purpose or not, lead to selection of children (p.44). In any case, it appears that few or no children with disability seems to be admitted at BIA (p.46).

Combined, these elements mean that a large part of the most marginalised groups (including poor, children with disabilities) of the communities BIA operates in cannot access the school. The report does not make a systematic assessment of the impact of BIA, but the elements it gives certainly raise concerns as to the impact of the schools on discrimination and segregation, given the scale in which BIA operates.

## 2. “Private schools should not undermine the right to free quality education”

Under human rights law, it is up to the State to organise for free education to be provided, and private schools are generally not banned from charging fees when they play a complementary role. Nevertheless, the report makes clear that given the various fees BIA requires, it can only reach at best the 50 per cent richest in Kenya or the top 20 per cent richest in slums (p.50), far from reaching the poorest that need free education most.

The question of quality is difficult, and human rights law offers a broad understanding of quality that includes both teaching processes such as infrastructures, teachers, etc., and outcomes. It was known that BIA used low-quality infrastructures and teachers, the research reports staggering facts on the low qualification of teachers

(43 per cent of interviewed teachers stopped their education at secondary school level, p.22), the lack of training and support given by BIA (p.24, 26, 29), the intense working conditions and poverty-level line salaries (p.26), the lack of motivation and satisfaction of the workers (p.31), and the poor classroom infrastructures (e.g. classrooms that can be “very cold”, p.37). Particularly problematic is the demonstration in the report that teachers have extremely limited autonomy, as they risk being fired if they don’t stick strictly to the scripted lesson given to them on a tablet by the company, leading a teacher to consider: “We are robots being directed by tablets” (p.34). This situation raises questions about the capacity of BIA to meet basic minimum standards required in human rights treaties in terms of basic teaching processes, including labour standards, and the right to an education that is “adaptable” (see e.g. UN Committee <http://bit.ly/CESCRgcC13>, para. 6(d)) .

In terms of outcomes, the only known reliable source of information is the Kenyan Certificate of Primary Education (KCPE), the other existing studies being studies commissioned by BIA that have [been shown](#) to not be reliable. Yet, beyond the question of the limitation of standardised national tests to measure quality, the report argues (p.19) that the selection mechanisms mentioned above (fees, placement test...), even if indirect or unwanted, may bias the results to an extent that it’s not possible to use these tests to compare BIA with other schools, as BIA may take comparably better pupils from the beginning. Given the questions as to the teaching processes and the fees, the report suggests that BIA offers relatively expensive (at the scale of incomes in Kenya) and low-quality education, which may not be able to meet human rights demands.

### 3. “Private schools should not undermine the humanistic nature of education”

The “humanistic” nature of education encompasses many aspects, and it underscores the notion of education as a public service, linked to the realisation of other human rights and to the nurturance of a dynamic civil society, rather than as merely a product to be consumed and made available on the basis of economic means. Giving teachers objectives towards filling in classes with up to 60 pupils per class (Appendix 4), for example, commercialises the education space in a way that compromises the humanistic approach to education. The lack of qualification of teachers, the emphasis given by BIA in its limited teacher training on commercial/marketing aspects (Appendix 3), the expectations that teacher should act as marketing (p.33) and fee-payment police agents (p.44) would follow the same logic, and run counter to the realisation of the humanistic component of the right to education.

### 4. “Private schools should be adequately regulated”

The report shows that a large majority (71.5 per cent) of the interviewed teachers are not qualified and registered (p.23), that the curriculum may not be approved by the Kenyan authorities (p.18), and that the teachers’ working conditions may be questionable under international labour law (p.26). The report also indicates that BIA schools are not registered as private schools, which is the category they should fall under, and do not even meet the lower requirements of “complementary” or “non-formal” schools (p.17). These findings are in line with the [situation in Uganda](#), where BIA was asked by the Ministry of Education to close its schools for failing to meet various basic national standards, as well as [other court proceedings](#) involving BIA. Thus, while Kenya has set up adequate regulation, BIA appears to not have met them despite having operated for over seven years in the country, which undermines children’s right to adequately regulated schools.

### 5. “Private schools should not undermine transparency and participation of the public in education decisions”

Overall, the report demonstrates a large gap between what BIA claims it does, and the reality (see the summary of this gap here <http://bit.ly/BIAvsREALsum>). An example in point being the claim that by BIA that they are “Harambee schools”, which refers to a traditional form of community-led post-colonial schools, very different from BIA’s multinational commercial model (p.17). This lack of transparency on its operations revealed in the report adds to previous similar issues, such as the [intimidation of a researcher in Uganda](#), and to more general concerns as to whether a private school chain of that size does not risk undermining the democratic control over decisions in the education system.

A human rights analysis of the latest and most complete data so far shows that BIA could undermine the right to education, rather than support it as it claims. This is consistent with what [two UN expert human rights bodies found](#). If this is confirmed, it would be the legal obligation of the Kenyan State (or other States where the situation may be the same) to take the necessary action to ensure BIA stop undermining the right to education, either by rapidly correcting the issues observed, or by closing the schools that undermine the right to education.