

**Joint Submission to the Working Group on the issue of Human rights and transnational corporations and other business enterprises:  
Development Finance Institutions and Human Rights**



Campaña  
Latinoamericana  
por el Derecho  
a la Educación



**3 March 2023**

1. This submission was drafted by the **Initiative for Social and Economic Rights (ISER Uganda)**, the **Global Initiative for Economic, Social and Cultural Rights (GI-ESCR)**, **Campaña Latinoamericana por el Derecho a la Educación-CLADE**, **East African Centre for Human Rights (EACHRights, Kenya)**, **Oxfam International**, **Right to Education Initiative (RTE)** and the **World Organization for Early Childhood Education-OMEP**. These organisations work to promote the right to education and the realisation of global education goals including SDG 4. This submission highlights concerns about Development Finance Institutions' (DFIs) respect for human rights, particularly the right to education. It seeks to respond to **question 8 of the questionnaire** which addresses the specific human rights risks posed by DFI-related financing practices to the groups in the most vulnerable situations.
2. This submission highlights evidence, concerns, and lessons around investments in the area of education by DFIs. The submission also seeks to emphasise the negative impact of commercial and profit-oriented private schools and the human rights risks posed by financing these types of institutions.

**The evidence about for-profit and commercial schools**

3. A growing body of evidence raises deep concerns about the negative impact of commercial and profit-oriented private schools in education. In its 2021 report focused on private actors in education, UNESCO's Global Education Monitoring report warns of growing inequality and exclusion due to private educational institutions' high costs and weak government regulation. It also warns that "profit-making is inconsistent with the commitment to guarantee free pre-primary, primary and secondary education." It cautions against seeing education as a

“market” where competition between providers is a feature; and provides a strong reminder that education must always be free to the user, and that school fees have no place in equitable education systems.<sup>1</sup>

4. In particular, evidence on commercial and for-profit schools raises the following human rights concerns:<sup>2</sup>
  - a. **Exclusion of girls and gender inequality:** The widespread elimination of fees in primary schools in the 2000s meant that millions of girls around the world were able to go to school for the first time.<sup>3</sup> However, the expansion of low-fee private education threatens to undermine this progress. A review of the academic evidence commissioned by DFID found that girls are not able to access private schools equally compared to boys.<sup>4</sup> For example, government data from India shows that only 44% of children enrolled in private schools at the elementary level are girls, and the gender gap in private schools has been steadily increasing over time.<sup>5</sup> This approach risks disproportionately excluding girls and deepening gender inequalities in education.
  - b. **Deepening poverty and inequality:** Evidence also strongly suggests these schools are not reaching out-of-school children, children in rural areas, or children from the poorest families.<sup>6</sup> Families who do manage to find or borrow the money to pay fees often do so at great sacrifice, forgoing other basic needs and causing them to fall deeper into poverty or debt.<sup>7</sup> In Ghana, for example, Omega Schools, a major low-fee private school chain that targets impoverished communities, charges fees for one student that are equivalent to 40% of the poorest families’ household income.<sup>8</sup> An impoverished, average-sized family in Pakistan would have to spend 127% of its income to send all its children to a low-fee private school.<sup>9</sup> Low-fee and for-profit schools risk creating or reinforcing segregated and stratified education systems, leading to greater economic and social inequality.
  - c. **Serious quality concerns:** There is no evidence to support claims that learning outcomes are consistently better in private schools.<sup>10</sup> However, there are serious concerns about education quality in for-profit and low-fee private schools. Commercial chains and for-profit schools often put business interests before education quality by employing deficiently qualified, uncertified and badly trained teachers as well as using other cost-saving measures that undermine education quality, such as not investing in adequate educational materials and

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<sup>1</sup> UNESCO Global Education Monitoring Report, *Non State Actors in Education: Who Choses, Who Loses?* (2021/2).

<sup>2</sup> For more in-depth evidence and discussion of each of these points, see Oxfam’s [testimony](#) to the U.S. Congress House Financial Services Committee on IFC investments in for-profit private schools (November 2019).

<sup>3</sup> United Nations, *The Millennium Development Goals Report* (2015).

<sup>4</sup> For evidence on female disadvantage in private schools, consult Day Ashley L. et al., *The role and impact of private schools in developing countries: a rigorous review of the evidence* (2014); Sahoo, S. *Intrahousehold gender disparity in school choice: evidence from private schooling in India* (2015); Maitra, P., Pal, S. and Sharma, A. *Absence of Altruism? Female Disadvantage in Private School Enrolment in India* (2016); Alcott, B. and Rose, P. *Schools and learning in rural India and Pakistan: Who goes where, and how much are they learning?* (2015).

<sup>5</sup> Government of India, UDISE 2020-21, as cited in Oxfam, *India Private Schooling in India: Challenges in achieving Gender Equity* (2022).

<sup>6</sup> Srivastava, P. *Low-fee private schooling: issues and evidence* (2013).

<sup>7</sup> Day Ashley L., et al. (2014) op. cit. See also: Lewin, K. *The Limits of Growth to Non-government Private Schooling in Sub-Saharan Africa* (2007) in P. Srivastava and G. Walford (Eds.) *Private Schooling in Less Economically Developed Countries: Asian and African perspectives*, pp. 41–65. Oxford: Symposium Books.

<sup>8</sup> Riep, C. *Omega Schools Franchise in Ghana* (2014).

<sup>9</sup> Jamil, B.R., Javaid, K. and Rangaraju, B. *Investigating Dimensions of the Privatisation of Public Education in South Asia* (2012) as cited in Oxfam, *Working for the Many: Public services fight inequality* (2014).

<sup>10</sup> World Bank, *World Development Report: Learning to realize Education’s Promise* (2018).

facilities.<sup>11</sup> The reliance on unqualified teachers flies in the face of strong evidence from the World Bank and others that the presence of a trained, qualified, and well-supported educator is one of the most important factors for achieving strong learning outcomes.<sup>12</sup>

- d. **Resistance to regulation and lack of accountability:** Commercial chains often flout national laws and resist regulations that seek to ensure compliance with education standards, including regulations related to teacher certification and curriculum standards, as well as labour laws related to teachers' work conditions and pay.<sup>13</sup> This increases the risk of corruption, and undermines governance and the rule of law in host countries. For example, the chain Bridge International Academies (BIA) was ordered by the Ugandan government to close its schools in the country in 2018 after its ongoing refusal to meet standards related to teacher certification and qualifications, curriculum, and school facilities.<sup>14</sup>
  - e. **Negative impact on public education systems:** Whilst some investments are relatively small in value, they can support the expansion of commercial school chains and can, therefore, catalyse dramatic changes in host country education systems. Little rigorous research has assessed the cumulative effects of large-scale private schooling on the long-term sustainability of public school systems, but concerns include undermining the political constituency for investment in quality public schooling in the longer term, and the creation of an untrained teacher workforce due to reliance on underqualified teachers hired on short-term contracts. Moreover, where such schools receive public funding, they displace efforts and funding to expand public education, leaving limited alternatives for those children who are left behind.<sup>15</sup>
5. In March 2022, the World Bank's International Finance Corporation (IFC) divested<sup>16</sup> from the for-profit chain operating in Africa, Bridge International Academies, also known as New Globe Schools, after a series of serious complaints to the IFC's independent accountability mechanism, the Compliance Advisor Ombudsman (CAO) regarding the IFC's investment in the company. Allegations in the complaints range from violations of labour rights, child sexual abuse involving BIA staff and students, and inadequate health and safety measures that led to the tragic death of one child and the injury of another. Compliance appraisal reports by the CAO in the course of their investigations have found "substantial concerns" regarding the child safeguarding and protection outcomes,<sup>17</sup> and environmental and social outcomes<sup>18</sup> of IFC's investment in Bridge. The final reports are still forthcoming.
  6. **Given the concerning evidence about socio-economic and gender inequality and exclusion of low-income communities in low-fee and commercial private schools, and the concerns about accountability and potential harm to communities, we believe DFI investments in for-profit**

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<sup>11</sup> Srivastava, P. (2013) op. cit.

<sup>12</sup> See World Bank (2018) op. cit., and Bruns, B. et al., [Great Teachers: How to raise student learning in Latin America and the Caribbean](#) (2014).

<sup>13</sup> Legal and regulatory violations in commercial and low-fee schools have been documented in a number of other countries including the Philippines, India, Kenya and Ghana. See Riep, C. (2015) op. cit (for Ghana); Srivastava, P (2013) op. cit (for India); Education International, [Regulatory framework for Philippine private schools and practices in APEC schools](#) (for the Philippines).

<sup>14</sup> Museveni, J.K., [Enforcement of the Standard Operating Procedure \(SOP\) for private schools and school charges in Uganda](#) (2018), New Vision, (last accessed 1 March 2023).

<sup>15</sup> Bous, K. M. and Farr, J. [False promises: How delivering education through public-private partnerships risks fueling inequality instead of achieving quality education for all](#) (2019), Oxfam International.

<sup>16</sup> Right to Education, [Civil society groups celebrate IFC's divestment from profit-driven school chain Bridge International Academies](#) (March 2022)

<sup>17</sup> Compliance Advisor Ombudsman, [COMPLIANCE APPRAISAL: SUMMARY OF RESULTS Bridge International Academies-04](#) (2020)

<sup>18</sup> Compliance Advisor Ombudsman, [COMPLIANCE APPRAISAL: SUMMARY OF RESULTS Bridge International Academies](#) (2019)

**schools contradict broader global commitments to the education SDGs, fighting poverty and inequalities, and undermine equality for women and girls, and specifically, the importance of girls' education.**

### **DFI's impact on the realisation of human rights: the case of the UK's British International Investment (BII) funding in education**

7. According to its project database, BII has made 40 investments in the education sector over the last 15 years, of which at least 11 are in the provision of pre-primary through to secondary education, in addition to indirect investments through other funds.<sup>19</sup> These include two investments in Bridge International Academies/New Globe Schools.<sup>20</sup> Other types of investments in this portfolio include for-profit universities and technical/vocational post-secondary education, education technology companies, childcare providers, and infrastructure/services.
8. BII is currently vested in most of these projects indirectly through financial intermediaries with little transparency and a lack of accountability. The majority of education projects over the last 15 years are intermediated investments (36 out of 40), for which BII provides very limited information. BII also offers little to no publicly available information about the impact of specific education investments, including in key dimensions such as the impact on poverty reduction, access for excluded and marginalised groups, inequalities in educational access and outcomes, and impacts on the wider public education system.

### **DFI's responsibility to respect human rights in line with the UNGPs**

9. **States' obligations regarding human rights remain when they act through national or international development finance institutions (DFI), as they are usually majority-owned by national governments. They must also ensure that the private sector they support complies with the UN Guiding Principles on Business and Human Rights (UNGPs).**<sup>21</sup>
10. DFIs play a critical role in directly financing investments needed for the realisation of the SDGs and human rights. For DFIs to effectively contribute to sustainable development, it is crucial that they take necessary measures to avoid negative impacts on human rights as defined in international instruments and compatible national laws. Below are a **few reasons why DFIs should adopt human rights standards, accompanied by recommendations:**

#### **a. Legal obligations**

When making decisions through DFIs, member states must comply with their obligations under international law, regardless of whether they are borrowers or donors.

DFI governing bodies – often made up of national finance ministers – are responsible for approving the projects and the policies governing those projects. States acting through DFIs must ensure they do not violate the rights of those outside their own territories when making decisions about Bank policies or activities, and pay particular attention to their impact on vulnerable populations.

#### **b. Development effectiveness**

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<sup>19</sup> Analysis for this submission were based on investments listed in BII project database tagged "education" from January 2008 through December 2022 (Last accessed January 2023).

<sup>20</sup> British International Investment, Newglobe Schools Inc. (2023) (last accessed 1 March 2023).

<sup>21</sup> The UN Guiding Principles on Business and Human Rights (UNGPs), unanimously endorsed by the UN Human Rights Council in 2011, introduce a three-pillar framework to Protect, Respect, and Remedy. They reinforce states' duty to protect human rights, corporates' responsibility to respect human rights and ensure access to effective remedy for victims of corporate abuse and violations.

The missions of the DFIs are generally to help alleviate poverty and support sustainable development. People living in poverty are often the most marginalised and vulnerable people in our societies. **A human rights framework, based on the principles of equality and non-discrimination, provides a focus on protecting the rights of those most in need.** A human rights framework also prioritises the participation of those affected by development projects or policies, which ensures that the project or policy better meets their needs. Failure to ensure respect for human rights in development leads to greater poverty and inequality. Following recommendations provided by the Committee on Economic, Social and Cultural Rights (CESCR), a human rights-based approach in international development cooperation entails:

- "Conducting systematic and independent human rights impact assessments prior to any project,
- Monitoring, effectively and regularly, the human rights impact of these projects,
- Ensuring access to complaint mechanisms."<sup>22</sup>

**c. Public development assistance should not support for-profit provision of education**

DFIs should follow the advice provided by the Committee on the Rights of the Child (CRC) regarding the prioritisation of free, quality public education through international development cooperation instead of funding for-profit private schools. In its Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland, the Committee recommended "the State party ensure that its international development cooperation supports the recipient States in guaranteeing the right to free compulsory primary education for all, by prioritizing free and quality primary education in public schools, refraining from funding for-profit private schools and facilitating registration and regulation of private schools."<sup>23</sup> CESCR also expressed its "concern" about the UK's "financial support provided (...) to private actors for low-cost and private education projects in developing countries, which may have contributed to undermine the quality of free public education and created segregation and discrimination among pupils and students."<sup>24</sup>

Recent developments in key international and regional agencies have resulted in a new standard of best practice for public development assistance in education, which follows the principle that **public development assistance should not support for-profit or commercial provision of core education services.**<sup>25</sup>

In June 2022, the IFC announced that it would not resume its investments in fee-charging kindergarten through grade 12 (K–12) private schools, following the release of an independent evaluation by the World Bank Independent Evaluation Group (IEG) on the IFC's investments in this area and their impacts on educational outcomes, poverty, and inequality.<sup>26</sup> In its response to the evaluation, IFC specified the "potential for investments in private K–12 schools to exacerbate inequalities and have unintended, undesirable spillovers into the public

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<sup>22</sup> UN DOC E/C.12/GBR/CO/6 para. 15, as cited in Right to Education Initiative, The UK's financial support to low-cost private education in developing countries in contravention of human rights, says - again - UN experts (2016).

<sup>23</sup> UN DOC CRC/C/GBR/CO/5, para. 17.

<sup>24</sup> UN DOC E/C.12/GBR/CO/6 para. 14.

<sup>25</sup> These developments are in line with The Abidjan Principles on the human rights obligations of States to provide public education and to regulate private involvement in education; particularly Overarching Principle 6 and Guiding Principles 75 to 79 which detail the conditions in the context of international assistance and cooperation.

<sup>26</sup> World Bank Independent Evaluation Group, [An Evaluation of International Finance Corporation Investments in K–12 Private Schools](#) (2022).

sector school system. IFC management takes these findings seriously and wishes to refrain from activities unfavourable or detrimental to international development."

Similar recent policy shifts have included the Global Partnership for Education's decision in its [2019 Private Sector Strategy](#) to prohibit funding to for-profit provision of core education services, and a [2018 resolution by the European Parliament](#) that declared the European Union and its Member States must not use development aid money to fund commercial private schools. Most recently, in [2022 the African Commission on Human and Peoples' Rights](#) in its General Comment No. 7 on State obligations in the context of private provision of social services, stresses the non-commercial character of public services, including education. These positions uphold the principle that **education is a right, not a market commodity**. Investing in access to **free and inclusive public education of good quality is the best way to ensure the right to education for all**.

**Word count (main text):** 2,084 Words