



The Global Initiative

for Economic, Social and Cultural Rights

**Parallel Report submitted by
the Coalition Marocaine pour l'Éducation pour Tous,
the Global Initiative for Economic,
Social and Cultural Rights,
and Sylvain Aubry**

**to the Pre-sessional Working Group of the
Committee on the Rights of the Child
on the occasion of the consideration of the
List of Issues related to the
Third and Fourth Periodic Reports of Morocco
during the Committee's 67th Session.**

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1. Introduction

1. The Coalition Marocaine pour l'Éducation pour Tous (the Moroccan Coalition on Education for All, CMET) is a Moroccan NGO created in 2010. It is a network of more than 50 Moroccan organisations interested in the valorisation of public education in Morocco. The network was created in the momentum of the Global Campaign on Education for All and it started its activities in 2010 with the global '1GOAL Education for All' campaign. The CMET works to mobilize and sensitize civil society, families, policy makers and all the other stakeholders involved in the educational system in Morocco around the 6 Education for All Goals agreed in 2000 Dakar Framework for Action.
2. The Global Initiative for Economic, Social and Cultural Rights (GI-ESCR) is an international non-governmental human rights organization which seeks to advance the realization of economic, social and cultural rights throughout the world, tackling the endemic problem of global poverty through a human rights lens. The vision of the GI-ESCR is of a world where economic, social and cultural rights are fully respected, protected and fulfilled and on equal footing with civil and political rights, so that all people are able to live in dignity.
3. Sylvain Aubry is an independent human rights researcher, with several years' experience working on economic, social and cultural rights, in particular the right to education. He is currently conducting a research project with the CMET and the GI-ESCR on the impact of the privatization of education in Morocco on the right to education between October 2013 and October 2014.

2. Privatization of education in Morocco

4. Since the adoption of the Charte nationale de l'éducation et de la formation (National education and training charter [the Charter]) in 2000, Morocco has chosen to improve its education system partly through privatizing it. The Charter stipulates that 'the private education and training sector is considered a principal partner, along with the State, in the promotion of the education-training sector, the enlargement of its scope and the continuous improvement of its quality'.¹ In 2008, an emergency 2009 – 2012 governmental program to support education put as one of its objectives the development of the private sector² and the authorities have taken a broad range of policy measures to promote private education, such as tax incentives,³ active research of private funds,⁴ and enabling laws on the

¹ Commission Spéciale d'Éducation et de Formation, Charte Nationale de l'Éducation et de la Formation, 2000, para. 163 (author's translation).

² Project E4.P3 in Royaume du Maroc, Ministère de l'Éducation Nationale, de l'Enseignement Supérieur, de la Formation des Cadres, et de la Recherche Scientifique, *Rapport de synthèse du programme d'urgence*.

³ Marie Chartier, Khadija Zahi, and Youssef Nait Belaid, « Privatisation de l'offre scolaire au Maroc : Amplification des inégalités en matière d'éducation » (October 2012), <http://farzyat.cjb.ma/privatisation-de-loffre-scolaire-au-maroc-amplification-des-inegalites-en-matiere-education>

⁴ CSE/INESEF, *Etat et perspectives du système d'éducation et de formation*, Volume 1, 2008, p. 42.

governance of the private sector.⁵ The government set itself an objective of 20% of pupils trained in private primary and secondary education institutions by 2010.⁶

5. As a result, though not reaching this target, the percentage of private enrolment in school has risen sharply in the last decade, in particular at the primary level. Private enrolment at the primary level has more than tripled from 4% in 1999 to 13% in 2012⁷, while between 1995 and 2010 private enrolment at all levels has more than doubled, with an annual average growth of 6%.⁸ Between 2000 and 2012, the number of students enrolled at the primary level (in government and non-government schools) increased by 347,500 students, while in the same period enrollments in private primary schools increased by 344,500 students, which is the equivalent of 99% of the total increase.⁹
6. Concerns have been raised that the priority given to private education and the substantial growth of the private educational sector in Morocco is creating inequalities in the realization of the right to education. After his visit to Morocco in 2006, the UN Special Rapporteur on the Right to Education, Mr. Vernor Muñoz Villalobos, noted ‘an apparently excessive promotion by the authorities of private education’ and stressed ‘that the State, and not local associations, nor the private sector, is responsible for guaranteeing the realization of the right to education’.¹⁰
7. In its 2006 concluding observations on Morocco, the United Nations Committee on Economic, Social and Cultural Rights (CESCR) noted with concern ‘that the State party has a two-speed education system with a striking difference in level between public and private education which denies equal opportunities to low-income sectors of society’.¹¹ And in 2008, the Conseil Supérieur de l’Enseignement (the Higher Education Council in Morocco) in a first landmark report denounced the widening gap in terms of resources and performance, between the public and the private sector, to the benefit of the latter.¹²
8. Inequalities in the Moroccan education system have existed for a long time, in particular on the grounds of wealth and geographical location.¹³ For instance, according to data consolidated by the UNESCO, in 2003 74% of people aged 15 – 24 years living in rural areas had not completed primary education. This is considerably more than the national average of 49%, and more than twice the number of people not completing primary education living in urban areas (31%). These inequalities are compounded by stark socio-economic inequalities: the

⁵ Ibid., p. 25; Royaume du Maroc, Ministère de l’Education Nationale, de l’Enseignement Supérieur, de la Formation des Cadres, et de la Recherche Scientifique, *Rapport de synthèse du programme d’urgence*, p. 91.

⁶ A/HRC/8/10/Add.2, para. 20.

⁷ UNESCO Institute for Statistics, 2013.

⁸ UNESCO, Education au Maroc: Analyse du secteur, 2010/ED/FU/RAB/PI/2, p. 49.

⁹ Data from UNESCO Institute for Statistics, 2013.

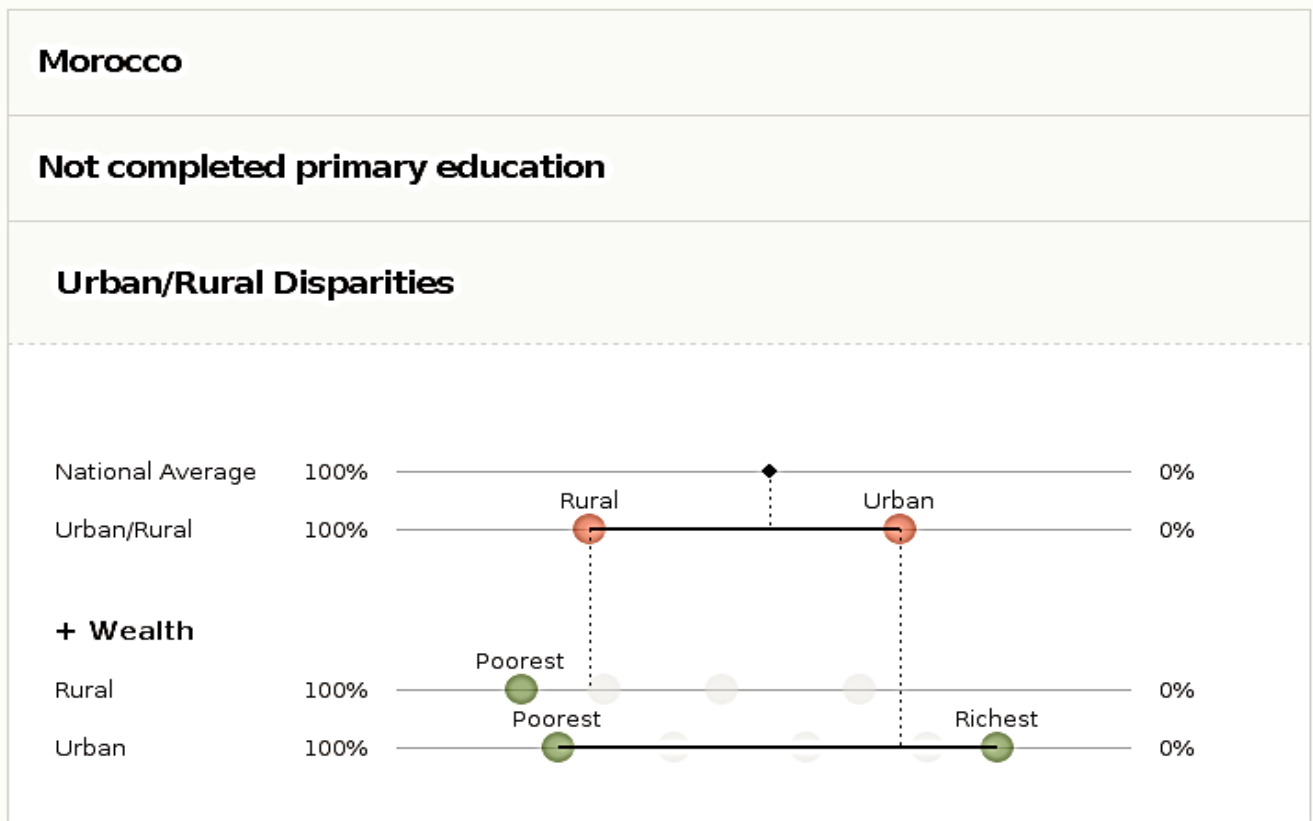
¹⁰ A/HRC/4/29/Add.2, para. 16

¹¹ E/C.12/MAR/CO/3, para. 30.

¹² CSE/INESEF, Etat et perspectives du système d’éducation et de formation, Volume 1, 2008, p 82.

¹³ See generally the data collected by UNESCO on Morocco: <http://www.inequalities.org/countries/morocco/#?dimension=community&group=all&year=2003>

number of people aged 15 – 24 years living in rural areas that have not completed primary education is 83% for the poorest people, as opposed to only 18% for the richest people living in urban areas (see figure below).¹⁴ Similar figures can be found for other indicators which reflect inequalities in all aspects of the right to education: availability, accessibility, acceptability and adaptability.¹⁵



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- Despite this, 80% of private schools in Morocco are fee-paying, for profit schools in the urban Kenitra – Casablanca area¹⁶, and they are targeted at wealthy urban households, thus not improving access for the majority of the population who do not have the financial means to pay for schooling.¹⁷ The current growth of private schools in Morocco is therefore benefitting the section of the Moroccan population which already is the most advantaged with regards to education, the richest urban population.

¹⁴ UNESCO, [http://www.education-inequalities.org/countries/morocco/indicators/noprim_1524/communities#?dimension=community&group=\[Urban|Rural&dimension2=wealth_quintile&group2=\[Quintile%205|Quintile%201&age_group=noprim_1524&year=2003](http://www.education-inequalities.org/countries/morocco/indicators/noprim_1524/communities#?dimension=community&group=[Urban|Rural&dimension2=wealth_quintile&group2=[Quintile%205|Quintile%201&age_group=noprim_1524&year=2003), November 2013

¹⁵ UNESCO, <http://www.education-inequalities.org/countries/morocco#?dimension=all&group=all&year=2003>, November 2013

¹⁶ CSE/INESEF, *Etat et perspectives du système d'éducation et de formation*, Volume 1, 2008, p 22.

¹⁷ UNESCO, *Education au Maroc: Analyse du secteur*, 2010/ED/FU/RAB/PI/2, p. 49 and quoted research : Alama, A. et Vélaz de Medrano, C. (Dir) et Chedati, B. (2008), *Equidad y políticas públicas en educación y formación básicas en Marruecos*, in C. Vélaz de Medrano (Dir.), A. Alama, A. Euceda, N. Massé y M^a J. Vitón (Coords.).

10. While education is being privatized in Morocco, in particular at the primary level, key public investments in education are stalling or reducing. The ratio between the public expenditure per pupil and the gross domestic product per capita has gone down by almost 2% between 1999 and 2009, from 25.5% to 23.6%.¹⁸ Primary education has been additionally impacted as the proportion of the total educational expenditure allocated to primary education has decreased by 1.2% in the same period.¹⁹
11. We are concerned that the privatization of primary education in Morocco is creating or reinforcing inequalities for children: from low income families; living in rural areas; from minority groups; and vulnerable children such as street children. In a country where 43% of the population lives in rural areas, the growing urban/rural inequalities have wide-ranging consequences. There are two elements to these concerns: first, a lack of regulation and oversight of private primary education providers to ensure compliance with the rights enshrined in the Convention on the Rights of the Child (CRC); and second, the diversion of government resources and attention to fee-paying elite private schools in lieu of improving availability, accessibility, acceptability and adaptability for vulnerable children, particularly in rural areas. We are thus concerned that Morocco may be taking retrogressive measures with regards to its efforts to fulfil the right to education, especially at the primary level.

3. The Right to Education under the International Convention on the Rights of the Child as it relates to the privatization of education

12. The CRC states that States Parties have an obligation to recognize every child's right to education. This involves an obligation to make primary education compulsory, and available free to all.²⁰ Useful guidance on the right to education is found in the International Covenant on Economic, Social and Cultural Rights (ICESCR)²¹ and CESCR General Comment 13.²²
13. In relation to primary education, the CESCR in General Comment 13 says that the State's obligation to fulfill the right to education amounts to an obligation to *directly provide* education in most circumstances and suggests that its obligations in relation to primary education may be of a higher order and entails more immediate obligations.²³ General Comment 13 states:

‘First, it is clear that article 13 regards States as having principal responsibility for the direct provision of education in most circumstances; States parties recognize, for example, that the “development of a system of schools at all levels shall be actively pursued” (art. 13 (2) (e)). Secondly, given the differential wording of

¹⁸ Data from UNESCO Institute for Statistics, 2013.

¹⁹ Data from UNESCO Institute for Statistics, 2013.

²⁰ Convention on the Rights of the Child, 1989, Articles 28(1) and (1)(a)

²¹ International Covenant on Economic, Social and Cultural Rights, 1966, Article 13

²² CESCR General Comment 13, The right to education (Article 13): 08/12/1999, E/C.12/1999/10

²³ CESCR, General Comment 13, paragraphs 48, 51, 52.

article 13 (2) in relation to primary, secondary, higher and fundamental education, the parameters of a State party's obligation to fulfil (provide) are not the same for all levels of education. Accordingly, in light of the text of the Covenant, States parties have an enhanced obligation to fulfil (provide) regarding the right to education, but the extent of this obligation is not uniform for all levels of education²⁴

14. While the CRC permits (as does the ICESCR²⁵) the provision of education (to unspecified levels) by non-State providers, as provided in article 29(2), the liberty to establish educational institutions is constructed negatively, as something that should not be affected by the fulfilment of the right to education. The responsibility is thus on the State to fulfil the right to education. The UNESCO Convention against Discrimination in Education takes a similar approach in its article 2 which provides that the establishment or maintenance of private educational institutions does not constitute discrimination when it is to provide educational facilities *in addition to those* provided by the public authorities.²⁶ It should also be noted that in its indicators on the right to education, the OHCHR suggests to measure child enrolments in *public* education institutions as an indicator of compliance with human rights standards.²⁷
15. In addition to the report of Mr. Muñoz Villalobos on Morocco mentioned above, another former Special Rapporteur on the Right to Education, the late Katarina Tomaševski, emphasised that:

‘[i]nternational human rights law defines free and compulsory education as a government obligation, thus implying that it should be a free public service, while permitting private education for those parents who desire and can afford it, bearing in mind most private schools charge for their services’.²⁸
16. Thus, it is permissible and even required, to allow the development of private education, but the State retains the positive obligation to fulfill the right to education, and the obligation to provide primary education for all is an immediate duty of States.²⁹ Following this line, the South African Constitutional Court recently found that the primary positive obligation with respect to the right to education rests on the State and that there is no primary positive obligation on private actors to provide basic education, but instead, a negative obligation not to infringe the students’ right to education.³⁰

²⁴ CESCR, General Comment 13, paragraph 48.

²⁵ See also ICESCR, Article 13(4) and CESCR General Comment 13, paragraph 59.

²⁶ UNESCO Convention against Discrimination in Education, 1960. It can also be noted that in Africa, the African Commission on Human and Peoples’ Right also considers the African Charter on Human and People’s Rights to requires States ‘to respect the liberty of parents and guardians to establish and choose for their children schools, *other than those established by the public authorities*’, clearly emphasizing the primacy of public schools.²⁶

²⁷ OHCHR, *Human Rights Indicators: A Guide to Measurement and Implementation* (2012).

²⁸ Katarina Tomaševski, *Manual on rights-based education*, UNESCO (2004), p. 55.

²⁹ CESCR, General Comment 13, paragraph 51.

³⁰ Constitutional Court of South Africa, *Governing Body of the Juma Masjid Primary School & Others v Essay N.O. and Others*, Case CCT 29/10 (2011), especially para 57.

17. By ratifying the CRC, Morocco has accepted that non-discrimination is a key and guiding principle of the Convention and that the right to education must be protected, respected and fulfilled without any discrimination of any kind.³¹ In 1968 Morocco also ratified the 1960 UNESCO Convention against Discrimination in Education.³² CESCR General Comment 20 specifies that any kind of discrimination, whether direct or indirect, formal or substantive is prohibited.³³ The States Parties' obligations with respect to non-discrimination are immediate (as opposed to allowing progressive realization) and require States to pay particular attention to vulnerable or marginalized groups and to prioritize the realization of their rights. Non-discrimination also applies to the distribution of government funds and resources for education.
18. States Parties are required to ensure that private entities providing education are doing so in a manner that is consistent with the CRC, including the principle of non-discrimination. According to the CESCR, the State has an obligation to ensure that privatized education 'does not lead to extreme disparities of educational opportunity for some groups in society'.³⁴ Similarly the Committee on the Rights of the Child has recently noted that States must ensure that the provision of essential services by private actors 'does not threaten children's access to services on the basis of discriminatory criteria'.³⁵
19. These obligations entail States regulating private providers, monitoring and evaluating their compliance and educational outcomes and enforcing compliance where necessary. The CRC indicated that States have 'an obligation to set standards in conformity with the Convention and closely monitor them'.³⁶ Failure to do so amounts to a violation of the Convention³⁷ and the privatization of State services has repeatedly been struck down or limited by courts on the ground of violation of CESCR.³⁸

³¹ CRC, Article 2; CRC General Comment 1, The Aims of Education: 17/04/2001, CRC/GC/2001/1, paragraph 10.

³² <http://www.unesco.org/eri/la/convention.asp?KO=12949&language=E&order=alpha>.

³³ CESCR, General Comment 20.

³⁴ CRC General Comment 16, paragraph 34.

³⁵ CRC General Comment 16, paragraph 34.

³⁶ CRC General Comment 16, paragraph 34.

³⁷ *Ibid.*, CESCR General Comment 13, paragraph 59 which states that failure to maintain a transparent and effective system to monitor conformity with ICESCR Article 13(1) is a violation of Article 13.

³⁸ Argentina, *Aquino, Isacio vs. Cargo Servicios Industriales S. A. s/accidentes ley 9688* (2004); South Africa, *Nkonkobe Municipality v Water Services South Africa (PTY) Ltd & Others* (2001); Argentina, *Defensora del Pueblo de la Ciudad de Buenos Aires y otro c. Instituto Nacional de Servicios Sociales para Jubilados y Pensionados* (1999).

6. Recommendations for the List of Issues

20. Has the State party assessed whether its policy of privatizing education in Morocco is the most effective in terms of realizing the Convention rights, in particular in order to address discrimination and how has it done so?
21. How does the State Party regulate, monitor and evaluate the provision of education by private providers in Morocco to ensure that it is consistent with Convention rights?

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