

## Supplementary report

Reaction of the Global Initiative for Economic, Social and Cultural Rights to the responses of the Government of Morocco to the list of issues raised by the Committee on the Rights of the Child regarding the third and fourth periodic reports to the Convention on the Rights of the Child

Rabat, 25th July 2014

1. The Forum des Alternatives Maroc (FMAS), la Coalition Marocaine pour l'Education pour Tous (CMEPT), et la Global Initiative for Economic, Social and Cultural Rights (GI-ESCR) presented in December 2013 two parallel reports (available on <http://goo.gl/EAbLsu>) to the UN Committee on the Rights of the Child (CRC) on the question of the impact of the development of private education on the right to education in Morocco. The first report provides an overview of privatisation in education in Morocco and of the international legal framework, and the second gives details on specific aspects and provides recommendations. These reports were written as part of a one-year research on the development of private education in Morocco.<sup>1</sup> Following these reports, the CRC released a list of issues to the Moroccan Government, many of which reflect the concerns we raised. In particular, the following two questions echo the central points of our reports:

*“6. Explain the measures taken by the State party to address the growing disparities between children and the richest and poorest families. Please indicate the measures taken to remedy the discrimination suffered by children living in rural and remote areas, particularly with regard to their rights to education, health and an adequate standard of living.”*

*“14. Please provide information on measures taken since the implementation of the 2008–2012 emergency plan of the Ministry of Education to ensure that all children have access to good quality education, end ongoing discrimination against children living in rural areas and girls, and combat school failure and dropout. Please also explain the measures taken to oversee the quality and conditions of teaching in private schools and to ensure that teachers in public school are not transferred to private institutions.”*

We commend the Moroccan Government for responding in a timely fashion to these questions, thereby providing an opportunity for a constructive dialogue. The purpose of this supplementary report is to fully engage in this dialogue, and provide additional elements of reflection to the CRC on the issue of privatisation in education in Morocco.

2. We are pleased that the Government claims that the starting point for its education policies is that *“all interventions, strategies, programs and action plans for to support children give priority to achieving equity as a goal, by reducing disparities between children from urban and rural areas, children from rich and those from disadvantaged backgrounds, and between boys and girls”* and considers that *“the right to education for all is the foundation of [its] education strategy”*.<sup>2</sup> However, we regret that these good intentions are not verified in practice. The

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<sup>1</sup> See <http://globalinitiative-escr.org/advocacy/privatization-in-education-research-initiative/research-project-on-the-impact-of-the-development-of-private-education-in-morocco/>.

<sup>2</sup> Réponse du Gouvernement du Royaume du Maroc sur la liste des points soulevés par le Comité des droits de l'enfant concernant les troisième et quatrième rapports périodiques sur la Convention des droits de l'enfant, présentés en un seul document, p. 22.

responses made by the Government are, in our view, insufficient, especially in the two following respects:

3. First, the programs mentioned by the Government aimed at meeting the growing disparities in education observed in Morocco do not respond to the substantive issues. For example, the programs to fight against school dropout put forward by the Government,<sup>3</sup> although important, merely address the consequences of structural inequalities in the country. They do not answer the question of hidden registration fees, the lack of schools, the lack of support for teachers, school violence, poor quality of teaching, and other similar issues. Another example: a key reason for school dropout in Morocco is inadequate funding. Although the budget allocated to education is officially above the average, learning outcomes in some areas of the country are close to that of Yemen.<sup>4</sup> Thus, the programs mentioned by the Government, while valuable, do not respond to the structural inequality and discrimination.
4. Second, the responses of the Government specifically do not address an essential factor of structural inequalities in education: the encouraged and unregulated growth of private education. Whereas our reports clearly highlighted the impact of privatisation on the right to education, and although the CRC asked specific questions on the issue, we regret that the Government's response does not give precise answers on this key aspect. The Government's response to question 14 contains four elements, none of which adequately answers the question:
  - a. The response indicates, firstly, that "no family is forced to enrol their child in private education". As we noted in our report, private education is often a constrained 'choice' for parents. Our interviews showed that the lack of public school of sufficient quality or misinformation often are the reason why parents choose private education, many times with regret.
  - b. The Government recalls, secondly, that 13% of primary schools pupils are enrolled in private schools, which it says is "*negligible*". However, as the Government's response itself mentions, this figure has "*significant increased*" in the last twelve years. It is precisely this increase that worries us. The percentage of pupils enrolled in private primary schools has more than tripled in the last 13 years, with an average annual increase of 8% of the ratio of children enrolled in private primary.<sup>5</sup> At this rate, and nota taking into account the acceleration of the phenomenon since 2005, **there could be a third of primary school pupils enrolled in private schools in ten years, and more than 50% in 2030** (see table below). Conversely, the number of children enrolled in public primary schools has almost fallen steadily since 2000. Strikingly, the number of children enrolled in public primary schools in 2013 (3,475,190 pupils) fell for the first time below what is used to be in 2000 (3,497,926 pupils), when the government introduced reforms favouring the development of private education, while at the same time the total number of students enrolled in primary school (private and public) increased by 10%. In the same period, inequality, both economic and social, has widened, as we noted in our report. Given the potential

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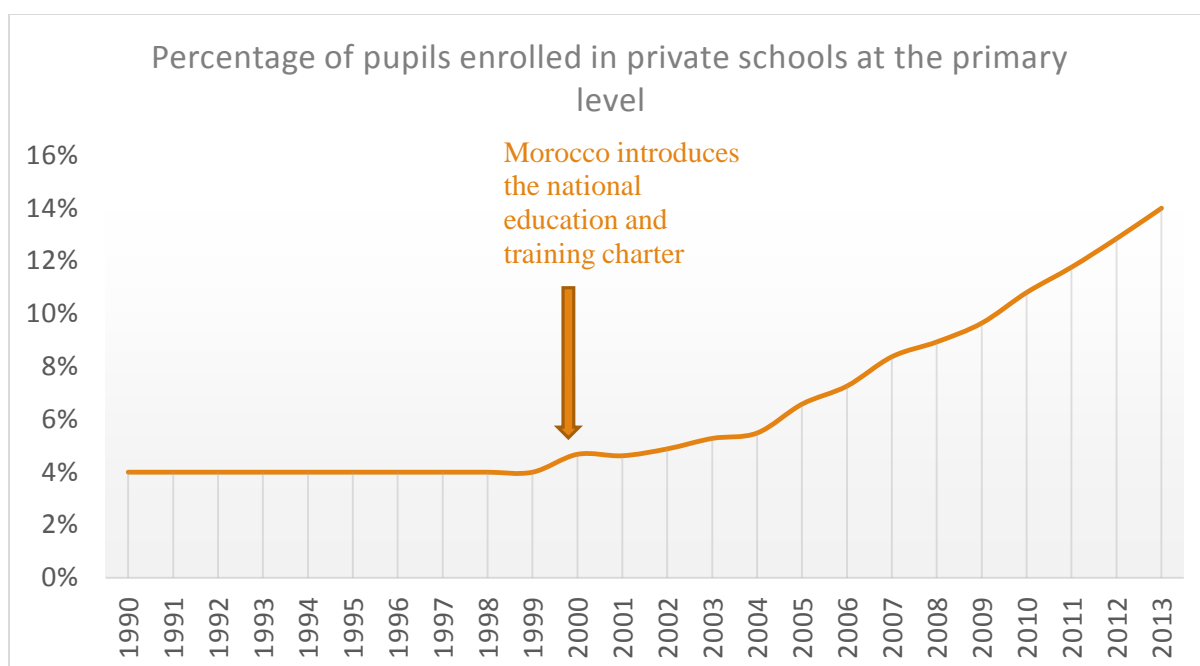
<sup>3</sup> *Réponse du Gouvernement du Royaume du Maroc sur la liste des points soulevés par le Comité des droits de l'enfant concernant les troisième et quatrième rapports périodiques sur la Convention des droits de l'enfant, présentés en un seul document*, p. 7.

<sup>4</sup> Anonymous interview of an education specialist in Morocco, commenting the last results to the international learning tests TIMSS and PIRLS.

<sup>5</sup> These statistics, as well as the following ones, are, unless specified otherwise, drawn from the UNESCO Institute for Statistics' website: <http://data.uis.unesco.org/>.

devastating impact of privatisation in education on the realisation of the right to education, we believe that this situation, which is the result of a deliberate government policy to support private education is not “negligible”, but alarming.

Percentage of pupils enrolled in private schools at the primary level (1999 – 2013)															
Year	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Percentage of pupils enrolled in private schools at primary level	4.2%	4.7%	4.6%	4.9%	5.2%	5.5%	6.6%	7.2%	8.4%	9%	10%	11%	12%	13%	14%
Yearly growth of the rate of pupils enrolled in private schools at primary level	-	5%	5%	5%	5%	5%	7%	7%	8%	9%	10%	11%	12%	13%	14%
Annual average growth of the rate of pupils enrolled in private schools at primary level (2000 – 2013)	-	8%													
GINI Index <sup>6</sup>	39.46%		40.63%						40.88%						
Income share held by highest 10% <sup>7</sup>	31.06%		32.29%						33.22%						



Projections of enrolment of percentage of pupils enrolled in private schools at primary level (2014 – 2038) applying the annual average growth 2000 - 2013								
Year	2000	2005	2010	2013	2020	2023	2030	2038
Percentage of pupils enrolled in private schools at primary level	4.2%	5.5%	10%	13%	24%	30%	52%	97%

<sup>6</sup> World Bank data: <http://databank.worldbank.org/>

<sup>7</sup> World Bank data: <http://databank.worldbank.org/>

- c. The Government's response situates, thirdly, its support to public education in the framework of *"the promotion of free enterprise"*. This demonstrates once again the confusion of the Government between support for public education as part of its legal human rights obligations, and its efforts to privatise and encourage competition within the education system.
  - d. Finally, the Government argues that *"private schools are subject to the pedagogical supervision of the Ministry of National Education."* As we explained in our reports, this is true on paper, but not so in practice. The Committee specifically asked the Government to explain *"the measures taken to oversee the quality and conditions of teaching in private schools"* and it is regrettable that the Government did not provide any answer other than the sentence above, which does not adequately address the question or provide sufficient detail on how the Government is undertaking its regulatory and supervisory roles.
5. Thus, in the absence of a satisfactory response, we maintain that the Government has a policy to encourage the development of private education and does not provide for effective regulation of private schools, which goes against the 'equity principles' that the Government set for itself in its responses, and constitutes a violation of the obligations of Morocco on the right to education as guaranteed by Articles 28 and 29 of the Convention on the Rights of the Child.
  6. We believe these policies supporting private education are in no way trivial, and need the attention of the CRC. Not only has privatisation in education in Morocco had a detrimental impact on multiple rights protected by the Convention, including the rights to education, health, and nutrition, but it also needs to be considered as part of a broader dynamic of promoting privatization globally which represents a real danger for the realization of children's rights. An increasing number of influential stakeholders defend more and more openly that education should be fully privatized worldwide and should not be seen as a public good,<sup>8</sup> and institutions such as the World Bank actively support the privatisation of education.<sup>9</sup> Such trends are worrisome from the standpoint of children's right to education.
  7. An increasing body of research is examining the impact of these developments on human rights and social justice.<sup>10</sup> In June 2014, thirteen organisations – including the organisations involved in writing this report – met for three days in Geneva to discuss these issues. We held on this occasion a side event at the Human Rights Council as well as an expert roundtable with the presence of Mr. Singh, the Special UN Rapporteur on the right to education. These events confirmed the scale of the phenomenon and the dangers of privatisation in education. The 13 organisations involved also produced a report to the CEDAW Committee analysing the negative impact of privatization in education on girls' rights, which is available here <http://globalinitiative-escr.org/?p=1386>,
  8. We regret that the Moroccan Government, despite the research efforts we have undertaken and the specific issues raised by the CRC does not provide a substantive response to the worrying phenomenon of the privatisation in education and the dangers it poses to the realisation of the right to education for all without discrimination. We thus believe that the CRC can make a crucial contribution by clarifying State Obligations in this regard and underscoring the view that

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<sup>8</sup> See for instance the recent post on the World Bank blog by le Shanta Devarajan, a chief economist at the World Bank, who argues that education is a "private good" and that it should be fully provided by private actors: <http://blogs.worldbank.org/futuredevelopment/comment/1151>

<sup>9</sup> Francine Menashy, Karen Mundy and Momina Afridi, "The role of the World Bank in the Private Provision of Schooling in Pakistan", in Ian Macpherson, Susan Robertson, and Geoffrey Walford, *Education, Privatisation and Social Justice* (Symposium Book, United Kingdom:2014), p. 239.

<sup>10</sup> See in particular <http://www.periglobal.org/>

education is a public good and that States have an enhanced obligation to fulfil the right to education, as has been recognized in international human rights standards (see, in particular, General Comment No. 13 on the right to education of the CESCR, at para. 48). Based on our finding, we reaffirm the recommendations we made in our last report. We believe that the Government should:

- a. Conduct a study on the direct and indirect impacts of the development of private education on the enjoyment of the right to education, which seeks the inputs of all stakeholders including civil society organisations, parents' associations, and human rights bodies;
- b. Take all the necessary measures, which may include the measures suggested below, to avoid any direct or indirect harmful impact of the private educational sector and to ensure that the private sector contributes to the fulfilment of the right to education for all in Morocco, as was originally planned in the Charte nationale de l'éducation et de la formation (National education and training charter [the Charter]) in 2000<sup>11</sup>;
- c. Ensure that it has the necessary means, in particular through adequate staffing of inspectors at the regional academy level, to strictly enforce the *Dahir* n° 1-00-202, the *Décret* n° 2-00-1015 and other laws and policies governing private education, as was anticipated in the Charter<sup>12</sup> and make inspectors reports available so that parents are able to make meaningful evidence-based choices about private and public education providers;
- d. Put in place an accessible and efficient remedy mechanism which applies to public and private education providers for parents and children who consider that their right to education is being violated. This remedy may be judicial<sup>13</sup> and/or administrative, for example through the national human rights institution;
- e. Institute a moratorium on the opening of new private schools until items a – d above are in place;
- f. Regularly collect and make publically available data on private school fees and social diversity amongst the pupils attending private and public schools, so as to be able to identify and understand inequalities and review and amend if necessary its laws and policies governing education providers.;
- g. Take immediate measures to ensure that everyone can access quality education without distinction on account of social origin or other prohibited grounds and to ensure that everyone has a real educational choice. This could for instance include measures to require private schools to accept a percentage of pupils from low-income households without any fee,<sup>14</sup> to set a ceiling for school fees,<sup>15</sup> or to fix a progressive rate for school fees based on households' income.; and
- h. Given its obligation to use the maximum available resources to respect, protect and fulfil the right to education of Moroccan children, re-assess the distribution of resources to private education providers in Morocco, including through taxation or other concessions, and take measures to ensure that the maximum available resources are in fact being directed to fulfilling the right to education. In particular, the government

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<sup>11</sup> In particular at para. 163.

<sup>12</sup> Ibid.

<sup>13</sup> For example illustrated by a recent landmark court case in Cambodia, where the High Court directed action in cases of collection of excess admission fees by private schools. See <http://www.campebd.org/Details.php?DetId=23>

<sup>14</sup> As was done for example in India.

<sup>15</sup> As for example in Cambodia.

could condition its support to private schools on adherence with strict criteria that assess whether they consider education as a public good, for instance:

- i. Whether the school uses all of its benefits to invest in educational quality and equality;
- ii. Whether the school contributes to efforts to bring quality education to rural and disadvantaged areas; and
- iii. Whether the school sets reasonable school fees allowing a diversity of pupils from all social origins to attend the school.

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**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. See <http://www.globalinitiative-escr.org/>