



Summary of the report by the Special Rapporteur on the right to education: Impact of the COVID-19 crisis on the right to education; concerns, challenges and opportunities

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To address the most pressing current challenges, the UN Special Rapporteur on the right to education focused her report on the impact of the COVID-19 crisis on the right to education. The report highlights the severe adverse effects the pandemic has had on education systems across the world, including wide-spread, sudden school-closures, resulting in an international education crisis. The report also highlights the importance of adequately preparing for the gradual re-opening of schools.

The Special Rapporteur emphasises that the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Rights of the Child (CRC) do not contain a derogation clause that would allow a State not to comply with their treaty obligations in times of crisis. Instead, the Special Rapporteur asserts that States must continue to guarantee the right to education despite the crisis. Where measures taken are likely to limit this right, they must be necessary, reasonable, proportionate and lifted as soon as they are no longer needed. Furthermore, the Special Rapporteur quotes Articles 3(1) and 28 of the CRC to affirm that all measures must not violate the principle of the best interests of the child.

The Special Rapporteur acknowledges that it was difficult to anticipate the scale and scope of the crisis, but affirms the importance of States devoting the maximum of their available resources to the progressive realization of the full enjoyment of economic, social and cultural rights, including the right to education. Notably, the report urges States to prioritise the provision of free, quality, public education inspired by the guidance provided by the [Abidjan Principles on the Right to Education](#).

The Special Rapporteur also expressed her concern about the excessive use of distance learning tools which, in her view, can increase and entrench inequalities, particularly as a high proportion of learners do not have access to computers or internet and there may not be sufficient accommodation for learners with disabilities. Online education also raises risks regarding the lack of human interaction between teachers and learners, the increasing involvement of private actors, the protection of data and the privacy of teachers and learners. On these last two points, the Special Rapporteur invites States to monitor the involvement of private actors through existing standards, including the Abidjan Principles. She also recalls that the Abidjan Principles require States to set standards for "privacy and data protection, ensuring in particular respect for the rule of law and ethical practices with regards to personal data".

The Special Rapporteur also flags the mass closure of private schools, particularly low-cost private schools, which may be unable to reopen due to prolonged economic distress caused by the pandemic and which in some cases failed to comply with human rights standards. This highlights the dangers of market-based education models for education systems, particularly for learners and teachers. The report cites the example of the commercial school chain Bridge International Academies which reportedly sent teachers on compulsory unpaid leave, only covering health insurance and a gratuitous monthly payment equivalent to 10% of their salary in Kenya, and in Liberia imposed an 80-90 per cent



reduction in staff salaries while still requiring some of them to work from home. The Special Rapporteur observes that this collapse may result in an increase in the number of out-of-school children and the pressure on the already over-stretched public system.

While several private schools in difficulty have requested financial support from States, the Special Rapporteur again refers to the Abidjan Principles which provide detailed guidance concerning direct or indirect provision of public resources to private educational institutions, while reminding States to give priority to the funding and provision of free, quality public education.

Reflecting on the future of public education systems, the report cites the detrimental impact of austerity measures and budget cuts for the preparedness of education systems to deal with the impacts of the pandemic. The report reminds States of the interdependence of rights, and urges them to ensure that even as they take measures to deal with the pandemic, it is of crucial importance to take a holistic approach to building sustainable economies and societies, by not underfunding other social services such as education. The report cautions that reduced spending on public education could erode gains made in quality and access of education so far and create more room for privatisation in education.

To respond to these critical challenges, the report recommends a human rights approach calling for strict compliance with the ICESCR where States implement limitations on the right to education, integrating the 4As framework (Availability, Accessibility, Acceptability and Adaptability) in education systems, including measures for emergency response and preparedness, and calls for special measures to protect the most vulnerable and marginalized groups adversely affected by the crisis.