



The violation of the right to education in Mauritania following the sale of public school lands

Brief to the African Committee of Experts on the Rights and Welfare of the Child

November 2019

This brief is based on the report submitted to the Committee on the Rights of the Child (CRC) for its review of Mauritania on 17th and 18th September 2018. The full report, as well as the concluding observations of the CRC, are available here: <https://www.gi-escr.org/publications/sale-of-public-school-lands-mauritania>.

The Mauritanian education system has seen a strong growth of private actors during the last 20 years, following the authorisation and promotion of private education by the government, due to the lack of regulation and supervision of private actors in education, and because of pecuniary motives to the detriment of the respect of the right to education, for instance in particular through the auctioning since 2015 of public school lands for the benefit of their transformation into commercial premises. The *de facto* privatisation of the education system as it took place in Mauritania was done without the necessary regulation, leading to discrimination in violation of the right to education.

While private actor involvement in education is not *per se* a human rights issue, States must ensure that private actors do not have a negative impact on the realisation of the right to education. To assess the situation in Mauritania, this brief evaluates the situation against the recently adopted Abidjan Principles on the right to education¹, which provides an interpretation for the Article 11 of the African Charter on the Rights and Welfare of the Child on the right to education.

The Abidjan Principles on the right to education

The *Abidjan Principles on the human rights obligations of States to provide public education and to regulate private involvement in education*, were adopted the 13th of February 2019 by a group of over 55 recognised experts in the right to education. They have been cited as a reference instrument by the African Commission of Human and People's Right during its 2019 April session.

The Abidjan Principles provide States with guidance concerning the right to education and the participation of private actors to education systems under existing human rights law. They detail how, according to international law, while protecting the freedom to establish or attend private schools, the existence or growth of private actors in education should not undermine the right to free, fair and inclusive education for all or the right to equality and non-discrimination. The Abidjan Principles also recall the obligations of States to establish public, free and education systems for all, and unpack States' obligations to regulate private actors, to limit supplementary private provision which infringes on the right to education, and to guarantee that all participants involved in education are aligned towards the common aim of realising the right to education.

¹ <https://www.abidjanprinciples.org/>



- **Private schools are progressing rapidly in the Mauritanian education system**

The share of students in the private education sector has increased more than eightfold in only 16 years.² A phenomenon of this magnitude necessarily requires special attention and support to ensure that it does not undermine the right to education.

- **The growth of private actors in the Mauritanian education system contributes to creating divides according to household income**

Only the most affluent people in Mauritania (20%), who are able to spend four times more on primary education than the poorest families (40%), can enrol their children in private schools of good quality.³ Even in the case of the so-called "low cost" schools, with tuition fees promoted as low, these remain an obstacle for many families to access these schools. These registration fees can be a major reason of de-schooling for families unable to pay them. Parents, rather than benefiting from educational freedoms, that demand to be able to benefit from a free quality educational option, are therefore constrained in their choice, in the context of a discriminatory system.

This is in contradiction in particular with the Abidjan Guiding Principle 25 which states:

25. States must ensure that their laws, policies, or practices do not directly or indirectly discriminate in education. They must also address any situation breaching the rights to equality and non-discrimination with regards to the right to education, whether or not such situation results from their acts, including:

a. systemic disparities of educational opportunity or outcomes for some groups in society, including people living in poverty or in rural settings; or

b. segregation in the education system that is discriminatory on any prohibited ground, in particular socio-economic disadvantage.

- **Low public education spending limits the quality of public schools and reinforces discriminatory educational divides**

Mauritania's share of GDP allocated to education has fluctuated between 2.5 and 3.5 percent of GDP between 1999 and 2013, before falling back to 2.63 percent in 2016.⁴ The same applies to the share of the budget allocated to education, which is on average 11-12% of state expenditure.⁵ These figures are far from the minimum accepted international standards, i.e. 6 percent of GDP and 20 percent of public expenditure. They are also much lower than neighbouring countries, like Senegal, which devotes more than 7 percent of its GDP and more than 20 percent of its public expenditure to education since 2013, or Morocco, which is above 5 percent of GDP for education.⁶

This is in contradiction with the Abidjan Guiding Principle 15 which states:

15. States must allocate the maximum of their available resources towards ensuring free, quality education, which must be continuously improved. The maximum available resources should not fall below the level required by domestic or international education funding commitments, such as the percentage of gross domestic product set in development goals.

² UNESCO, <https://data.uis.unesco.org>.

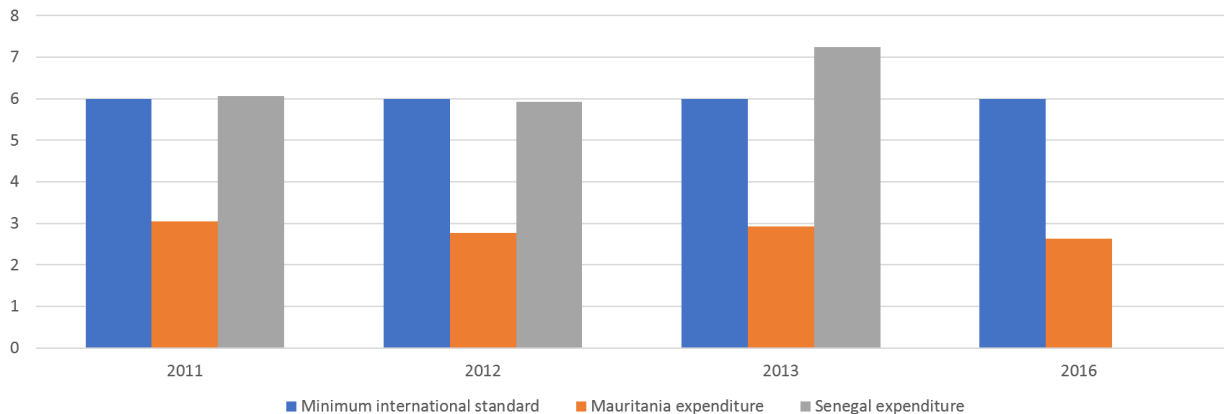
³ « SABER Country Report 2016 - Mauritania », World Bank (June 2017).

⁴ UNESCO, <http://data.uis.unesco.org/>.

⁵ « Revue Nationale Volontaire sur les Objectifs de Développement Durable », 8 avril 2019.

⁶ UNESCO, <http://data.uis.unesco.org>.

Public education expenditure as percentage of GDP (%)



- **Public schools' lands were sold and transformed into commercial premises**

Six public schools' lands in the city centre of Nouakchott, were auctioned by the Mauritanian Government in 2015, without prior public consultation. These auctions were made for the benefit of private businesses. These six schools were sold, following the auction of the lands which housed them: Ecole 1, Ecole 2, Ecole 6, Ecole 7, Ecole Tvragh Zeina, Ecole 12.

The closure of these schools may have resulted in the permanent exclusion of thousands of children from school, as no other public schools have been opened by the authorities as a replacement and many families do not have the resources to educate their children in nearby private schools.

The government's market interests thus preceded the implementation of the right to education.

This is a failure to respect the right to education, and to ensure the enjoyment of the right to public education of the highest attainable quality to everyone, protected in particular in the Abidjan Guiding Principle 29, which states:

29. States must respect, protect, and fulfil the right to free, quality, public education. They must provide free, public education of the highest attainable quality to everyone within their jurisdiction as effectively and expeditiously as possible, to the maximum of their available resources. The involvement of private educational institutions does not in any way impair or nullify this obligation.

- **Private schools in Mauritania are not sufficiently regulated**

Although Mauritania has established a regulatory framework for private schools, it remains largely theoretical and suffers from major shortcomings in its implementation. Even the World Bank, in the 2016 SABER country report, therefore recommended the implementation of "more inspections and follow-up action as well establishing sanctions for school improvement".⁷

This is in contradiction with the Abidjan Guiding Principle 51 which states:

51. States must take all effective measures, including particularly the adoption and enforcement of effective regulatory measures, to ensure the realisation of the right to education where private actors are involved in the provision of education. This includes situations in which private actors conduct their activities without any State involvement or control, or when they operate informally or illegally

⁷ « SABER Country Report 2016 - Mauritania », World Bank (June 2017).



Suggested questions to Mauritania

Following the concluding observations of the Committee on the Rights of the Child (CRC) of October 2018, calling-out the Mauritanian Government on *'the recent closure with no apparent replacement of six public schools in Nouakchott'*, *'the proliferation of private schools that make quality education prohibitively expensive for children living in disadvantaged or vulnerable situations'*, and the call for reduction of the *'discriminatory effects of privatization and private education against children from financially disadvantaged families'* and the establishment of *'mechanisms to monitor the compliance of private schools with minimum educational standards, curriculum requirements and qualifications for teachers'*:

- a. What measures have been taken by Mauritania to put in place an emergency solution of free and quality education available to all children who have been affected by the closure of the six schools in Nouakchott, and a long-term solution for families living in these areas, including if necessary by rebuilding public schools?
- b. Has the Mauritanian Government stopped the closure of public schools for the benefit of commercial entities?
- c. What steps have been taken to develop and provide the necessary resources to the bodies in charge of monitoring the quality of private education institutions, particularly low-cost schools, in particular so that they respect human rights and not to have a negative impact on public education?
- d. Why does Mauritania support the development of private education, when the State does not yet seem able to effectively regulate these schools, and empirical studies show that the increase in private provision has not been a solution either in Mauritania, or in many countries, for the realisation of the right to education, especially for the poorest?

Recommendations to the Mauritanian Government

1. Implement its obligations regarding the establishment of a free, public education system, in accordance with *Abidjan Principles on the human rights obligations of States to provide public education and to regulate private involvement in education* particularly by:
 - Assessing the direct and indirect impacts of the development of private education, in the light of its obligations to ensure that it complements but does not supplant public education and does not promote discrimination.
 - Taking all necessary measures to avoid any direct or indirect negative impact of the private sector of education, and to ensure that the private sector contributes to the realization of the right to education for all in Mauritania; and enforce, review and amend, if necessary, the laws and policies governing providers.
 - Strictly applying the regulations in force governing and organising private education.
2. Provide publicly a national plan dealing with the closure of the six public schools in Nouakchott.
3. Put in place an action plan to improve the quality of public education in Mauritania, giving priority support to children from marginalised or vulnerable families, including the descendants of slaves, though, amongst other things, the immediate increase of the financial investment in the public education sector, in order to achieve the minimum international target of 6 percent of GDP or 20 percent of budget allocated to education, in line with Mauritania's obligation to devote the maximum of its available resources for the realisation of the right to education.