

Mandate of the Special Rapporteur on the right to education

REFERENCE: AL
LBR 1/2016:

8 March 2016

Mr. Tate,

I have the honour to address you in my capacity as Special Rapporteur on the right to education pursuant to Human Rights Council resolution 26/17.

In this connection, I would like to bring to the attention of your Government information I have received concerning **the outsourcing of pre-primary and primary education to a private education provider, “Bridge International Academies”**.

According to the information received:

The Government of Liberia is negotiating a public private partnership agreement which will involve replacing public schools and teachers by those of the Bridge International Academies. The Government of Liberia intends to privatize all primary and pre-primary schools over the next five years. The proposed initial pilot project will privatize 50 schools during the 2016-2017 school year.

It is reported that the Government of Liberia has not adopted any legislation or policies on public private partnerships in education, which ensure, inter alia, the full protection of the right to education. It is also reported that no independent body or institution has been established to receive complaints of any potential violations of the right to education that may result from the implementation of this proposal.

In my capacity as the Special Rapporteur, I am concerned that the selected private education provider, Bridge International Academies, has not demonstrated through any independent, published studies that its education model, as it has been applied in other African States, improves student learning outcomes compared to public schools. I am also concerned that their practice of employing secondary school graduates who do not meet national standards for teachers as classroom instructors, and their teaching model consisting of rote repetition of lessons from an electronic tablet, violate the right to

education of students, including those obligations related to education which are recognized in Liberia's constitution and in its international human rights obligations.

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

It is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify cases brought to my attention. I would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above mentioned allegations.
2. Please provide detailed information on proposed public funding arrangements to be paid to the selected private education provider, and how this reflects Liberia's obligation to ensure the full realization of the right to education to the maximum of its available resources.
3. Please provide information on what efforts, if any, were made to seek and obtain technical assistance for capacity building and for management of the public education system from UNESCO's International Institute for Educational Planning and Administration, before turning to a private company.
4. Please provide information on what consultations, if any, were made with stakeholders and key actors in education in connection with the proposed public private partnership, and with the selection of Bridge International Academies.
5. Please provide information on the policies in place, and the measures taken to ensure that the education provided by any private education provider meets Liberia's obligations under the right to education, including:
 - a. that the education provided is compulsory, universal and free, as required under the Liberian Constitution and Liberia's international human rights law obligations;
 - b. that the quality of education meets national education standards, including teacher qualifications, pay and teaching conditions; curriculum content; and school infrastructure standards;
 - c. that the education is provided without discrimination of any kind, ensuring in particular that vulnerable groups, including the poor, racial, religious or linguistic minorities, girls, and children with disabilities

are all equally able to access and obtain quality education, and that schools are administered in recognition of the human dignity of the child; and

- d. that these schools will reasonably accommodate children with disabilities.

6. Please also provide information on:

- a. the measures that will be taken if a private provider becomes bankrupt or is otherwise suddenly unable to complete its obligations under the public private partnership;
- b. the measures taken to ensure the education provided goes beyond literacy and numeracy, and includes teaching in all areas committed to by Liberia in the Sustainable Development Agenda, and meets objectives of the right to education as established under the Universal Declaration of Human Rights and international human rights instruments;
- c. the measures taken to ensure that financial transparency and accountability will be maintained in the public private partnership; and
- d. the courts and quasi-judicial institutions are available for students, parents and other stakeholders to seek redress for any violations of their right to education.

7. Please indicate what legislation and policies are, or will be, in place prior to entering into any education-based public private partnerships to govern them, and what provisions are included to protect the right to education. Please provide copies of such, if available.

I would appreciate receiving a response within 60 days.

It is my intention to publicly express my concerns in the near future as, in my view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. The press release will indicate that I have been in contact with your Government to clarify the issue/s in question.

Your Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Mr. Tate, the assurances of my highest consideration.

Kishore Singh

Special Rapporteur on the right to education

Annex

Reference to international human rights law

Without implying any conclusion on the information reported, I also would like to remind your Government of its obligations under the International Covenant on Economic, Social and Cultural Rights, which was ratified by Liberia on 22 September 2004. The rights to education as described in the Covenant shall be “exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” (art.2.2). All parties undertake to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the Covenant by all appropriate means, including particularly the adoption of legislative measures (art. 2.1). Moreover, the Covenant recognizes the right of everyone to education “shall be directed to the full development of the human personality and the sense of its dignity”, strengthening the respect for human rights and fundamental freedoms (art.13.1). In this sense, the States parties should ensure the full realization of the above mentioned rights, by making primary school compulsory and available free to all (art.13.2).

I also wish to emphasize that the Convention on the Rights of the Child, which was ratified by Liberia on 4 June 1993, recognizes the right of the child to education, and that, in order to achieve this right in a progressive manner and on the basis of equal opportunity, the States parties should make primary education compulsory and available free to all (art.28.1). Moreover, school discipline must be administered taking into full consideration the child’s human dignity (art.28.2). The promotion and encouragement of international cooperation in matters relating to education shall be promoted by the States Parties, which shall contribute “to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods” (art.28.3). Lastly, States Parties shall respect and ensure the rights set forth in this Convention without discrimination of any kind, and to “take all appropriate measures to ensure that the child is protected against all forms of discrimination” (art.2).

The Convention on the Rights of Persons with Disabilities, which was ratified by Liberia on 26 July 2012, recognizes the right of persons with disabilities to education, without discrimination and on the basis of equal opportunity, to receive “an inclusive education system at all levels” (art.24.1). States Parties shall ensure that persons with disabilities: i) are not excluded from the general education system “and that children with disabilities are not excluded from free and compulsory primary education”; ii) “can access an inclusive, quality and free primary education...on an equal basis with others in the communities in which they live”; iii) receive the required and individualized support measures from the education system, to help their effective education (art. 24.2). Furthermore, States Parties should take the proper measures so as to employ teachers with professional training in disability awareness and the use of different “modes, means and formats of communication, educational techniques and materials to support persons with disabilities” (art.24.4).

In addition I would like to remind your Government that the International Convention on the Elimination of All Forms of Racial Discrimination, to which Liberia acceded to on 5 November 1976 recognizes that States Parties accept to prohibit and to eliminate racial discrimination in all its forms and guarantee the right of everyone, without distinction, to education and training (art.5). Moreover, they undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, so as to combat prejudices which may lead to racial discrimination (art.7).

The UNESCO Convention against Discrimination in Education, ratified by Liberia on 17 May 1962, stipulates that States Parties should develop and apply national policies in order to promote equality of opportunity and of treatment in education, in particular, to make primary education free and compulsory. Moreover, it is essential to ensure the same standards and quality of education in all public education institutions (art.4).

The Universal Declaration on Human Rights provides that education shall be free and compulsory, and that it shall be directed towards the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. Education shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace (art. 26).

The Sustainable Development Goals, together with the 2030 Agenda for Sustainable Development were formally adopted on 25 September 2015 by the General Assembly. Goal 4 of the Agenda states that “By 2030, ensure that all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and effective learning outcomes.” Moreover, following the Incheon Declaration of May 2015 and the adoption of the Education 2030 Framework for Action on 4 November 2015, on the occasion of the UNESCO General Conference, Ministers of Education from all over the world reaffirmed their commitment to the provision of primary and secondary level education of good quality for all, free of costs. As reaffirmed under the Incheon Declaration, education is a public good and the social interest in education cannot be compromised.

Finally, I would also like to draw the attention of your Government to my 2015 report to the Human Rights Council entitled “Safeguarding the Right to Education against its Commercialization” (A/HRC/29/30), my 2015 report to the UN General Assembly entitled “Public-Private Partnerships and the Right to Education” (A/70/342), and my 2014 report to the UN General Assembly entitled “Privatization and the right to education” (A/69/402), all of which raise a number of concerns and issues which are most pertinent to the policy considerations involved in the present case.