



## **State reporting to the UN Committee on the Rights of the Child**

### **Holding States accountable for their obligations to respect, protect and fulfil the right to education in emergency situations**

States Parties have recognized the right to education for every child and they should seek guidance and assistance from the Committee on the Rights of the Children in their efforts to implement the rights of children in emergencies, encompassing both conflicts – national and international – and natural disasters.

In this regard Save the Children firmly believes that the State Parties should be urged to respect, protect and fulfil the right to education also when an emergency situation prevails. The right to education inheres in each person regardless of legal status, whether refugee, child soldier or internally displaced person.

Even if the obligation under article 28 of the CRC shall be fulfilled by States Parties “progressively” and to the maximum extent of their available resources, states are nevertheless obliged to take into account that the concept of progressive realisation does not entail doing nothing, or moving forward sluggishly. Progressive realisation implies continuous progress forward. If measures taken in relation to education are “retrogressive” in nature, the UN Committee on Economic, Social and Cultural Rights (CESCR), for instance, presumes that they are impermissible.

Even a gradual approach in implementing the right to education entails a constant positive and rational progress towards an eventual goal, with no retrogressive steps along the way. This shall be done whilst guarding continually against “anomalies” such as discriminatory practices creeping in unintentionally. Children affected by natural disasters, conflicts or other emergencies are the hardest to reach children in accessing quality education and hence in greater danger of discriminatory practices.

Children living in countries or areas affected by natural disasters, conflicts or other emergencies experience serious difficulties and are facing barriers to the full enjoyment of the rights enshrined in the Convention. Hence Save the Children calls upon the Committee to require that State reports include reporting on the measures adopted to provide adequate educational facilities, accessible to all children affected by emergencies.

In 2007 Save the Children undertook an analysis of the Concluding Observations by the UN Committee on the Rights of the Child (CRC) and the CESCR in relation to Conflict Affected Fragile States.<sup>1</sup> The aim of the report was to identify the extent to which the two UN Committees comment on and recognize the issue of education for children in armed conflict in their Concluding Observations, and secondly but to a lesser degree, how far State Party Reports recognize the issue.

It should be noted that the reporting guidelines in place steering State Parties in their production of the reports differ, which in turn affects the Concluding Observations published by the Committees. When it comes to education, the CESCR guidelines are much more precise than the CRC guidelines. The result is that CRC State Party Reports include more information, though the information included is less precise. CESCR reports consist of less information on education, though they tend to be more detailed.

The main outcomes of the analysis show that there is little information on children’s education in emergencies, and the lack of data is the underpinning factor. Although the issue is recognised, it is not treated in a systematic fashion and with the importance that it deserves. Many topics, such as specialized teacher training or secure schools, are overlooked in State Party reports and in Concluding Observations.

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<sup>1</sup> Save the Children, *An analysis of the Realization of the right of the child to education in countries affected by armed conflict*, Internal paper, March 2007.

The lack of resources dedicated towards providing free universal education is very often justified by the very fact that countries are in armed conflict. The most vulnerable groups are identified but in a vague fashion, meaning recommendations are not necessarily focused on distinguishing their rights prone to be violated. Long term, viable solutions addressing these rights are therefore hard to come by.

## **Need for specific requirements on State reporting to the UN Committee on the Rights of the Child**

Referring to the General guidelines for periodic reports: CRC/C/58 of 20/11/96 and CRC/C/58/Rev1 of 25/11/2005, General guidelines regarding the form and contents of periodic reports to be submitted by state parties under article 44, paragraph 1(b) of the convention, **Save the Children is calling upon the Committee to revise the guidelines on reporting for state parties as well as the list of issues as to more systematically review their obligations on the right to education in emergencies and require State reports to indicate whether:**

### **Preparedness**

- National measures are adopted, including of a legislative, administrative and budgetary nature, to recognize and ensure children's right to education in (possible) emergencies.
- The state has taken particular measures to develop a rights based "Education in Emergency preparedness plan" as a part of the general education plan, including plans and structures for continuity at all levels through different phases of an emergency and ensured that these are in accordance with the four general principles of the UN Convention on the Rights of the Child
- The state has taken particular measures to ensure that all education personnel receive training including aspects of education in emergencies.
- The state has taken particular measures to ensure that the views and participation of children, parents and civil society are included in education planning.

### **Response**

- The state in the planning of responding to an emergency situation, has appointed a focal point for education with the same urgency and importance as focal points for shelter, food, water and sanitation are appointed? The plan has included all relevant actors (including UN, NGOs and civil society) to assess the needs and response in a coordinated way, including considering the establishment of an education cluster.
- Have all children present in the territory of the State – besides their status as refugees, unaccompanied/separated children – enjoyed their right to education.
- The state has taken particular measures to prioritise plans for creating child friendly spaces for recreation, play and learning in order to make them part of the very first emergency response and educational activities and has implemented such plans within a few weeks after an emergency has begun.
- The state has used the INEE<sup>2</sup> Minimum Standards as the basis for education as part of humanitarian response in addition to other standards such as the Sphere minimum standards.
- The state has made education in an emergency context relevant, participatory and rights-based. This entails that the curriculum must be relevant and adaptable to the needs of children in a given

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<sup>2</sup> Inter-Agency Network for Education in Emergency

situation. It should be based on developing basic skills like literacy, and according to children's age and abilities it should include human rights education. For older children, specific education about protection measures against mines and unexploded ordnance, protection from HIV/AIDS, conflict resolution and peace building should be introduced, as well as vocational training. Where possible, materials should be developed prior to the emergency to facilitate rapid distribution

- The state has ensured that schools are protected and that perpetrators of attacks in and against schools, (including teachers and violence against children in schools) can be held accountable through national and international law.
- The state has established culturally appropriate protocols for the provision of psychosocial support during times of crisis. This should include training of school counsellors and teachers, development of debriefing for educational personnel, the development of referral networks and information to support children.

### **Reconstruction and early-recovery**

- The state has ensured that all children continue to go to school after the emergency, via integrating the children into normal programming.
- The state has ensured that learning (including non-formal learning) during acute emergency programmes is recognised by the formal education system.
- The state has started reconstructing the schools that were destroyed.
- The state has integrated teachers into the long-term school systems.
- The state has started mass reproduction and distribution of revised post-conflict textbooks, teachers' guide, curricula, education aids and supplementary materials with life skills areas strengthened, hate passages deleted and controversial areas resolved.
- Humanitarian aid received from the international community also is directed to long term development aid in accordance with the Paris Principles.

### **States Parties as donors**

According to article 4,2 in the UN Convention on the Rights of the Child, States Parties shall where needed and within the framework of international cooperation undertake all appropriate legislative, administrative, and other measures to ensure the implementation of the rights enshrined in the Convention.

The recognitions given in articles 4 and 28 of the Convention on the Rights of the Child to the need for international cooperation in order to implement the right to education has unfortunately not yet translated fully and clearly into political responsibilities for the international community.<sup>3</sup>

### **Save the Children is calling upon the UN Committee on the Rights of the Child to require that State reports also indicate whether:**

- The state has taken particular measures to ensure that education in emergencies is a part of their humanitarian policy.

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<sup>3</sup> Report of the Special Rapporteur on the right to education, Vernor Muñoz, 2008, paragraph 57

- The state has linked humanitarian aid with more long-term development aid, both in the initial assessment and in the phases that follow.
- The state has included emergency education in any developmental planning or policy to ensure all children's continuous access to free education.
- The state has increased the allocation of education aid in humanitarian crisis to a minimum of 4.2 per cent of humanitarian assistance in line with the need.<sup>4</sup>

### **General recommendations**

- Save the Children highly recommends that the General Day of Discussion 2008 on Education in Emergencies is followed up by issuing a General Comment on the issue.
- Save the Children recommends that the UN Committee on the Rights of the Child and the Special Rapporteur and other relevant bodies, state parties and NGOs and UN agencies, have a joint follow-up meeting on Education in Emergencies biannually to assess the impact of their recommendations and to follow-up on them.
- Save the Children recommends that the UN Committee on the Rights of the Child refers any State Party in need of technical assistance on Education in Emergencies to the Inter-Agency Network for Education in Emergencies (INEE) to receive adequate tools, resources and facilitated access to support from the INEE membership.

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<sup>4</sup> *Last in Line, Last in School*, Save the Children (2008)