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**Advance Unedited Version**Distr.: General  
15 June 2020

Original: English

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**Human Rights Council****Forty-fourth session**

15 June–3 July 2020

Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development****Right to education: impact of the COVID-19 crisis on the  
right to education; concerns, challenges and opportunities****Report of the Special Rapporteur on the right to education<sup>1\*</sup>***Summary*

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on the right to education, prepared pursuant to Council resolutions 8/4, 35/2 and 38/9.

The Special Rapporteur commends the efforts made by Governments, who were under harsh pressure, to preserve human lives while facing scientific uncertainties.

The health crisis has had numerous implications in all sectors of human life, leading to an economic crisis, as well as to what must be called an education crisis. In this report, the Special Rapporteur analyses the issues she considers to be the most pressing from a human rights perspective. Acting within a human rights framework is indeed crucial to ensure that measures adopted in response to the pandemic do not jeopardize the right to education and do not increase the suffering of the most marginalized.

The Special Rapporteur stresses that while numerous innovative measures have been adopted in all corners of the globe by many governmental as well as non-governmental stakeholders to ensure some continuity of education, they could never have been expected to compensate for the patent global lack of preparedness for a crisis of this magnitude. Past failure to build strong and resilient education systems and to fight entrenched inequalities has opened the door for a dramatic impact on the most vulnerable and marginalized, to which no temporary measure adopted in haste could have fully responded.

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<sup>1</sup> \* It was agreed that this report would be issued after the normal publication date due to circumstances beyond the control of the submitter

The Special Rapporteur makes a number of recommendations in this regard. In particular, a thorough assessment should be conducted to unpack, in each local context, the dynamics at play that led to increased discrimination in the enjoyment of the right to education during the crisis. It should include an analysis of rising inequalities due to the measures adopted to face the pandemic; an investigation into the sustainability of economic and financial models behind education systems, including the consequence of poor funding of public educational institutions; a scrutiny of the role of private actors in education; an evaluation of the adequacy of social protection provided for education workers, including in the private sector; and scrutiny of the lack of cooperation between States' administrations, educational institutions, teachers, learners, parents and communities.

Furthermore, the Special Rapporteur stresses that the deployment of online distance learning (together with radio and television), should only be seen as a temporary solution aimed at addressing a crisis. The digitalization of education should never replace onsite schooling with teachers, and the massive arrival of private actors through digital technology should be considered as a major danger for education systems and the right to education for all in the long term. A thorough debate needs to take place on the place that should be given to such learning in the future, having in mind not only possible opportunities but also the deleterious effect screens have on children and youth, including their right to health and education.

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## I. Introduction

1. The present report is presented pursuant to Human Rights Council resolutions 8/4, 35/2 and 38/9. The Special Rapporteur addresses herein the impact of the COVID-19 crisis on the right to education. The pandemic has affected, and continues to affect, the right to education in all parts of the world terribly. Therefore, the Special Rapporteur decided to modify her planned thematic reports to contribute to the on-going global discussions on how to ensure the continuity of education, as well as to address the issues she considers to be the most pressing from a human rights perspective.<sup>2</sup>

2. Much has been written on the appalling impact the COVID-19 crisis has had on education systems and learners. Numerous actors throughout the world, whether governmental, inter-governmental or non-governmental, at the national, regional and international levels, have issued useful guidelines and recommendations to address the situation of the more than 1.5 billion learners affected by the closure of schools and universities worldwide. Overall, according to UNESCO, 191 States have closed their schools nationally while in most others, closures have been local.<sup>3</sup>

3. The Special Rapporteur welcomes the work accomplished by international governmental organizations such as UNESCO, ICESCO, UNICEF and UNHCR, the African Union or the Organization for Economic Cooperation and Development (OECD); organizations like the Global Partnership for Education (GPE) and the Inter-Agency Network and Education in Emergencies (INEE), as well as by non-governmental organizations and trade unions throughout the world. She commends their efforts to foster international cooperation, the sharing of good practices and the delivery of useful guidelines and suggestions on how best to address what can be called “an education crisis”.

4. Now that the first period – in which educational institutions were closed in haste, generally without warning or preparation – has passed, it is crucial to take stock of what has happened and to analyze the short, medium and long term impact of this crisis for education.

5. As a number of countries have slowly started or plan to re-open educational institutions, the full implications of the COVID-19 crisis for education will depend on the measures adopted now. Most steps taken during the crisis have to be considered temporary in nature, while a number of others may open new possibilities. The main issue is whether we will be able to generate positive change, not undoing progress made over last decades particularly in terms of access to education.

6. Assessing the impact of the crisis should be done, however, without losing sight of the overall and wider context, where public education systems remain under-funded and under pressure, inequalities in education are still striking, access to education is a dream for many, and as 258 million children and youth were already out of school before the pandemic,<sup>4</sup> including children with disabilities.<sup>5</sup> About 773 million persons today remain illiterate, a great part of them being women living in the lower income countries.<sup>6</sup>

7. The crisis has dramatically exacerbated already well-known issues regarding the implementation of the right to education. While assessing impact is important, it is no less crucial to recognize the features of current educational systems that have minimized or maximized the negative (or positive) impacts of the COVID-19 situation. In particular, structural discrimination has dramatically showed its face during the education crisis, with the most marginalized and vulnerable groups being hit hardest. Furthermore, it is most likely that the education crisis has affected more forcefully countries where public education systems are fragile, where there is no mutual trust between citizens and public

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<sup>2</sup> Originally planned for the 44<sup>th</sup> session of the Human Rights Council, the thematic report of the Special Rapporteur on “The cultural dimensions of the right to education” will be released later.

<sup>3</sup> UNESCO, Global Education Coalition, <https://en.unesco.org/covid19/educationresponse>.

<sup>4</sup> UNESCO, eAtlas of out-of-school children, <https://tellmaps.com/uis/oosc/#!/tellmap/-528275754>.

<sup>5</sup> IDA-IDDC submission.

<sup>6</sup> UNESCO Institute for Statistics, <http://uis.unesco.org/en/topic/literacy>.

institutions, no social dialogue with teachers' unions and associations, and no culture of nurturing a close relationship between schools, families and communities.

8. To inform her report, the Special Rapporteur had the opportunity to participate in an online discussion on the rising inequalities in education due to the pandemic. This was organized under her mandate's auspices with the cooperation of the Global Initiative on Economic, Social and Cultural Rights and the Right to Education Initiative. Intergovernmental and non-governmental organizations contributed, including UNESCO, ICESCO, the World Bank, GPE, and INEE. The Special Rapporteur was further invited to participate in an online discussion organized by the *Comité syndical francophone de l'éducation et de la formation* in cooperation with Education International, on the situation and participation of teachers during the crisis, and in another one, organized by the Global Campaign for Education, on difficulties faced by civil society and the impact of the crisis on the right to education. She warmly thanks all contributors for their time and inputs, including stakeholders who spontaneously submitted reports and contributions.<sup>7</sup>

## II. Legal and regulatory frameworks

9. Contrary to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights (thereafter "the Covenant") does not contain a provision on possible derogations, allowing the suspension or derogation of certain rights under stringent conditions.

10. Therefore, during crises, States parties to the Covenant remain committed to ensuring the right to education (article 13), an obligation also enshrined in the Universal Declaration of Human rights (article 26). Where measures limit Covenant rights, such as the closure of educational institutions, or their partial reopening only, they should comply with the conditions set out in article 4 of the Covenant and article 29 of the Declaration regarding possible limitations.

11. As stressed by the Committee on Economic, Social and Cultural Rights (thereafter "the Committee"), "in essence, such measures must be necessary to combat the public health crisis posed by COVID-19, and be reasonable and proportionate. Emergency measures and powers adopted by States parties to address the pandemic should not be abused, and should be lifted as soon as they are no longer necessary for protecting public health".<sup>8</sup> In addition, "responses to the pandemic should be based on the best available scientific evidence to protect public health".<sup>9</sup>

12. The Special Rapporteur concurs with the Committee that "as this pandemic and the measures taken to combat it have had a disproportionately negative impact on the most marginalized groups, States must make every effort to mobilize the necessary resources to combat COVID-19 in the most equitable manner, in order to avoid imposing a further economic burden on these marginalized groups. Allocation of resources should prioritize the special needs of these groups."<sup>10</sup>

13. The right to education is of particular importance to children. Like the Covenant, the Convention on the Rights of the Child does not contain a derogation clause. The Committee on the Rights of the Child has made clear that restrictions imposed on children's rights in order to protect public health "must be imposed only when necessary, be proportionate and kept to an absolute minimum".<sup>11</sup> Furthermore, any such restrictions should reflect the principle of the best interests of the child, set out in article 3(1) of the Convention. This includes restrictions on the child's right to education enshrined in article 28.<sup>12</sup>

<sup>7</sup> Contributions received by the Special Rapporteur will be made available at: <https://www.ohchr.org/EN/Issues/Education/SREducation/Pages/SREducationIndex.aspx>.

<sup>8</sup> E/C.12/2020/1, para. 11.

<sup>9</sup> E/C.12/2020/1, para. 10.

<sup>10</sup> E/C.12/2020/1, para. 14.

<sup>11</sup> Committee on the Rights of the Child, COVID-19 Statement (7 April 2020).

<sup>12</sup> Ibid.

14. Resorting to the “4As” framework to assess challenges and priorities, and to ensure that the most vulnerable are not left behind, is crucial. According to this framework,<sup>13</sup> education must exhibit the following interrelated and essential features, which all demonstrate their particular relevance in times of crisis:

(a) Availability, which requires that functioning educational institutions (including sanitation facilities for both sexes and safe drinking water) be available, as well as trained teachers, teaching materials, computer facilities and information technology;

(b) Accessibility, meaning that educational institutions and programmes have to be physically and economically accessible to everyone, without discrimination;

(c) Acceptability, meaning that the form and substance of education, including curricula and teaching methods, have to be acceptable (e.g. relevant, culturally appropriate and of good quality) to students and, in appropriate cases, parents; this is subject to the educational objectives required by article 13(1) of the Covenant and such minimum educational standards as may be approved by the State in accordance with articles 13(3) and (4).

(d) Adaptability, which demands that education be “flexible so it can adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings”.

15. While understanding that many actors were caught by surprise by the closure of educational institutions and the need to urgently take action, the Special Rapporteur insists on the importance of this framework for the sake of, not only equality and equity, but also efficiency. For example, the deployment of distance learning must be implemented within such framework. To the contrary, it widens rather than tackles inequalities. Furthermore, the “4As” framework demands close cooperation between institutions, teachers, families and communities to ensure that needs of learners and their families are understood. This is at odds with certain authoritarian and top-down attitudes reinforced in times of crisis, as exemplified in many parts of the world.

16. There is an opportunity to ‘build back better’ after the pandemic and to address past weaknesses. This includes understanding how policies and legal and regulatory frameworks that failed to integrate a human rights based approach sufficiently may have exacerbated the negative impact of the pandemic on the right to education of the most vulnerable.

17. Reinforcing and adjusting these policies, legal and regulatory frameworks appear to be necessary to face the next crisis. This includes:

(a) Integrating the “4As” framework at all levels as policy guides throughout the education system (including at the level of schools). This is a powerful tool to address inequalities in the enjoyment of the right to inclusive quality education. It helps building a culture of human rights within education systems, together with a culture of cooperation amongst all stakeholders (including parents and communities), as a solid foundation helping to address future crises in a timely and reactive manner.

(b) Fully integrating the rights of children, to whom the right to education is of especial importance, and who should be considered as rights-holders.

(c) Focusing on the most vulnerable as a matter of priority.

(d) Developing emergency education preparedness within national education systems globally, as few countries have crisis-sensitive education plans,<sup>14</sup> and educational planners at all levels are not sufficiently trained in this respect. These plans should be based on the right to education for all and the “4As” framework.

(e) Placing the right to public education at the heart of educational policies. In particular, legal and regulatory frameworks shall integrate “the right of access to public educational institutions and programmes on a non-discriminatory basis” as a core

<sup>13</sup> Committee on Economic, Social and Cultural Rights in its General comment 13 (1999), Para. 6. See also the Abidjan Principles, principle 14.

<sup>14</sup> <https://inee.org/collections/education-planning>.

obligation under article 13 of the Covenant.<sup>15</sup> Countries with strong public education systems are more likely to resist to educational crises than others, in the same way countries with strong public health services have better faced the sanitary crisis. More widely, implementing the right to public, inclusive, quality education for all on a long-term basis is the best way to combat the inequalities that the COVID-19 crisis did not create, but exposed and widened significantly. Temporary measures adopted during a crisis can only minimize impact, not solve inequalities.

18. As societies are hit by an enormous economic crisis with long-lasting effect, the Special Rapporteur reminds States of their obligation under article 2 of the Covenant to devote their maximum available resources to achieving progressively the full realization of the rights recognized in the Covenant. According to the Committee, “any deliberately retrogressive measures in that regard would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources”.<sup>16</sup> In this regard, the Abidjan Principles on the right to education provide useful guidance.<sup>17</sup>

### III. Issues of concern

19. Most States as well as other stakeholders, including international governmental organizations and civil society organizations, have tried their best to address the education crisis in a very short time frame. The Special Rapporteur salutes these efforts. She received numerous testimonies, from all parts of the world, about the deployment of distance learning, through high-tech (such as online teaching), low-tech (using radio or television) or no-tech (such as distribution of documents) solutions; actions adopted to reach the most vulnerable; support provided to teachers and families to ensure the provision of home schooling and attention to the well-being of learners and their families. She pays a special tribute to teachers, a high number of whom are women, who demonstrated courage (in particular those who took care of the children of front-line workers), commitment, creativity in designing new teaching methods and in finding ways to remain in contact with learners, as well as flexibility to adapt to the new context.

20. However, such measures could never have been expected to compensate for the patent global lack of preparedness for a crisis of this magnitude. Moreover, past failure to build strong and resilient education systems has opened the door for a dramatic impact on the most vulnerable and marginalized, to which no temporary measure adopted in haste could have fully responded.

21. An overall assessment is necessary, as stakeholders must ensure they are prepared for the next crisis. Such assessment should include: an analysis of rising inequalities due to the measures adopted to face the pandemic; an investigation into the sustainability of economic and financial models behind education systems, including the consequence of poor funding of public educational institutions; a scrutiny of the role of private actors in education; an evaluation of the adequacy of social protection provided for education workers, including in the private sector; and scrutiny of the lack of cooperation between States’ administrations, educational institutions, teachers, learners, parents and communities. In addition, as digital learning has increased exponentially, a thorough debate needs to take place on the place that should be given to such learning in the future, having in mind not only the possible opportunities but also the deleterious effect screens have on children and youth, including their right to health and education. Attention also needs to be paid to the risks posed by a shift to online education by those children at risk of digital exclusion or with special educational needs.

<sup>15</sup> E/C.12/1999/19, para. 57.

<sup>16</sup> General Comment No. 3: The Nature of States Parties’ Obligations, para. 9.

<sup>17</sup> Principles 45 and 46.

## A. Structural discrimination and rising inequalities

22. The Special Rapporteur is deeply concerned about the significant widening of inequalities in access to education as a consequence of the closure of educational institutions and the social and economic crisis resulting from the pandemic.

23. New grounds of discrimination may be of increasing importance in the post COVID-19 context, such as the lack of access to internet connections. Ultimately, however, those grounds simply correspond to preexisting structural inequalities within societies, based in particular on social and economic status, remote location, sex and gender, language, religion, colour, national or ethnic origin, disability or other status. Huge differences in access to education also exist between and within countries. The situation of children in humanitarian contexts (refugees<sup>18</sup> and conflict-affected populations) is also of great concern.

24. The closure of schools and universities has translated into interrupted learning for countless learners. This may have limited consequence for some. This is so where closures have resulted in the loss of only a few weeks of teaching. There are some children whose parents were in the position to ensure effective home schooling, and who have enjoyed continued support from their teachers and access to digital learning platforms. Those children who were already performing well and benefit from good physical, social, economic and psychological conditions at home may have no problem at all. The same is true of those older learners who have been able to access online education and other forms of pedagogical and social support.

25. For many others however, school closures have been devastating, with significant long-term repercussions on their right to education and lost opportunities for their futures.<sup>19</sup> For many children, school closure has meant an acceleration of inequalities. This is particularly true of children who are socially vulnerable, whose parents were not in a position to ensure effective home schooling and who do not speak the school language, who live in poor quality or unsafe housing, who experience digital exclusion, who have caring commitments, who experience economic precarity and hunger as a result of school closures, and who were not able to access or benefit from online learning. The COVID-19 situation may result in children and youth dropping out permanently from education for diverse reasons. These include a new inability of their parents to pay school fees post COVID-19, the need to support economically their families, the bankrupt of their school or the incapacity of their school to ensure necessary hygiene and protection measures needed to ensure a safe return in the short-term. For many, school closures have also translated into the end of access to social services, including a guaranteed daily meal and psycho-social support services. The lockdown and the severing of the link with educational services has increased the risk of domestic violence and psychosocial distress, sexual and gender-based violence, child marriage, child labour, child trafficking and recruitment and use in armed conflict. Based on previous crises such as the Ebola Crisis, early estimates predict that 10 million more girls will be out of school than before the pandemic once all schools reopen.<sup>20</sup>

26. The situation also remains extremely difficult for those students who are no longer able to support themselves and/or pay off their debts because they lost their jobs. Some foreign students have not been able to return home and have found themselves isolated and destitute in poor housing.

27. Too often, measures adopted to minimize the impact of COVID-19 on the continuity of education did not focus on the realization of human rights, requiring decision-makers to

<sup>18</sup> On the right to education of refugees, see A/73/262.

<sup>19</sup> [https://www.brookings.edu/blog/education-plus-development/2020/04/29/the-covid-19-cost-of-school-closures/?preview\\_id=802677](https://www.brookings.edu/blog/education-plus-development/2020/04/29/the-covid-19-cost-of-school-closures/?preview_id=802677).

<sup>20</sup> Malala Fund, *Girls education and Covid19*, [https://downloads.ctfassets.net/0oan5gk9rgbh/6TMYLYAcUpjhQpXLDgmdla/dd1c2ad08886723cbad85283d479de09/GirlsEducationandCOVID19\\_MalalaFund\\_04022020.pdf](https://downloads.ctfassets.net/0oan5gk9rgbh/6TMYLYAcUpjhQpXLDgmdla/dd1c2ad08886723cbad85283d479de09/GirlsEducationandCOVID19_MalalaFund_04022020.pdf), p. 2; OHCHR Guidance note, *Covid19 and women's human rights* [https://www.ohchr.org/Documents/Issues/Women/COVID-19\\_and\\_Womens\\_Human\\_Rights.pdf](https://www.ohchr.org/Documents/Issues/Women/COVID-19_and_Womens_Human_Rights.pdf).



address the situation and the needs of the most vulnerable and to ensure the implementation of the non-discrimination principle.

28. The Special Rapporteur notes with concern, for example, information according to which some governments deprioritised education for refugee communities during the crisis. There has also been examples of discrimination against children of health-workers at the reopening of schools, not allowed to reintegrate their classes. In some instances, children in detention and state care have seen suspension of education services in the context of COVID-19.

29. Reportedly, some governments also did not address the situation of children with disabilities, or too late. Children with intellectual disabilities are at higher risk of exclusion, including dropping out of school as parents or caregivers are not trained to support them in home-schooling. Furthermore, remote learning is frequently not tailored to, or appropriate in terms of meeting their educational needs. They may need additional face-to-face support.<sup>21</sup> Nonetheless, good practices have been signaled in this respect. For example, it is reported that countries such as Bolivia, the Democratic Republic of Congo, Ecuador Guatemala, India, Kenya, the United States of America, or Vietnam disseminated guidance and recommendations for families and caregivers.<sup>22</sup> In Peru, home-schooling is reportedly offered through 50 local radio stations in nine indigenous languages and through open TV in sign language, reaching more than 200'000 students in remote communities of the Andes and Amazon regions.<sup>23</sup>

30. Increased inequalities may continue after school reopening. The Special Rapporteur is worried for example at reports indicating that in some countries where children return to school on a voluntary basis, only a small part of the most vulnerable actually return.<sup>24</sup>

31. Widening inequalities in the area of education bear all the more dramatic consequences given the importance of education, as an empowering right, in giving the possibility to all to explore and realise their potential. Therefore, inequalities in education have a rolling effect, leading to even more and continued inequalities in the future. The crisis has further demonstrated how interrelated and interdependent human rights are, especially the right to education, the right to water and sanitation (including in educational institutions), the right to adequate nutritious food (when food is delivered through schools), the right to adequate housing (necessary to pursue home schooling), the right to an adequate standard of living and the right to work (which often depend on the level of education attained by people), as well as the child's right to freedom from all forms of violence, injury or abuse. Education finds itself at the crossroad of many public action policies in favour of vulnerable groups, especially children. When education is suspended, many other services are too.

## **B. Adequacy and inadequacy of remedial tools: high-tech, low-tech and no-tech solutions**

32. information has circulated about measures adopted by States, many of which made significant efforts to set up educational programmes through the Internet, television and radio. Computers, tablets, television screens and radios have been distributed, internet connections deployed, and learning materials distributed by post or made available in schoolyards.<sup>25</sup>

<sup>21</sup> IDA-IDDC submission.

<sup>22</sup> OHCHR guidance note, Covid19 and the rights of persons with disabilities, [https://www.ohchr.org/Documents/Issues/Disability/COVID-19\\_and\\_The\\_Rights\\_of\\_Persons\\_with\\_Disabilities.pdf](https://www.ohchr.org/Documents/Issues/Disability/COVID-19_and_The_Rights_of_Persons_with_Disabilities.pdf); IDA-IDDC submission.

<sup>23</sup> IDA-IDDC submission, <https://noticia.educacionenred.pe/2020/05/aprendo-casa-estrategia-minedu-difundio-mas-700-progra-mas-lenguas-originarias-199810.html>.

<sup>24</sup> Submission from the Syndicat National des Enseignements de Second Degré, France.

<sup>25</sup> For an overview, see Center for Global Development - COVID education policy tracking, <https://docs.google.com/spreadsheets/d/1ndHgP53atJ5J-EtxgWcpSfYG8LdzHpUsnb6mWybErYg/edit?ts=5e6f893e#gid=0>; and School's Out: Now What?, <https://www.cgdev.org/blog/schools-out-now-what>.

33. The Special Rapporteur, while welcoming these efforts, warns against the temptation to see high-tech solutions as the main or best way to ensure the continuity of education in times of crises, when a mix of high-tech, low-tech and no-tech solutions, depending on the context, is an absolute necessity, as required by the adaptability criteria. The simplest technology, such as printed materials, can have a positive impact on learning continuity during periods of school closure, and should form a core part of the response.

34. For example, INEE recommends that, depending on context and cohort, a multi-pronged approach might be the most appropriate, keeping in mind that from both a supply and demand perspective, most digital forms of distance learning in areas with limited connectivity will be difficult. First, most education systems in fragile and conflict-affected contexts are not set up to support it. Secondly, most marginalised populations will not have the financial capacities or even just the physical possibility to access to the means for supporting their children with digital distance learning. It is necessary to consider for example: the costs of additional data required to download, upload, and stream content; the limited likelihood of homes having (sufficient) hardware to support online learning; the potentially gendered nature of access to whatever hardware exists within households; and the likelihood that in the crisis context household income will decrease while use of savings to cover critical costs will increase.<sup>26</sup>

35. In addition, persevering some degree of interaction between students and teachers and amongst students is crucial.<sup>27</sup> Further, even in the poorest households and households with limited literacy, parental and sibling engagement and support can add significantly to learning outcomes using very simple methods.<sup>28</sup>

36. Excessive reliance on online distance learning tools to ensure the continuity of education risks exacerbating inequalities. Numbers released by UNESCO speak for themselves: half of the total number of learners (about 826 million students) kept out of the classroom by the COVID-19 pandemic do not have access to a household computer and 43 percent (706 million) have no internet at home.<sup>29</sup>

37. Disparities are particularly acute in low-income countries: in sub-Saharan Africa, 89 per cent of learners do not have access to household computers and 82 percent lack internet access. Furthermore, while mobile phones can enable learners access to information, connect with their teachers and with one another, about 56 million learners live in locations not served by mobile networks – with almost half of these being in sub-Saharan Africa.<sup>30</sup> Many reports have been published about the difficulties faced in accessing online tools, in particular for those in remote or rural areas, including in developed countries.

38. The Special Rapporteur notes with concern, in this regard, that statistical data about access to online distance learning may lack accuracy. Reportedly, for example, in some countries such as Albania, all private schools have not been taken into consideration when establishing such statistics.<sup>31</sup> It is also likely that non-formal education settings have not been taken into consideration. Furthermore, the problem concerns not only learners but also teachers.<sup>32</sup>

39. The Special Rapporteur further underlines that the issue is not just about having a computer or a mobile. For parents, teachers and learners, knowing how to use these tools is crucial. The Special Rapporteur recalls in this respect that the “4A” accessibility criteria includes both an information and a cognitive component. Furthermore, a careful assessment

<sup>26</sup> INEE, Technical note, Education during the Covid19 Pandemic, version of 1 April 2020, p. 13.

<sup>27</sup> Ibidem.

<sup>28</sup> Submission from Save the children.

<sup>29</sup> Startling digital divides in distance learning emerge, 21.04.2020, <https://en.unesco.org/news/startling-digital-divides-distance-learning-emerge>. These figures were compiled by the Teacher Task Force, an international alliance coordinated by UNESCO, on the basis of data from the UNESCO Institute for Statistics and the International Telecommunication Union.

<sup>30</sup> Ibid.

<sup>31</sup> Comité Européen pour l'Enseignement Catholique (CEEC), Bulletin d'information 7, mai 2020, p. 4. [http://enseignement.catholique.be/ceec\\_wp/wp-content/uploads/2017/04/CEEC-Newsletter-N%C2%B07-Mai2020fr%C3%A7s.pdf](http://enseignement.catholique.be/ceec_wp/wp-content/uploads/2017/04/CEEC-Newsletter-N%C2%B07-Mai2020fr%C3%A7s.pdf).

<sup>32</sup> Education International, Covid-19 and Education: How Education Unions are Responding, Survey Report,, p. 9-10.

needs to be undertaken on the results achieved by distance online education, as connectivity criteria is far from being proof of successful education.

40. Thus, the very low level of preparation and training of teachers in distance education, even in the richest countries, is an issue of concern. A Survey on COVID-19 and Education carried out by Education International, representing unions of teachers and other education workers around the globe, indicates that only about 29 percent of respondent teacher and education employee organizations could say that governments had provided adequate and sufficient support for teachers during the transition from onsite to digital and distance learning.<sup>33</sup>

41. While low-tech delivery modalities such as Radio and TV can and do reach a much larger number of children than the internet in most contexts, access to radio is far from universal. Where they have been used, they have not been able to reach the most marginalized and disadvantaged students, including those in rural and remote areas.<sup>34</sup> In addition, in some parts of the world, for example in Chad and other low-income countries, the most marginalized still have no access to electricity.

42. Particular concern has been expressed about girls' access to technologies. Reports indicate that "harmful gender norms and perceptions of risk to girls' safety or reputation make some parents reluctant to allow girls access to devices. In the poorest countries, women are 33 percent less likely to use the internet than men."<sup>35</sup>

43. The situation of children with disabilities also demands greater attention. Learners who are deaf or hard of hearing cannot access education. In the same way, not all the web platforms offered for distance learning are accessible by learners who are blind.<sup>36</sup>

44. Solving the issues of access to electricity, access to internet and high-technologies such as computers is a matter of political will. The Special Rapporteur recalls in this respect the work undertaken by the Special Rapporteur in the field of cultural rights on the right to benefit from scientific progress and its applications, as enshrined in article 15 of the Covenant, and the recent General Comment of the Committee on that issue.<sup>37</sup>

### C. Digitalisation of education: challenges and opportunities

45. Despite shortcomings in accessing online distance learning, the latter has considerably accelerated due to the health crisis, and may be viewed by many as a promise for a wider and better implementation of the right to education for all in the future.

46. While underlining that indeed many opportunities may arise, the Special Rapporteur warns against easy solutions that will be detrimental, rather than beneficial, to the right to education. A number of challenges should be addressed and debated, and decisions adopted with the participation of stakeholders, including learners, parents and teachers, based on the right to education. A thorough reflection is needed on the place and content of digital education, its meaning and efficiency, and its impact on the health and education of children and other learners. This includes taking into consideration the correlative massive use of screens by children it entails, as well as the threat of online abuse.

47. The deployment of online distance learning (together with radio and television), should only be seen as a temporary solution aimed at addressing a crisis. The digitalization of education should never replace onsite schooling with teachers. Should distance education become the new paradigm for education after the end of the pandemic, it would affect the heart and purpose of the right to education. Onsite and face-to-face education enables teachers not only to provide content, but to ensure it is understood and well received. Besides, education goes much beyond a single objective of transmitting didactic knowledge, and aims at developing socio-emotional skills, critical spirit and creativity,

<sup>33</sup>

Ibid., pages 6-7.

<sup>34</sup>

Submission from Save the Children. Center for Global Development - School's Out: Now What?, <https://www.cgdev.org/blog/schools-out-now-what>.

<sup>35</sup>

Malala Fund, op. cit., p. 8.

<sup>36</sup>

IDA-IDDC submission.

<sup>37</sup>

A/HRC/20/26 and E/C.12/GC/25.

citizenship and mutual understanding between groups that need to interact and mix in order to live in and build a peaceful society, and at connecting children to nature and to their environment. Education is a social act of a community of learners, that require real human interactions.

48. In addition, the introduction of distance learning tools must be accompanied by improved content quality adapted to local contexts and in particular local languages, as well as effective and on-going training of teachers and learners. It should not translate into uniformed contents leaving no place to teachers' and learners' inputs, pedagogical differentiation depending on the level and capacities of learners, as well as academic freedom and creativity.

49. Digital education further raises important issues from the point of view of data protection and teachers and learners' privacy. "Children's education data are far less protected than health data. Many countries have regulations that govern the appropriate uses and disclosures of personally identifiable health data, even during emergencies. But while children's school data may be just as sensitive – revealing names, home addresses, behaviors, and other highly personal details that can harm children and families when misused – most countries don't have data privacy laws that protect children."<sup>38</sup> Concern has been expressed regarding the popular distance learning options published by UNESCO in this regards.<sup>39</sup> Remote surveillance of teachers and learners and the selling of data are of particular concern.

50. The Special Rapporteur recalls in this regard that the Abidjan Principles require States to set standards regarding "privacy and data protection, ensuring in particular respect for the rule of law and ethical practices with regards to personal data. States must also ensure that no personal, including biometric data, be collected or retained without consent, or be shared with third-parties without express consent and for purposes other than education, including for commercial, immigration, or security purposes."<sup>40</sup>

51. The massive arrival of private actors through digital technology represents a major danger for education systems and the right to education in the long term, and must be controlled in line with existing standards, including the Abidjan Principles. In particular, the Special Rapporteur is concerned that the prominent role of private actors in this context may lead to the capture of limited public resources for education by commercial entities seeking to profit from the COVID-19 crisis, despite research showing huge gaps in access to digital learning technology based on income, location and gender.<sup>41</sup>

52. Developing partnerships between States, inter-governmental organizations and actors such as Microsoft, Google, Facebooks or Zoom, for example, raises questions about the concrete participation of these actors in the field education, and the benefits they will obtain from such partnerships, whether in terms of public subsidies, collection of data, advertising towards children and youth,<sup>42</sup> and of longer-term developments in the way education systems are shaped once the crisis is over.<sup>43</sup> The risks to handover data and control of education to a few companies based in a handful of countries cannot be under-estimated. There exists a range of alternatives to commercial solutions, including tools under creative commons licenses and public online learning platforms, which should be explored and enhanced.

<sup>38</sup> Human Rights Watch, As Schools Close Over Coronavirus, Protect Kids' Privacy in Online Learning, <https://www.hrw.org/news/2020/03/27/schools-close-over-coronavirus-protect-kids-privacy-online-learning>.

<sup>39</sup> Ibid. See <https://en.unesco.org/covid19/educationresponse/solutions>.

<sup>40</sup> Principle 55. <https://www.abidjanprinciples.org/>.

<sup>41</sup> Submission from Oxfam.

<sup>42</sup> For example, Solidarité Laïque, Beware: major risk of privatization of world education! <https://www.solidarite-laique.org/app/uploads/2020/04/Beware-major-risk-of-privatization-of-education-OK.pdf>. See also A/69/286.

<sup>43</sup> For example, Ben Williamson, New pandemic edtech power networks, 1 April 2020, <https://codeactsineducation.wordpress.com/2020/04/01/new-pandemic-edtech-power-networks/>.

## D. The rights of teachers and other education workers

53. COVID-19-related decision-making on education must take account of the fact that learners are embedded in their communities. This entails recognising the implications of different aspects of education decision-making for the rights of those who teach, care and share society with learners.<sup>44</sup>

54. The COVID-19 crisis has affected not only learners but also teachers. According to UNESCO, 63 million primary and secondary teachers are affected by the unprecedented disruption caused by the COVID-19 pandemic.<sup>45</sup> This is without counting education workers such as pre-primary teachers and tertiary level teachers, and all other staff working in educational institutions, such as casual or sessional teachers, persons providing additional support to learners with special education needs and disabilities, administrative staff, cleaners, security staff, cafeteria workers and bus drivers.

55. These workers are also rights-holders themselves. Whether working in the public or the private sector, they should enjoy all their rights as enshrined in the Universal Declaration and the International Covenants on Human Rights, in particular their right to the enjoyment of just and favourable conditions of work (which includes fair remuneration, safe and healthy working conditions, equal opportunities for promotion, and rest, leisure and reasonable limitation of working hours), to social security, including social insurance, to form and join trade unions of their choice, and to the enjoyment of the highest attainable standard of physical and mental health (articles 7, 8, 9 and 12 of the Covenant).

56. The health crisis has shed light on the poor conditions in which many schools operate throughout the world. Teachers and children find themselves overcrowded in classrooms, sometimes with no or poor access to water and sanitation, and many teachers and other education workers lack social protection and training.

### The participation of teachers, teachers' unions and associations in decision-making

57. The concrete implementation of the right to education for all largely relies on the commitment of trained teachers in sufficient numbers, as well as their ability to take part in decision making processes on the best ways to ensure the right to education.

58. The Special Rapporteur underlines that trade union and participation rights are not a luxury that may only be exercised in normal times. They are crucially needed also in times of crises for sake of efficiency. Teachers know their students. They are often the best placed to be innovative and creative in their local contexts, to contact families and communities to assess their difficulties and needs, and to tailor their actions to meet those needs. But to do that, they also need to be supported, trusted and listened, and be used to develop and apply their creativity and critical thinking. Teachers themselves have family and other commitments and these must be acknowledged when planning responses to future crises.

59. However, periods of crisis tend to reinforce authoritarian and top-down attitudes, including in the field of education. While there have been good examples of rather good cooperation between governments and trade unions during the crisis, as is reported for example in Mauritius,<sup>46</sup> the Special Rapporteur remains concerned that in many cases, teachers' associations and trade unions have not been adequately consulted and involved in decision-making. This has been the case for decisions as important as the closure and the reopening of educational institutions. For instance, the Special Rapporteur received reports of trade unions being informed through the press of school closure, for example in France,<sup>47</sup> the selection and use of distance education platforms and contents, tools and

<sup>44</sup> A. Nolan, 'Should Schools Reopen? The Human Rights Risk' An Advisory Note to Independent SAGE (May 2020).

<sup>45</sup> Startling digital divides in distance learning emerge, op.cit.

<sup>46</sup> Submission from the Government Teachers Union.

<sup>47</sup> Submission from the Syndicat National des Enseignements de Second degré.

methodologies, the validation or non-validation of studies accomplished partially, the rescheduling of the school calendar, as well as conditions of work.

60. In a number of countries, such as Niger, governmental authorities have reportedly still not engaged with teachers' unions about the COVID-19 crisis. In others, the level and quality of social dialogue is poor, impeding cooperation and joint efforts to face the health crisis. This is particularly acute in countries where communications lines between governmental authorities and trade unions were already poor and relationships tense before the crisis, as is reported in Gabon or in Haiti.

61. In many parts of the world, teachers' unions have organized themselves to support or compensate for government action.<sup>48</sup> For instance, unions have organized training on new distance teachings methods, disseminated information on sanitary measures and protocols and exchanged information on experiences. Many have lobbied their governments to ensure respect of the rights of their members,<sup>49</sup> including their right to work in healthy conditions, and to minimize the impact of the crisis on learners.

62. The Special Rapporteur recognizes that governments have had to take difficult decisions within a short-time frame, with many scientific uncertainties surrounding the pandemic. Decisions to close schools were taken so fast that, in many parts of the world, education systems have had no time to anticipate the education crisis and to prepare plans and work methods to ensure some continuity of education. However, as mentioned previously, capacity-building for a crisis must precede that crisis. In the education system, this includes the establishment of good relationships and mutual trust between the government, teachers, associations and trade unions of teachers, as well as parents and communities, at the national and local levels.

### **The right to safe and healthy working conditions**

63. The Special Rapporteur is also concerned about the sanitary conditions under which teachers and other education workers have been working during the crisis, in particular those who have continued to take care of the children of frontline workers such as health workers. With the on-going or planned reopening, this issue is particularly acute, especially in countries where health systems are fragile. The concern is worldwide, however.

64. The Special Rapporteur shares the concern, as expressed by United Nations Special procedures, that a number of frontline workers have not been given adequate protection during peak periods of contagion in various countries and economic sectors, and concurs with the recommendation that all States and businesses should ensure preventative and precautionary measures are in place to protect every worker.<sup>50</sup> This also concerns education workers, including those in private educational institutions. Particular attention should be paid to the position of education workers who may be at particular risk in the COVID-19 context due to, for instance, their age, health status or ethnicity.

65. The Special Rapporteur welcomes efforts made by many governments in order to minimize risks involved for teachers, imposing social distancing measures, reduced numbers of children in classrooms, and the provision of protections such as masks. Sometimes, this was the result of conditions posed by trade unions to the reopening of schools.

66. However, in too many cases, workers remain unprotected or without sufficient guarantees about future reopening. In countries where classrooms gather up to 40 or 60 students, with 4 children sitting at the same table, as for example in African countries such as Niger, the return to school in safe sanitary conditions appear to be problematic, raising concerns not only about the health of education workers, but also of learners. In wealthier countries such as the United Kingdom of Great Britain and Northern Ireland, serious

<sup>48</sup> Education International Survey, op. cit., p. 18-19.

<sup>49</sup> Ibid., p 20.

<sup>50</sup> "Every worker is essential and must be protected from COVID-19, no matter what" – UN rights experts, 18 May 2020  
<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25892&LangID=E>.

concerns have been expressed about schools reopening without adequate measures in place to mitigate the risk posed to learners, teachers and the wider community.<sup>51</sup>

67. In schools where no access to water and sanitation is available, the matter is of particular concern. The Special Rapporteur will address that issue in her next thematic report to the General Assembly, which will focus on the interrelations between the right to education and the right to water and sanitation.

### **Employment situation and remuneration**

68. According to various reports, the employment situation and remuneration of teachers and other personnel has deteriorated in many countries. Particularly affected are teachers from the private sector, as well as teachers with precarious contracts. Issues such as terminations of contracts, salary cuts and delays, and the requirement that education workers take unpaid leave have been reported to the Special Rapporteur. The Special Rapporteur underlines the need to adopt a gender perspective in this respect, as many education workers are women.

69. In its Survey, Education International indicates that the category of affected workers most frequently mentioned by trade unions are education workers working in private institutions. Other highly affected categories include - from the most to the least frequently mentioned - higher education personnel and researchers; supply/substitution teachers; early childhood education workers; and immigrant teachers (mentioned by just one respondent). Many respondents reported that teachers hired on temporary contracts have been especially impacted by the closure of schools. With schools closed, those paid by the hour are out of work, those on temporary contracts have not been renewed, and it is difficult for those whose contracts has ended to find new work.<sup>52</sup>

70. The situation in private schools is of particular concern at all levels, from early-childhood education to higher education. The economic model behind those educational institutions, which are heavily reliant on the payment of fees, as well as the precarious employment conditions of education workers in these institutions, made them more vulnerable to dismissal and pay cuts. For instance, such problems were reported in countries like Nepal, Spain, Morocco, Sri Lanka or Cyprus,<sup>53</sup> as well as in the Democratic Republic of the Congo. While some countries have made efforts to provide social safety nets to these workers, as for example in Italy or Morocco, the situation reveals how crucial it is that that private school workers be protected in accordance with international standards, and on an equal basis with those working in public schools, in particular when they receive public funding.<sup>54</sup>

71. The issue has become very controversial in various countries, as for example in Morocco, where some private schools claim full payment of fees including for the third trimester of the year when children did not attend school, justifying their requirement by investments they made to guarantee distance education but also teachers' salaries. While some schools did reduce fees, in particular for most fragile families, others did not. According to information, some schools have pressured families, threatening them not to enroll their children for the next school year in case of non-payment of fees.<sup>55</sup>

72. The Special Rapporteur also notes with concern that a number of private schools have closed, as many other private enterprises throughout the world. A great number of them face economic difficulties, and expect more difficulties as enrollments are dropping for the

<sup>51</sup> Independent SAGE, 'When Should a School Reopen?' (28 May 2020), <https://www.independentsage.org/wp-content/uploads/2020/06/Independent-Sage-Brief-Report-on-Schools.pdf>.

<sup>52</sup> Education International Survey, p. 13-15.

<sup>53</sup> Ibid., p. 16.

<sup>54</sup> See Abidjan principles, Principles 55 e) and 67.

<sup>55</sup> « Maroc : bras de fer entre les parents et les écoles privées », 29 May 2020, <https://www.bladi.net/maroc-ecoles-privées-parents,69523.html>; « Les écoles privées harcèlent les parents d'élèves pour payer les frais de scolarité », 3 April 2020, <https://www.maroc-hebdo.press.ma/ecoles-privées-payer-frais-scolarité>.

next school year, as a result of the inability of families to further pay costs.<sup>56</sup> Of particular concern are reports suggesting the massive collapse of low-fee private schools, for example in Pakistan,<sup>57</sup> which will result in harsh and sudden pressure being put on unprepared public schools to enroll children at the reopening, or an increase in out-of-school children.<sup>58</sup> According to information, in Kenya, the commercial school chain Bridge International Academies has put teachers on compulsory leave without pay, covering health insurance and a monthly gratuitous payment equivalent to 10 percent of their salary.<sup>59</sup> In Liberia, this company reportedly imposed a reduction of “essential staff” salaries by 80-90 percent while employees still work from home,<sup>60</sup> a matter the Ministry of Labour is concerned about and is looking into.<sup>61</sup>

73. In the view of the Special Rapporteur, this is just another example of limitations of education models based on privatization and commercialization.<sup>62</sup> When teachers are fired or schools close, this means that children are left with no access to education. The fact that the reopening of these schools remain uncertain causes much anxiety to both children and families. This will most likely, as has happened in the past, lead to shortages of teaching staff once schools reopen if teachers found alternative employment in order to preserve an income.<sup>63</sup>

74. Some private schools, including non-profit religious schools, have requested financial support from States but have not always received timely responses, as is reported for example in Albania.<sup>64</sup> The Special Rapporteur underlines in this respect the need to follow the guidance provided in the Abidjan Principles regarding the direct or indirect financing of private educational institutions, should any such funding be deemed necessary in times of emergency.<sup>65</sup> She recalls in this regard that States must prioritise the funding and provision of free, quality, public education.<sup>66</sup>

## E The future of public education systems

75. Austerity measures and budget cuts to public education systems have weakened their capacity to cope with the education crisis and to ensure the protection of all. For example, in Brazil, funding cutbacks and capping of public expenditure have led to a dismantling of social policies, preventing stakeholders from having an urgent and strong response to the pandemic.<sup>67</sup> In contrast, countries that have invested in the protection of economic, social

<sup>56</sup> See for example, Quentin Wodon, COVID-19 Crisis, Impacts on Catholic Schools, and Potential Responses: Introduction, Journal of Catholic Education p. 10. [https://digitalcommons.lmu.edu/ce\\_covid/](https://digitalcommons.lmu.edu/ce_covid/).

<sup>57</sup> <https://www.thenews.com.pk/print/637486-low-cost-private-schools-may-not-be-able-to-survive-covid-19-crisis>.

<sup>58</sup> Oxfam submission.

<sup>59</sup> Daily Nation, Kenya, <https://www.nation.co.ke/news/education/Bridge-schools-send-teachers-home-amid-coronavirus-crisis-/2643604-5505764-hojtlaz/index.html>, 27 March 2020.

<sup>60</sup> <https://libeyewitness.com/index.php/2020/05/26/labor-ministry-expresses-concern-over-labor-issues-at-bridge-international-academics-liberia-several-employees-express-frustration/>.

<sup>61</sup> <https://www.facebook.com/Labourministry2018/posts/2603104286631733>.

<sup>62</sup> See the report of the Special Rapporteur on this matter, A/HRC/41/37.

<sup>63</sup> Malala Fund, op. cit. p. 5.

<sup>64</sup> [http://enseignement.catholique.be/ceec\\_wp/wp-content/uploads/2017/04/CEEC-Newsletter-N%C2%B07-Mai2020fr%C3%A7s.pdf](http://enseignement.catholique.be/ceec_wp/wp-content/uploads/2017/04/CEEC-Newsletter-N%C2%B07-Mai2020fr%C3%A7s.pdf), p. 5.

<sup>65</sup> Principles 64-74.

<sup>66</sup> Abidjan Principles, Overarching Principle 5.

<sup>67</sup> “COVID-19: Brazil’s irresponsible economic and social policies put millions of lives at risk, UN experts say”, 29 April 2020

<https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25842&LangID=E>. See also, “Brazil: Students, teachers unions and civil society lead the struggle for the right to education”, 19 August 2019,

<https://www.campaignforeducation.org/en/2019/08/16/brazil-students-teachers-unions-and-civil-society-lead-the-struggle-for-the-right-to-education/>.



and cultural rights, and in which cooperation and trust with civil society have been established, are better equipped to respond to crises.

76. While understanding that priorities will have to be set within each country depending on the specificities of the local context and the impact of the pandemic, the Special Rapporteur is worried about a risk of a massive redirection of funding towards health at the expense of education, without taking into account the obvious links between these social services. As underlined by the Special Rapporteur on extreme poverty, “States have committed at least \$8 trillion to defend against the economic impacts of COVID-19. This should be directed towards building a more inclusive economy based on the rights to work and to social security, as well as the rights to adequate housing, healthcare and education.”<sup>68</sup>

77. Furthermore, in view of the major economic crisis affecting all countries, including increased indebtedness, the Special Rapporteur fears that there will be a significant reduction in the budgets allocated to the public education sector, which has nevertheless demonstrated its crucial importance in times of crisis, including that of COVID-19. A dramatic rollback in funding for public schools will likely lead to the erosion of education quality and access, and a further mushrooming of low-fee private schools and other privatization processes as government failure to meet needs increases, leading to the introduction or reintroduction of school fees and low enrollment.<sup>69</sup> The likely expansion of public-private partnerships in the post-crisis period risk increasing educational inequalities, with limited citizen engagement or accountability. Particular concern is also expressed regarding possible budget cuts for inclusive education.

78. While some have called for stronger partnerships with international financial institutions, including the International Monetary Fund, the Special Rapporteur underlines that such partnerships need to be scrutinized, taking into consideration the impact of past policies on public services of health and education. She further recalls that “States that are providing international assistance and cooperation must not adopt, support, or require impermissible retrogressive measures with regard to the right to public education”.<sup>70</sup> She supports the recommendation made by the Committee that States parties “use their voting powers in international financial institutions to alleviate the financial burden of developing countries in combating the pandemic, with measures such as granting these countries different mechanisms of debt relief.”<sup>71</sup>

#### IV. Conclusions and recommendations

**79. The crisis has forcefully demonstrated the central role of educational institutions in our societies. This is so not only with regard to implementing the right to inclusive quality education for all, but also in terms of ensuring a number of social services for the benefit of the most marginalized, transmitting health information, developing socio-emotional skills to increase the strength of resilient societies, providing essential support to health workers who had to be on the frontline and could not be with their children, and enabling countries to function economically while parents are working. Teachers and other education workers should be considered at their true value in this respect. Schools and the education community have acted as an essential space for solidary in this crisis. It is crucial to reflect on this experience.**

**80. A careful assessment of the impact of the closures of educational institutions on different population groups should be conducted in all countries, taking into consideration the intersectionality of discrimination. While it is clear that the education crisis has disproportionately affected the most vulnerable and marginalized, it did so against a backdrop of entrenched, recognised structural inequality. Unsurprisingly, the most destitute, those suffering discrimination based on**

<sup>68</sup> COVID-19 crisis highlights urgent need to transform global economy, says new UN poverty expert, 1 May 2020, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25858&LangID=E>.

<sup>69</sup> Oxfam Submission. See also Oxfam, “The power of education to fight inequality”, September 2019.

<sup>70</sup> Abidjan Principles, principle 46.

<sup>71</sup> CESCR, E/C.12/2020/1 para. 21.

economic and social status, sex and gender, ethnicity, geographical location, disability and health status will endure particularly long-term consequences on their right to education and future life paths. As many schools are now reopening in various parts of the world, it is important to establish systems for supervising and monitoring school dropout at all levels. This is a necessary prerequisite not only to minimize the impact on the most vulnerable but also to prepare for the next crisis to come.

81. Such assessment, however, must analyse not only the consequences of the education crisis, but also its causes. It should unpack, in each local context, the dynamics at play that led to increased discrimination in the enjoyment of the right to education during the crisis.

82. Such assessment should include: an analysis of rising inequalities due to the measures adopted to face the pandemic; an investigation into the sustainability of economic and financial models behind education systems, including the consequence of poor funding of public educational institutions; a scrutiny of the role of private actors in education; an evaluation of the adequacy of social protection provided for education workers, including in the private sector; and scrutiny of the lack of cooperation between States' administrations, educational institutions, teachers, learners, parents and communities.

83. Many governmental and intergovernmental agencies, as well as civil society organizations have disseminated a high number of useful guidelines and recommendations on how to address the education crisis on a short-term (including at the time of reopening of schools) or long-term basis, some of them very detailed and tailored to specific situations. The Special Rapporteur welcomes in particular the useful guidance developed by the INEE, those developed by the Office of the High Commissioner for Human Rights as well as, on a more specific note, those developed by Education International.

84. Rather than repeating or summarizing such recommendations, the Special Rapporteur prefers to concentrate on a number of recommendations outlining what a human rights based approach to the crisis entails. She recommends in particular that:

(a) Limitations imposed upon the right to education should strictly comply with the conditions set out in article 4 of the Covenant, article 29 of the Universal Declaration of Human Rights and other relevant provisions of the international human rights law framework.

(b) Governments and other stakeholders should integrate the "4As" framework (Availability, Accessibility, Acceptability and Adaptability) as policy guides throughout the education system at all levels, including at school level.

(c) States should develop emergency education preparedness within national education systems globally and train educational planners at all levels. These plans should be based on guaranteeing the right to education for all and the "4As" framework.

(d) States should create an institutional mechanism for crisis and disaster planning and management. Such mechanism should function at an important decision-making level and be decentralized in its implementation, ensuring that relevant decisions are adopted at the local level in cooperation with local stakeholders, for example when it comes to the reopening of schools.

(e) All States should, as a matter of urgency, adopt special, targeted measures, including through international cooperation, to address and mitigate the impact of the pandemic on vulnerable groups, as well as communities and groups subject to structural discrimination and disadvantage. In many contexts, this will mean prioritising the most accessible, 'low-or-no-tech' approaches in distance learning, as well as adopting measures such as moratoria on the payment of school fees, providing cash transfers to families, and ensuring delivery of food and other social services to vulnerable children during the crisis.

(f) Bearing in mind the particular importance of the right to education to children, children's rights must be given special attention and priority by decision-makers. States should carry out child rights impact assessments of crisis-related education decision-making. Furthermore, States should provide opportunities for children's views to be heard and taken into account in decision-making processes in the COVID-19 context.

(g) Special emphasis should be placed on the equal importance of the right of every girl and every learner with disability to continued education, in accordance with guidance developed by OHCHR in this respect, as well as of other marginalized or vulnerable children or learners, including migrants and children in humanitarian contexts.

(h) The deployment of online distance learning (together with radio and television), should only be seen as a temporary solution aimed at addressing a crisis. The digitalization of education should never replace onsite schooling with teachers. A thorough reflection is needed on the place and content of digital education, its meaning and efficiency, and its impact on the health and education of children and other learners.

(i) The introduction of distance learning tools must be accompanied by improved content quality adapted to local contexts and in particular local languages, as well as effective and on-going training of teachers and learners. It should not consist of uniform content and must provide scope for teachers' and learners' inputs, pedagogical differentiation depending on the level and capacities of learners, as well as academic freedom and creativity. It should be designed so as to ensure the protection of data and privacy of learners and teachers. Distance learning tools should be safe and not expose children to risk or bullying.

(j) Governments should consider the massive arrival of private actors through digital technology as a major danger for education systems and the right to education in the long term. They should ensure, including through the adoption of appropriate regulation, that this will not lead to the capture of limited public resources for education by commercial entities seeking to profit from the crisis, the collection of learners' and teachers' data or advertising towards children and youth. Education and learning solutions should be developed as a public good, without commercial or other restrictive licenses that threaten the enjoyment of the right to education and deepen inequalities.

(k) States should give effect to their obligation under article 2 of the Covenant to devote the maximum of their available resources to achieve progressively the full realization of the economic, social and cultural rights, including the right to education. This requires States to enhance their domestic resources mobilization, especially through progressive tax policy. The Special Rapporteur underlines in this regard the crucial importance of consolidating public education systems and of prioritising the provision of free, public education of the highest attainable quality, in accordance with the Abidjan Principles (principle 34).

(l) Taking into consideration the interdependence and indivisibility of human rights, as well as of the sustainable development goals, the response to the crisis must be multidimensional and multi-sectoral and action based on a continuum between education, health, housing, food, employment and essential social services. Consequently, States should be cautious not to redirect massive funding towards health or economic recovery at the expense of education.

(m) If, in exceptional circumstances, retrogressive measures are taken in relation to the right to education, States must ensure that any such measure is in accordance with applicable human rights law and standards. States that are providing international assistance and cooperation must not adopt, support, or require impermissible retrogressive measures with regard to the right to public education.

- (i). Countries should further be supported with adequate aid for their public education systems to ensure that the crisis will not lead to an increased privatization and commercialization of education.
- (ii). States should use their voting powers in international financial institutions to alleviate the financial burden of developing countries in combating the pandemic, with measures such as granting these countries different mechanisms of debt relief, including debt cancellation.
- (iii). Donors should meet their commitments to localisation, ensuring that local and national organisations are funded to respond to the crisis – recognising their local expertise and ability to reach marginalised populations.
- (iv). States should ensure the rights of teachers and other education workers, in the public and the private sectors, during and after the crisis, in particular their rights to the enjoyment of just and favourable conditions of work, to form and join trade unions of their choice, to social security, including social insurance, and to the enjoyment of the highest attainable standard of physical and mental health (articles 7, 8, 9 and 12 of the Covenant).
- (v). All States and business entities should ensure preventative and precautionary measures are in place to protect and ensure the right to health, including mental health and well-being of every education worker and learner, especially at the reopening of educational institutions. Special attention should be paid to those at particular risk.
- (vi). Good relationships and mutual trust between governments, teachers, associations and trade unions of teachers and other education workers, as well as parents and communities, should be established, both at the national and local levels. Permanent lines of dialogue should function at all stage of the crisis in order to ensure that measures adopted are adequate, efficient and acceptable to all. Schools reopening should be undertaken in cooperation with teachers and associations and trade unions of teachers.
- (vii). A lessons-learnt exercise should be undertaken to continue to foster the role of parents and families in the schooling of their children.
- (viii). As a longer-term measure, the role of educational institutions to develop the psycho-emotional competencies of all persons and the resilience of societies should be enhanced and taken seriously.