

Oral Statement by International Commission of Jurists and the Global Initiative for Economic Social and Cultural Rights (GI-ESCR) during the examination of Kenya's Sixth Periodic Report under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights.

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We thank the Committee for the opportunity to address you today on behalf of the residents of Mathare, the International Commission of Jurists and the Global Initiative for Economic, Social and Cultural Rights.

While Kenya has made commitments to giving effect to the right to education, persistent challenges remain.

The unavailability of public schools and the under-regulation of private schools, and the inappropriate allocation of funding for education are key examples of these challenges.

Many children, particularly in Kenya's "slums" enjoy limited access to education and when they do access schools the quality of their education is seriously lacking.

Mathare, the second largest informal settlement in Nairobi, where I live, is a good example. Mathare is made up of six administrative wards including: Mabatini, Huruma, Hospital, Ngei, Mlango, Kubwa and Kiamaiiko.

Information on the number of schools and school aged children in Mathare is difficult to access and limited. According to a 2019 government mapping of basic education institutions in Nairobi, there were 149 private schools in Mathare.

Out of these 149 schools, 17 were registered with the Ministry of Education, 107 were registered with other bodies/departments incorrectly and the remaining 25 were not registered at all.

In respect of the Mabatini and Ngei wards of Mathare, we were unable to get access to government data to confirm the number of schools in the area.

However, we as residents have for years complained that there are no public schools at all in these wards. The result is that children in these wards travel outside of the ward to access public schools or are forced to attend private schools.

It is in this context that we as community members have worked with ICJ and GI-ESCR to conduct research on access to education in the Ngei and Mabatini wards of Mathare. The research forms the core of our written submission to this Committee. Our research, undertaken for two years and including extensive interviews and focus groups within the community made the following findings:

- The unaffordability of schooling remains a significant barrier in private schools and public schools alike. Parents struggle to cover school fees and related costs even in public schools, despite public schools being officially free.
- Teachers in private schools typically lack the required certification and qualifications.
- Quality assurance mechanisms are weak, with inspections of both public and private schools being rare and no reported enforcement of education standards to suspend unregistered/non-compliant schools.
- Parents have safety concerns for their children during travel to and from school —due to distance, traffic, and crime — and at school because of dilapidated infrastructure, particularly in private schools, which often lack adequate classrooms, toilets, and playgrounds. While public schools generally have legal access to water and electricity, some APBET/private schools rely on illegal connections.
- Environmental hazards such as pollution, flooding, and proximity to illicit activities further threaten school environments.
- School feeding programs are insufficient, with many children lacking access to adequate meals.
- Lastly, education for children with disabilities is highly inaccessible, with schools lacking inclusive infrastructure and trained personnel.

Our report therefore underscores and makes a complete set of recommendations in respect of the urgent need for increased investment in education across the board, including in respect of the issues detailed above.

While I am here to discuss Mathare, it is important to note that the situation we face there is unfortunately far from unique.

Across the country, there are critical gaps in public school infrastructure and funding and the issues highlighted above are all widely reported. Indeed, they have been brought to this Committee's attention in previously reporting sessions.

Due to the shortage of public schools, both in Mathare and countrywide, many families have turned to private schools, including Alternative Provision of Basic Education and Training (APBET) schools and so-called "low-cost private schools".

Many of these institutions are unregistered, overcharge students and provide low quality education without enough oversight and regulation.

The failure to regulate and monitor private education providers has led to low quality, unsafe learning environments, and increased commercialisation of education.

Overall, while Kenya allocates a significant share of its national budget to education—above international benchmarks—the allocation of funds remains inadequate to address critical gaps such as the stagnant capitation grants unable to meet learners needs.

Furthermore, a substantial portion of the education budget is absorbed by recurrent costs such as teacher salaries, leaving insufficient resources for school construction, teacher recruitment, and curriculum implementation.

Due to insufficient budgetary allocations, resulting in overcrowded classrooms, shortages of trained educators, and hidden costs that burden parents. The impact, as our report shows, is ultimately on our communities and is devastating.

In conclusion, of the more comprehensive set of recommendations in our written submissions, we would particularly like to emphasize the following to this Committee:

- **Build more public schools:** this Committee should recommend that public schools are built wherever they are unavailable and in particular in the Ngei and Mabatini wards of Mathare. Where construction is not possible the conversion of selected private schools to public schools should be considered.
- **Ensure the consolidation of coherent, comprehensive registration and monitoring guidelines for all schools (public, private, formal or non-formal).** In line with the recommendations of this Committee (E/C.12/KEN/CO/ 2-5), Kenya should review and revise the 2015 Registration Guidelines for APBET schools and the 2021 Registration Guidelines for Basic Education Institution to ensure their compliance with Articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights. It should then ensure that registration guidelines are implemented and enforced, including by, improving the implementation quality assurance mechanism of the Ministry of Education as required by Section 66 (3) of the Basic Education Act.
- **Sustainable budget allocation:** The education budget should be developed and implemented by Kenya authorities in a manner that sufficiently plans to provide for improvements to the education system with a particular focus on: construction of more public schools; the recruitment and training of additional teachers; increasing capitation grants per learner.

Conclusion

Kenya has made significant commitments to education at international, regional and domestic levels.

However, without increased investment in public schools, improved implementation of regulations providing oversight of private schools, and more effective budget allocation, many children will continue to suffer.

This is especially so for children in informal settlements, like my own, who all too often remain excluded from access to fee-free equality education.



We urge this Committee to hold the Kenyan government accountable for fulfilling its obligations under the Covenant and ensuring that every child, regardless of their socio-economic background, has access to quality public education.

Thank you.