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Action for Children's rights to education

Action for Children's Rights in Education



A policy brief based on a comparative analysis of a research undertaken in six countries in Sub-Saharan Africa, using ActionAid's Promoting Rights in Schools Framework.



The right to education is a widely recognised fundamental right, however for millions of children, access to a quality education remains out of reach. This policy brief aims to raise awareness of some of the key barriers to children's education, demonstrate a model for achieving quality education and present clear recommendations for policy-makers to ensure the fulfilment of the educational rights of all children, especially the most vulnerable. The recommendations are based on a comparative analysis of research undertaken in six countries in Sub-Saharan Africa using ActionAid's Promoting Rights in Schools framework.



By providing an overview of the normative framework in all six countries as well as a summary of research findings, the brief seeks to demonstrate how the Promoting Rights in School framework can be used to hold governments and other key stakeholders to account for the provision of free, quality public education for all children.

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1. Introduction

Enshrined in international and national law, education is a fundamental right; it is also an enabling right, which as outlined in the UN Convention on the Rights of the Child, allows children to develop their personality, talents and abilities to their fullest potential and acquire the skills and knowledge they need to claim other rights. In addition, education is widely recognised not only as the basis for personal fulfilment but also as the engine for social, economic and cultural development.

However for many children, the right to education remains unfulfilled, not least because so many still remain out of school. Whilst the number of out of school children has been declining over the past 15 years, there are still an estimated 57 million out of school of which 53% are girls. (UNESCO, 2013) Recent evidence indicates that out-of-school figures have been slowing down since 2005, a factor largely due to trends in Sub-Saharan Africa, where the number of children out of school has remained at around 30 million over the last five years. Unsurprisingly, recent data from UNESCO shows that the majority of countries in Sub-Saharan Africa are off track to achieve the Education for All (EFA) goals by 2015. (UNESCO 2012)

Getting children into school is a key step in ensuring their right to education is met. However, it is important to look beyond access and focus on the quality and inclusiveness of the education being delivered. According to UNESCO key issues preventing countries in Sub-Saharan Africa from reaching the EFA goals include the quality of teaching, as well as issues of equity, high drop out rates and weak provision of services to children with special needs and those in rural areas (UNESCO 2012).

Just as a final push is needed to ensure the Education for All goals are achieved, significant reductions in both international aid to education (UNESCO 2013) as well as failure of national governments to meet internationally agreed benchmarks for the domestic financing of education means that millions of children will continue to be denied their right to education for the foreseeable future.

Whilst the achievement of the Education For All goals cannot be automatically equated with the realisation of all children's right to education, the failure to achieve them constitutes a strong indicator that these rights will remain unfulfilled.

It is crucial to understand the underlying causes of marginalisation and discrimination including weaknesses in legal and policy provision as well as harmful attitudes and practices that continue to prevent some of the most vulnerable children (including girls and those with disabilities), from enjoying their right to education and develop clear strategies for holding duty bearers to account at all levels. In addition, whilst the language of rights is widely used in the global discourse on education, the voices of stakeholders such as children, teachers and parents are seldom heard.

As such ActionAid International in collaboration with the Right to Education Project (www.right-to-education.org) developed the **Promoting Rights in Schools** framework in order to promote an increased understanding of education as a fundamental right and mobilise stakeholders at all levels to hold key duty-bearers to account for equitable provision of free, compulsory and quality basic education for all.

2. Promoting Rights in Schools

The Promoting Rights in Schools (PRS) framework is grounded on human rights and development practice, and includes a 10-point 'charter' outlining 10 key rights that all children are entitled to and which, if met should guarantee the 'ideal' school. Whilst it is based on the conviction that the State is responsible for ensuring education rights, the PRS framework also recognises the important role of other stakeholders in the process including donors, international financial organisations and to some extent, private providers, in supporting the state to fulfil its obligations to realise the right to education for all.

The implementation of the PRS framework in practice aims to stimulate an awareness and critical consciousness of the right to education amongst local stakeholders including teachers, parents, children and civil society organisations, enabling them to advocate for quality education in the long-term. To do so, the PRS framework promotes the mobilisation and capacity development of rights-holders to analyse and understand the gaps in implementation of the right to education at local level and mobilise to address these gaps.

The 10 rights outlined in the PRS charter serve can easily be adapted for use in different contexts. Simple explanatory notes as well as a series of indicators and questions, presented in a survey format can be used to gather data at local level. Once consolidated, this data provides an overview of the situation, allowing stakeholders involved to better understand and to claim their rights.

10 rights for free, quality public education

- 1 Right to free and compulsory education
- 2 Right to non-discrimination
- 3 Right to adequate infrastructure
- 4 Right to quality trained teachers
- 5 Right to a safe and non-violent environment
- 6 Right to relevant education
- 7 Right to know your rights
- 8 Right to participate
- 9 Right to transparent and accountable schools
- 10 Right to quality learning



3. Operationalizing the Promoting Rights in School framework

Background

The PRS framework was launched in 2011, and in 2012 ActionAid piloted its implementation in six countries in Africa through the Action for Children's Rights in Education (ACRE) project. Whilst the majority of work was undertaken in Ghana and Uganda, small grants were also allocated to The Gambia, Liberia, Malawi and Zambia. All six countries worked towards the project's overall goal: **to ensure that girls and children with disabilities gain access to free, quality public education.**

Although the 10 rights in the PRS are, by their very nature indivisible and interlinked, the project focussed primarily on three key rights: **the right to non-discrimination, the right to a safe and non-violent learning environment and the right to participate**, and had the following specific objectives:

- 1 Increase awareness of rights to and in education by collecting data using the PRS framework with multi-stakeholder groups of children, parents, teachers, community leaders, local education groups, researchers, and teachers' unions.
- 2 Promote safe and non-violent schools by advocating for adequate and appropriate learning environments, including implementation of a Teachers' Code of Conduct and policy provisions.
- 3 Increase transparency and accountability of school management processes by enhancing community and children's participation in decision-making and monitoring education resources.
- 4 Increase the confidence levels, learning abilities and outcomes of girls and children with disabilities.

Process

The implementation of the PRS framework promotes the use of participatory action research and in each country multi stakeholder teams of children, teachers, parents and local education authorities received an initial training on basic research methods and took part in the data collection and analysis process.

Primary data was collected using questionnaires developed using the PRS charter and indicators, and a total of 2,822 respondents took part, including 966 children, 1590 parents, 266 teachers. Secondary data was obtained from a desk-based document review and school records. The findings were later disseminated within the project communities allowing children, teachers and parents to identify and agree on actions to address the gaps in the fulfilment of children's rights in school.

As well as generating essential data the research enabled ActionAid to test the validity of the PRS premises, i.e. directly involving stakeholders in the research process generates increased awareness of gaps in provision of the right to education, encourages mobilisation and prompts advocacy for duty-bearers to fulfil their responsibilities.

Limitations

Each country adapted the survey tools in the 10 point PRS Charter to suit their context, however, despite a common understanding about the overall framework and methods to be used, there was no standardisation or coordination of the process across countries.

Consequently, whilst some teams recruited researchers from leading universities to ensure technical rigour in sampling, data collection and analysis, others led the research themselves. Sample sizes varied significantly as a result of the proportion of the grant and number of schools covered by the project in each country and time constraints and low capacity and literacy levels of some of the data collection teams also added challenges to what is usually a highly academic and technical process. Finally, whilst the ACRE project focussed primarily on three rights some countries chose to collect data on more and some focussed on one right only. As a result not all the data sets can be compared consistently across all six countries, giving rise to a series of gaps in information.

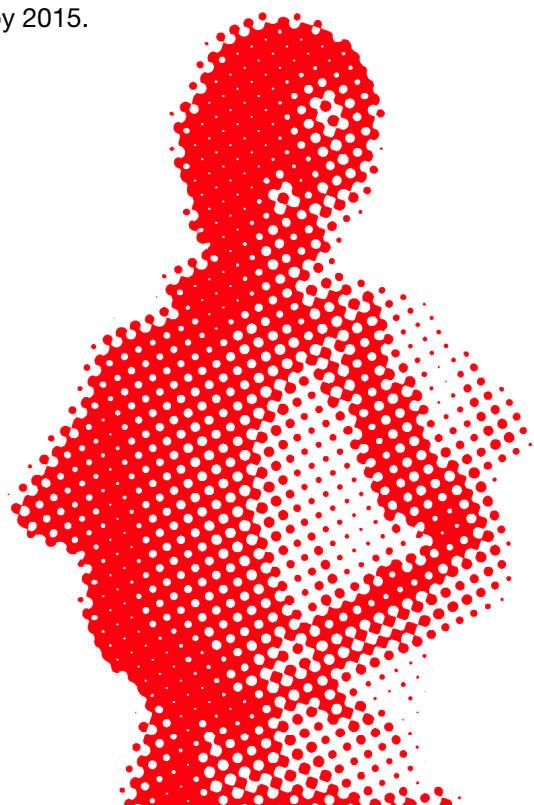
Nevertheless, despite these limitations, the research provides a snapshot of some of the barriers to the realisation of children's rights to and in education at the local level in six different countries.

4. Overview of the Normative Framework

4.1 The right to education: international commitments

International treaties become legally binding on States once they have been ratified, and each of the six countries taking part in this initiative have demonstrated their commitment to fulfil the right to education by ratifying at least six major international conventions¹ guaranteeing this right without distinction of any kind. These States are thus legally bound to bring national law in line with international provisions to ensure that the right to education is fully implemented within their jurisdiction.

Moreover, in addition to these international human rights commitments, the governments of the six countries in question have further demonstrated their commitment to education for all through their engagement with the Millennium Development Goals as well as their pledge to ensure the achievement of the six Education for All targets by 2015.



4.2 The right to education: national laws and policies

4.2.1 Right to education

In most countries, the constitution is the highest legislative norm in the country, setting out the general principles to which all other national laws and policies have to adhere and the right to education is guaranteed by the constitution² in all six countries covered by the ACRE project.

4.2.2 Right to non-discrimination

All states parties to the UN Convention on the Rights of the Child have committed to ensure all rights set forth in the convention, including the right to education to ALL children within their jurisdiction “without discrimination of any kind, irrespective of the child’s or his parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, poverty, disability, birth or other status.”³ (UNCRC art 2.1)

The right to non-discrimination is guaranteed in most international human rights treaties and serves as an underlying principle in human rights law. All six countries included in the ACRE project have constitutional provisions on the right to non-discrimination and all have enacted specific legislation that supports non-discrimination and promotes the protection of the rights of children with disabilities in education.

In **Ghana**, the Persons with Disability Act of 2006 (Act 715) makes it mandatory for parents or guardians of children with disabilities to send them to school or face criminal charges; in **Uganda**, the Persons with Disabilities Act, 2006 provides for the elimination of all forms of discrimination against people with disabilities and in **Zambia** the Disability Act of 1996 provides for the needs of persons with

disabilities and the Programme on Children with Special Educational Needs was established to support the inclusion of learners with special educational needs and disabilities into the regular school system at all levels.

In order to address persistent forms of discrimination against girls and work towards the achievement of gender parity in education, governments in all six countries taking part in the ACRE project have taken a range of specific measures to guarantee girls’ right to education.

The Gambia’s Gender Education Unit has a national remit to promote gender equality in education and provides support to girls both in and out of school, whilst the Girls’ Scholarship Trust Fund exempts girls from paying fees in grades 7-9. In addition, the school re-entry policy, supported by the Education Bill of 2011 requires schools to allow pregnant girls and young mothers to continue their education in order to increase girls’ retention and progression rates.

In **Ghana**, the Girls’ Education Unit supports the removal of barriers to girls’ education including early and forced marriages and teenage pregnancies and the 2010-2020 Education Sector Plan highlights the importance of eliminating gender and other disparities through positive discrimination.

In **Liberia**, the establishment of a Girls’ Education Unit in the Ministry of education facilitated the development of Liberia’s Girls’ Education Policy, which aims to ensure schools take measures to encourage gender equality.

In **Malawi**, the National Gender Policy identifies non-discriminatory education as an essential tool for achieving equality of access to education by boys and girls and the Gender Appropriate Curriculum (GAC) Unit at the Malawi Institute of Education was established in 1992 to incorporate gender sensitivity into the primary curriculum and teacher training programme.

In **Uganda**, the Education Act prohibits any form of discrimination and requires the elimination of gender disparities through the provision of equal access to education for girls. In addition, the 2009 Gender in

Education Sector Policy provides a framework for gender responsive development and establishes regulations to protect girls and boys from sexual harassment in schools.

In **Zambia**, the school re-entry policy, supported by the 2011 Education Act, requires schools to allow the readmission of pregnant girls and young mothers in order to increase retention and progression for girls in education. Section 32 of the same Act commits education institutions to develop procedures for preventing and dealing with gender-based violence in school.

4.2.3 Right to a safe, non-violent environment

All States parties to the UN Convention on the Rights of the Child have committed to taking appropriate legislative, administrative, social and educational measures to protect children from all forms violence, abuse, neglect or exploitation, including sexual abuse (article 19) and article 28 stipulates that: “States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child’s human dignity.”

Despite these provisions, out of the six countries analysed, so far corporal punishment has only been clearly outlawed in **Zambia**, where article 28 of the 2011 Education Act prohibits the administration of corporal punishment to learners and stipulates clear penalties for perpetrators including a prison sentence of up to one year.

In **The Gambia**, Article 22 of The Children’s Act of 2005 outlines the responsibility of parents to: “ensure that domestic discipline is administered with humanity and in a manner consistent with the inherent dignity of the child”. Although Article 15 of the Education Regulations Act⁴ states that: “Firm discipline shall be maintained and enforced in all schools, but all degrading and injurious punishments are prohibited, and no child shall receive corporal punishment of any form save as is hereinafter in this regulation provided” paragraphs 2-4 of the same Article specify circumstances under which corporal punishment can be administered.

In **Ghana**, corporal punishment remains lawful in the home and in schools⁵ and whilst corporal punishment is unlawful as a sentence for a crime in **Liberia**, provisions against violence and abuse in the Penal Code (1976)

¹ All six countries have ratified the International Covenant on Economic, Social and Cultural Rights, the UN Convention on the Rights of the Child, the Convention on the Elimination of All forms of Discrimination Against Women, the International Convention on the Elimination of All forms of Racial Discrimination, the African Charter on Human and People’s Rights the African Charter on the Rights and Welfare of the Child

² Article 6 of the 1984 Constitution of Liberia, Article 30 and 34 of the Uganda’s Constitution, Article 30 of the 1996 Constitution of Gambia, Article 25 and 38 of the 1992 Constitution of Ghana and Article 25 of the 1994 Constitution of Malawi

³ Other treaty provisions include UDHR, art2, ICESCR, art 2.2 and 3, ICCPR, art 2(1), UNCRC (art 2,30), CRPD (art 2, 3 and 5) and CEDAW (art 10 (girls))

⁴ Cap. 46 of the revised laws of Gambia (1990)

⁵ article 12(2) of the children’s acts confirms the concept of ‘justifiable’ and ‘reasonable’ correction of a child.

and the Constitution (1986) are not interpreted as prohibiting corporal punishment of children at home or in schools. The Children's Law (2011) provides limited protection from violent child rearing but does not prohibit all corporal punishment, which remains lawful in schools under the provision for "justifiable correction" in article VII section 7.

In **Malawi**, although corporal punishment in schools is considered unlawful under article 19 of the Constitution, it is not explicitly prohibited in education law. In **Uganda**, whilst a ministerial circular of 2006 and the Guidelines for Universal Primary Education⁶ state that corporal punishment should not be used in schools, there is no explicit prohibition in law.

4.2.4 Right to participate

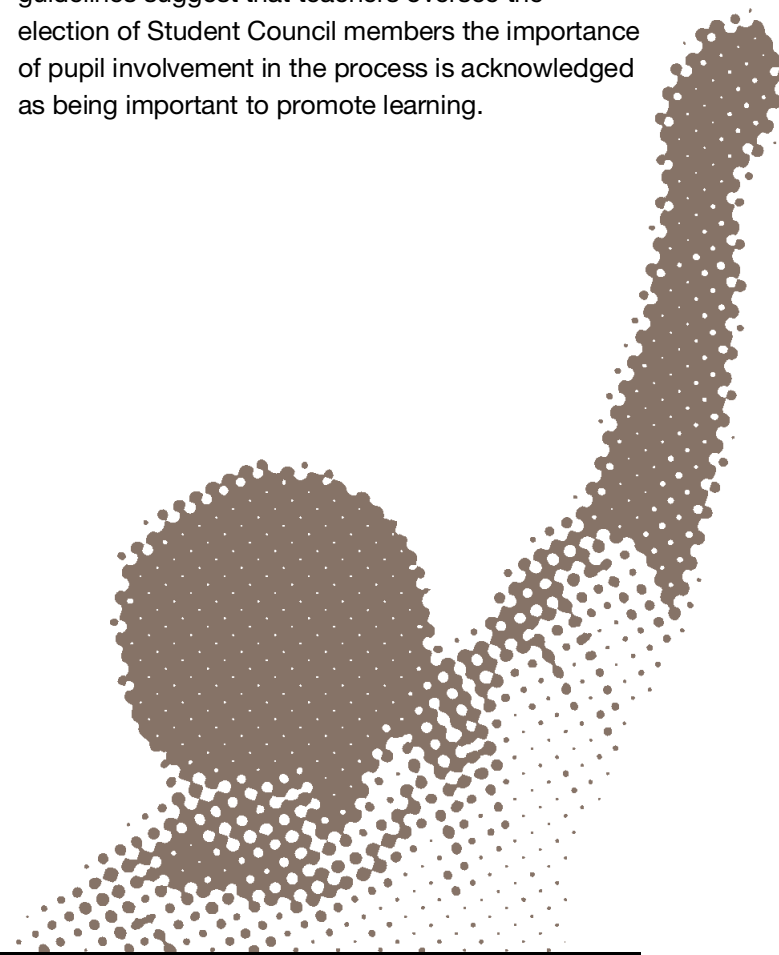
In international law, children's right to participation is guaranteed by article 12 of the UN Convention on the Rights of the Child, stating that: "States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child". In addition, Article 7 of the African Charter of the Rights of the Child states clearly that: "Every child who is capable of communicating his or her own views shall be assured the rights to express his opinions freely in all matters and to disseminate his opinions subject to such restrictions as are prescribed by laws."

Although all six countries have ratified the UNCRC and the ACRWC both of which enshrine children's right to participate, this right and measures to institutionalise its implementation in national law and policy, particular within the education sector do not appear to be a high priority.

Whilst **Uganda's** Ministry of Gender, Labour and Social Development has produced a National Child Participation Guide to facilitate child participation from the family level upwards, no specific guidance is given on how to implement this within the education sector and the Ministry of Education does not make any formal provision for children's involvement in school decision-making bodies such as School Management Committees or Parent Teacher Associations.

This trend is reflected across the majority of the countries taking part in this research, and despite recognition of the need to encourage community ownership and engagement in education, most opportunities for participation at the school-level are only open to adults leaving children excluded and voiceless.

The Gambia appears to be the only country out of the six taking part in the ACRE project where guidelines have been put in place to ensure children are represented on School Management Councils at primary level. In addition, the Ministry of Education has also formulated guidelines for the formation of Student Councils, which aim to promote pupils' involvement in school-related issues. These Councils have a remit to meet twice a term to discuss issues relevant to pupils and the guidelines clearly state that "almost everything occurring in the school is relevant to pupils, so there is no limit on what might be discussed" (MoE, 2011). These councils then select their own members who will represent them on the SMC and attend meetings of the Learner Welfare and School Environment sub-Committee and represent the school externally. Whilst the guidelines suggest that teachers oversee the election of Student Council members the importance of pupil involvement in the process is acknowledged as being important to promote learning.



5. Gaps in implementation of the right to education: a summary of research findings

As shown above, whilst the six countries taking part in the ACRE project have adopted a range of laws and policies to guarantee the right to education without discrimination data from the research shows this right is not being fully implemented at school level and that many children, including girls and children with disability continue to be deprived of their right to and in education as demonstrated in the findings summarised below.

5.1 Right to non-discrimination

The development of laws and policies to prevent gender discrimination in education shows States' efforts to implement their international obligations to respect, protect and fulfil the right to education of all children, girls and boys alike. However, the ACRE project's findings highlight a number of failures in the concrete implementation of these law and policies at the school level.

Girls continue to be at a disadvantage when compared with boys and the research revealed that a combination of poverty, discriminatory and limiting perceptions of girls' roles within society as well as harmful traditional practices such as early marriage and the prevalence of sexual harassment and abuse constitute some of the main barriers preventing girls from attending and completing their education.

In **Ghana**, parents continue to prioritise boys' education with 62% expressing a preference for sending boys to school as opposed to girls. In **Uganda** only 55% of girls complete a cycle of basic education in the project intervention areas and the research revealed that the main reasons for this include early marriage, the burden of household chores, lack of adequate, clean sanitary facilities at school and long distances between home and school. These factors were also considered to be behind the relatively high drop out rates for girls in **Malawi**, where an average 8% of girls abandon their studies each year in the project intervention areas.

This evidence demonstrates that despite overall

progress towards gender parity in primary education at national level in all three countries, much remains to be done to tackle regional disparities, particularly in remote, rural areas such as those covered by this research and ensure the factors that prevent girls from fully enjoying their right to education are addressed at all levels.

Despite the existence of protective measures in national legal and policy frameworks to promote the inclusion of children with disabilities in the mainstream education system negative and discriminatory attitudes in the home, school and wider community play a key role in denying children with disabilities their right to education. In **Ghana** an estimated 80% of disabled children do not attend school and indeed around 46% of parents stated they would be reluctant to send a disabled child to school. Disabled girls are doubly discriminated against with 73% of parents prioritising their education below that of all other children in the household.

Whilst many parents would like their children to attend school a range of other obstacles need to be overcome before education systems can be truly inclusive in the six countries. In **Ghana** an overwhelming 94% of parents noted that schools are not accessible and in **Uganda** whilst government policy is clear about the need for disability-accessible school infrastructures, schools surveyed had neither ramps nor accessible toilet facilities. The situation was similar in both **Malawi** and **Zambia** where none of the infrastructures in the 18 schools surveyed were accessible to the physically disabled. Children with disabilities also face significant challenges in making the journey to and from school, and in **Ghana** respondents stated that children with physical disabilities are unable to do so due to the lack of necessary mobility equipment or transport.

The absence of adequately trained teachers also negatively impacts on the right to enjoy a quality education for children with disabilities. In **Uganda**,

6 (1998, article 3.4 iii)

the teachers' training curriculum has not been aligned with the inclusive education policy leaving teachers ill-prepared to respond to the needs of children with disabilities. Given that many teachers already struggle to manage classes of 80 to 100 children, often without sufficient desks, chairs or school books, it is difficult to expect them to cater appropriately to each individual child's special learning needs. In **Ghana** the study found that 40% of the teachers in the study schools had not received any training at all lacked the skills to support children with disabilities in class. Moreover, even when trained professionals are assigned there are simply not enough to respond to the real needs on the ground. The baseline study in **Malawi** for example highlights the situation in Dedza where only one qualified special needs teacher has been assigned to support all the special needs children in the district.

5.2 Right to a safe, non-violent environment

Whilst the study was not exhaustive enough to provide a clear analysis of all the provisions and gaps existing in national policies aimed at protecting children from violence in school, it is clear that more remains to be done to ensure children are safe from incidents of violence, including corporal punishment, sexual harassment and abuse as well as bullying that occur daily in and around the school.

Corporal punishment remains prevalent in schools across all six countries with 53% of respondents in **Ghana** stating that it is regularly administered by teachers. In **The Gambia** children reported various forms of corporal and humiliating punishment. In **Liberia** violence in school remains common and in **Malawi** corporal punishment is a key contributing factor behind high drop out rates. In **Uganda** corporal punishment is still widely administered both in schools and at home and the research found that many parents encourage its use. In **Zambia**, despite the provisions of the Education Act, respondents in 30% of the schools surveyed stated that corporal punishment remains common practice.

Bullying was also identified by respondents as being a common feature of children's daily school experience with over 50% of respondents in **Ghana** acknowledging its occurrence. In **Malawi** bullying and teasing as well as public humiliation were widely reported as the most common forms of violence perpetrated by pupils upon their peers. In **Uganda** pupils described a range of incidents

including nick-naming, boys laughing at girls and older children forcing young children to do their chores for them, new comers being made to hand over their snacks to others.

Children, particularly girls are also significantly affected by sexual harassment and abuse both in and on the way to school. In **Ghana**, 15% of respondents indicated that incidences of sexual abuse against girls are common with almost 40% identifying boys as the main perpetrators. In **Liberia**, incidences of sexual abuse and harassment against girls are high leading to sexually transmitted diseases, unwanted pregnancies, low self-esteem amongst girls as well as poor performance and drop out. In **Malawi** girls are vulnerable to harassment in and on their way to and from school and in **Uganda** an estimated 32% of cases of violence against children take place in the school, 30% at home and 16% on the way to and from schools. Despite these findings, none of the schools had clearly written and displayed guidelines for reporting and referring incidents of violence and as a result the majority of cases go unacknowledged and unaddressed.

Whilst Teachers' Codes of Conduct exist in most countries, few are aware of the contents, which in many cases fails to specifically define what constitutes violence, outline clear disciplinary procedures for perpetrators or highlight measures for prevention and response to incidents of violence against children in school.

Although the Teachers' Code of Conduct in **Ghana** prohibits sexual relations between teachers and pupils, only 43% of teachers interviewed were aware of its existence; similarly in **The Gambia**, only half of the adults and about 30% of students surveyed were aware of the existence of contents of their school's sexual harassment policies. In **Malawi** the Code states that a teacher shall be held guilty of misconduct if he/she "behaves immorally with any pupil" but does not specify what constitutes immoral behaviour and respondents noted that despite cases of girls being impregnated by their teachers, actions are rarely taken especially if the teacher provides money to the parents. In **Zambia**, respondents stated that in general, teachers found guilty of sexual abuse of pupils are simply transferred to other schools.

5.3 Right to participate

At the international level, children's rights to

participation is guaranteed by article 12 of the UN Convention of the Right of the Right of the Child, stating that: "States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child." In addition, Article 7 of the African Charter of the Rights of the Child states clearly that: "Every child who is capable of communicating his or her own views shall be assured the rights to express his opinions freely in all matters and to disseminate his opinions subject to such restrictions as are prescribed by laws."

Whilst limited in scope, the research findings demonstrate that despite having made international commitments to children's rights to participate, little has been done to ensure the implementation of this right within the education sector. Although there is recognition of the need to encourage community participation in all matters regarding education, the notion of community is still limited to adult members. Consequently, with the notable exception of **The Gambia** none of the remaining five countries have formalised mechanisms for children's engagement in school decision-making structures or processes. In addition, adult resistance to the notion of children's rights and in particular the principle of child participation constitutes a major barrier to the equal treatment of children and protection and the enforcement of their fundamental human rights.

In **Ghana**, 70% of the children report that they are not allowed to express themselves at home even in matters affecting their education. At the school level, there is no involvement or consultation with pupils and an overwhelming 96% reported that they are not consulted on decision-making processes. In some cases, they are not even allowed to choose their own representatives. In **The Gambia**, in addition to the existence of Student Councils in all of the schools surveyed, School Management Committees included student representatives amongst their membership. Although the children noted that they are not involved in planning and budgetary processes they felt that in general, the School Management Committee recognizes their concerns. In one of the schools pupils also stated that they had been involved in the development of school rules and regulations. In **Uganda**, respondents

across all categories agreed that there is limited or no child participation in school governance and curriculum decision-making. In addition, parents and teachers were reluctant to recognise children's rights to participate with some expressing the feeling that child rights advocates are taking it too far in demanding that children 'interfere' with school management issues. In **Zambia**, the findings confirmed that children are not represented in school management and decision structures and neither are they engaged in processes such as curriculum development, choosing prefects or selecting children eligible for bursaries.



6. Allocation of resources to fulfil the right to education

Article 2 of the International Covenant on Economic, Social and Cultural Rights states: “Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights.”

As such, States have an obligation under human rights law to allocate adequate public resources to ensure human rights are fulfilled and prioritise universal, free primary education. In addition, the international community has a responsibility to support developing countries to implement the right to education in line with international human rights standards.

Whilst not always easy to assess what constitutes ‘the maximum available resources’ UNESCO recommends that governments invest at least 6% of their gross national product in education, and the Global Partnership for Education recommends that countries allocate 20% of their national budget to education. These benchmarks are now widely used as a reference point for minimum levels of investment in education.

Preliminary data gathered by the ACRE project reveal that with the exception of Ghana all of the countries are currently failing to meet these international benchmarks. In a number of countries, the education budget has actually failed to increase and, in some cases has even decreased over time, e.g. in Uganda public expenditure on education decreased from 18.3% in 2004 to 15% in 2011.

Although governments are primarily responsible for the funding of the education sector many countries continue to depend heavily on external aid and in 9 countries in Sub-Saharan Africa, including Malawi, the Gambia and Zambia more than a quarter of public spending on education is financed by external aid. (UNESCO, 2012)

Nevertheless donors have also failed to honour commitments they made at Dakar in 2000 and the

majority of European donors who committed to allocating 0.7% of their gross national income (GNI) to aid, have failed to reach this target. Evidence from UNESCO shows that aid levels have stagnated in recent years, with an average of just US\$3bn per year allocated to basic education in low-income countries annually over the past four years, despite an estimated financing gap of US\$26 billion.

If donors were to increase the share of aid to education from 9% to 20% by 2015, and allocate half of this amount to basic education (the same proportions expected of governments), this alone would raise US\$4 billion to help fill the funding gap. (UNESCO 2013)

The fact that levels of funding to education are beginning to stagnate just as the reduction in numbers of out of school children are beginning to plateau, sends worrying signals regarding the potential of achieving children’s right to a quality education. A clear commitment to meeting pre-established targets for funding education must be demonstrated by national governments and international donors in order to ensure all children can access their right to free, quality basic education. Whilst more money alone will not guarantee the achievement of this goal, it is clear that less money will not do so either. (UNESCO 2013)



7. Conclusion

Over the past decade, important progress has been made towards ensuring the right to education for all children. However, despite having ratified several conventions and made unambiguous legal commitments to ensure the fulfilment of this right, many countries in Sub-Saharan Africa are still failing to live up to their commitments and an estimated 30 million children remain out of school across the region. There is a need for new approaches that will shed light on the factors that continue to prevent some of the most vulnerable children from enjoying their right to education and develop strategies for holding duty bearers to account.

Based on international human rights law the PRS framework aims to empower rights-holders including children, parents and teachers to use evidence from participatory research to understand and claim their rights from key duty-bearers. Despite its limitations, the evidence emerging from the research undertaken in Ghana, The Gambia, Liberia, Malawi, Uganda and Zambia as part of ActionAid’s ACRE project demonstrates a series of common trends.

The right to non-discrimination continues to be violated for many children, especially for girls and children with disabilities. In the majority of cases, such children face stigmatisation at home, in school and the wider community and most do not have access to education of any sort, much less an inclusive, specially adapted education.. Despite national-level progress on gender parity in primary education, evidence gathered at school-level demonstrates that poverty and discrimination continue to place girls at a greater disadvantage than their male peers.

The right to a safe and non-violent learning environment is also far from being realized. Corporal punishment remains legal or tolerated in the six countries, bullying, mockery and psychological violence occur daily and children, especially girls are subjected to sexual harassment and abuse both in and on the way to school. Ineffective or inadequately implemented policies allow perpetrators, including education staff to continue abusing their power with impunity.

Children’s right to participate in their own education is poorly provided for in all six countries and no specific measures have been taken to guarantee this right e.g. by formalising their participation on School Management Committees. In addition, the majority of adults expressed scepticism toward the concept of children’s rights, including the right to participate, seeing it as a threat to adult power. Fundamental to the basic premises of the PRS framework and the participatory approaches involved in its operationalization is that children, like adults, are rights holders. Children’s rights are human rights and the failure to recognize this fact, constitutes a major barrier to tackling the various forms of discrimination, violence and lack of voice that affect them on a daily basis.

The data collected at the school and community level highlights a range of instances in which human rights standards are being violated due to factors ranging from lack of resources and accountability, gaps and contradictions in legal and policy provision through to ignorance, lack of awareness, deep-seated patterns of discrimination as well as harmful practices and beliefs.

Whilst resource constraints may constitute a real challenge for a number of countries, particularly those highly dependent on gradually diminishing sources of external aid, the failure to adequately legislate for and finance the right to education demonstrates a lack of commitment to the sector and constitutes a violation of international human rights law.

ActionAid will continue the process of integrating the use of the PRS framework across all its education programming. This will allow the organisation to better document gaps and violations and mobilise rights-holders to advocate for increasing accountability on the part of key duty-bearers to fulfil their commitment to the right to education for all. At the external level, ActionAid is lobbying for increased recognition of the value of the PRS framework and advocating for its use by civil society at national and international level in order to ensure children’s fundamental rights to quality education are met.

8. Recommendations

Recommendations to governments

Allocate resources towards education in accordance with international benchmarks

States must allocate the maximum of their available resources towards the fulfilment of economic, social and cultural rights, including the right to education; this includes financial, human and other resources. Governments should commit to investing at least 6% of their gross domestic product and at least 20% of their national budget towards education and maximise resources from internal revenue and natural resource exploitation.

Reduce regional disparities in education provision

Governments must make significant efforts to eliminate regional disparities in education provision to ensure universal access to education at national level. Targeted efforts must be made to ensure equitable allocation of funds for education service provision to ensure all children have access to the same quality of education regardless of their geographical location.

Raise awareness of Children's Rights

Children and communities need to be made aware of their entitlements in order to strengthen their capacity to claim their rights, including the right to education. Human rights, including children's rights should be mainstreamed in basic education and teacher training curricula. Child-friendly information about children's rights should be disseminated to and made visible in schools. Local leaders, Parent Teacher Associations, school administrators, and local government officials should be equipped with information about children's rights, including the right to education and encouraged to monitor its implementation at school level.

Ensure access to education for persons with disabilities

Adequate levels of funding to ensure existing policies intended to promote inclusive education are implemented at all levels must be allocated at central and decentralised level. Education curricula

must be expanded to meet the needs of various learners including special needs children and pupils with disabilities. Teaching and learning materials need to be made available and teachers should be trained on ways they can identify and support differently abled learners in mainstream classes. Governments should scale up efforts to provide facilities and equipment to ensure that infrastructures are accessible for physically disabled children.

Continue to promote gender equality in education

Governments should continue emphasising measures to promoting gender equality in education by ensuring teacher training programmes include components on gender-sensitive pedagogy, gender-based stereotypes are removed from textbooks and ensuring equal access for girls and women to all levels of education. Governments must commit to raising the minimum age of marriage for girls (and boys) to 18, implementing school re-entry policies to support adolescent mothers to stay in school both during and after pregnancy and including information on life skills and sexual and reproductive health in the curriculum.

Ensure schools provide a safe and non-violent learning environment

All children must be safe in and en route to and from school. Corporal punishment should be banned and teacher training must equip teachers to use positive discipline methods. Specific measures to tackle sexual violence, early marriage and teenage pregnancy can include the provision of training for teachers' on children's rights to protection, the implementation of school re-entry policies for young mothers and the inclusion of sexual and reproductive health and life skills on the curriculum. Teachers' Codes of Conduct must include clear definitions of violence as well as penalties for perpetrators and procedures for enforcement. Clear and confidential reporting and referral mechanisms must be implemented at school level to ensure survivors of violence are able to access the medical, psychosocial and legal support they need and that perpetrators are held to account in accordance with national law.

Ensure adequate and inclusive school infrastructure

Schools must be safe for learners. Government departments such as ministries of planning and construction should work closely with the ministry of education to ensure that all schools offer a safe environment, ensuring national school construction standards are aligned with Internationally agreed Minimum Standards and sensitive to the different needs of girls, boys and children with disabilities.

Establish guidelines and mechanisms for children's participation

Governments must fulfil their commitment to children's right to participation by recognising it as a human rights issue and putting clear provisions in place, including the formulation of guidelines to promote children's participation in the education sector, e.g. by ensuring children are represented on school governance and management bodies and formalising structures such as student councils. Such guidelines should be widely disseminated in schools and teacher-training curricula should include information about children's rights to participate and how to encourage this at school level.

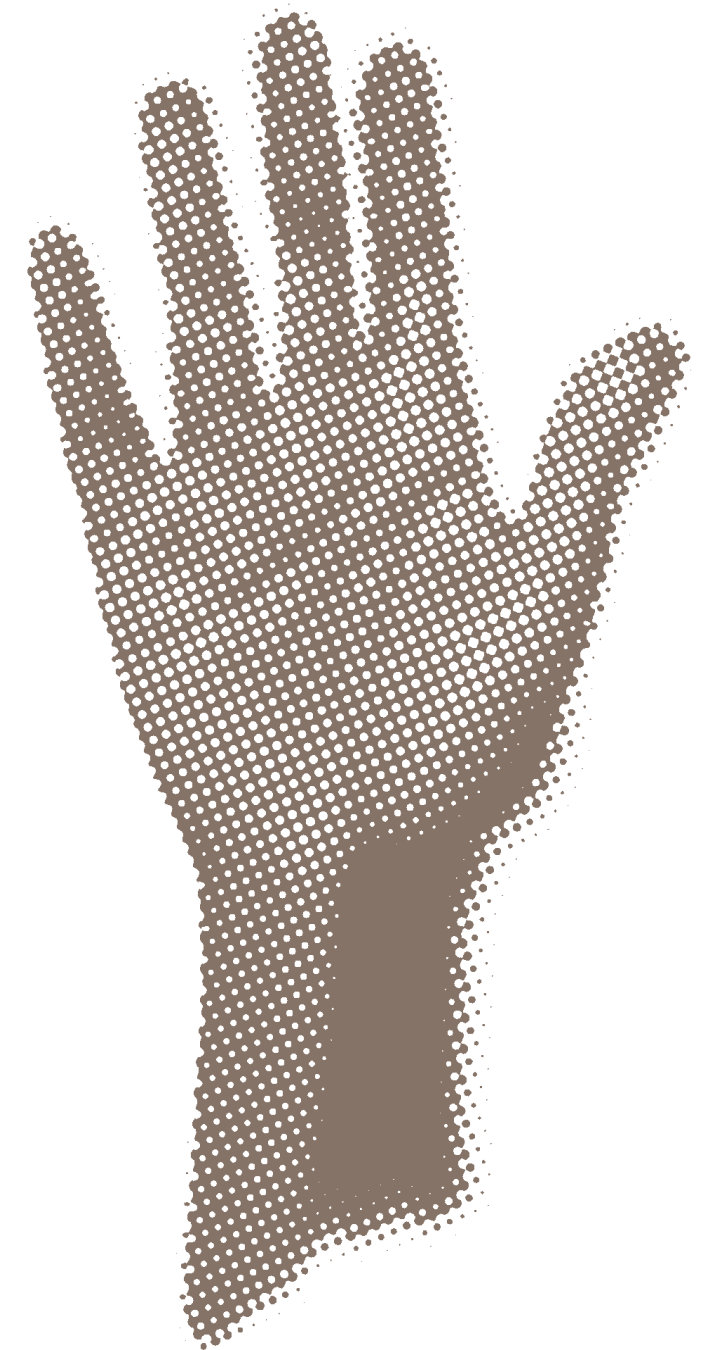
Promote multi-sectorial coordination

Collaboration between ministries of education, health, economic development and justice is imperative to ensure that necessary steps such as legislative and policy reform and commitment of resources promote the right to education. Governments should also continue to establish collaborative partnerships with development partners, civil society, and local communities in order to support the fulfilment of children's rights to free, quality education.

Institute independent mechanisms to address violations of children's rights

All States must make the right to education justiciable in their national legal system. Child-friendly mechanisms should exist at the local level to allow children and their families to lodge complaints regarding the fulfilment of their right to education. A national mechanism, such a children's rights ombudsman, could also be instrumental in promoting and protecting the right to education. Complaints should be independently investigated and the most serious cases should be judged by an independent court of law. Where possible, legal aid should also be provided. All six governments must

sign and ratify the Optional Protocol the Covenant on Economic, Social and Cultural Rights and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, which allow individual communications for alleged violations of any right these respective treaties, including alleged violations of the right to education.



Recommendations to civil society organisations

Monitor the right to education

Civil society organisations, Teachers' Unions and research institutes should engage in research on the implementation of the right to education using the PRS framework and indicators. Findings and data collected should be shared to carry out an evidence-based advocacy promoting the right to education. Monitoring should include a tracking of the use of resources for education. From the community to the national level, spending in education should be measured against existing legislation and international commitments.

Recommendations to international financial organisations and donor states

Support monitoring and make decisions based on evidence of the implementation of the right to education

International Financial Organisations and donors should support States and civil society organisations to gather evidence on the implementation of the right to education. This evidence should form the basis for the decision on international aid and assistance. In particular, international institutions such as the World Bank, the International Monetary Fund and the Global Partnership for Education should pay close attention to the implementation of the right to education by scrutinising data on right to education indicators when formulating projects and policies.

Allocate 0.7% of GNI to aid and increase allocations to basic education

Donor States that made a pledge to allocate 0.7% of their GNI to aid must meet this target and ensure that 20% of this amount is committed to education (of which 50% on basic education) in order to maximize funds available for meeting internationally agreed goals.



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 " EDUCATION
 " A RIGHT IN EVERY LANGUAGE Opron
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