



# Privatization of education and rights violations in Brazil: notes for the Committee on the Rights of the Child

*Document attached to the II Alternative Report on the Situation of the Rights of the Child in Brazil presented by the National Association of Centers for the Defense of Child Rights [Associação Nacional dos Centros de Defesa da Criança e do Adolescente – Anced] and partner organizations to support the review of Brazilian State by the UN Committee on the Rights of the Child*

Brazil, October 2014

# Privatization of education and rights violations in Brazil: notes for the Committee on the Rights of the Child

## 1. Introduction

1. This present document, produced by the Brazilian Campaign for the Right to Education (Brazilian Campaign) and the NGO Ação Educativa, aims to present a brief overview of the ongoing privatization processes in education in Brazil and its negative impacts on the achievement of the human right to education of children and adolescents, as a contribution to the II Alternative Report on the Situation of the Rights of the Child in Brazil organized by the National Association of Centers for the Defense of Child Rights (Associação Nacional dos Centros de Defesa da Criança e do Adolescente - Anced).
2. We intend to reinforce the need for the Brazilian State to act to limit the role of the private sector in education, from preschool to higher education, and that the State itself should commit to ensure the public provision of education, in order to fully accomplish all aspects of this right, understanding education as a public good and that privatization has threatened the accomplishment of the human right to education, as highlighted by the UN Special Rapporteur on the Right to Education in his periodic reports.<sup>1</sup>
3. To substantiate our concerns, we will briefly characterize the Brazilian educational system with regards to both the performance of the Brazilian State and the private sector in its varied aspects. Next, we will point out the main types of activity of the private sector in Brazil, from preschool to higher education, and its impact on education policy and the achievement of the human right to education, taking as reference the rights standards as established in General Comment No. 13 - Committee on Economic, Social and Cultural Rights (E/C.12/1999/10).<sup>2</sup> Finally, we will suggest questions and recommendations to the Brazilian State so that it can fulfil its role as guarantor of the human right to education.

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<sup>1</sup> Report of the Special Rapporteur on the right to education: Normative Action for Quality Education (A/HRC/20/21) <[http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-21\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-21_en.pdf)>. Report of the Special Rapporteur on the right to education (A/69/402) <<http://www.ohchr.org/en/newyork/Pages/HRreportstothe69thsessionGA.aspx>>.

<sup>2</sup> CESCR General Comment 13. The right to education (Twenty-first session, 1999), U.N. Doc. E/C.12/1999/10 (1999), reprinted in Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6 at 70 (2003) <<http://www1.umn.edu/humanrts/gencomm/econ.htm>>.

## 2. A brief characterization of the Brazilian educational system and the privatization of education

4. Basic education in Brazil is characterized by the following stages: nursery school (for children 0-3 years old), preschool (for children 4-5 or 6 years old), elementary school (first cycle for children from 6-7 to 10-11 years old, and the final cycle for 11-14 years old) and middle school (ages 15-17 years old), including modalities of education for youth and adults (Educação de Jovens e Adultos - EJA), technical education and special education. With the constitutional Amendment No. 59,<sup>3</sup> 2009, the age range of compulsory schooling, that was from 6-7 up to 14 years old (elementary school), was increased to 4 to 17 years old, equivalent to stages ranging from preschool education to middle school.
5. With the adoption of this Constitutional Amendment, it was expected that the State would increase its role in the delivery of education, especially in preschool (for children from 4 to 6 years old), where the total enrollment is low, and the public supply is limited. However, as can be noted in Table 1, not only has the total enrollment in primary education been declining in recent years in Brazil, there is also a decrease of State involvement in the provision and maintenance of education in the country.

**Table 1 - Participation of public and private sectors in basic education in Brazil, and total enrollments**

	2007	2009	2011	2013
<b>No. Public enrollments (%)</b>	46.643.406 (87,9%)	45.270.710 (86%)	43.053.942 (84,4%)	41.432.416 (82,8%)
<b>No. Private enrollments (%)</b>	6.385.522 (12,4%)	7.309.742 (13,9%)	7.918.677 (15,5%)	8.610.032 (17,2%)
<b>Total enrollments</b>	53.028.928	52.580.452	50.972.619	50.042.448

Source: Censo Escolar – MEC/Inep

[School Census – Brazilian Ministry of Education / National Institute of Researches]

6. According to the Ministry of Education, from 50,042,448 enrollments in basic education in the Brazil today, 41,394,172 (82.8%) are in public schools, provided directly by the State, while 8,610,032 (17.2%) are in private schools (School Census, 2013). In 2007, the same survey by the Ministry of Education pointed out that, from the 53,028,928 students enrolled in basic education, 46,643,406 (87.9%) were in public institutions and 6,385,522 (12.4%) in private institutions.
7. The reduction in total enrollment between 2007 and 2013 can be partly explained by improved completion rates of primary education and also by the change in the age profile of the population. However, it should be noted that Brazilian State has been unable to include in school historically excluded sectors, especially of the population aged from zero to 5 years old and those between 15-17 years old. While the attendance rate in 2013 in the range 6-14 years old (primary school) was 98.2%, only 21.2% of children between 0 and 3 were enrolled in nursery schools. In the age group of

<sup>3</sup> Article 208 of Brazilian Constitution, Section I: "The State's duty to education is fulfilled by ensuring free and compulsory basic education from four (4) to seventeen (17) years old, guarantying its free offer to all who did not have access to it in their appropriate age."

4-6 years old, which is now compulsory due to Constitutional Amendment No. 59, 78.2% were enrolled. Between 15 and 17 years old, the enrollment rate is 84.2%. However, the net attendance rate was only 54% because the rest of the population in this age group is still in primary school due to failing or for being out of school (School Census, 2013), portraying serious problems in policies on provision and the quality of education.

8. The reduction in the total number of enrollments in the period 2007-2013 occurred only in public education, which was reduced by 11.25% in total enrollments, while the private sector grew 34.8%. From 2010 to 2013, approximately 1.4 million students at basic education migrated from public to private school (School Census). This migration of students can be attributed, on the one hand, to an improvement in the average income of a portion of Brazilian population, but can also be seen as the result of social inequalities in Brazil and the poor image of public schools in the eyes of the population – fueled by the interpretation of standardized test scores as the sole measure of quality, for which the government is also responsible – in addition to the marketing campaigns created by private educational providers to differentiate their services.
9. In non mandatory early childhood education, from 0 to 3 years old (nurseries), Brazil increased total enrollments by 16.6% since 2007 (School Census). From the total enrollment in nurseries, 1.7 million places are provided by public schools (primarily municipal networks) and 999,000 by private institutions (School Census 2013), of which a great number have collaboration agreements with the government and often have challenges such as poor infrastructure and precarious working conditions of their employees, thereby undermining the human right to education. Despite the predominance of the public sector in the total provision of enrollments, there was an increase of 41.9% in the number of enrollments in the private sector in the period 2007-2013. Municipalities, under pressure to meet popular demands and with a low availability of resources, have appealed to public-private partnerships to increase attendance at this stage.

**Table 2 - Participation of the public and private sectors in the provision of early childhood education in Brazil, and total enrollment**

		2007	2009	2011	2013
<b>Early childhood education</b>	No. Public enrollments (%)	4.948.390 (76%)	4.988.516 (73,7%)	5.021.545 (71,9%)	5.374.108 (70,8%)
	No. Private enrollments (%)	1.561.478 (23,9%)	1.774.115 (26,2%)	1.958.507 (28%)	2.216.492 (29,2%)
	Total enrollments	6.509.868	6.762.631	6.980.052	7.590.600
<b>Nurseries</b>	No. Public enrollments (%)	1.050.295 (66,4%)	1.252.765 (66%)	1.470.507 (63,9%)	1.730.877 (63,3%)
	No. Private enrollments (%)	529.286 (33,5%)	643.598 (33,9%)	828.200 (36%)	999.242 (36,6%)
	Total enrollments	1.579.581	1.896.363	2.298.707	2.730.119

Source: Censo Escolar – MEC/Inep

[School Census – Brazilian Ministry of Education / National Institute of Researches]

10. Brazil does not have a historic tradition of inclusive education and this education has been characterized by special and non-inclusive education, with strong participation from the private sector, as can be seen in Table 3. In 2007, of the 654,606 enrollments of children and adolescents with disabilities, 348,470 (53.2%) were in special classes or special schools (non-inclusive education), while the remainder, only 306,136 (46.8%), were in regular classes (inclusive education).

**Table 3 - Enrollments in public and private sectors of especial and inclusive education**

Special and inclusive education	2007			2009			2011			2013		
	Total	Public sector	Private sector									
Special schools (non-inclusive education)	270.742	57.216 (21,1%)	213.526 (78,8%)	199.257	38.862 (19,5%)	160.395 (80,4%)	156.385	29.400 (18,7%)	126.985 (81,2%)	163.968	28.089 (17,1%)	135.879 (82,8%)
Special classes (non-inclusive education)	77.728	67.142 (86,3%)	10.586 (13,6%)	53.430	50.269 (94%)	3.161 (5,9%)	37.497	33.684 (89,8%)	3.813 (10,1%)	30.453	26.538 (87,1%)	3.915 (12,8%)
Regular inclusive education	306.136	285.923 (93,3%)	20.213 (6,6%)	387.031	365.796 (94,5%)	21.235 (5,4%)	558.423	525.812 (94,1%)	32.611 (5,8%)	648.921	609.839 (93,9%)	39.082 (6%)
<b>Total of enrollments</b>	<b>654.606</b>			<b>639.718</b>			<b>752.305</b>			<b>843.342</b>		
% Enrollments in public sector	62,68			71,11			78,28			78,79		
% Enrollments in private sector	37,32			28,89			21,72			21,21		

Source: Censo Escolar – MEC/Inep/Deed

[School Census – Brazilian Ministry of Education / National Institute of Researches / Department of Studies, Statistics and Planning]

11. Although building an inclusive education system in Brazil is guaranteed in the regime of the Brazilian Federal Constitution, through Legislative Decree No. 186/2008<sup>4</sup> and Decree No. 6,949/2009,<sup>5</sup> which ratified the International Convention on the Rights of Persons with Disabilities (UN/2006),<sup>6</sup> approximately 140,000 children and adolescents under 18 with disabilities were out of school in 2013, according to data from the School Census.

12. Despite advances in the provision of education for persons with disabilities, reaching a total number of 843,342 in 2013, mostly in regular inclusive education (76.9%), enrollments in special or exclusive education continues to be the norm in the private sector.

13. Between 2007 and 2013, the public sector has increased enrollments in regular inclusive education by 113% and decreased it in special or non-inclusive education by 56%. The private sector has also increased enrollment in regular inclusive education by 93%, however, the enrollments in non-inclusive classes or exclusive schools predominates the private sector, accounting for 78% of the enrollments of people with disabilities in 2013 which was 91% in 2007. This data shows not only the dominance of non-inclusive education in the private sector, but also its tendency to remain (Table 3).

14. Although the focus of this report is not higher education, a non compulsory stage, it is important to look at the evolution of private sector in total enrollments at this stage also because it is the one that

<sup>4</sup> Legislative Decree No. 186/2008 - document available at <<http://www.justicaeleitoral.jus.br/arquivos/tre-al-decreto-legislativo-186-2008>>.

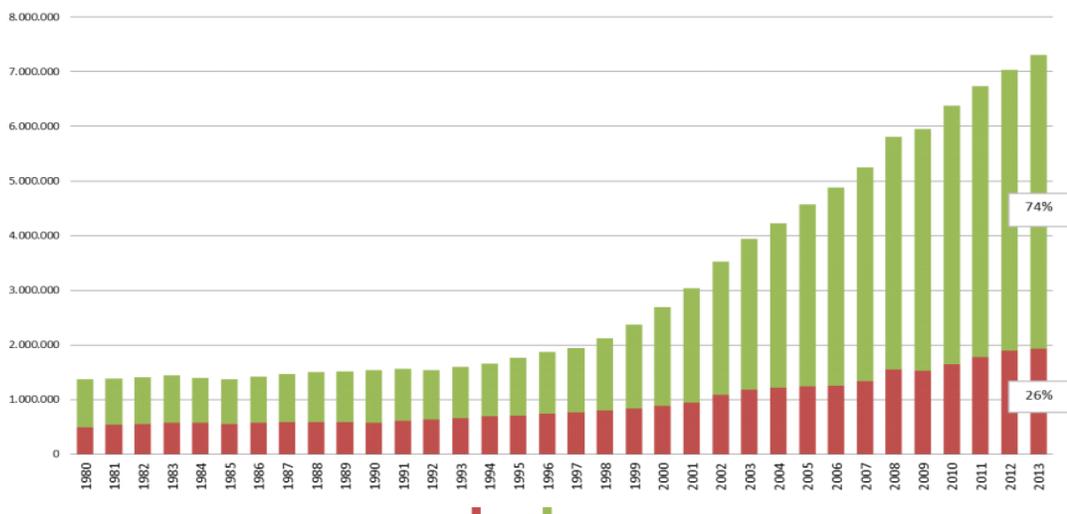
<sup>5</sup> Decree No. 6,949/2009 - Document available at <[http://www.planalto.gov.br/ccivil\\_03/\\_ato2007-2010/2009/decreto/d6949.htm](http://www.planalto.gov.br/ccivil_03/_ato2007-2010/2009/decreto/d6949.htm)>.

<sup>6</sup> International Convention on the Rights of Persons with Disabilities (UN/2006) - Document available at <<http://www.un.org/disabilities/default.asp?id=259>>.

trains the education professionals, particularly teachers, who will be the final agents responsible for realizing the right to education.

15. Even though there have been large increases in enrollments, reaching a total of 7,526,681 in 2013 (Higher Education Census, 2013), this occurred mainly in private higher education institutions, which today account for 74% of enrollments compared to 26% of enrollments in federal, state and municipal public institutions (Figure 1).
16. The data, , shows the growing commercialization of higher education in Brazil controlled by a small number of individuals, through the formation of educational funds on the Stock Exchange or private equity funds, which rely on input from large international companies (Pearson, for example). This process has been reducing the diversity of offer in higher education, eliminating traditional private institutions and undermining working conditions of teachers and students. Many institutions led by a market logic, reduce their investment in research and extension education, dismiss teachers with higher qualification and direct their provision to more profitable modalities, such as distance education.<sup>7</sup>
17. This directly affects the right to basic education, since according to the Higher Education Census of 2010, private teacher training colleges for this stage, account for 58% of the total enrollment of licentiate and pedagogy, largely in evening courses, and 51% of the vacancies offered are for distance learning in institutions that do not conduct research or extension education. Such conditions do not favor theoretical and practical training, teaching experience and broader cultural understanding, necessary in the delivery of a quality basic education.

**Figure 1 - Participation of the public and private sectors in educational provision of Higher Education 1980-2013**



Source: Censo do Ensino Superior – MEC/Inep

<sup>7</sup> It is noteworthy that from the nearly 24 million young Brazilian people aged between 18 and 24 years old, only 13% are enrolled in higher education institutions, ie the 7 million mentioned earlier in this note are people of various age groups, not just those of expected age range for that grade level.

18. The advancement of the private sector in virtually all stages and types of education in Brazil contributes to increased educational inequalities and the shrinking and weakening of the public sector, without guaranteeing the human right to education in all its aspects, as will be detailed further in this report. Besides these aspects of exogenous privatization, there is also a worrying

**Program University for All**

*ProUni was created in 2004 in order to create access for low-income students to university education. In practice, the program offers scholarships for undergraduate and progressive higher education training in private institutions. Students from public schools, disabled people and public school teachers of basic education with a per capita income of up to three minimum wages are eligible. Private institutions that adhere to the program are exempt from Corporate Income Tax (IRPJ), Social Contribution on Net Profits (CSLL), Contribution to Social Security Financing (COFINS) and the Social Integration Program (PIS).*

**Fund for Student Financing of Higher Education**

*The FIES is a program of the Ministry of Education, which was established in 1999. It is an accounting fund, operated by a public bank, which provides funding for students enrolled in private higher education. Students can finance up to 50% of costs, with a term of up to one and a half times the funding period to repay the debt.*

*Although the interest rate is lower than the market, the FIES has been responsible for the debt of many students trained in these institutions, who often cannot find jobs after graduation due to the low quality of the courses offered. According to the 2008 Court of Audit report, the default rate in 2006 was R \$ 498.5 million.*

growth in processes of endogenous privatization through the sale of private systems of standardized teaching and packages for planning and management to public schools, especially to municipalities. This trend is also detailed below.

### 3. The National Education Plan 2014-2024 and the dispute over resources between public and private

19. The National Education Plan (NEP), approved by Congress in June this year - Federal Law 13,005 / 2014 (Law on National Education Plan 2014-2024),<sup>8</sup> represents an important achievement of Brazilian society which has dedicated itself to its preparation since 2010 and represents an important planning tool for the medium and long term. Although its discussion started in a

participatory manner through a comprehensive process of conferences, the dispute with representatives of private interest, particularly in Congress, opened loopholes for the state to exempt itself from meeting many of the goals set out in the Plan.

20. One of the main points defended by civil society was the progressive enlargement of the amount invested in education, to ensure a minimum level of investment per student per year to ensure the provision of basic education with minimum quality parameters. The mechanisms to ensure these

<sup>8</sup> The National Education Plan is a legally binding document with guidelines and goals for public education policies for the period 2014 to 2024. The original proposals came out of the discussions at the National Conference on Education (CONAE), in 2010, intending to be a mechanism for planning a state policy that overcomes the fragmentation of successive governments. On December 15, 2010, the Bill of the National Education Plan was sent to Congress by the federal government, which has undergone several changes to its approval in June 2014. Available in Portuguese at <[http://www.planalto.gov.br/ccivil\\_03/\\_Ato2011-2014/2014/Lei/L13005.htm](http://www.planalto.gov.br/ccivil_03/_Ato2011-2014/2014/Lei/L13005.htm)>

enhancements are planned under Goal 20 of the Plan,<sup>9</sup> which states that the country should reach an investment equivalent to 10% of GDP in education by 2024, and also provides a strategy to implement the initial Student Cost-Quality (CAQi) and subsequently the cost-Student Quality (CAQ). Both are calculated based on the set of minimum standards in education law, as indicators of qualifying expenses and remuneration of teaching staff and other professionals in public education, acquisition, maintenance, construction and maintenance of facilities and equipment, educational materials, food and school transport.<sup>10</sup>

21. Although this means more resources for education, it does not guarantee that these funds are used to strengthen the public sector. Paragraph 4 of Article 5 of the Law lists all public investments necessary to achieve Goal 20, and includes a calculation of funds to be transferred to the private sector through the expansion of professional and higher education programs, including in the form of incentives and tax exemption, scholarships granted in Brazil and abroad, grants for student loan programs, and funding for nurseries, preschools and special education through public-private partnerships [conveniamentos].
22. In the case of higher education, it incorporates the costs of three government programs, the University for All Program (ProUni), the Fund for Student Financing of Higher Education (Fies) and the Science without Borders Program, for studying abroad. In the case ProUni, alone, according to the Annual Report for the Provision of Common Accounts Department of Higher Education of 2012<sup>11</sup> indicates that the exemption resulting from the program, according to the Internal Revenue Service of Brazil, was approximately R \$ 167.9 million in 2005; R \$ 215.8 million in 2006; R \$ 348.7 million in 2007; R \$ 434.7 million in 2008 and R \$ 530.6 million in 2009, 578.1 million in 2010. The estimated values for 2011 and for 2012 are R \$ 633.3 million and R \$ 680.4 million, respectively. The same report notes that since the Fies was redesigned in 2010, approximately R \$ 10 billion worth of budgetary resources were invested.
23. Not only were these considerable resources invested in private institutions, but also compete with public investment in the basic education by forming part of the total investment in education to make up the equivalent of 10% of GDP.

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<sup>9</sup> Goal 20: to expand public investment in public education to achieve at least a level of 7% (seven percent) of Gross Domestic Product - GDP of the country in the 5th (fifth) year of the term hereof and at least the equivalent of 10% (ten percent) of GDP at the end of the decade.

<sup>10</sup> The National Education Plan provides that the Legislature shall have a period of two years duration to implement CAQi and this will be progressively adjusted until the full implementation of the CAQ. It is estimated that, with this change, the transfer of resources from the federal government to states and municipalities spending from R\$ 9 billion to R\$ 46.4 billion.

<sup>11</sup> The Annual Report for the Provision of Common Accounts Department of Higher Education of 2012 is available at [http://portal.mec.gov.br/index.php?option=com\\_content&view=article&id=14946&Itemid=1166](http://portal.mec.gov.br/index.php?option=com_content&view=article&id=14946&Itemid=1166).

#### 4. Public-private partnerships [conveniamiento] in Early Childhood Education and Special Education

24. The inclusion of the amounts invested in these two higher education programs through partnerships with private institutions can also compromise resources to other goals of the plan, such as Goal 1,<sup>12</sup> to universalize, until 2016, early childhood education in preschool for children between 4 and 5 years old and expand the provision of places in nurseries to attend at least 50% of children up to 3 years by 2024. The National Education Plan opened space for this goal to be reached by transfers to the private sector by providing a “guaranteeing free enrollment in nurseries certified as social assistance entities in the area of education”. Considering the large coverage gap at this stage, the strong private presence and the lower amounts invested per student in nurseries, the text reinforces opens the space for the private sector to fill this gap.
25. The combined effect of competition for resources and the pressure for municipalities to meet the growing demand children, which in many cases exceeds the minimum target of 50%, has strengthened the “conveniamiento”, including to religious institutions. This presents a significant risk to the exercise of freedom of opinion, belief and worship in education, since in many situations the only practical alternative made available by the State to assist children up to 3 years old is the enrollment in religious institutions “conveniadas”.
26. Another Goal of the National Education Plan (Goal 4) violates the right to inclusion of children and adolescents in mainstream schooling. It states that the provision of basic universal education for 4 to 17 year olds with disabilities, pervasive developmental disorders or those that are ‘gifted’ or have special abilities, should “preferably” receive specialized educational services in the mainstream school system. Despite advances in ensuring the right to inclusive education with specialized care, the text of the Goal also states that this can be provided by either “specialized public services or through partnerships with the private sector”, opening the space for private special education institutions and religious or nonprofit organizations.
27. As already shown in the first part of this report, with regards to the enrollment of children and adolescents with disabilities, there is a strong tendency in the private sector to assist in the form of on inclusive or special education. This fact undermines the right to inclusive education by maintaining, with public funding, a portion of children and adolescents denied the right to inclusion. This also exempts the state from investing in inclusive education, with specialist support, multifunctional rooms, technical teams and management, creating a competition for resources within the investment goals of the NEP.
28. It is necessary to emphasize here the importance of inclusive education in achieving human right to education for children and adolescents with and without disabilities, since it is the first step towards building an inclusive society, which does not discriminate against people with disabilities or special needs.

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<sup>12</sup> Goal 1 of the National Education Plan (Law 13,005 / 2014), “Goal 1: to universalize, until 2016, early childhood education in preschool for children between four (4) and five (5) years old and expand the offer of early childhood education in kindergartens to meet at least 50% (fifty percent) of children up to three (3) years old until the end of the term of this NEP.”

## 5. Handout systems and management packages

29. It was hoped that the growing involvement of the State in providing compulsory education would reduce the scope for the market in education, however, entrepreneurial and economic conglomerates have sought other ways to profit from education apart from the direct offer of schools (enrollment in private schools), replacing the paradigm of human right to education with the logic of the market, based on cost-benefit and vision of students as commodities.
30. The sale of standardized private school systems to public networks, mainly the municipal ones, is becoming an important aspect of privatization in Brazil, with the development of a competitive market of such services to the Municipalities. Packages sold by companies or private consultancies to Municipalities vary in scope: teaching materials to be used by teachers and students; teacher training to use the materials; creation and implementation of mechanisms for assessing the learning that considers this logic; management of schools and all public education tools. It is another form of competition for resources to guarantee the human right to education. In the state of São Paulo, which has 645 municipalities, 154 municipalities had adopted private education systems by 2007. In 2011, this number reached more than half of the municipalities, only in the state of São Paulo 323 municipalities had adopted private education systems.
31. The abrupt and poorly planned municipalization of basic education in the last two decades, especially in early childhood and primary education, was not accompanied by comparable financial and technical support, led to the precariousness of many local governments, generating a promising market for private consultancies in the teaching and management fields, in addition to the standardization of education. The weakness of the educational efforts also gives rise to forms of “endogenous” privatization, such as public-private partnerships that lead to the proliferation of market logic in public education and the incidence of corporate actors in the management of educational policy at the expense of democratic participation mechanisms.
32. There are also business conglomerates in this field that work through investment funds to compete in the market<sup>13</sup> and profit from resources allocated to promote the human right to education, since they double the spending on teaching materials, as shown below.
33. Today, the federal government provides, free textbooks and teaching materials to local municipal education networks for elementary and high school education in the regular modalities and in youth and adult education through the national program of textbook (PNLD). In 2014 alone, the federal government spent more than R\$ 1.1 billion (FNDE / MEC) to purchase textbooks to be distributed to municipalities, who don't take advantage of this because they have already purchased materials from the private sector. This demonstrates a duplication of costs for the same item (textbooks) without an associated diversification of pedagogical materials, since the books of the PNLD will be sent to schools, but will not be used as classroom materials.
34. The ‘handouts education systems’ are a methodology focused on educational material, usually called “apostila” (a cheaper version of a textbook), whose content is a compilation of the most important

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<sup>13</sup> Standardized private education systems sold to public networks are characterized by providing handouts to be used as teaching material in the classroom, as well as a set of services that may involve technical and administrative management of teachers and the teaching staff of the school and / or of the public schools networks, consultancies and learning assessment.

information about each discipline, exercises, pictures, diagrams, etc. On one hand, it provides a more organized instruction, on the other negatively impacts pedagogy and teaching practice and highlights one more effect of “endogenous” privatization. According to experts, one of the possible consequences of this methodology is the fragmentation of knowledge, incapacitating the individual to understand it as a whole, as well as its causes, processes, consequences and contexts.

35. Other issues of concern are those related to diversity and to the guarantee of non-discrimination. While the materials produced by the PNLD undergo a wide evaluation by technical staff of public higher education institutions, to ensure the quality of content and that the books contain no conceptual errors, are not outdated or denote prejudice or discrimination of any kind, the handouts systems are usually purchased and distributed in a less controlled manner and with little transparency.
36. As private companies are usually contracted under by unilateral decision of the mayors, without consulting the school community or even the bodies of educational administration, this decision can be linked to the processes of private funding for political campaigns. Public transparency is extremely fragile, both in electoral funding and decision-making processes that lead to the adoption of private education systems.

## 6. How privatization violates the human right to education in Brazil

### ***6.1. Violations against the availability and accessibility of education***

37. In compulsory education, usually private schools can be understood as tool of the structural discrimination in the accomplishment of the right to education, once the high tuition fees act as a powerful mechanism of social selectivity, which strengthens and reproduces deep social, economic, ethnic-racial inequalities in Brazil. In practical terms, attendance at private schools is the main requirement to access jobs and social positions.
38. The increasing use of public funds to purchase private standardized systems, the possibility of profit on the sale of such services and the expansion of transfers of public funds to the private sector, profit and nonprofit, reduces the State's ability to provide new vacancies in the public system due to the reduction of public resources available to create opportunities, especially in non-mandatory stages and in those where coverage is low, leading to the poor, the children and adolescents from the field, quilombolas (people who descend from fugitive African slaves and live in traditional communities) and indigenous people, youth and adults with low education and children and adolescents with disabilities or special needs who cannot pay private institutions.
39. Furthermore, the standardized private school systems normally do not provide additional technical and educational assistance to schools and to the poorest families; recent researches show that, in the case of the pedagogical support to the schools staff, when it is done, It shows poor quality and even disagreement with Brazilian laws and educational parameters.
40. As they do not go through a process of quality control by government agencies as occurs to public books in general, private education systems have no a specific education proposal to groups historically discriminated – people with disability, special educational needs, ethnic or linguistic

diversity and populations with different cultural traditions – violating, in this sense, the right to non-discrimination.

41. Tax exemptions (indirect financing) and the direct transfer of resources to the private sector, including the possibility of accounting these expenditures in order to calculate the amount invested in GDP, encourages privatization, weakens the state's ability to implement directly the education tends to decrease the infrastructure, technical staff and management of the State to provide quality public education.
42. Likewise, in the field of education for children and adolescents with disabilities, the assistance through public-private partnerships aimed to encourage expansion through exclusive education, contradicting the right to association, participation and inclusion of this population.

### ***6.2. Violations against Acceptability of Education***

43. Especially in compulsory education, the increase of the private sector in provisioning basic education is due to the spread of a negative understanding of public education, fostered indirectly by the Brazilian State by disseminating the results of standardized tests, understood in national public policy as the sole criterion of quality, which is disseminated decontextualized in relation to the socioeconomic profile of the students and the cultural, ethnic and racial diversity of populations.
44. The idea of quality conveyed in the adoption of standardized systems is self-referred and supported by advertising strategies, usually based on brand advertising in some elite private school belonging to the company and promising to promote the improvement of the performance of the Municipality with regards to standardized tests of scale applied by state to the students.
45. As there is usually no consultation with school communities (school boards, municipal boards of education or other organs) before the adoption of standardized private educational systems, which are commonly unilaterally imposed to schools, there is also scarce feedback from schools and education managers regarding adoption of private systems, the freedom of professional teachers to teach is violated.
46. The commodification and oligopolization in the provision of higher education have been impacting severely the policy for training teachers for basic public education, as an increasing number of new graduates in low-cost and low-quality academic institutions are financially encouraged by the state.

### ***6.3. Violations against Adaptability of Education***

47. Schools and private universities receive little State regulation, which hinders the assessment regarding compliance with the guidelines and standards for education on human rights and education for race relations.
48. In early childhood education and special education, privatization of supplies, encouraged by the transfer of public funds from the State, presents risks to freedom of thought, belief and worship in education, since in many practical situations the only alternative made available by the State to the assistance is the enrollment in religious institutions.

49. The adoption of standardized private school systems dramatically reduces the space for curriculum adaptation and pedagogical autonomy of schools and teachers, since all classes, activities and contents are standardized.
50. Standardized private systems, thus, tend to subordinate schools, teachers and students to the standardization and weakening of their capacity as active and creative players of the process of enjoyment the right to education. In this sense, it opposes to democratic management of education.
51. For historically marginalized groups, the lack of regulation of private standardized systems adopted in public schools means that there is no guarantee that children with disabilities or special needs and from rural areas, indigenous and quilombolas communities and other traditional peoples have respected their rights to adapted education, nor they can choose to adopt (or not) standardized private education systems.

## 7. Recommendations and suggestions of questions to be asked to the Brazilian State

52. Given all the scenario, we conclude that the expansion of private sector in providing basic education, be it in nurseries stage or early childhood education, whether in terms of special and inclusive education as well on the adoption of standardized education systems, directly interferes in the organization of the State and in its ability to increase enrollment and quality in school work, concretely manifesting as pedagogical practices of low quality, contradicting the accomplishment of the right to education in its broadest sense, as stated in international parameters of protection, under Brazilian law and advocated by Ação Educativa and the Brazilian Campaign for the Right to Education.
53. To contribute to the evaluation of the Child Rights Committee on the commitment of the Brazilian State with the goals set by the United Nations Convention on the Rights of the Child and its protocols, particularly the human right to education, we suggest to be inquired to Brazilian State:
  - i. How will the Brazilian State ensure meeting the demand of children between 0 and 3 years old in nurseries and the universalization of assistance to those between 4 and 6-7 years old within 10 years, ensuring the quality of assistance, as set by National Guidelines for Early Childhood Education?
  - ii. How does the Brazilian government intend to carry out the goal of investment in education in relation to GDP? By expanding transfers of funds to the private sector or strengthening public finance for the maintenance of public basic education?
  - iii. How does the State intend to limit the abrupt expansion of private sector involvement in basic and higher education?
  - iv. In addition to the financing and maintenance policies (objective reasons), is there any policy of social valuation of public school (subjective reasons), which encourages the choice of families with better economic conditions to enroll and keep their children in public primary education system?

- v. Is there a State's commitment to review the current policy of disseminating the results of schools on standardized tests of learning, which have been stigmatizing social vision of the public school by extracting the socioeconomic, cultural and ethnic-racial context in which such results are produced?
- vi. How will you promote, in the private sector, the warranty to the right to inclusive education and non-discrimination for children with disabilities at the expense of special and exclusive education?
- vii. How many municipalities in the country adopt standardized private school systems contracted from profitable or unprofitable private companies?
- viii. How does the State intend to act to limit the standardization of education while adopting handouts private systems and ensure the right to participation and adaptation in education to the demands of different contexts and populations?
- ix. How does the Brazilian State act to oversee private higher education institutions, to ensure that they adopt the standards and guidelines for education on human rights and combating racism, and in the case of universities and private colleges, ensuring the quality of its ongoing teachers training, especially in the distance education modality?
- x. How the Brazilian State intend to monitor conditions to accomplish the right to education in private basic schools, "conveniadas" or not, such as respect for diversity, quality of infrastructure, teaching materials and valuation of its faculty?

54. It is still suggested the following recommendations to the Brazilian State:

- i. That the State adopt normative parameters to ban or drastically limit private profit in education, especially in basic public education.
- ii. That Governments strengthen the capacity of democratic management of schools and public school systems, such as the relative autonomy of schools and teachers, including by the transference of resources to the development of specific projects and projects adapted to their reality, as well as continued teacher and principals training . The State must also strengthen the participation of the school community, providing actual conditions for the participation of family members and other stakeholders in the development and monitoring of the political-pedagogical project of schools.
- iii. That the State strengthen its capacity to monitor and enforce basic standards of quality private institutions of basic and higher education, requiring the adaptation of curricula to adequately address the human rights education and education for ethnic-racial relations;
- iv. That the State assume the obligation to train basic education teachers , prioritizing the supply of places in public institutions of excellence and setting high quality standards and strict control over teacher training courses offered by the private sector [in this sense, we reaffirm the importance of the specific recommendation (88, 'd') already mentioned in the

Report of Normative Action for Quality Education (A/HRC/20/21, see footnote 4) about the centrality of teacher education for the enjoyment of the human right to education].

- v. That Governments assume the obligation to support and stimulate the production of open educational resources for professionals in public education, as part of a policy of valuation of teacher work and structuring teaching careers, as an alternative to the processes of standardization, privatization and decontextualization in production of teaching materials.
- vi. That Governments and multilateral organizations review their legal frameworks and evaluation policies by considering the effect of adopting what the Special Rapporteur on the Right to Education called “holistic conceptual framework of quality education”, which includes a minimum level of student acquisition of knowledge, values, skills and competencies; adequate school infrastructure, facilities and environment; a well-qualified teaching force; a school that is open to the participation of all, particularly students, their parents and the community, ensuring adequate funding to public schools so that they can implement this enhanced quality perspective and that the evaluation policies contemplate participatory processes of self-evaluation of school communities. This involves changing the policy of disseminating the results of standardized tests of learning, contextualizing them in relation to the socioeconomic profile of students, the ethnic and racial identities, the operating conditions of the schools and the degree of enhancement of professional education.
- vii. That the Brazilian State progressively reduces the participation of the private sector through “conveniamentos” to assist children in kindergarten to redirect these resources to provide direct assistance, ensuring a minimum quality standard as set out in the National Guidelines for Early Childhood Education.
- viii. That the Brazilian State progressively reduce the participation of the private sector through “conveniamentos” to assist children in special and inclusive education, to redirect these resources to direct service in the form of inclusive education with the provision of necessary multifunctional and specialized professionals, ensuring a minimum quality standard as set out in the National Guidelines for Special Education in Basic Education resources.
- ix. That the State review its policy, including fiscal and tax incentives for enrollment in private education, by developing social valuation policies that encourage public schools as an option for families with better economic conditions to enroll and keep their children in public school of basic education.