

GUIDE  
TO:

# HUMAN RIGHTS GUIDING PRINCIPLES ON STATE OBLIGATIONS REGARDING PRIVATE SCHOOLS



## WHY A SET OF HUMAN RIGHTS GUIDING PRINCIPLES ON STATE OBLIGATIONS REGARDING PRIVATE SCHOOLS?

**T**he last two decades have seen a significant increase in the scale and scope of non-state actors in education, particularly in developing countries. This expansion includes the rapid growth of low-cost private schools targeting poor households, large-scale commercial investments in private school chains, private tutoring, public-private partnerships, donor support for private education expansion, the adoption of private sector management techniques in the public education sector, and the growth of community and faith-based schools.

The potential benefits or negative impacts of the growth of private schools on inequalities and social justice are highly debated. Different stakeholders may have different views about which practices are acceptable and unacceptable in a particular context. What is currently missing from this debate is a broadly accepted normative framework against which to assess the implications of the growing involvement of private-sector actors in education.

The Human Rights Guiding Principles on State obligations regarding private schools (“Guiding Principles”) intend to address this gap. They will provide a universally accepted and legally binding normative framework that will help reflect on the role and limitations of private schools with a view to guaranteeing

human dignity. The proposed framework is anchored in the understanding that private schools should:

- **Not be a source of segregation, discrimination and inequalities;**
- **Provide an alternative to and not affect access to free, quality, publicly-supported education;**
- **Preserve the humanistic nature of education;**
- **Conform to minimum education standards established and adequately enforced by the State;**
- **Be regulated by norms that are developed following due process, including participation of all education stakeholders.**

The Guiding Principles on state obligations regarding private schools will be a set of global guidelines that are intended to be operational in and adaptable to different contexts. The Guiding Principles will unpack, clarify and compile existing human rights law as it relates to private actors in education. As such, they will reflect already legally binding law, rather than creating new standards, and will therefore be directly applicable to hold States accountable for their obligations to fulfil and protect the right to education. They intend to promote education systems governed by the rule of law, accountability, transparency and participation.

## WHO IS DEVELOPING THEM?

The development of the Guiding Principles is coordinated by a secretariat that synthesizes inputs and feedback from various consultations. The Secretariat supports an independent Expert Group, made up of education and law experts acting in their personal capacity, who will discuss, input into, and validate successive drafts of the Guiding Principles. The Secretariat also supports a Steering Committee, made up of individuals representing civil society organisations, which will guide and take decisions regarding the process for the development of the Guiding Principles.

## WHAT IS THEIR PURPOSE?

The purpose of the Guiding Principles and the process to develop them is to:

- 01 Provide guidance to States, inter-governmental organisations and other education stakeholders on policies related private education, including donor States funding education in a third countries**
- 02 Stimulate an informed debate on the role and impact of private schools**
- 03 Consolidate the existing normative framework to support the assessment the involvement of private schools in education from a social justice and rights perspective by researchers and other stakeholders**
- 04 Support civil society organisations to make informed and constructive analysis the involvement of private schools in education and empower them to take action when relevant**
- 05 Inform the reflection of private actors that have set up or are considering setting up private schools**



## HOW MIGHT THEY BE USED AND WHO WILL USE THEM?

*The Guiding Principles are intended to be used at the local, national regional and international level and as a basis for constructive discussion, advocacy, law and policy development, and litigation. They may be used in courts as a legal tool and act as a powerful advocacy tool for a broad range of stakeholders. They are intended to be used by civil society, States and private actors in education, among other actors.*

## INFORMATION AND UPDATES

The Guiding Principles process is coordinated by the [Global Initiative for Economic, Social and Cultural Rights \(GI-ESCR\)](#), the [Right to Education Project \(RTE\)](#), and the [Open Society Foundation Education Support Program](#). For more information and regular updates visit: <http://bit.ly/GPprivatisation>

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## WHAT IS THE PROCESS FOR DEVELOPING THE GUIDING PRINCIPLES?

The principles are being developed through an open, transparent and broadly consultative process in order to include a variety of perspectives and to reflect different contextual realities. Over the course of 2016 and 2017, a series of regional, national and thematic consultations will be convened around the world. An online consultation open to all will also be organised. Previous consultations have taken place in [Bangkok](#) for the Asia-Pacific region and [Nairobi](#) for East Africa. Further consultations are planned for North America and Europe, Latin America, Southern Africa and West Africa in 2017. At the end of the drafting period, the Guiding Principles will be adopted at an expert meeting and endorsed by various stakeholders. It is envisaged that the Guiding Principles will be finalised and launched in the first half of 2018.

## WHO CAN JOIN THE CONSULTATIONS?

The consultations are open to a range of stakeholders including civil society, ministry of education representatives, experts in the fields of education and law, academics, inter-governmental organisations and other actors. Key constituencies groups in education, including teachers, parents and students are especially encouraged to input into the development of the principles. Participation in the consultations does not mean endorsement. All stakeholders will also have a chance to input during the online consultation.