



OIDEL



Interventions
Conseil des droits de l'homme
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LE DROIT A L'EDUCATION DES ENFANTS EN SITUATION DE RUE

Il est reconnu que le nombre d'enfants en situation de rue s'élève à plusieurs dizaines de millions à travers le monde, 120 millions étant le chiffre le plus communément cité (Rapport Unicef, 2008). Ce groupe particulièrement vulnérable représente donc une part importante de la population enfantine du monde, et continue aujourd'hui de faire face à de nombreuses violations de ses droits les plus fondamentaux. Parmi ceux-ci le droit à l'éducation reste celui qui leur est dénié de manière presque systématique, sans que ne soit observée de réelle prise de conscience en la matière, ni de volonté d'intervention efficace des autorités publiques.

Obstacles à la jouissance du droit à l'éducation

Qu'il s'agisse d'enfants travaillant dans la rue, d'enfants vivant dans la rue, seuls en famille ou en communautés, et/ou d'enfants effectuant des séjours plus ou moins temporaires et/ou réguliers dans la rue, tous y peuvent faire l'objet de brimades, de mesures discriminatoires, de sanctions abusives, voire de maltraitements avérés.

De telles pratiques ont un effet évidemment néfaste sur la jouissance du droit à l'éducation de ces enfants aussi bien en termes d'accessibilité, d'adaptabilité que de qualité. En termes d'accessibilité, les problèmes rencontrés peuvent être des frais de scolarité élevés, des écoles situées loin des quartiers où ces enfants « habitent », des procédures d'inscription non communiquées ou expliquées aux familles vivant dans la rue...

En termes d'adaptabilité, l'on peut citer l'absence de préparation et de formation adéquate des enseignants, l'application de sanctions abusives aux enfants pour des manquements imputables à leur mode de vie (retards, absences...), des méthodes d'enseignement ne prenant pas en compte l'expérience et les connaissances particulières de ces enfants...

En termes de qualité, on déplore la négligence, voire la discrimination dont ces enfants font l'objet dans les établissements, l'instauration d'un climat de suspicion à leur égard au sein des classes...

De telles situations vont clairement à l'encontre des dispositions du Pacte international relatif aux droits économiques, sociaux et culturels, et particulièrement de son article 13 qui stipule que l'un des objectifs de l'éducation est de « *mettre toute personne en mesure de jouer un rôle utile dans une société libre, favoriser la compréhension, la tolérance et l'amitié ...* »

De plus, les abus dont sont souvent victimes les enfants en situation de rue au sein des établissements scolaires ne font presque jamais l'objet d'investigation ni de mesures de réparations adéquates. Ils font face à l'indifférence voire l'hostilité des pouvoirs publics qui laissent s'installer ainsi un climat d'impunité, encourageant à davantage de violations. Dans la majeure partie des cas, cela conduit l'enfant à une situation d'échec, voire d'abandon scolaire, sans que rien ne soit entrepris pour corriger la situation, ce qui est contraire aux dispositions de l'article 28 de la Convention relative aux droits de l'enfant (CDE) qui veut que

tous les Etats parties « *prennent des mesures pour encourager la régularité de la fréquentation scolaire et la réduction des taux d'abandon scolaire* ». Selon le principe d'égalité et de non-discrimination, les enfants en situation de rue sont évidemment concernés par cette disposition.

Reconnaissance des compétences des enfants en situation de rue

Souvent atteints dans leur droit à l'éducation, les enfants en situation de rue n'en sont que plus vulnérables aux violations de tous leurs autres droits, et privés de moyens d'échapper un jour à leur condition. Sans qualification, ils auront par exemple beaucoup moins de chances de s'insérer professionnellement, se trouvant obligés de recourir à des activités d'appoint, génératrices de peu de revenus, les enfermant dans une spirale de pauvreté et/ou d'illégalité. Or les articles 32 et 33 de la CDE contraignent explicitement les Etats à mettre tout en œuvre pour protéger les enfants de telles situations.

Cependant, il serait erroné de penser que, parce qu'ils ne sont en possession d'aucun diplôme ou échouent à l'école, voire même sont écartés des évaluations officielles, les enfants en situation de rue ne disposent d'aucune compétence. Bien au contraire, ils ont souvent acquis tout au long de leur parcours de solides aptitudes, héritées de la nécessité de survivre coûte que coûte dans un milieu hostile. Ils font ainsi preuve d'une forte résilience, et de rapides capacités d'apprentissage dans de nombreux domaines allant des travaux manuels aux arts en passant par les activités physiques ou la gestion de petits commerces.

Comme la Déclaration mondiale sur l'éducation pour tous de Jomtien (1990) nous y invitait il y a vingt ans déjà, il faut « *élargir notre vision* » de l'éducation, et « *mettre l'accent sur la réussite de l'apprentissage* » qui désigne « *l'acquisition des connaissances, de la capacité de raisonnement, des savoir-faire et des valeurs utiles* », et suppose « *la participation [de] ceux qui apprennent [afin] de réaliser pleinement leurs potentialités.* »

Il serait donc souhaitable que les compétences des enfants en situation de rue soient véritablement prises en compte, officiellement reconnues, et efficacement développées. Il est en effet à déplorer que de nombreux systèmes d'éducation réduisent leur action au domaine de l'éducation formelle, limitée dans l'espace et le temps, accordant encore très peu de valeur à la notion d'apprentissage, qui lui, s'effectue tout au long de la vie et en tous lieux.

Qui plus est, bien souvent, les systèmes d'éducation formelle ne font que reproduire les inégalités en imposant des standards de connaissances, et des grilles d'évaluation, selon lesquelles, à cause de leur condition particulière, les enfants en situation de rue ne peuvent qu'être considérés comme marginaux et incompetents. L'éducation se soustrait ainsi à son rôle de ciment et d'ascenseur social, favorisant au contraire davantage l'exclusion et les inégalités.

Recommandations

Les ONG signataires estiment qu'il faudrait avant tout que s'opère une véritable révolution conceptuelle dans la manière de considérer les enfants en situation de rue, et dans celle de concevoir leur éducation et ses objectifs. Ces enfants ne vivent dans la rue qu'une étape de leur existence, à laquelle ils ne doivent en

aucun cas être assimilés. Nous insistons sur le fait qu'il s'agit d'une situation, non d'une identité, et qu'elle concerne des enfants avant tout, et non des « délinquants » ou des « mendiants ». De ce fait, il est de la responsabilité de tous de se mobiliser et de collaborer pour que ces enfants retrouvent au plus vite la jouissance de leurs droits et leur dignité.

En particulier, nous appelons les Etats et la communauté internationale à leurs responsabilités en la matière, les invitant à investir davantage et de manière plus ciblée dans la lutte contre l'exclusion sociale et les inégalités, l'éducation aux droits de l'Homme et à la citoyenneté.

L'éducation quant à elle, se doit d'être universelle, obligatoire, gratuite et inclusive, et ne doit pas être limitée au seul secteur de l'éducation formelle ni se contenter de délivrer des corpus de connaissances, sans tenir compte des personnes à qui elle est dispensée. Conformément aux dispositions de l'article 29 de la CDE, elle doit donner à tous les enfants, sans distinction, les moyens de s'épanouir dans leur société, d'y devenir des acteurs et des interlocuteurs, en développant autant que possible leurs propres ressources et capacités. Il est ainsi de la responsabilité première des Etats de faire en sorte que tout le personnel des systèmes d'éducation (enseignants, éducateurs, travailleurs sociaux...) soit véritablement sensibilisé à la question des enfants en situation de rue, et adéquatement formé à accueillir ces enfants ainsi qu'être à l'écoute de leurs besoins spécifiques. Il s'avère également nécessaire de renforcer la collaboration de ces personnes avec les communautés d'origine de ces enfants.

De ce fait, il nous paraît important qu'une analyse scientifique des pratiques significatives et de la méthodologie s'y rapportant soit entamée pour réfléchir à l'adaptation du système éducatif aux besoins des enfants en situation de rue.

Considérant aussi que les enfants en situation de rue sont généralement issus de familles très pauvres et/ou représentant des minorités ethniques, religieuses ou sociales, nous appelons les Etats à établir ou renforcer des programmes qui soutiennent, accompagnent et forment les parents dans leur rôle d'éducateurs. Nous demandons également aux pouvoirs publics de développer des programmes ciblés autant pour les familles particulièrement à risque que pour les enfants sans accompagnement parental selon une approche psycho-sociale afin de créer un environnement familial propice au développement harmonieux de l'enfant et éviter ainsi son passage dans la rue.

Nous appelons par ailleurs les Etats à prendre des mesures concrètes et durables pour renforcer les capacités et les compétences du personnel qui travaille auprès des enfants en situation de rue et plus spécifiquement les professionnels du domaine éducatif, psycho-social et médical.

Concernant les processus de réinsertion d'enfants ayant été sortis de la rue, il est important de mettre l'accent sur un accueil et un accompagnement respectueux, prenant en compte toutes les dimensions de la vie de l'enfant, que ce soit culturelle, sociale ou spirituelle.

Nous exhortons enfin le Comité des droits de l'enfant de l'ONU à rédiger une observation générale sur les « droits des enfants vivant et/ou travaillant dans la rue » afin d'approfondir la réflexion sur la question, et repérer les différentes causes et conséquences du phénomène, en relation notamment avec le droit à l'éducation.

FREEDOM OF RELIGION IS A FUNDAMENTAL PATH TO PEACE

Religious freedom is an issue of the utmost relevance, that is still subjected throughout the world to innumerable violations. Despite past tragedies and the efforts of States, international and regional organizations, non-governmental organizations and the many men and women of good will who daily work to protect fundamental rights and freedoms, today's world witnesses a massive display of religious intolerance that, with different expressions and in different social-political contexts, undermines peaceful coexistence and prevents progress and the building of stable peace among peoples and nations.

At present, Christians are the religious group which suffers most from persecution because of their faith. The reprehensible attack against the Syro-Catholic Cathedral of Our Lady of Perpetual Help in Baghdad, where on 31 October 2010 two Catholic priests and over fifty faithful were killed as they gathered for the celebration of Holy Mass and the bombing in Alexandria of Egypt, on 1st January 2011, that killed 21 Coptic Christians and injured another 70, are dramatic examples of the persecution of Christians. Followers of other religions or beliefs equally suffer intolerance and discrimination too all around the world: the suicidal attacks in the Karbala Gambay Shah (Pakistan) of September 2010, which killed 29 persons and injured another 200, is only one of all the examples that it is possible to recall. But, particularly in Asia and in Africa, the chief victims of such intolerance are members of religious minorities, who are prevented from freely professing or changing their religion by forms of intimidation and the violation of their rights, basic freedoms and essential goods, including the loss of personal freedom and life itself. In some areas of the world it is impossible to profess one's religion freely except at the risk of life and personal liberty, while in other areas there are more subtle and sophisticated forms of prejudice and hostility towards believers and religious symbols.

Freedom of religion or belief is a fundamental human right enshrined in a number of international treaties and declarations. The Universal Declaration of Human Rights states in article 18: "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance."

The right to freedom of religion is affirmed also in article 18 (1) of the International Covenant on Civil and Political Rights (ICCPR), which is a legally binding document of international law. This right encompasses freedom of thought on all matters and the freedom to manifest religion and belief individually or with others, in public or in private.

Furthermore, the right to freedom of religion is supported by the right to non-discrimination on the grounds of religion, contained in article 26 of the ICCPR and by article 20 of the ICCPR, which prohibits by law any advocacy of national,

racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

In addition, article 12 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families has a similar wording to article 18 of the ICCPR. Many of the specialised conventions of the UN and the ILO prohibit discrimination on the grounds of religion, like the UNESCO Convention against Discrimination in Education (art. 1) and the UN Convention against Racial Discrimination (art. 5).

The right to religious freedom is rooted in the dignity of the human person, whose transcendent nature must not be ignored or overlooked. When religious freedom is acknowledged, the dignity of the human person is respected at its root, and the ethos and institutions of peoples are strengthened. On the other hand, whenever religious freedom is denied, and attempts are made to hinder people from professing their religion or faith and living accordingly, human dignity is offended, with a resulting threat to justice and peace.

In a globalised world marked by increasingly multi-ethnic and multi-religious societies, religions can serve as an important factor of unity and peace for the human family. Based on their religious convictions and their reasoned pursuit of the common good, their followers are called to give responsible expression to their commitment within a context of religious freedom. In fact, all religions teach that people should learn to be less selfish and willing to share, that each should live ethically so as to enjoy peace of mind, and follow the Golden Rule: "treat others as you would be treated". Amid the variety of religious cultures, there is a need to value those elements, which foster civil coexistence, while rejecting whatever is contrary to the dignity of men and women.

As Pope Benedict XVI said: "*Religious freedom expresses what is unique about the human person, for it allows us to direct our personal and social life to God, in whose light the identity, meaning and purpose of the person are fully understood. To deny or arbitrarily restrict this freedom is to foster a reductive vision of the human person; to eclipse the public role of religion is to create a society which is unjust, inasmuch as it fails to take account of the true nature of the human person; it is to stifle the growth of the authentic and lasting peace of the whole human family. Religious freedom is not the exclusive patrimony of believers, but of the whole family of the earth's peoples. It is an essential element of a constitutional state; it cannot be denied without at the same time encroaching on all fundamental rights and freedoms. [...] It is the litmus test for the respect of all the other human rights*".

Religion can offer a precious contribution for the building of a just and peaceful social order at the national and international levels and is an authentic instrument of peace. According to international law, governments have an obligation to ensure the religious freedom of their people and not to allow or tolerate religious or antireligious fanaticism. Hence, the undersigned NGOs wish to make the following recommendations:

1. In order to foster a climate of religious tolerance, political and religious leaders should take a human rights-based approach and clearly affirm

- the importance of the right to freedom of religion or belief in all its dimensions;
2. Concerned UN bodies and agencies should guarantee an impartial monitoring on the situation related to freedom of religion in the different countries, and cooperate with NGOs of recognized competence in this field;
 3. Member States should respect legal standards that are compatible with art 18 of the Universal Declaration of Human Rights and international human rights law pertaining to freedom of religion, freedom of expression and the principles of tolerance and non-discrimination;
 4. Member States should report on a regular basis to the Universal Periodic Review and to the monitoring Treaty Bodies the violations of the right of freedom of religion in their country and the progress and achievements made in protecting such a right;
 5. Member States and other concerned stakeholders should promote awareness raising campaigns to inform civil society on the content and consequences of article 18 of the Universal Declaration of Human Rights, as a contribution to education for peace and the role of religions in building up the human family.

NGO ASSESSMENT OF THE DRAFT UNITED NATIONS DECLARATION ON HUMAN RIGHTS EDUCATION AND TRAINING

This statement reflects discussions facilitated by the NGO Working Group on Human Rights Education and Learning of the Conference of NGOs in Consultative Relationship with the UN (CoNGO) and Human Rights Education Associates (HREA).

We recall the views of Member States expressed in the three meetings (on 24 June, 3 September and 14 December 2010) of the Human Rights Council informal consultation on the draft UN declaration on human rights education and training, facilitated by the Platform Member States: Costa Rica, Italy, Morocco, Philippines, Senegal, Slovenia and Switzerland.

We also recall the intensive process of finalising the draft text of the declaration and the outcome of the meeting of the Human Rights Council working group on the declaration, held from 10-14 January 2011.

The views of NGOs expressed in this statement refer to the draft UN declaration on human rights education and training as of 14 January 2011 contained in document A/HRC/WG.9/1/2 (26 January 2011), which is the outcome of the aforementioned meeting of the Human Rights Council working group.

We appreciate constructive and devoted efforts of Member States in the intergovernmental negotiation in preparing the final draft text, and we

particularly thank the Platform Member States for proactively advocating human rights education and training among Member States and for their best effort not to undermine the language of the draft declaration in achieving a consensus of Member States, after having come so far.

We also appreciate that NGOs were given opportunities to make frequent interventions during the meeting of the working group.

While we agree with and welcome the present draft text, we would like to draw the attention of Member States to our assessment of the draft declaration with reference to specific articles, for the effective implementation of human rights education and training.

1. Principles of human rights education and training

We consider human rights education and training a fundamental and sustainable endeavour for dealing with the root causes of human rights violations and abuses. We believe that the ultimate goal of human rights education and training is the full realisation of all human rights, civil, political, economic, social and cultural, for all persons in all countries through building a universal culture of human rights.

In this regard, we support in particular Article 1, paragraph 2, which refers to “universal respect for and observance of all human rights and fundamental freedoms for all” and “the principles of universality, indivisibility and interdependence of human rights” and Article 5, paragraph 1, which stipulates the principles of equality, human dignity, inclusion and non-discrimination.

Human rights education and training concerns all persons including women, men, children, indigenous peoples, persons with disabilities, elders, migrants, and all minorities and vulnerable groups of people, as Article 5, paragraph 2 refers to “all persons” and “the particular challenges and barriers” and “the needs and expectations” that human rights education and training “should take into account”.

Human rights education and training contributes to the prevention of human rights violations and abuses as provided in Articles 2, paragraph 1 and Article 4, sub-paragraph (e) of the draft declaration.

We uphold human rights education and training as “a lifelong process that concerns all ages”, “in all forms of education, training and learning, whether in a public or private, formal, informal or non-formal setting” that “should use languages and methods suited to target groups, taking into account their specific needs and conditions” (Article 3, paragraphs 1, 2 and 3).

2. The rights-based approach to human rights education and training and State responsibilities

To ensure the effective realisation of all human rights and the prevention of human rights violations and abuses, the implementation of human rights education and training requires the rights-based approach, which recognises the duty-bearers and rights-holders and incorporates the principles of non-discrimination and equality, participation and inclusion, accountability and the rule of law.

Many human rights education and training activities carried out at both national and international levels already integrate a rights-based approach as they refer to various international human rights instruments, norms and standards, reflect the rights-based principles of implementation and recognise the duty-bearers and rights-holders.

The World Programme for Human Rights Education clearly specifies the duty-bearer with the primary responsibility and the specific sectors that are considered to be relevant actors in the perspective of both the rights-holders and other duty-bearers, provided in the Plan of Action for its first phase and second phase respectively.

3. Access to human rights education and training

Article 1, paragraph 1 of the draft declaration reads: “Everyone has the right to know, seek and receive information about all human rights and fundamental freedoms and should have access to human rights education and training”.

We support the formulation of this article and call upon all Member States to ensure that everyone in their territory has access to human rights education and training.

In this regard, we appreciate the recognition provided in Article 10 that “various actors within society” including “NGOs, human rights defenders and the private sector have an important role to play in promoting and providing human rights education and training”.

Taking this into account, we urge all Member States to ensure necessary support available for human rights education and training as necessary, politically and financially, by the State government or, where applicable, relevant governmental authorities. We believe that such action will be part of the implementation of Article 7 paragraphs 1, 2, 3 and 4 regarding the responsibility of States and relevant governmental authorities and of Article 14 which also refers to the necessary resources that “States should ... make available for the effective implementation of and follow-up to” this declaration.

We believe that this declaration, with particular significances enshrined in Article 1 and Article 7, furthers cooperative and constructive relations between civil society actors and States and relevant governmental authorities of all countries in implementing human rights education and training.

4. International and regional human rights mechanisms

At the both international and regional level, various human rights mechanisms exist and are available to be used for the promotion and implementation of human rights education and training. In turn, human rights education and training promotes the application of human rights mechanisms by States, relevant government authorities and civil society actors.

In light of Article 12 and particularly Article 13, we consider that the Universal Periodic Review process and the monitoring system of human rights treaties, as well as the Special Procedures of the Human Rights Council are of the utmost importance for such international mechanisms within the UN system.

In this regard, we call upon all Member States, once the declaration is adopted, to demonstrate in practice their commitment to human rights education and training by including “information on the measures that they have adopted in the field of human rights education and training in their reports” to relevant bodies of such mechanisms.

As for the monitoring bodies of human rights treaties and the Special Procedures mandate holders, we would like to expect them to incorporate human rights education and training in the activities within their respective mandates, with appropriate cooperation with and support from Member States by, inter alia, making recommendations to the Member State concerned, regarding its national policies on human rights education and training or on specific thematic issues, respectively.

5. Toward adoption and proclamation of the declaration

Based on the assessment and the views with an emphasis expressed in this statement, we support the draft declaration that should be adopted by the Human Rights Council without vote.

We are aware that in some cases human rights education has been implemented effectively, and in some other cases, it has faced very difficult challenges. When this declaration is adopted, we believe that its implementation, particularly Article 1, will contribute to the reduction of difficult challenges in effective and mutually cooperative manners by all relevant stakeholders including the government, relevant governmental authorities, NGOs and other civil society actors.

We would like to stress the significance and impact of the eventual proclamation of the declaration by the General Assembly, whereby international standards for human rights education will be officially proclaimed by the UN for the first time, and we hope that it will be an opportunity for all stakeholders to work together to encourage a more conscious and robust culture of human rights in all countries.

INTERVENTION ORALE

This statement reflects views of NGOs expressed in discussions facilitated by the NGO Working Group on Human Rights Education and Learning of the Conference of NGOs (CoNGO) and through an international network, Human Rights Education Associates (HREA).

We support the draft text of the UN declaration on human rights education and training, made available before the Council.

Many NGOs made substantial contributions to the drafting process since its very beginning.

We stress particularly the following.

Human rights education is a sustainable endeavour for dealing with the root causes of human rights violations and abuses, contributing to the prevention of such violations and abuses.

Human rights education is a lifelong process for all of all ages, encompassing all persons including women, men, children, indigenous peoples, persons with disabilities, elders, migrants, and all minorities and vulnerable groups of people. The effective implementation of human rights education requires the rights-based approach.

As article 1 of the draft declaration stipulates, we call upon all Member States to make their efforts in their capacity to ensure that everyone has access to human rights education and training.

Such efforts should take into account various settings, whether public or private, formal, informal or non-formal. Languages and methods suited to the local specific needs and conditions should be considered.

At international level, the Council's Special Procedures and UPR should be recognised as contributory mechanisms for the effective implementation of human rights education.

The declaration will be the first and significant momentum for the UN to officially proclaim international standards for human rights education.

We hope that it will be an opportunity for all stakeholders including civil society and all governmental authorities to work together to encourage a more conscious and robust culture of human rights in all countries.