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THE RIGHT TO EDUCATION IN EMERGENCY SITUATIONS: A RIGHTS-BASED ASSESSMENT OF THE HUMANITARIAN RESPONSE AFTER THE EARTHQUAKE IN HAITI.

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To future me.
Always remember why you started.

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INTRODUCTION

"People like myself, who enjoyed years of education, all the way to post-doctoral studies, have to acknowledge that it was a matter of luck, not right. To transform the luck of the few into the right of all is my mission statement." (Tomaševski, 2006a: p.4)

"Bombastic statements such as 'all human rights are universal, indivisible, interdependent and interrelated' convey an artificial global consensus where there is none. Although I use international human rights law as the conceptual framework, I treat this as a work in progress." (Ibid.: p.7)

Katarina Tomaševski was the first Special Rapporteur of the United Nations (UN) on the right to education. The quotes above, taken from one of her books, represent the starting point of this thesis. The first one represents a more personal starting point, which is the consciousness of the fact that I received a good education not only because it was my right, but also because I was lucky enough to live in the 'right' part of the world. The second quote symbolises another kind of consciousness, a more academic one. We have been taught that human rights are universal, indivisible, interdependent and interrelated, and they should be, but it is also true that in everyday's reality this is still "a work in progress". The UN has made a great effort in the last years to mainstream human rights in every activity and domain, so to make them truly universal. Nevertheless, there are still domains where human rights are struggling to be given priority, especially economic, social and cultural rights. One of such domains is humanitarian action during emergencies. Starting from these reflections, this thesis will deal with the right to education during emergency situations.

Among all human rights, the right to education was chosen because of its peculiar characteristics, both in times of emergency and at all times. In general, as Tomaševski wrote (2006a: p.7), it is a multiplier, "enhancing all rights and freedoms when it is guaranteed while jeopardizing them all when it is violated".

Connected to this, it is also an empowerment right, meaning that it is a vehicle through which children – and adults – learn about their rights and how to claim their respect. For these reasons, education has always to be respected, protected and fulfilled as a human right, no matter what the situation is. In times of conflict or natural disasters there are some additional reasons to guarantee the right to education: it offers protection, both physical and psychological. In fact, in times of emergency, through education, children learn life skills that are relevant to their particular situation so that they can be safe, and they are offered safe spaces and opportunities to elaborate the trauma they suffered and feel a sense of normalcy again. Moreover, through education children also learn prevention measures for future emergencies, and everything they learn is transmitted to their families and spread throughout the community.

Education in emergency is a quite recent field of research. It started to be studied only in the 1990s, with a focus on education programs in connection to the complex humanitarian emergencies that characterised that period (for example in Bosnia, Rwanda, Somalia, Sudan) (Sinclair, 2002). Until then, humanitarian relief entailed the provision of food, shelter, water and sanitation, and health care, while education was seen as part of longer term development work (rather than as a necessary response to emergencies). This explains the complex relationship between human rights and humanitarian action: the primary interest of emergency relief organisations was historically limited to life-saving. The risk that many donors and humanitarian workers feared was that the application of a human rights-based approach, that consists of mainstreaming the principles of participation, non-discrimination, empowerment, accountability and link to the law throughout any activity carried out by the international community, would distance humanitarian assistance from its principles of neutrality, impartiality and independence, and this could in turn hinder access to the emergency settings (Anderson, Hofmann, Hyll-Larsen, 2011). The human rights-based approach started to be applied to emergency response only recently, which makes it even more interesting to evaluate whether it is being applied successfully.

This thesis will deal with a specific case study, that is the earthquake that hit Haiti in January 2010. There are a number of reasons why this emergency has been chosen as a case study.

First of all, the majority of the literature concerning education in emergency focuses on conflicts. However, natural disasters offer some additional, specific elements for consideration from the point of view of humanitarian organisations. Most importantly, when a natural disaster happens, relief and reconstruction start right away, without being hindered by hostilities and other problems that only characterise conflicts. Analyses and assessments may thus be easier and more comprehensive. After a natural disaster, humanitarian actors have the opportunity to work with the State in protecting citizens' human rights (Klasing, Moses & Satterthwaite, 2011). Moreover, a disaster can eventually result in an important chance for improvement and reforms (Pigozzi, 1999; Kirk, 2008).

Among the various natural disasters occurred in the past years, Haiti was specifically chosen for different reasons. First, even before the earthquake, Haiti was facing a dramatic crisis in its education sector. The main problems were connected to the lack of accessibility to education and of quality of education, with the result that the country had the lowest enrolment rate of the Western hemisphere, and less than half the population could read and write (Salmi, 2000). Second, Haiti was chosen also because an important part of responsibility about the dramatic death toll associated with the earthquake was tied to the decades of chronic political instability of the State, which left Haitians much more vulnerable (Gros, 2011). The third reason for this choice is that the earthquake in Haiti happened just a few years after the humanitarian reform was carried out and the Inter-Agency Network for Education in Emergencies (INEE)'s Minimum Standards for Education in Emergencies were launched. In fact, in the aftermath of the disaster, education was accorded a surprisingly high priority by humanitarian actors, with the establishment of an Education Cluster (an open formal forum of coordination and collaboration bringing together all the actors that work on education in emergencies) and the adaptation for use in Haiti of the INEE Minimum Standards (Berther and Charlotte, 2010). The fourth reason is

that a process of reform of the Haitian education system actually began after the earthquake, so this case study also offers the possibility to evaluate whether the opportunity to improve the system was recognised by the Government.

In the case study, we analyse the humanitarian response put in place by two specific organisations, Save the Children and UNICEF. These organisations have been chosen mainly because they are the two co-leading organisations of the Education Cluster, both at the global and at the country level: they are the most important actors in that context. It is also interesting to analyse and compare their action because they belong to a different category of international organisations, the former being an international NGO and the latter a UN agency. As a consequence, their role in the field and their strategies of intervention can be different, as well as their role in supporting the Government in complying with standards on the right to education.

RESEARCH QUESTIONS AND STRUCTURE

The aim of this research is to answer to the following questions: How and to what extent is the right to education protected in an emergency situation? Was a human rights-based approach put in place by humanitarian actors in Haiti in 2010?

Starting from the main questions, other more specific questions arise, such as: what are the international standards on the right to education? What are the specific standards on education in emergencies? How were such standards respected in Haiti after the earthquake? What were the consequences?

To follow the logical flow of sub-questions, the thesis is divided into two main parts, the first being about the general legal framework on the right to education and the second about the Haiti case study.

More specifically, in the first part we clarify what the content and the principles of the right to education are according to a human rights perspective, and what international standards for the right to education must be respected in an emergency situation, and specifically a natural disaster.

Chapter 1 deals with the right to education, its aims, content and principles,

as enshrined in international human rights law. Starting from that, it goes on focusing on States' obligations and explaining the 4As scheme (availability, accessibility, acceptability and adaptability of education), introduced by the former UN special rapporteur on the right to education, Prof. Tomaševski. The chapter continues by outlining the human rights-based approach, the principles that underpin it, and its application to education, and ends looking at indicators that can be used to measure the States' fulfilment of the right to education.

Chapter 2 defines what emergencies are and what education in emergencies means; it explains the negative consequences of emergencies on education and the positive consequences that education has in emergency situations. The chapter also deals with the establishment of the Inter-Agency Network for Education in Emergencies and its role in regulating the fulfilment of the right to education during emergencies, with the companionship agreement with the Sphere Project of humanitarian assistance and the launch of the INEE Minimum Standards for Education in Emergencies. In the end, the process of reform of the humanitarian response at the UN level is outlined, and the creation of the Global Education Cluster introduced.

In the second part, the Haiti case study is analysed. This part is aimed at researching:

- The situation of education in Haiti before the earthquake and the impact of the disaster on the education system;
- The programs put in place by humanitarian actors to protect the right to education in the immediate aftermath of the earthquake, focusing in particular on the activity of Save the Children and UNICEF: was their approach similar? Did they apply the existing standards on the right to education (included those on education during emergencies) and the principles underpinning the human rights-based approach?
- The plan of reform of the education system launched by the Haitian Government with the support of the international community as part of the humanitarian response: was it prepared according to a human rights-based approach? Was the chance taken to improve the system?

More precisely, chapter 3 sets the context of the case study of the Haiti earthquake. It describes the situation of the country before the disaster, with a specific focus on the right to education, the legal provisions that the country had concerning this right and the difficulties that hindered their implementation. The last part of the chapter deals with the earthquake and its impact, always with a specific focus on education.

Chapter 4 contains the main analysis of this thesis. After outlining the general humanitarian response put in place after the earthquake in Haiti, and the establishment of a country Education Cluster, we describe the response of Save the Children and UNICEF in the education sector, and then analyse it applying the lens of the human rights-based approach. In other words, we look at their actions and evaluate whether the principles of participation, non-discrimination, empowerment, accountability and link to the law, as well as the 4As, were taken into consideration and applied. Moreover, the role of the two organisations in coordinating the Education Cluster is evaluated, trying to understand whether their cooperation has been successful.

Chapter 5 deals with the Haitian Government's action in response to the disaster to restore the education sector. The aim is to assess whether a 'build back better' approach has been applied and the opportunity taken to improve the national education system. This is also a way to understand whether the support received from the international community, and in particular from the two organisations analysed in this thesis, has helped the Government to comply with its obligations and make education available, accessible, acceptable and adaptable.

METHODOLOGY

This research is conducted in the framework of human rights monitoring. One of the main functions of human rights monitoring is to see whether international human rights standards are met in specific settings. In particular, in this thesis we assess the implementation of laws, policies, and programs, using legal standards as parameters for a final evaluation. Along with existing legal standards, also the principles underpinning the human rights-based approach are

used as parameters to assess actors' performance, and see whether such an approach has been applied in Haiti after the earthquake in 2010. This seems an efficient way to test the theory of indivisibility and interdependence of human rights and their embedment also into humanitarian action through the implementation of a human rights-based approach.

The decision to analyse humanitarian organisations' actions in a specific case study was made to try to understand if they are concretely putting into practice the human rights-based approach as they often claim. Moreover, the Haiti case study is likely to have quite a broad applicability in terms of humanitarian response. In fact, the earthquake in Haiti had a lot of visibility and the world reacted very quickly: all the main humanitarian actors intervened sending aid and recovery teams, pledging money and support. Obviously, every situation is different, but there are reasonable grounds to believe that a general conclusion about the approach taken by humanitarian actors towards education in emergency can be drawnfrom this specific case study.

This thesis was written following desk-based research. The impossibility to reach the country of the case study was one relevant reason why field-research was not conducted. However, there are also reasons to argue that a desk-based research was sufficiently appropriate to answer to the research questions. In fact, a good deal of secondary data is available on this topic, coming straight from the actors who should be accountable for the humanitarian response. In this sense, we start from a privileged and authoritative source of information for our analysis. Such data come especially from the UN, the Inter-Agency Standing Committee (IASC), the INEE, and the reports of the two organisations analysed. In addition, basing the research on secondary data allows us to focus more on analysis and interpretation rather than testimonies or accounts of events. In this specific case, it also allows to understand the attitude of the organisations, networks, and other actors towards the broader audience, and see whether they are truly committed to making their work (and the general situation) known as one based on a human rights approach as they often indicate.

All the above being said, we have to take into consideration also the

limitations of this thesis. First of all, the reports of the two organisations differ in structure and contents and it could be difficult to effectively compare them (although a strict comparison is not a priority of this thesis). For example, the reports by UNICEF that were retrieved specifically about its humanitarian response after the earthquake in Haiti only cover the period until January 2012; after that period there are some other reports concerning Haiti, but they are more general, not focused on the response to the disaster. On the other hand, we were able to retrieve a report of Save the Children for every year after the disaster until 2015, although such reports are shorter and contain less information. To overcome this limitation, the organisations' websites have also been consulted (more precisely the sections containing press releases and stories from the field regarding Haiti) in order to fill the possible information gaps. However, they did not seem to add much relevant information. Therefore, the majority of the information used to write this thesis comes from the reports.

Also the fact that data take some time to be collected, analysed and transformed in publicly available statistics is a limit to the reach of this research. In fact, the most recent available data refer to 2013, and it is impossible to have figures that reflect the current situation, that of 2015. This limits our capability to assess the full long-term impact of programs and policies.

With these limitations in mind, it is hoped that this research represents a contribution to the study on the importance of the right to education in emergency situations, on how the human rights-based approach is applied by humanitarian actors responding to an emergency, and on whether the humanitarian approach is evolving towards securing human rights in every stage of an emergency.

PART I
INTERNATIONAL INSTRUMENTS ON THE RIGHT TO EDUCATION

CHAPTER 1
INTERNATIONAL LEGAL STANDARDS FOR THE RIGHT TO EDUCATION

1.1. Education as a human right: aims, content and principles in international human rights law

As enshrined in the Universal Declaration of Human Rights (UDHR, 1948: art. 26) and in the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966: art. 13), the right to education is one of the fundamental human rights for all people. Moreover, as defined by General Comment No. 13 of the United Nations Committee on Economic, Social and Cultural Rights, "education is both a human right in itself and an indispensable means of realizing other human rights" (CESCR, 1999: para.1); it is, in other words, an empowerment right:

> "Education has a vital role in empowering women, safeguarding children from exploitative and hazardous labour and sexual exploitation, promoting human rights and democracy, protecting the environment, and controlling population growth. Increasingly, education is recognized as one of the best financial investments States can make. But the importance of education is not just practical: a well-educated, enlightened and active mind, able to wander freely and widely, is one of the joys and rewards of human existence" (CESCR, 1999: para.1).

As interpreted by the Committee on the Rights of the Child (CteeRC), the real aims of education go far beyond formal schooling and encompass a broad range of life experiences and learning processes, "that enable children, individually and collectively, to develop their personalities, talents and abilities and live a full and satisfying life within society" (CteeRC, 2001: para.2). Through these processes, children develop skills, knowledge, and other capacities (such as critical thinking, understanding and respect for human rights), human dignity,

self-esteem and self-confidence, that empower them to take a more active role in their community both as children and as they develop into adults (CteeRC, 2001; Save the Children, 2008).

In the words of the former UN Special Rapporteur on the right to education Muñoz (2008: para.32):

> "Learning encompasses our past and future at once; it is an aspect of life that comprehends everything that makes development possible. To learn is to adapt, to cooperate, and to transform our environment. It is the process by which people communicate, put forward ideas and bring them to fruition; learning is the organizing principle of every society".

Therefore, not only is the right to education fundamental for human, social and economic development, it also promotes collective wellbeing, leading societies towards lasting peace and sustainable development.

1.1.1. Increasing importance of education in the UN system, clarifying its content

Despite such importance, it was only in April 1998 that the UN Commission on Human Rights decided to appoint a Special Rapporteur on the right to education, an independent expert with the mandate to examine the right to education either on a country situation or on a specific theme (UN Resolution 1998/33). Ever since, however, the attention of the UN system to this right has increased and facilitated a better understanding of its content.

The first Special Rapporteur on the Right to Education Katarina Tomaševski wrote that the right to education operates as a multiplier, "enhancing all rights and freedoms when it is guaranteed while jeopardizing them all when it is violated" (Tomaševski, 2006a: p.7).

In her first preliminary report to the Commission on Human Rights (1999) she pointed out the two core elements of the right to education. First, primary education has to be free of charge and compulsory, so that all children can benefit from it. Second, parents' freedom of choice has to be respected. These two

principles can be found throughout international human rights law since its origins.

Indeed, the Universal Declaration of Human Rights (1948) states, in article 26: "Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory" and "Parents have a prior right to choose the kind of education that shall be given to their children".

A decade later, the first specific international instrument in the field of education having binding force in international law was adopted by the United Nations Educational, Scientific and Cultural Organisation (UNESCO): the Convention against Discrimination in Education (CADE, 1960). This Convention applies the fundamental principle of non-discrimination and equality of opportunity to the field of education. It its article 1, it establishes the meaning it gives to the terms 'discrimination' ("any distinction, exclusion, limitation or preference which, being based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education") and 'education' ("all types and levels of education, and includes access to education, the standard and quality of education, and the conditions under which it is given"). In order to eliminate any discrimination, States Parties are required to comply with specific obligations. In particular, article 4 of the Convention obliges States to promote equality of opportunity and of treatment in education by making primary education free and compulsory, secondary education generally available and accessible to all, and higher education equally accessible to all on the basis of individual capacity. According to paragraph (c) of article 4, also youth and adults who have not received or completed primary education have the right to receive it, and States are required to encourage and intensify measures to make it possible. Moreover, this article states that teachers have the right to receive training without discrimination as well. Article 5 is about the aims of education and the respect of parents' liberty to choose the kind of education they want to give to their children. Very importantly, the choice of religious and moral education of children is given particular weight, as well as minorities' right to carry on their own education

activities and to establish their own schools.

Article 13 of the ICESCR (1966) reiterates the above and expands on it so to become the most comprehensive article on the right to education (Right to Education Project, 2013). It defines the scope of this right more precisely, and sets forward a framework to achieve its full realisation, including the requirement that education should be available to all who have not received or completed primary education. In each paragraph, it lays out obligations by which the State must abide at all levels of education; it also makes reference to literacy, scholarships, and the conditions of teaching staff. Moreover, regarding parental freedom of choice about their children's education, it establishes that parents have also the liberty to arrange and direct educational institutions, provided that they do so in conformity with the principles enunciated in the article and the minimum standards laid down by the State. Article 14 establishes the obligation of State Parties which have not been able to secure free compulsory primary education in the territories under their jurisdiction to adopt a plan of action for its implementation.

Building on the above, the Convention on the Rights of the Child (CRC, 1989) recognises that every child has the legal right to receive an education on the basis of the principle of equal opportunity (Right to Education Project, 2013). Children's right to education is addressed in articles 28 and 29. Article 28 establishes that all children have the right to free compulsory primary education. As regards the other levels of education, the article states that secondary education should be available and accessible to all, and should be made progressively free, and higher education has to be accessible to all on the basis of capacity. Article 28 establishes the obligation of States to take measures concerning regular school attendance and discipline, which has to be administered respecting the child's human dignity. It also encourages international cooperation in matters related to education, with the particular aim of eliminating ignorance and illiteracy and improving access to scientific and technical knowledge. Article 29 deals with the aims of education, stating that it shall be directed towards the development of the child's personality and abilities, the respect of human rights and fundamental freedoms, the respect of cultural identity of children and their parents, the

preparation of the child's future life in society, the respect for the environment. This article also recognises the liberty of individuals to establish and direct educational institutions, in conformity with the State's minimum standards.

The right to education has also been reaffirmed in treaties and declarations covering specific groups (women and girls, persons with disabilities, migrants, refugees, indigenous people, etc) or contexts (education during armed conflicts).[1] It has also been incorporated into various regional treaties and enshrined as a right in the vast majority of national constitutions.

In general, the right to education encompasses both entitlements and freedoms, and the common contents of all the legal instruments that include it have been summarised as follows:

> Everyone has the right to:
> - free and compulsory primary education;
> - available and accessible secondary education (including technical and vocational education and training), made progressively free;
> - equal access to higher education on the basis of capacity, made progressively free;
> - fundamental education for those who have not received or completed primary education;
> - quality education both in public and private schools;
> - choose schools for their children, according to their religious and moral convictions;
> - establish and direct education institutions in conformity with minimum standards established by the State. (Right To Education Project, 2013)

1.1.2. Education as a human right: States' obligations and the 4As scheme

Education as described in international human rights law is not a privilege, but a human right. This means that the right to education is guaranteed by the law and States have obligations in this regard and can be held accountable for

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[1] Besides the international instruments cited above, a non-exhaustive list of the main international instruments that enshrine the right to education for specific groups or contexts is available in Appendix 1.

violations or deprivations of this right.

All human rights are individual entitlements that entail corresponding government obligations. The obligations imposed on governments are to respect, protect and fulfil human rights, and the failure of a government to perform any of these obligations constitutes a violation of human rights. More precisely, the obligation to respect requires the government to refrain from interfering with the enjoyment of the right; the obligation to protect requires the State to take measures to prevent others from interfering with the enjoyment of the right (usually regulation and legal guarantees); the obligation to fulfil means that it has to adopt appropriate measures towards the full realisation of the right (Office of the High Commissioner for Human Rights - OHCHR, 2015).

With reference to the right to education, respect is translated, for example, in the obligation to avoid any action that would prevent children from accessing education, and to respect the liberty of parents to choose schools for their children (CESCR, 1999: para.47; Right to Education Project, 2013). The obligation to protect is represented for instance by the insurance by the State that necessary measures will be taken to remove barriers to education posed by individuals or communities, such as cultural barriers to education or violence and abuse in the school environment, and that third parties, including parents, do not prevent girls from going to school (*Idem.*). The obligation to fulfil incorporates both an obligation to facilitate, requiring the state to take positive measures that enable and assist people to enjoy the right to education, and an obligation to provide the right to education, especially when a specific group is unable to realise the right themselves by the means at their disposal (in the case of provision, the State must also ensure that education is culturally appropriate for minorities and indigenous peoples, and of good quality for all) (*Idem*).

The full realization of some aspects of certain rights, especially economic, social, and cultural rights, can only be achieved in a progressive manner (because it entails the use of a large amount of resources). However, this does not mean that the State has a lesser obligation: it is true that some obligations are progressive, but "all rights possess some components that are always subject to

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immediate implementation" (OHCHR, 2001: para.33). As far as the right to education is concerned, the introduction of free secondary and higher education are examples of progressive obligations, while an immediate obligation to be implemented is, for instance, that essential levels of the right to education are reached, by prohibiting discrimination in access to education, ensuring free and compulsory primary education for all, respecting the liberty of parents to choose schools for their children other than those established by public authorities, protecting the liberty of individuals and bodies to establish and direct educational institutions (Right to Education Project, 2013). Another important immediate government obligation is to take appropriate steps towards the full realisation of the right to education to the maximum of its available resources (in fact a lack of resources cannot justify inaction): such steps must be "deliberate, concrete and targeted towards the full realisation of the right to education" (CESCR, 1999: para.43; Right To Education Project, 2013).

As made clear by General Comment No. 13 (CESCR, 1999: para.50), States have obligations to respect, protect and fulfil each of the "essential features" of the right to education that Katarina Tomaševski identified and introduced as the 4As scheme: availability, accessibility, acceptability and adaptability. When applying these interrelated and essential features, the best interests of the child must be a primary consideration.

AVAILABILITY

> "Availability embodies two different governmental obligations: the right to education as a civil and political right requires the government to permit the establishment of educational institutions by non-state actors, while the right to education as a social and economic right requires the government to establish them, or fund them, or use a combination of these and other means so as to ensure that education is available" (Tomaševski, 2001: p.13).

As already mentioned, primary education is mandated by international human rights law to be free and compulsory. Coomans (2007: p.4) writes that "primary education is so fundamental for the development of a person's abilities that it can be rightfully defined as a minimum claim". As a consequence, the

State, even if it is not the only investor in education, is obliged to be the investor of last resort, to make it possible that primary schools are available for all school-age children (even those living in dispersed rural areas, or belonging to nomadic communities) (Tomaševski, 1999). The State has both to establish a public educational system and to allow private parties to establish non-public schools. The rationale behind this is twofold: on one hand the State has rarely the capacity to offer primary education autonomously, and on the other hand, it has to guarantee parental freedom of choice as to how parents wish their children to be educated. To be really free, primary education must have priority in resource allocation, because it deals with the fundamental basis for a person's development and the development of society as a whole (Coomans, 2007). The State has also the obligation to make primary education compulsory. It follows that it needs not only to have this provision enshrined in national law, it also has to establish an official monitoring system to enforce this duty with respect to parents, schools, employers and pupils themselves (*Ibid.*).

Availability means that primary schools have to be physically present in the territory of the State, and suitable for being used; they have to be in a sufficient quantity and adequately spread throughout the jurisdiction of the State. They have to offer protection from natural elements, sanitation facilities for both sexes, safe drinking water, trained teachers receiving domestically competitive salaries, teaching materials (CESCR, 1999). Depending on the context, some will also require facilities such as a library, computer facilities and information technology (*Ibid.*). For primary education to be really available, teachers' rights have to be respected. Teachers have to be educated and trained to teach, and they have to enjoy their rights as workers, without this possibility being hindered by their position as public servants (e.g. freedom to join trade unions, right to strike) (Tomaševski, 2001). Availability also means that there are measures and facilities that guarantee that everyone outside school-age that has not completed primary education can do it. Unfortunately, too often primary education is only "nominally available", but not really available (*Ibid.*: para.52). For instance, Tomaševski (*Ibid.*: para. 52) reported that in the least developed countries "electricity or piped

water is an exception rather than a rule" and "many children finish primary school without ever having seen a single textbook in their mother tongue". Schools like those are unlikely to attract children, bacause parents can understand that their children would not benefit from such an education and rather opt out of school (*Ibid.*).

ACCESSIBILITY

General Comment No. 13 states that "educational institutions and programmes have to be accessible to everyone, without discrimination" (CESCR, 1999: para.6(b)). It adds that accessibility has three overlapping dimensions: non-discrimination, physical accessibility, and economic accessibility.

Non discrimination is one of the basic and most important principles of international human rights law, and it applies to all rights. According to this principle, education must be accessible to all, especially the most vulnerable groups, in law and fact, without discrimination on any of the prohibited grounds.[2] Non-discrimination has always to be secured immediately and fully, and it is not subject to progressive realisation (Tomasewski, 1999): excluded, vulnerable, marginalized and disadvantaged children must always enjoy equal opportunity of access to quality primary education. In addition, education provided for by the State should be of the same quality for all groups in society (Coomans, 2007). Tomaševski (2001) underlined that also respect of parental freedom of choice for the education of their children is not subject to progressive realisation but should be guaranteed fully and immediately. This is in some cases problematic because its exercise sometimes clashes against the elimination of discrimination for the rights of the child, and could end up, in the most widespread example, in the deprivation of education for girls. There has been a growing acceptance of the

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[2] Article 2 of the Universal Declaration of Human Rights, which inspired the wording of other human rights instruments, prohibits discrimination on the following ten grounds: race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status. Article 2 of the CRC is even more comprehensive and includes other prohibited grounds of discrimination, such as disability and the status, activities, opinions and beliefs of parents, legal guardians and family members.

necessity for governmental intervention concerning access to primary education for girls to contrast the unwillingness of parents to send their daughters to school because there is no economic rationale to invest in girls' education (*Ibid.*). But this is not only about economic considerations: the main reasons for girls not completing primary education are often early marriage and childbearing. Pregnant girls and very young mothers are often denied of access to school, and to overcome this kind of obstacle a strategy to change social norms is needed, through the mobilisation of teachers, parents, community leaders, and pupils themselves (Tomaševski, 1999; 2001).

Physical accessibility means that education has to be within safe physical reach, either by attendance at some reasonably convenient geographic location (e.g. a neighbourhood school) or via modern technology (e.g. access to a 'distance learning' programme) (CESCR, 1999: para.6(b)). In particular, children with disabilities may be in practice excluded from school, even if the law guarantees their equal access, because the buildings and classrooms make their access impossible. This kind of barriers has to be overcome.

Economic accessibility means that education has to be affordable to all. There is a difference here between primary education and secondary and higher education: while primary education has to be free to all, and the government is obliged to secure access to education for all children in the compulsory education age-range, free post-compulsory secondary and higher education is subject to progressive realisation, and it may entail the payment of tuition and other charges (CESCR, 1999; Tomaševski, 2001). During her analysis on the situation of the right to education worldwide, Tomaševski (2006b) found that one of the main obstacles to the access to primary schools in recent years is the introduction of fees, both as a means of compensating cuts in the budgets allocated for education and as conditions for receiving development loans. Even at the beginning of the 2000s in many countries, especially in Asia and the Pacific, some kind of charges attached to primary education were the norm, rather than the exception (Tomaševski, 2001).

The criterion of acceptability requires that the form and substance of education, including curricula and teaching methods, must be acceptable to students and parents (CESCR, 1999). This means that education has to be relevant, culturally appropriate and of good quality, and in accordance with the best interests of the child, including also minimum standards of health and safety, and professional requirements for teachers which have to be set, monitored and enforced by the government (*Ibid.*; Tomaševski, 2001; Coomans, 2007).

One important characteristic of acceptability of education is highlighted by the 'quality' requirement. For quality education to be ensured, states are required to establish and enforce minimum standards of health, safety, and objectives of learning, and professional requirements for teachers (Tomaševski, 2001).

Acceptability to parents is related to their freedom of choice of children's education, without interference, in conformity with their religious, moral or philosophical convictions. In connection to this, they also enjoy the liberty to establish and operate schools (provided they meet minimum standards established by the State). However, in many countries there is only limited or no opportunity to attend education of one's own choice, and, on the basis of international human rights law, there is no obligation for a State to provide financial support to private educational institutions (Coomans, 2007). For this reason, parental freedom is continuously subjected to litigation with regards to many different issues. For example, the contents of educational curricula and textbooks raise endless controversies, and the language of instruction as well, because it can preclude children from attending school if it is different from their mother tongue. Coomans (2007) makes clear that the State has the right, affirmed by international law, to determine its own national language(s) and language(s) of instruction; however, the increasing focus on indigenous and minority rights has brought to the fore children's right to learn in their own language, and the claim that education is unacceptable if the language is foreign to children (and also often to the teacher) is becoming widespread.

The scope of acceptability of education has been considerably broadened

through the emergence of children as subjects of the right to education and of rights in education (Tomaševski, 2001). One example is the prohibition of corporal punishment, that has transformed school discipline in many countries, with the aim of protecting the child's dignity against humiliation or degradation. As Tomaševski (1999; 2001) explained, from the rights of the child perspective, the obligation to make primary school acceptable poses great challenges for all States. Citing Hammarberg, she wrote that "an ideal primary school should be child-friendly, based on the right of the child 'to be curious, to ask questions and receive answers, to argue and disagree, to test and make mistakes, to know and not know, to create and be spontaneous, to be recognized and respected'" (1999: para.67). As made clear by the CteeRC (2001) the child's best interest has to be taken into consideration, and learning has to happen in an interactive and participatory way. Unfortunately, this vision clashes with the reality of schools in many countries, that have to deal "with the lack of running water and sanitation, with the incompatibility of the school timetable with family and community life, or with violence against and among children" (Tomaševski, 1999: para.67).

ADAPTABILITY

Adaptability requires education "to be flexible so it can adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings" (CESCR, 1999: para.6(d)). The yardstick to be followed is the best interests of each child, as included in the CRC. According to Tomaševski (2001) this represents a very important change that reverses the approach of forcing children to adapt to whatever form of education the school provided.

The principle of adaptability originated at the beginning of the globalisation era, when it became clear that education needed to adapt and be responsive to the different and rapidly changing reality that children were facing (Tomaševski, 1999). In that context, children's need to familiarise themselves with different cultures had to be addressed. Since education is vital in the transmission of core values from one generation to the next, and to help in the elimination not only of

poverty, but also of racism, religious intolerance and other reasons for social disharmony, a human rights approach started to be adopted to revise existing curricula and textbooks, to eliminate inequalities, stereotypes and negative images conveyed about indigenous peoples, women, etc (*Ibid.*).

Moreover, with the Convention on the Rights of the Child, "a conceptual dissociation between 'school' and 'education' has taken place" (Tomaševski, 2001: p.15), with the aim of providing education to children that cannot go to school. This is the case of some disabled children, children with special learning needs, or imprisoned or working children. If they cannot be taken to school, "education has to be taken to wherever they are" (*Ibid.*: p.15).

1.1.3. Responsibilities of other stakeholders

Although States have the primary duty to ensure the right to education, also other actors play a key role in promoting and protecting this fundamental right. For instance, multilateral intergovernmental agencies, such as the OHCHR, UNESCO and the United Nations Children's Fund (UNICEF), can be of critical importance in providing technical and financial assistance. Also international financial institutions such as the World Bank and the International Monetary Fund) have a role to play in this context: they should put more attention to the respect and the protection of the right to education, and should be particularly careful in their policies, credit agreements, structural adjustment programmes and measures to respond to the debt crisis (CESCR, 1999). In the same way, private businesses as well are thought to have the responsibility to respect all human rights and refrain from violating the rights of others (Right to Education Project, 2013). Moreover, the role played by civil society is critical: it has more and more the opportunity to engage in the promotion of the right to education and, even more importantly, to hold the State accountable for its obligations (*Ibid.*). General Comment No. 13 calls for "coordinated efforts for the realization of the right to education (...) to improve coherence and interaction among all the actors concerned, including the various components of civil society" (para.60). It also points out that the adoption of a human rights-based approach by the United

Nations (specialised agencies, programmes and bodies) would be of the foremost importance to make the implementation of the right to education easier and faster. As we shall see, this is of fundamental relevance for the analysis of this thesis.

1.1.4. Soft Law and education as a development goal

Besides the formal obligations undertaken by governments in ratifying human rights treaties, a number of UN global conferences have affirmed the right to education. These conferences lack the legally binding force of the treaties, but they "have introduced an additional impetus for action, together with elaborated commitments and time frames for their attainment" (UNESCO & UNICEF, 2007: p.9). The World Conference on Education for All (1990), held in Jomtien (Thailand), set the goal of universal primary education for the year 2000. This goal was not met, but it was subsequently reaffirmed for 2015 at the World Education Forum in 2000 in Dakar (Senegal), where the international community also committed to an expansion and improvement of early childhood care and education, the elimination of gender disparities in education and the improvement of quality in education (UNESCO, 2000). The achievement of universal primary education is also one of the eight Millennium Development Goals (MDGs) that were established in 2000, following the adoption of the United Nations Millennium Declaration, whereby the international community and leading development institutions made the commitment to help achieve the established goals by 2015. More precisely, regarding education, the goal was to ensure that by 2015 "children everywhere, boys and girls alike will be able to complete a full course of primary schooling and that girls and boys will have equal access to all levels of education" (UN General Assembly, 2000: para.19). Unfortunately, despite good progress, this goal is far from being reached this year, and discussions are under way for the adoption of more sustainable goals. The latest World Education Forum was held this year (19-22 May 2015) in Incheon, Republic of Korea by UNESCO, in partnership with other six co-conveners (the UN Development Programme (UNDP); the UN Refugee Agency (UNHCR); UNICEF; UN Women; and the World Bank). Five key themes were discussed

(right to education, equity in education, inclusive education, quality education, lifelong learning) with the aim of building a powerful new education agenda to reach the sustainable development goal of ensuring "equitable and inclusive quality education and lifelong learning for all by 2030" (World Education Forum, 2015). The outcome of this last World Education Forum was the Incheon Declaration. The adoption of this document is part of the process of developing a post-2015 agenda and, represents the agreement on "essential elements" of the Education 2030 Framework for Action, that builds on the Education For All framework and will be formally adopted and launched in November 2015, at a special high-level meeting alongside the 38th session of UNESCO (Incheon Declaration, 2015: para.19).

Despite these global strategies, a wide discrepancy remains between political commitments and legal obligations on the right to education, as exemplified by the issue of access. Examining laws, policies and practices in 170 countries, Tomaševski found that in many countries education is not free of charge, but, on the contrary, it is associated to a wide range of costs. She harshly criticised fees and other charges in school education, and, in her Global Report on the state of the right to education worldwide (2006b) she presented robust evidence on the impact of student fees: where education is provided free and without charges, enrolments are high, and vice versa. She argued that the key problem was not the insufficient public resources, but the fact that debt relief strategies' demands used to override human rights because of the risk of immediate and expensive sanctions associated to non-compliance. The situation is very similar today. If on the one hand international human rights law envisages international cooperation as a means to remedy the inability of individual countries to attain at least free and compulsory primary education (CRC, 1989: art.28), on the other hand the necessary global political will to fight economic exclusion is not there yet. The main problem is that the World Bank denies that education is a universal human right. Instead, it conceives education as a service, a 'handout', an instrument of poverty reduction, to be analysed in terms of supply and demand (Tomaševski, 2006b; Tilak, 2007). This approach is one of

international trade law, that denies that education is a government responsibility. Back in 1999, she wrote something which is still very important today:

> "These divergencies in terms and underlying concepts demonstrate the need for a consistent and comprehensive advocacy for the human rights approach to education so as to integrate human rights into the existing domestic educational policies and laws as well as into international strategies and monitoring mechanisms" (Tomaševski, 1999: para.14).

This sentence explains the importance of the adoption of a human rights-based approach to education and represents the backbone of this thesis.

1.2. A human rights-based approach to education

At the end of the 1990s, there was within the UN system a growing awareness of the need to mainstream human rights into all its activities, and in particular into development activities (UN Human Rights-Based Approach - HRBA Portal, n.d.). In fact, the needs-based or service-delivery kind of approaches adopted before were turning out to be not as successful as they could have been. The main limitation of these approaches was probably their distance from the people they were going to assist and from their needs (*Ibid.*). It was clear, then, that successful outcomes would be obtained only through participation of rights-holders and accountability of duty-bearers, and this was the reason behind the inclusion of human rights mainstreaming into the process of reform of the UN launched by the Secretary-General in 1997 (*Ibid*.). This led to an inter-agency process of negotiation that resulted in the adoption of a UN Statement of Common Understanding on the core elements of a human rights-based approach (2003). Essentially, the statement integrates the norms, standards and principles of international human rights into the entire process of development programming (UNESCO & UNICEF, 2007). It states that all programmes of development cooperation should advance the realisation of human rights as declared in international human rights instruments; that human rights standards should guide all activities in all development sectors and in all phases of the programming

process; that the development activities should contribute to the building of capacities of 'duty-bearers' to meet their obligations and of 'rights-holders' to claim their rights (*Ibid.*).

The UN Office of the High Commissioner for Human Rights defines the human rights-based approach to development as "a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights" (OHCHR, 2006: p.15). In other words, the aim of such an approach is to integrate human rights norms, standards and principles into the plans, strategies, policies and processes of development programming. According to OHCHR (2006: p.15), the strength of this approach is that "it seeks to analyse inequalities which lie at the heart of development problems and redress discriminatory practices and unjust distributions of power that impede development progress". Moreover, that fact that the plans, policies and processes of development are anchored in a system of rights and corresponding obligations established by international law "helps to promote the sustainability of development work, empowering people themselves— especially the most marginalized—to participate in policy formulation and hold accountable those who have a duty to act" (OHCHR, 2006: p.15).

1.2.1. The principles underpinning the human rights-based approach

There are five specific principles that underpin the human rights-based approach. These are: participation, non-discrimination, empowerment, accountability and link to the law.

PARTICIPATION

Human rights law establishes that all persons and peoples are "entitled to active, free and meaningful participation in, contribution to, and enjoyment of civil, political, economic, social, and cultural development" (UNESCO & UNICEF, 2007: p.10). Thus, a human rights-based approach requires a high degree of participation from the targeted beneficiaries, including local

communities, civil society, minorities, indigenous peoples, women and others. Participation has to happen during all phases of programming: assessment, analysis, planning, implementation, monitoring and evaluation (OHCHR, 2006). In addition, participation must be active, free and meaningful: mere formal consultations are not sufficient. It is closely linked with the issue of accessibility (to institutions, information, etc) and redress or complaints mechanisms (*Ibid.*).

NON-DISCRIMINATION

In a human rights-based approach, particular attention is given to non-discrimination, equality and the status of vulnerable groups. According to human rights law, all individuals are equal as human beings: each person possesses inherent dignity, and for this reason is entitled to enjoy his/her rights without discrimination (UNESCO & UNICEF, 2007). As a consequence, a human rights-based approach requires that specific protection is guaranteed to the rights and well-being of vulnerable and marginalized groups. In order to give visibility to those groups and their needs, data have to be as disaggregated as possible, by sex, age, religion, ethnicity, language and disability (OHCHR, 2006). Moreover, all activities have to guard against reinforcing existing power imbalances or contributing to the creation of new ones (UNESCO & UNICEF, 2007).

EMPOWERMENT

Empowerment is "the process by which people's capabilities to demand and use their human rights grow" (*Ibid.*: p.10). With this process, people become able to "claim their rights rather than simply wait for policies, legislation or the provision of services" (*Ibid.*: p.10). This is one of the main aims of a human rights-based approach, which was born out of the inefficacy of service-delivery oriented responses. The focus is on beneficiaries as the owners of rights, and the role of the human person as the centre of the development process is emphasised. The ultimate goal is to give people the capabilities to change their own lives, in the present and for the future, and also to improve the communities where they live (*Ibid.*).

A rights-based approach also aims at enhancing accountability and transparency, by identifying 'rights-holders' and corresponding 'duty-bearers', and at increasing the capacity of the latter to meet their obligations, that are both positive and negative (*Ibid.*). Although the main accountable actors are governments, also individuals, local organisations and authorities, private companies, media, aid donors and international institutions are taken into consideration. For this to be effective, adequate laws, administrative procedures and mechanisms of redress have to be put in place to respond to denials and violations of rights (Sandkull, 2005).

LINK TO THE LAW

The last defining feature of the human rights-based approach is its linkage to human rights standards and the respect of the rule of law. Broadly speaking, human rights standards represent a universally accepted set of obligations and minimum guarantees, a sort of benchmark against which to compare a specific situation so to understand if a problem exists or a good result has been obtained (*Ibid.*). A human rights-based approach assists countries in translating human rights goals and standards into locally achievable results (OHCHR, 2006). A linkage to the human rights system also ensures a holistic treatment of human rights to reflect their inalienability, indivisibility, interdependence and interrelatedness (UNESCO & UNICEF, 2007).

1.2.2. Application of the human rights-based approach to education

To comply with the agreed principles and standards established in the international human rights instruments, States have to develop a rights-based education system. To do so, they need to apply a human rights-based approach to education in their programming and planning processes, the goal being "to assure every child a quality education that respects and promotes her or his right to dignity and optimum development" (UNESCO & UNICEF, 2007: p.1).

In fact, as explained above, a shift is needed in the view of the provision of education. As Tomaševski, among others, underlined, and as explained by this author above, education must be considered as a human right rather than a service to be delivered. Moreover, as made clear by international human rights law,[3] children should be seen as holders of the right to education. This implies not only the right to have access to education, but that "human rights must also be applied in education and promoted through education" (Sandkull, 2005: p.2).

A human rights-based approach to education builds on the important principles explained above, and supports the fulfilment of internationally agreed human rights requirements that are relevant to the education sector. It is based on the fact that four key actors are involved as rights-holders and duty-bearers. These are: the government and its institutions (as duty-bearers, that have the obligations explained in the previous section), the child (as rights-holder and rights-claimer, but also as duty-bearer, since he/she has the duty to attend compulsory education), parents (as representatives of the child, so being both rights-holders/claimers and duty-bearers), and teachers (as both rights-holders and duty-bearers) (Sandkull, 2005).

The application of a human rights-based approach to education can give a significant contribution to the whole society, and, UNESCO and UNICEF (2007) clarify the different ways in which it offers a meaningful added value. First of all, while emphasizing quality education, the adoption of a human rights-based approach can encourage the development of school environments where children learn respect for families and the values of the society in which they are living, and have an understanding of other cultures and peoples. In this way, education promotes social cohesion, integration and stability and fosters intercultural dialogue. Second, a rights-based approach mandates that all forms of physical or humiliating punishment by teachers are eliminated in schools and communities, and all forms of bullying and violence among students are challenged. This allows for children to learn the values of peace and non-violent conflict resolution, and

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[3] In particular the CRC and the CESCR's General Comment No. 13.

this can have far-reaching consequences for the wider society. Third, through human rights education, a rights-based approach to education contributes to positive social transformation, empowering children and other stakeholders to build a rights-respecting society and seek social justice. Fourth, a rights-based approach to education is cost-effective, economically beneficial, and also more sustainable. In fact, educational outcomes improve if education systems are inclusive, participatory and accountable, and treat children with dignity and respect, while higher dropout rates and larger amount of children repeating grades are the result of the failure of schools to adapt to the needs of children. Fifth, the application of a rights-based approach to education produces better outcomes for a country's economic development, because measures to promote universal access to education and overcome discrimination will have the outcome of allowing more people to be educated, so in the longer-term the economic base of society is widened. Sixth, thanks to its focus on empowerment and accountability, a rights-based approach to education on one hand increases the capacities of governments to fulfil their obligations, and on the other hand improves the capacity of individuals to claim their rights.

UNESCO and UNICEF (2007) also point out that the development of a human rights-based approach to education requires a framework that embodies three interdependent and interlinked dimensions of the right to education (very much linked to the 4As): the right of access to education, the right to quality education and the right to have human rights respected in education. A human rights-based approach to education is not successful if these three aspects of the right to education are not protected. The right to education embodies a commitment to ensuring universal access, including taking all necessary measures to reach the most marginalized children (this commitment reflects the principles of availability and accessibility as well as non-discrimination). But getting children into schools is not enough to guarantee that they will be able to acquire the skills, knowledge, values and attitudes that transform them into responsible and active citizens that can achieve their economic and social objectives. Therefore, it is necessary to ensure quality education: attention must be paid to the

relevance of the curriculum, the role of teachers, and the nature and ethos of the learning environment (so, acceptability and adaptability must be ensured and empowerment promoted). The human rights of children have to be recognized and respected while they are in school (including respect for their identity, agency and integrity, for the right to freedom from discrimination, to an adequate standard of living and to meaningful participation, right to health and well-being). Increasing respect for children's rights in school will in turn contribute to increase access and retention rates, as well as enhance quality education, and will also make the process of education empowering, participatory, transparent and accountable (UNESCO & UNICEF, 2007).

This conceptual framework clearly highlights the need for a holistic approach to education, reflecting the universality and indivisibility of all human rights and the interconnections between the 4A scheme and the human rights-based approach. To assess whether or not such an approach has been adopted in a precise context, monitoring activities and indicators are of the foremost importance.

1.3. Indicators to assess state performance

1.3.1. Definition and utility

As defined by the OHCHR (2012: p.16), "a human rights indicator is specific information on the state or condition of an object, event, activity or outcome that can be related to human rights norms and standards; that addresses and reflects human rights principles and concerns; and that can be used to assess and monitor the promotion and implementation of human rights". As part of the broad process of implementation, monitoring and realisation of human rights, various stakeholders, activists, and policymakers recently called for the use of specific human rights indicators that represent concrete, practical tools to measure the implementation of rights. This demonstrates the recognition of the need to move away from using general statistics that often are not clear enough in their application to human rights measurement (OHCHR, 2012). For example, as regards the right to education, school enrolment statistics, that were used as the

main tool to assess access to education, reflect registration of pupils at the beginning of a school year and not school attendance; these statistics account for the number of children who are at school (or at least are registered at the beginning of a school year), but not for how many should be at school (Tomaševski, 1999). Moreover, they say nothing about quality or acceptability of education, which are key features of this right (as made clear above).

There are many reasons why indicators are used as the main tool to monitor the implementation of human rights. First of all, they transform the message of human rights, which is value-based and expressed in a legalistic language, into a more tangible and operational message (OHCHR, 2012). In this way, indicators ensure a better understanding of the content of rights and obligations, and better communication among a broader set of stakeholders, including those who may not have been specifically trained in human rights (*Ibid.*). This also ensures that stakeholders (both rights-holders and duty-bearers) can be well informed about the interpretation of human rights standards and norms by courts and treaty bodies, and, in turn, their implementation and attainment of the objectives can be facilitated (*Ibid.*). Using indicators can also improve public understanding of the problems, constraints, and policy trade-offs, and help in creating broader consensus on priorities to be followed (*Ibid.*). Finally, indicators, when used properly, can be powerful tools for creating a culture of accountability and transparency, and for helping States to assess their own performance and progress in ensuring that people under their jurisdiction are able to enjoy their human rights (*Ibid.*).

In addition, the importance of context-specific indicators has to be taken into account. In fact, different countries and regions have different social, economic and political situations, and they differ in the level of realisation of human rights as well. These differences are reflected in specific development priorities. For this reason, while certain human rights indicators are relevant across all countries and their regions, others have to be adapted to be of relevance in different situations (*Ibid.*).

There are also some challenges associated with the use of indicators. One of

the main problems is known as "slippage", meaning that indicators "do not precisely or entirely measure the concept they are designed to assess (...) they are just proxies to measure concepts that are difficult, if not impossible, to measure" (Kalantry, Getgen & Koh, 2010: p.289). Moreover, there is the possibility that different researchers or organisations do not use the same indicators to measure the same concepts or define the same indicator differently: in this way, they may achieve very different results. Other challenges are related to the difficulties associated with developing surveys, collecting information, and compiling data that may be needed for indicators, and to obtain the data for the same indicator over time (Kalantry, Getgen & Koh, 2010).

1.3.2. Categorisation

Human rights indicators can be of different types. Besides all the different categories of indicators, such as quantitative and qualitative, fact-based (or objective) and judgement-based (or subjective), performance and compliance indicators, the new framework for the configuration of human rights indicators that has been more recently adopted by the UN focuses on the steps taken by the States to meet their obligations to respect, protect and fulfil a human right (OHCHR, 2012). Indicators are divided into three categories: structural, process and outcome indicators.

The OHCHR (2012) explains that structural indicators aim to capture the acceptance, intent and commitment of the State to undertake measures to comply with its human rights obligations. Some common structural indicators are the ratification and adoption of international human rights treaties and other legal instruments, or the existence and the creation of basic institutional mechanisms for the promotion and protection of human rights. The focus is on the nature of domestic law in relation to a specific right (looking at whether it incorporates international standards), and on the State's institutional mechanisms, policy framework and strategies applicable to that right (*Ibid.*).

Process indicators are defined by the OHCHR as those indicators that "measure duty bearers' efforts to transform their human rights commitments into

the desired results" (2012: p.36). Their aim is to produce a continuous assessment of all the policies and specific measures that duty-bearers take to implement their commitments on the ground. Some common process indicators are budget allocations; specific regulatory or redress interventions, the coverage of targeted population groups under public programmes; the number of human rights complaints received and the proportion redressed; awareness measures adopted to address specific human rights issues. Process indicators represent a "'monitorable intermediate' between commitment and results" (*Ibid.*: p.36), so they allow for a better assessment of the progressive fulfilment of a right or the process of protecting a right (*Ibid.*).

Outcome indicators capture the results of State efforts in attaining the enjoyment of human rights in a specific context. While process indicators capture the various processes of implementation, an outcome indicator records the impact of those processes (*Ibid.*). Some common examples are the proportion of labour force participating in social security schemes; the number of reported cases of miscarriage of justice and proportion of victims who received compensation within a reasonable time; educational attainments (e.g., youth and adult literacy rates) by targeted population group. Process and outcome indicators are not always mutually exclusive: a process indicator for one human right can be an outcome indicator in the context of another (*Ibid.*).

It has been noted (Kalantry, Getgen & Koh, 2010: p.283) that "the structure-process-outcome framework divides state duties into obligations of conduct and obligation of result", and emphasises the fact that the amount of state control over these different obligations differs. This theory points out that the state usually has a higher level of control over obligations of conduct, which are measured by structure and process indicators, and a lower level of control over obligations of result, measured by outcome indicators. It follows that violations associated to structure and process indicators are more directly attributable to state failures than violations associated to outcome indicators (Kalantry, Getgen & Koh, 2010).

1.3.3. Indicators for the right to education

In order to establish specific indicators for the right to education, it is fundamental to consider its specific features represented by the 4-As scheme. It has been noted that, although Tomaševski was well aware of the importance of using indicators, she did not identify specific indicators to measure the compliance to the 4-As scheme (Kalantry, Getgen & Koh, 2010). In accordance to her work, it has been proposed to subcategorise availability, accessibility, acceptability and adaptability into structural, process and outcome indicators. This would ensure that all aspects of state obligations are measured, and, more importantly, it would allow "for a better assessment of violations by isolating the specific strengths and weaknesses of a country's fulfilment, or lack thereof, of its education obligations under each of the 4 As" (Kalantry, Getgen & Koh, 2010: p.281). Of course, all indicators must take into consideration the funding principles of a human rights-based approach (participation, accountability, non-discrimination, empowerment, link to human rights law).

Kalantry, Getgen and Koh (2010) produced a list of the main indicators on the right to education according to the framework outlined above. The following indicators are the main ones identified in their work.

AVAILABILITY

Some examples of structural indicators concerning availability are the existence (or nonexistence) of a plan of action for a national education strategy; the existence (or nonexistence) of constitutional provision(s), case law precedent, and/or national legislation requiring: an adequate number of schools within a reasonable distance from all school-age students in the population; adequate facilities (potable water, sanitation, materials, etc.) and number of teachers in schools; uninterrupted, adequate government funding for education; uninterrupted, adequate government funding for teachers' salaries.

Process indicators can be the adoption (or not) of a national educational strategy; the proportion of the state's GDP allocated to education, broken down by region and state or province, urban/rural location, primary education, secondary

education, vocational training, higher education, teacher training; the adoption of special programmes to improve gender balance, and targeted aid to the poor localities; the proportion of funding that is allocated to provide for construction and maintenance of schools; the policies or legislation that are in place regarding recruitment, training, and pay for teachers; salaries of teachers as compared to other professions, disaggregated by gender and urban/rural location for each level of educational system and further broken down by public/private education; the number and proportion of schools per capita throughout the country broken down by rural/urban and region, and education levels.

Outcome indicators can be represented by the pupil/teacher ratio for primary, secondary, and tertiary education, with breakdowns for public and private education and in urban and rural areas; the number and proportion of teachers in all classrooms (adequate number necessary for availability requirements); the number and proportion of communities/schools/classrooms that are without teachers broken down by rural/urban and region at the primary level; the disaggregated proportion of primary/secondary schools by rural, urban, public, private, and by region with buildings in disrepair, schools that have a shortage of classrooms, schools that have inadequate textbooks, schools with no water within walking distance, schools with lack of access to sanitary facilities, schools with inadequate toilet facilities, and number of schools with lack of access to library facilities; the net enrolment rate (proportion of eligible children attending school) with separate data for primary, secondary, and tertiary levels of education (also disaggregated data by gender, urban/ rural, ethnic group, and public/private education).

ACCESSIBILITY

Structural indicators of education accessibility are: existence (or nonexistence) and scope of constitutional provision(s), case law precedent and/or national legislation providing for equal and non-discriminatory access to education; existence (or nonexistence) of constitutional provision(s), case law precedent, and/or national legislation providing free and compulsory primary

education for all; recognizing the importance of physical accessibility of education; recognizing the right of persons with disabilities, of other populations with special needs (IDPs, working children) to education.

Process indicators can be the following: whether or not public policy measures have been taken to remove gender bias from primary education and from teacher educational strategies; to what extent the state allocates resources for alternative means of education for extremely isolated geographic localities; whether or not the government collects disaggregated data on the basis of age, sex, urban/rural location, income, language or disabilities; whether or not the government implements effective affirmative action policies to improve enrolment rates and completion rates for minorities; the existence (or nonexistence) of regulations permitting charges such as enrolment fees, tuition fees, uniforms, school supplies, school meals, and school transport.

As far as outcome indicators are concerned, these could be: the proportion of school age children who are not in school and the trends for these ratios over time; the proportion of all students who have to pay for primary education and, for these families, the average expenditure for education; the proportion of students who have to travel more than a reasonable or safe distance to reach school. All of these indicators need to be disaggregated by rural/urban, income, gender, and ethnic groups.

ACCEPTABILITY

Structural indicators about acceptability are: the existence (or nonexistence) of constitutional provision(s), case law precedent, and/or national legislation to ensure that education conforms to the objectives identified by international human rights law, and in particular by the Committee on the Rights of the Child; the existence (or nonexistence) and scope of constitutional provision(s), case law precedent, and/or national legislation providing for free choice and minimum standards of acceptability for all levels of education for public and private institutions; the monitoring and evaluation of teachers and/or qualifications or certification requirements for teachers; school accreditation and regular

inspection; periodic testing of students to assure quality of the educational content.

Some of the main process indicators are: whether or not the state has methods for measuring acceptability, and, if so, how often they are applied and monitored; whether or not the state conducts regular assessments of educational needs, and if so, what this entails; whether there have been efforts to train teachers; the expenditure per pupil in private school and in public school; whether the state has mechanisms in place to investigate complaints on the right to education.

Outcome indicators are for instance: the proportion of children who attend private schools as compared to public schools; the proportion of children who are attending facilities that do not meet state requirements in terms of quality standards; the repetition and drop-out rates at all education levels; the average students' scores on standardized tests; whether or not there exist facilities that do not meet standards; literacy or illiteracy levels as well as the trends over time.

ADAPTABILITY

Structural indicators for adaptability can be: the existence (or nonexistence) and scope of constitutional provision(s), case law precedent, and/or national legislation providing for adaptability of all education to accommodate individual children's special needs; recognizing the right of parents to ensure religious and moral education of children in conformity with their own convictions; recognizing the liberty of individuals and groups to establish and direct educational institutions, subject to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the state; expressly recognizing the right of parents to choose schools for their children other than those established by public authorities.

Some process indicators are: whether or not the official curriculum includes units on human rights education and values such as respect for human dignity, non-discrimination, and equal status before the law; existence and scope of policies that provide for recruitment of and training for bilingual teachers;

provision for ethno-education for minorities, special education for children with disabilities, night classes for working students.

Outcome indicators can be represented by the number and proportion of bilingual, ethno-education, and special education teachers in place per primary school child, and whether this differs according to geographic region; the enrolment rates for students with various special needs; the dropout rates for students with various special needs.

It is important to make clear that some indicators may relate to one or more of the categories specified herein—availability, accessibility, acceptability, and adaptability. For instance, many availability indicators can also measure accessibility or acceptability as well. Some of these indicators will be used in chapters 4 and 5 in an attempt to assess the provision of education in Haiti after the earthquake of 2010, both by international organisations and by the state.

Before doing so, we shall turn our attention to the right to education and its features during emergencies and in particular natural disasters.

CHAPTER 2
THE RIGHT TO EDUCATION DURING EMERGENCIES

2.1. Emergencies: definition and focus on natural disasters

In his report on the right to education during emergencies (Muñoz, 2008: para.5), the former UN Special Rapporteur Vernor Muñoz defined emergencies as

> "any crisis situations due to natural causes such as earthquake, tsunami, flood or hurricane, or to armed conflict, which may be international (including military occupation) or internal, as defined in international humanitarian law, or post-conflict situations, which impair or violate the right to education, impede its development or hold back its realization. Such situations put people's health and lives at risk and threaten or destroy public and private assets, limiting the capacity and resources to guarantee rights and uphold social responsibilities."

Emergency-affected societies usually face economic decline and health problems, and this is why humanitarian action is needed. As far as the education sector is concerned, all emergencies jeopardise children's access to education, for different reasons such as the destruction of schools, the death of teachers and/or parents, the inability of the government to ensure that public services (like education) function properly (*Ibid.*). Obviously, every emergency is different (different nature of conflict or disaster, different political/economic/social/cultural context), and, as a consequence, the impact on affected populations is also different.

2.1.1. Conflicts

Statistics show that the proportion of the out-of-school children worldwide living in conflict-affected areas has increased from 30% in 1999 to 36% in 2012 (UNESCO, 2015a), and while the global number of out-of-school children fell slightly from 2008 (60 million) to 2011 (57 million), this progress has not reached

countries in conflict (*Ibid.*). In those countries, primary school age children represent 22% of the world's primary school age population, but 28.5 million children are out of school, which is around a half of out-of-school children worldwide (UNESCO, 2014).

There are different reasons why conflicts are considered to represent the greatest challenge to education (Sinclair, 2002). Conflicts are, for sure, more complex situations than natural disasters, because of their protracted duration and the involvement of political and strategic interests. Although international humanitarian law provides for specific protection for civilians in conflict situations, schools are more and more under attack as targets (Global Coalition to Protect Education From Attack - GCPEA, 2014): as a result, parents very often decide to keep their children at home to avoid security risks that they could encounter, both in the way to school and at school. Moreover, conflicts often become chronic crises that last for years and this impedes reconstruction to take place for a longer period of time compared to reconstruction after natural disasters. With regard to the work of humanitarian organisations in emergencies, during a conflict these actors usually find it difficult to cooperate with the host state, which is often corrupt, inept, or actively predatory (Klasing, Moses & Satterthwaite, 2011).

On the other hand, natural disasters are "statistically less lethal" than conflicts, and cause one third of deaths (Muñoz, 2008: para.28). These could be the most important reasons why the main focus in the existing literature about education in emergency seems to be on conflicts more than on natural disasters.

2.1.2. Natural disasters

However, during the 1990s natural disasters affected seven times the number of people that conflicts did, and this kind of emergencies seems to be growing: the incidence of natural disasters increased threefold from the 1970s to the 1990s (Burde, 2005; UNESCO IIEP, 2010). Although they can strike anywhere, natural disasters affect more seriously countries least able to cope with the effects of these events (90% of disaster-affected people live in those countries)

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(Burde, 2005): they usually hit already weak school systems, and cause drastic economic decline and various health problems (i.e. contamination of clean water and increased levels of garbage cause hygiene problems) in already poor societies. In this kind of context, the state remains the primary guarantor of rights, although its capacity is diminished by the impact of the emergency (Klasing, Moses & Satterthwaite, 2011). At the same time, in such cases, humanitarian organisations have the possibility to work together with the state, and help it to ensure the protection of citizens' human rights, as well as to restore the capacity of governmental institutions and its accountability mechanisms (*Ibid.*). Also the affected population, in case of natural disasters, is more active and has a critical role in participating in the organisation of humanitarian response: differently from the relationship they have in conflict situations, humanitarian actors support existent capacities within the population (*Ibid.*).

These are the reasons behind the choice of focusing, with this research, on natural disasters rather than on conflicts. The following considerations on the impact of natural disasters on human rights and specifically on education do not have the objective of diminishing the tragic impact of conflicts; their aim is simply to illustrate more in depth the situation and the challenges that natural disasters create.

NATURAL DISASTERS AS HUMANITARIAN EMERGENCY

It is worth clarifying that the term 'natural' disaster is used for ease in this thesis (as well as in the main literature). It would be more correct to talk about 'disasters linked with natural hazards', since not every natural hazard causes a disaster, and thus the need for humanitarian assistance. A disaster can be defined as "a serious disruption of the functioning of a community or a society causing widespread human, material, economic or environmental losses which exceed the ability of the affected community or society to cope using its own resources" (United Nations Office for Disaster Risk Reduction - UNISDR, 2007). It is important to underline that "disasters are the result of the combination of the exposure to a hazard, the conditions of vulnerability that are present, and

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insufficient capacity or measures to reduce or cope with the potential negative consequences" (*Ibid.*). Therefore, the magnitude of the consequences of natural hazards depends on the capability of individuals and societies to cope with to threats originating from natural hazards; it is a direct result of human action (subsequent as well as prior to the hazard), or the lack thereof (IASC, 2011).

NATURAL DISASTERS AND HUMAN RIGHTS

Natural disasters are traditionally seen as situations requiring the provision of humanitarian assistance. It is only recently that attention to the need of human rights protection in this kind of context has increased. The tsunamis, hurricanes and earthquakes that occurred in the last decade particularly emphasised the likelihood that affected persons would face multiple human rights challenges after they experienced the trauma of a natural disaster (IASC, 2011). In fact, in situations of natural disasters, pre-existing vulnerabilities and patterns of discrimination are usually exacerbated. Negative human rights impacts of this kind of emergency often are not the result of purposeful policies but are the consequence of inadequacy to plan the response (or simple neglect), while, if relevant human rights guarantees are put in place in normal times, the challenges could be alleviated (*Ibid.*).

In the context of natural disasters, international humanitarian law is not applicable, unless in settings of armed conflicts. In any case, in addition to the country's legislation, international human rights law always applies, and the application of a human rights-based approach to humanitarian assistance provides a framework for action grounded in universal principles. As a result, affected people are not just passive beneficiaries and recipients of aid, but rights-holders that can claim the respect, protection and fulfilment of their rights from duty bearers (*Ibid.*).

IMPACT OF NATURAL DISASTERS ON EDUCATION

Even though natural disasters are always different, ranging from earthquakes to floods, hurricanes, droughts, and include blizzards, landslides,

volcanic eruptions, tsunamis, and cyclones, there are some key elements that can be observed with regard to their impact on education. Besides the physical destruction of buildings and materials, the human loss (of education personnel and education policy makers) represents a critical obstacle to the provision of quality and inclusive education in the aftermath of the disaster: the education system can be seriously weakened by the loss of institutional capacity, and this also hinders its reconstruction (USAID, 2014).

USAID (2014) points out how a disaster affects the enjoyment of the right to education by children on three distinct levels: personal, systematic, and societal. On a personal level, children often witness or directly experience mass destruction of life or property, their homes are destroyed, they may be separated from their family or guardians, they may face displacement, loss of hope in the future, loss of family's financial resources to send children to school. On a systematic level, the government is overwhelmed with immediate needs of the population and it is not able to cope with the necessity of supporting schools, that can be destroyed or used as a shelter by homeless and displaced people; there can be a teacher shortage due to death or injuries; the disaster makes access and movement difficult for the remaining teachers, and the teacher salary system breaks down. On a societal level the main effects are the loss of livelihoods, the high level of physical danger, the fact that populations move in large numbers to concentrate in one safer area, and that the damage to roads and infrastructure slows the immediate response.

As the next section will show, the inclusion of the provision of education within the humanitarian response put in place in the immediate aftermath of a natural disaster is of the utmost importance to overcome the above mentioned difficulties at all levels:

> "In such situations, an education response seeks to enable education activities to continue and helps children to be ready to learn (often through supporting local education provision), while the national government system gets back to normal, or better than normal. The education response might include providing temporary schooling and psychosocial support to promote readiness to learn prior to the resumption of formal schooling and construction or rehabilitation of schools" (Save the Children, 2008: p.5).

2.2. Education in emergencies

2.2.1 Definition

The International Network for Education in Emergencies defines Education in emergencies as all learning opportunities provided for people of all ages during an emergency situation: "it encompasses early childhood development, primary, secondary, non-formal, technical, vocational, higher and adult education" (INEE, 2010: p.2). It is education "that protects the well-being, fosters learning opportunities, and nurtures the overall developments (social, economic, cognitive, and physical), of children affected by conflicts and disasters" (Save the Children Alliance, as cited in Sinclair, 2002: p.23). In those contexts, education initiatives support children's cognitive and emotional development, and include additional educational content relevant to the particular circumstances (*Ibid.*). Delivering education in emergencies does not necessarily mean building schools and providing formal schooling as it is traditionally understood in stable situations; it is rather about providing children with child-friendly spaces and continued opportunities for learning and development (Global Education Cluster, 2008).

In emergency situations, education is often significantly disrupted. This is a loss that strikes children at the very time when they are most vulnerable because they suddenly find themselves in a new reality where their present and their future are uncertain (Nicolai, 2003).

2.2.2. Benefits of education in emergencies

In the last decades, an increasing consensus has arisen on the importance of the quality of life of people affected by crises. Anderson, Hofmann and Hyll-Larsen (2011) well express this concern: "emergency response must not only focus on how people are dying in crises, but also address the critical question of how people are living" (p.87). They also emphasise the priority that must be given to education in such contexts, since "it can provide physical, psychosocial and cognitive protection that can sustain and save lives" (*Ibid.*: p.87). Also Nicolai (2003) writes about the fundamental importance of education during emergencies,

underlining that "in the short term, education plays a role in meeting children's basic needs; in the long term, it will help them to reduce their vulnerability to disaster, and will help them build new lives" (p.6).

According to Nicolai (*Ibid.*), the need for the provision of education in emergencies is connected to three core reasons: education is a right, education helps to protect children, and education is usually required as a priority by the affected populations.

CHILDREN HAVE THE RIGHT TO EDUCATION

As illustrated in the previous chapter, the right to free and compulsory primary education without discrimination is enshrined in international human rights law. Like every human right, also the right to education is universal and applies even in an emergency situation.

In 2008 the UN Special Rapporteur on the Right to Education Vernor Muñoz chose to focus his annual report on the right to education in emergencies and reminded all stakeholders (governments, donors, and the international community) that the right to education, as all human rights, is always legally binding, and children have the right to go to school no matter what context they live in or what challenges there may be to its guarantee (Muñoz, 2008). Children cannot be denied their right simply because the delivering of education in some contexts is more complex or because other rights have the priority. In addition, the right to education inheres in each person regardless of legal status, whether refugee, child soldier or internally displaced person.

Also article 7 of the UN General Assembly Resolution 64/290 (2010: para.7) underlines that the right to education is not suspended during humanitarian emergencies, urging "Member States to implement strategies and policies to ensure and support the realization of the right to education as an integral element of humanitarian assistance and humanitarian response".

The primary duty-bearers, even in case of emergency, are governments: they have to ensure that they meet their obligations. Understandably, in this kind of situations many governments may lack the ability to fulfil their responsibility.

However, this does not justify that they abdicate their duties and children lose their right to education. Governments must be held accountable and do everything in their power to provide education, and when they cannot, this responsibility is taken over by the international community. As reminded in General Comment No. 13, States are actually obliged to seek and provide international assistance and cooperation in order to guarantee that all children fully enjoy their right to education.

CHILDREN NEED PROTECTION

Moreover, education can play a fundamental role in protecting children, who (as pointed out above) are more vulnerable during an emergency for many reasons, such as displacement, trauma, injuries, loss of family members and friends. In this context, Nicolai (2003) and the INEE (2010) show that several components of education help to address children's needs, and provide physical, psychological and cognitive protection.

Both sources point out that, first of all, through education children are provided with a safe and supervised environment: this allows them to be protected from dangers and exploitation. Secondly, education can transmit important knowledge about the risks connected to a crisis, for example on how to address issues such as food safety, hygiene, HIV/AIDS, protection from sexual abuse, and improve survival skills and coping mechanisms. In addition, thanks to children's education, this knowledge and skills are then spread across families and the whole community benefits from it. Thirdly, education can help to identify children with special needs and protect them as well as protect other vulnerable groups such as girls, children with disabilities, children from ethnic minorities. Fourthly, education offers children the possibility to engage in structured activities. Through these activities, they can express their emotions and even process their trauma; in addition, their participation in educational activities can give them a sense of stability that they would not have if they did not attend school. The fact that children go to school actually represents a daily routine that allows the whole family to regain a sense of normalcy.

Nicolai (*Ibid.*)also argues that education also reinforces the community's belief in the future. Especially in smaller rural communities, school symbolises the opportunities that younger generations could have to build a better life. If children stop going to school and postpone learning until after the emergency, it is very likely that they will never attend school again, while if their learning continues (although in a less formal way) this provides a more optimistic vision of life. It is crucial that parents and children's aspirations are kept alive, and education should be given importance during crises also because it increases children's ability to participate positively and fully in the life of their society (Global Education Cluster, 2008).

Another reason why education plays an important role during emergencies is emphasised by Anderson, Hofmann and Hyll-Larsen (2011): they point out that schools can be used as an 'entry point' for the provision of different types of assistance, like shelter, food, water, health services, and can represent the places where coordination between different areas of humanitarian action can be established.

COMMUNITIES PRIORITISE EDUCATION (PARTICIPATION)

It has been reported (Nicolai, 2003) that communities that live in an emergency situation, or have experienced one in their near past, usually place the provision of education for children among the main assistance priorities. This is the demonstration that both parents and children believe in the importance of education in emergencies, and this is the main reason why education has to be included in the humanitarian response to a crisis.

Article 12 of the Convention of the Rights of the Child guarantees children's right to participation (including the right to express their own views on all matters affecting them). More in general, as explained in chapter 1, participation is one of the universal principles that underpin the human rights-based approach to development, which has to be applied also in the provision of international assistance to emergency-affected populations. The views and the requests of the community that will receive assistance must be taken into

consideration and be acted upon practically. It follows that if communities, and children in particular, ask for the provision of education as one of their key priorities during a crisis, every humanitarian actor that has the capacity and the competence of intervening in this sector has to put as much effort as possible to prioritise education in the international response.

LONGER-TERM BENEFITS

Some of the benefits coming from education in emergencies can be recognised in the longer term. As previously mentioned, through education children can be better equipped to rebuild their lives as well as the community they live in. In a situation of crisis, education can bring benefits to the whole society, and enhance social cohesion, which is very much needed in such contexts (INEE, 2010). Thanks to the knowledge and skills that are spread throughout society by children attending education, and also by humanitarian actors that often associate to basic education provision also broader training activities, people can learn the importance of values, such as tolerance, inclusion and non-discrimination, and human rights (*Ibid.*). In addition, anyone has the opportunity to acquire new competences in relation to conflict or disaster prevention, disaster risk reduction, post-emergency reconstruction (*Ibid.*).

2.2.3. Challenges to education in emergencies

The former UN Special Rapporteur for the Right to Education Muñoz (2008) outlined the main challenges to the provision of education during emergencies. The most important challenge is represented by the scarcity of funding devoted to education in general, despite the broad support received by the commitments expressed at international level in the Education For All initiative and the Millennium Development Goals (recently replaced by the Sustainable Development Goals). Moreover, the dominant paradigm of allocation of aid, based on the assumption that countries with a stronger institutional capacity are more worth assistance because it will be more effective, is quite often at odds with the importance of assisting countries with the most urgent needs, and creates a

distorted scale of priorities in the allocation of aid (Muñoz, 2008).

The fact that donors are still reluctant to consider education as part of humanitarian response is another, very powerful, obstacle to overcome. The primary interest of emergency relief organisations was historically limited to life-saving programs. Only during the 1990s, education programs in connection to the complex humanitarian emergencies that characterised that period (for example in Bosnia, Rwanda, Somalia, Sudan) started to be put in place; until then humanitarian relief entailed only the provision of food, shelter, water and sanitation, and health care, while education was seen as part of longer term development work (rather than as a necessary response to emergencies) (Sinclair, 2002). But still, even more recently, both donors and humanitarian workers have been often resisting rights-based approaches to emergencies, fearing that departing from the principles of neutrality, impartiality and independence, that traditionally characterise humanitarian assistance, would mean to lose access to the emergency settings (Anderson, Hofmann & Hyll-Larsen, 2011). This is demonstrated, for example, by the exclusion of education from the Sphere Project's Humanitarian Charter and Minimum Standards in Disaster Response, that enunciates what people living in a context of emergency have the right to receive from humanitarian assistance.[4]

Related to this scepticism, donors frequently concentrate on short-term relief activities, and distinguish between 'humanitarian phase' and 'development phase', leaving longer-term activities to other actors. This results in a lack of continuity in funding during the phases of humanitarian action (Muñoz, 2008).

2.3. The Inter-Agency Network for Education in Emergencies (INEE) and its Minimum Standards for Education in Emergencies

Starting from the 1990s, education's critical role during emergencies has

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[4] The Sphere Project is an initiative established in 1997 that brings together a large amount of humanitarian actors with the aim of improving their accountability and, most importantly, the overall quality of humanitarian assistance (The Sphere Project, n.d.)

been gradually recognised, and the inclusion of education in humanitarian response is now considered fundamental. In accordance with this progress, the Inter-Agency Network for Education in Emergencies was created in 2000, during the World Education Forum's Strategy Session on Education in Emergencies in Dakar, following the proposal of developing a process that would improve inter-agency communication and collaboration in the provision of education in emergencies. INEE defines itself as:

> " an open global network of individuals and representatives from NGOs, UN agencies, donor agencies, governments, academic institutions, schools and affected populations, working together to ensure all persons the right to quality, relevant and safe education in emergencies and post-crisis recovery" (INEE, 2014: p.1).

With this aim in mind, and through a highly consultative process, a tool was developed to help achieve (or maintain) a minimum level of access to and quality of education in emergencies as well as to ensure the accountability of the different stakeholdres. The INEE Minimum Standards Handbook was published in 2003-2004, and updated in 2009-2010: it contains a set of 19 rules, accompanied by key actions and guidance notes, to be adopted in emergency situations. The INEE Minimum Standards Handbook is conceived to "ensuring quality, coordinated humanitarian response: meeting the educational rights and needs of people affected by disaster through processes that assert their dignity" (INEE, 2010: p.4). It is designed to be used during the humanitarian response for different activities, such as planning, implementation, monitoring and evaluation, but also for training activities and as an advocacy tool. In 2008, the Sphere Project and INEE signed a Companionship Agreement, that clarified the complementarity and interrelatedness of the two networks, and whereby the Sphere Project recommended that the INEE Minimum Standards be used alongside the standards included in the Humanitarian Charter and Minimum Standards in Humanitarian Response (*Ibid.*).

As made clear in the INEE Minimum Standards Handbook (2010), the INEE Minimum Standards are derived from international human rights law (and

from humanitarian law and refugee law as well), and specifically from the right to education, as expressed in key human rights documents and further developed by soft-law instruments.[5] Using the Handbook's words, they "take the language and spirit of human rights law as the basis of education planning" (INEE, 2010: p.7). Their aim is to help to achieve quality education (education that is available, accessible, acceptable and adaptable) by putting in place a human rights-based approach (bringing to life the principles of participation, accountability, non-discrimination, empowerment and link to the law). The INEE Minimum Standards are also derived from the Sphere Project's Humanitarian Charter, which is founded on the belief that all people affected by emergencies have a right to basic conditions for life with dignity and security, and therefore to receive assistance. The Handbook provides a common framework that allows for different stakeholders (members of governments, communities and international agencies) to work together towards the development and the achievement of shared objectives (INEE, 2010). More specifically, the users of the INEE Minimum Standards Handbook reported that it is of critical help in different ways (*Ibid.*): it ensures the participation of the communities in the design and implementation of education programmes, and a better coordination in assessment, response and delivery of education; it facilitates monitoring and evaluation of education work, and capacity-building that strengthens national education systems; it guides the investments of donors in the education sector, while representing an accountability tool for education providers.

The INEE Minimum Standards are organised in five intersecting domains: foundational standards, access and learning environment, teaching and learning, teachers and other education personnel, and education policy. The Handbook explains in depth their meaning and importance, which are briefly summarised in the following sections.[6]

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[5]Those analysed in Chapter 1 and gathered in Appendix 1.

[6] The definition of each of the INEE Minimum Standards can be found in Appendix 2.

2.3.1. Foundational standards

Foundational standards consist of community participation at all stages of education responses, coordination (between different actors and sectors) and analysis (including assessment, response strategies, monitoring and evaluation). They represent the basis for the application of all the other standards, and should be applied holistically across all domains. The participation of the affected population without discrimination or exclusion should take place during all the phases of intervention: needs assessment, response planning, implementation, monitoring and evaluation. It ensures that the designed response is appropriate to the context, because affected people themselves identified community-specific issues and the more effective strategies to address them. In addition, the participation of the community makes it easier to identify and mobilise local resources, and to build consensus and support for education programmes. Also the local government and humanitarian actors working in all sectors should participate together with the population. Coordination is fundamental to ensure that different actors have a common understanding of the problems, and avoids duplication of efforts and gaps in the response. An accurate analysis of information includes: understanding of the context, the nature of the emergency and its impact on the population, the level of local capacity and resources, particular vulnerabilities and risks; assessment of the needs for all sections of the population and taking into consideration also the other sectors of intervention by humanitarian actors; monitoring activities during the implementation to measure progress against objectives; evaluation during and at the end of the response, to determine its effectiveness, identify lessons learned and gaps to be filled. Transparency is fundamental throughout the whole process.

2.3.2. Access and learning environment

The standards included in the Access and Learning Environment section are: equal access to relevant education opportunities, security and safety of the learning environment, and safety of education facilities and services. These standards are closely linked to the protection benefits of education in emergencies

analysed above in this chapter. Education providers must assess the particular needs of vulnerable groups, and ensure that all children, without discrimination, can have access to learning opportunities. They should also look at pre-existing obstacles to equal access to education (such as school fees, language barriers, etc) and address them as well. If the provision of formal education is not immediately possible, education programmes should consist of recreational and non-formal education activities. It is also important to protect schools by implementing school safety plans and taking steps to assess and address hazards.

2.3.3. Teaching and learning

Teaching and Learning standards focus on critical elements that promote effective teaching and learning, which are: curricula; training, professional development and support; instruction and learning processes; and assessment of learning outcomes. In every context, education offered has to be of quality, relevant, and culturally appropriated. In an emergency, curricula are reviewed to make sure that they meet learners' needs, for example offering additional knowledge and skills that are relevant to the situation. This can represent an opportunity for improving the education system. Also teacher training has to be relevant to the situation, and should include training to cope with psychological needs of children. Assessment of learning outcomes has to take place with appropriate methods and be validated so that the resulting certificates will be recognised by the government in the future.

2.3.4. Teachers and other education personnel

The standards about Teachers and Other Education Personnel cover administration and management of human resources in the field of education. In particular, this includes: recruitment and selection, conditions of work, and supervision and support. The selection of teachers and other education personnel should be non-discriminatory, participatory and transparent, with attention to gender balance, and, when possible, it should be drawn from the affected population (this would allow for integration into education programmes of

cultural traditions, customs and experiences in the respect the needs of the affected population). In a disaster situation, teachers and other education personnel work in very difficult conditions, and they have to be supported both personally (the disaster may have affected their family) and professionally; they need to be appropriately compensated and supervised. Contractual arrangements have to make clear entitlements, responsibilities and duties.

2.3.5. Education policy

Education policy standards focus on law and policy formulation and planning and implementation. As part of the emergency response, education authorities and relevant stakeholders should develop and implement an education plan to guarantee that the right to education as set out in international legal instruments is respected, protected and fulfilled. National and international standards and policies have to be taken into account, obstacles to the access to quality education for everyone have to be addressed, learners' needs and rights of people affected by the crisis have to be considered, and emergency preparedness, response and longer-term development have to be envisaged. Education programmes must be designed and implemented according to a rights-based approach, ensuring, participation, non-discrimination and accountability.

Wherever a disaster strikes, there are usually national education standards which have been developed by national education ministries. It is the national authorities' responsibility to define education laws and policies for the provision of basic education services to all children under their jurisdiction. However, specific strategies with regard to emergency situations may not be fully addressed in national policies: the INEE Minimum Standards are a useful instrument to complement, national standards and help to fill the gaps there may be. In a situation of emergency, it may not be possible to apply standards in practice, since they define universal goals for access to quality education. This is why the INEE Minimum Standards are accompanied by key actions, which represent specific steps to achieve standards. Key actions have to be adapted to each specific context, in consultation with all relevant stakeholders. Moreover, the achievement

of minimum standards in the short term can sometimes be hampered by local factors. If this happens, it is essential to analyse those factors and identify strategies for change, that could include advocacy as well as programmes and policy strategies.

It is clear from this brief presentation of the INEE Minimum Standards for Education in Emergencies that they fully reflect the same universal principles that underpin the human rights-based approach to development and cooperation: participation, non-discrimination, empowerment, accountability and, as we are arguing, link to the law. In the same way as the human rights-based approach to education is very much linked to the 4As scheme, so it is for the INEE Minimum Standards. In fact, they also reflect very well the 4As, since they mandate that also in emergency situations education activities are carried out (availability), that all children can benefit from those activities without discrimination (accessibility), that curricula are relevant and teachers are trained (acceptability) and that education programmes are suitable for the context and for the children (adaptability). As a consequence, it could be argued that the humanitarian assistance phases of emergency response and recovery and development are not so different and separated, since the principles that sustain these phases are basically the same. This is also emphasised by the inclusion of education in the humanitarian reform that was launched one year after the adoption of the INEE Minimum Standards, that led to the creation of a Global Education Cluster.

2.4. The humanitarian reform and the creation of the Education Cluster

In 2005, the UN system started an important reform of the humanitarian response. The first step was an independent Humanitarian Response Review, commissioned by the Inter-Agency Standing Committee (IASC)[7] and the United

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[7] The Inter-Agency Standing Committee (IASC) is an inter-agency forum established in 1992 that brings together the key UN and non-UN humanitarian partners to improve coordination, policy development and decision-making in humanitarian assistance (Anderson & Hodgkin, 2010).

Nations Emergency Relief Coordinator, with the aim of identifying gaps in the humanitarian response capacities of the main humanitarian actors, and making recommendations to address them (Anderson & Hodgkin, 2010). The overall aim of the reform was to increase the ability of responding to emergencies more effectively and reaching a greater amount of beneficiaries by improving predictability, accountability and partnership and applying a more comprehensive needs-based assistance (Tabolt, 2013).

Following the recommendations of the review, the Cluster Approach was adopted to strengthen cooperation in humanitarian response and build partnerships, so that, from that moment on, every time the humanitarian community intervenes in a specific emergency labour is divided among organisations, leadership and other roles and responsibilities are clear, and duplication of efforts avoided (Anderson & Hodgkin, 2010). This approach made the international humanitarian community more structured and organised, and therefore more efficient; it became easier to work together with host governments, local authorities and communities (Danish Refugee Council, n.d.).

The clusters initially established were: logistics, telecommunications, shelter, health, nutrition, water and sanitation, early recovery, camp coordination, and protection. At first, education was not included in the cluster approach at the global level. However, when a dramatic earthquake hit Pakistan in October 2005, an education cluster was formed under request of the government, which prioritised this sector as a critical area of recovery, and it was included within the cluster approach implemented in the country (Anderson & Hodgkin, 2010). This was a clear demonstration of the need to establish an education cluster at the global level, and of the potential impact that it could also have locally (*Ibid.*). Since the second half of 2005, the INEE advocated for the creation of an education cluster within the humanitarian response review process, highlighting the protection afforded to children by education, and citing Pakistan as evidence (*Ibid.*). UNICEF supported this idea, although with a "fairly cautious" stance (*Ibid.*: p.4). In 2006, the International Save the Children Alliance launched a campaign (Rewrite the Future) whereby it committed itself to ensure quality

education in emergencies: the establishment of an education cluster was "a key point" of its advocacy (*Ibid.*: p.8).

The IASC endorsed education as part of the cluster process in December 2006. The Global Education Cluster was created in 2007, and UNICEF and Save the Children became its co-leading organisations. This was considered a significant achievement, because it symbolised that the humanitarian community finally recognised the importance of including the provision of education in humanitarian response (*Ibid.*). Eventually, as Anderson and Hodgkin put it (*Ibid.*: p.14) "the establishment of an education cluster has mandated that education must be on the agenda when there is a humanitarian disaster".

The establishment of the Global Education Cluster and the adoption of the INEE Minimum Standards reflect the same view about the role of education in humanitarian response, and of the way in which it should be guaranteed during emergencies. In fact, the Education Cluster is the actor that puts the INEE Minimum Standards in practice, both at global and at country level. The Standards are particularly used in the cluster to improve inter-agency coordination and dialogue in all phases of response, from needs assessment, to planning, implementation, monitoring and evaluation (INEE, 2010). The standards are also used to train the cluster's staff, as well as build institutional national capacity in the education sector, to develop funding appeals and foster dialogue and advocacy with donors and with other sectors of the humanitarian response (*Ibid.*).

The first two chapters of this thesis presented the recent developments that characterise the right to education as a human right which must be guaranteed in all circumstances. They showed that a solid legal framework for the provision of education in emergencies exists and goes hand in hand with the application of a human rights-based approach to education that reflects the 4As scheme and the five core principles of participation, non-discrimination, empowerment, accountability and link to the law.

Chapter 2 also showed the reasoning behind the establishment of an Education Cluster as part of the humanitarian response. Chapter 4 will analyse the

work of UNICEF and Save the Children in coordinating the Education Cluster in the context of the earthquake that hit Haiti in 2010, and the education programmes they put in place, with a view to assess how closely they adhered to the right to education as a human right, combining the application of the INEE Minimum Standards to a human rights-based approach to education. Before doing so, however, an analysis of the legal, political and social situation in pre-earthquake Haiti is necessary.

PART II

CASE STUDY: THE EARTHQUAKE IN HAITI

CHAPTER 3
THE LEGAL, POLITICAL AND SOCIAL CONTEXT OF HAITI

3.1. Legal provisions on the right to education in Haiti

3.1.1. Constitution

The importance of education was recognised since the first Haitian Constitution, promulgated in 1805, that mandated that education had to be free and compulsory (Salmi, 2000). Haiti's last constitution is of 1987, and it also provides individuals with the specific right to education. Besides the Preamble and article 22, where education is only mentioned among those rights that the Haitian State is committed to ensure, article 32 is specifically devoted to the right to education:

> "The State guarantees the right to education. It sees to the physical, intellectual, moral, professional, social and civic training of the population.
> 1. Education is the responsibility of the State and its territorial divisions. They must make schooling available to all, free of charge, and ensure that public and private sector teachers are properly trained.
> 2. The first responsibility of the State and its territorial divisions is education of the masses, which is the only way the country can be developed. The State shall encourage and facilitate private enterprise in this field.
> 3. Primary schooling is compulsory under penalties to be prescribed by law. Classroom facilities and teaching materials shall be provided by the State to elementary school students free of charge.
> 4. Agricultural, vocational, cooperative and technical training is a fundamental responsibility of the State and its communes.
> 5. Preschool and maternal training, as well as nonformal education are encouraged.
> 6. Higher education shall be open to all, on an equal bases, according to merit only.
> 7. The State shall see to it that each territorial division, communal Section, commune or Department shall have the essential educational establishments adapted to the needs of their development, without however prejudicing the priorities assigned to agricultural, vocational, cooperative and technical

training, which must be widely disseminated.

8. The State guarantees that the handicapped and the gifted shall have the means to ensure their autonomy, education and independence.

9. The State and its territorial divisions have the duty to make all necessary provisions to intensify the literacy campaign for the masses. They encourage all private initiatives to that end.

10. Teachers are entitled to a fair salary." (Republic of Haiti, 1987: art.32)

Moreover, article 33 states that "there shall be freedom of education at all levels. This freedom shall be exercised under the control of the State" (Republic of Haiti, 1987). Quite interestingly, the Haitian Constitution establishes that also higher education is free (article 208) and the state has the duty to finance the Haitian State University (article 209). There are also specific provisions concerning equality (article 18), languages in education (article 213), freedom of religion, rights of parents and children (articles 259, 260, 261). Finally, article 276 is about the incorporation of international treaties and agreements into national law. This happens automatically: "once international treaties or agreements are approved and ratified in the manner stipulated by the Constitution, they become part of the legislation of the country and abrogate any laws in conflict with them" (Republic of Haiti, 1987: article 276.2).

3.1.2. Ratification of international and regional treaties

Haiti has not ratified all the international instruments that have provisions on education. For example, it has not ratified UNESCO's Convention Against Discrimination in Education, while the UN International Covenant on Economic, Social and Cultural Rights was ratified by Haiti only in 2013 (this means that Haiti was not legally bound by the most comprehensive provisions on the right to education in 2010, at the time of the earthquake). Another UN treaty upon which Haiti did not take any action (after the signature in 2013) is the International Convention on the protection of the Rights of all Migrant Workers and their Families (UNESCO, 2015b).

On the other hand, Haiti ratified, without reservations, the following treaties: Geneva Conventions and their Additional Protocols (in 1957),

Convention relating to the Status of Refugees (in 1984), International Covenant on Civil and Political Rights (ICCPR, in 1991), International Convention on the Elimination of all Forms of Racial Discrimination (CERD, in 1972), Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW, in 1981), Convention on the Rights of the Child (in 1995), Convention on the Rights of Persons with Disabilities (CRPD, in 2009). The only procedure of individual complaints that Haiti has accepted is the one contained in the Optional Protocol to the Convention on the Rights of Persons with Disabilities (in 2009); the same is valid for the acceptance of inquiry procedures (*Ibid.*).

Haiti is part of the American regional system, the Organisation of American States (OAS), founded in 1948, since its creation. It has ratified in 1950 the Charter of the Organisation of American States, which, in its article 49, guarantees free and compulsory primary education. Haiti also ratified the American Convention on Human Rights (ACHR, also known as Pact of San José, of 1969)[8] in 1977, but it did not adhere to its two Additional Protocols, the first (Protocol of San Salvador) being of particular interest for the right to education since it concerns economic, social and cultural rights (while the second is on the abolition of the death penalty) (OAS, 2015).

Even if the ratification record is patchy and was particularly so at the time of the earthquake, the fact remains that Haiti was at least bound by the CRC, CEDAW, ICCPR and CRPD.

3.1.3. National laws and policies

Education in Haiti is regulated by the Haitian Ministry of National Educational and Professional Training (Ministère de l'Education Nationale et de la Formation Professionnelle, MENFP), which has two main goals: to provide educational services to its citizens and to play a normative and regulatory role

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[8] The American Convention On Human Rights does not have a specific provision for the right to education, but simply states, in article 26, that States parties have to adopt measures that aim at "the full realization of the rights implicit in the economic, social, educational, scientific, and cultural standards set forth in the Charter of the Organization of American States".

over schools (Luzincourt & Gulbrandson, 2010). The education sector has always been subject to severe problems (that will be outlined in the following section), and Haitian leaders attempted some important reforms, that stem from the recognition of education as an important national goal.

The first reform was launched in 1978 (Bernard Reform), with the aim to modernise the Haitian education system and make it more efficient. The main innovations were the separation of secondary school curriculum into academic and technical tracks, in the attempt of aligning the school structure with the labour market, and the introduction of the use of the Haitian vernacular in formal education, making Haitian Creole become the language of instruction in the first four grades of primary school (Luzincourt & Gulbrandson, 2010). Unfortunately, this reform failed because of inadequate resources and infrastructures for its implementation (*Ibid.*).

A more recent reform was the National Plan of Education and Training (NPET), launched in 1997. This plan introduced a shift from the French educational model, characterised by a highly centralized bureaucracy, that was teacher-centred and treated students just as passive learners, to a student-centred model of participatory learning (*Ibid.*). The NPET also introduced citizenship education, with the aim improving civic knowledge and promoting social cohesion and inclusiveness (*Ibid.*). Political will and commitment to the realisation of these goals have been demonstrated by the education authorities; nevertheless the hoped results were not reached (*Ibid.*). For example, the Ministry of Education made an attempt to decentralise service provision, but this was not accompanied by any efforts of modernising and decentralising the Ministry itself. This is probably explained by the fear, among education authorities, that the process of decentralisation "would lead to fragmentation rather than help to solve the problems of social polarization" (*Ibid.*: p.5). As a consequence, despite the positive insights introduced by the NPET, the most critical issues were not resolved; very importantly, among these, the right to free and compulsory primary education was not translated into practice.

In accordance with the National Plan of 1997, in 2003 the MENFP launched

a three-year project called Program for the Improvement of the Quality of Education (Programme d'Amélioration de la Qualité de l'Education, PARQUE). Its function was to establish the Fundamental Application Schools and Pedagogical Application Centres, which were meant to be a model for a new system of schools and teacher-training centres; these centres were still in function when the earthquake hit (Vallas & Pankovits, 2010). In 2007, Haiti adopted the Education For All National Action Strategy, which set out five strategic objectives: to increase the number of pre-primary schools; to make access to formal and non-formal elementary education more equitable; to promote greater internal and external efficiency of the education sector; to improve the education sector's governance and make it more efficient (MENFP, 2007). In 2008, the Presidential Commission for Education in Haiti was established, to guide the government in making education policy decisions (Vallas & Pankovits, 2010). The main objective was, again, to comply with the government's duty to provide free and compulsory education, which is a pillar of Haiti's constitution, and reach an enrolment rate of 100% among all school-age children. This goal was not achieved, mainly because, as will be explained in the following section, the majority of Haitian schools were private, so the public reforms reached only the minority of existing schools. Moreover, Haiti's capacity to provide critical services was weak also because of a combination of political turmoil and natural hazards that exacerbated its poor living conditions (*Ibid.*).

3.2. Situation before the earthquake and problems on compliance with obligations on the right to education

3.2.1. *The general context*

The history of Haiti has been characterised by poverty and political instability since the colonial times. Its society has always been deeply conflicting, on the basis of class, colour, religious, linguistic, and local cleavages. The critical situation in which the Haitian society found itself at the beginning of the 2000s can be fairly considered to be "a product of both centuries of inhumane exploitation on the part of outside countries, and decades of domestic

authoritarianism and oppression" (Vallas & Pankovits, 2010: p.6). Throughout its 200-years old history, the country has experienced 32 coups, and in 2010 seven out of ten Haitians were living on less than US $2 per day (*Ibid.*). It has been argued (Gros, 2011) that this extreme poverty was caused by the imposition of western economy with the pressure for policy reforms, first of all trade liberalisation (before, Haiti had a policy that protected its local producers by imposing taxes on imports, which represented an important source of income for the state). As a consequence of the following destruction of local industries, and the imposition of an international embargo as a reaction to the coup d'état of 1991-1994, Haiti experienced a dramatic decline of economic and social conditions: state institutions were totally inefficient, and the government was unable to provide any of the basic services (*Ibid.*). Moreover, the inefficiency of the state's institutions was also a result of the corruption of Haitian rulers, that used to hold national resources for themselves (80% was consumed to pay ministries' salaries), instead of using them for security, justice, education, health care, clean water, roads, sanitation (*Ibid.*).

In 1995, after the military regime that ruled the country for three years was overthrown, the UN Commission on Human Rights requested the appointment of an independent expert on the situation of human rights in Haiti. According to Resolution 1995/70, the independent expert was mandated "to furnish assistance to the Government of Haiti in the area of human rights, to examine the development of the situation of human rights in Haiti and to monitor the fulfilment by Haiti of its obligations in this field" (para.10). In 2004, after several weeks of conflicts, another coup d'état occurred. The UN Security Council determined that the situation in Haiti constituted a threat to international peace and security in the region, and established the United Nations Stabilization Mission in Haiti (MINUSTAH), deployed in early 2005. Resolution 1542/2004 gave MINUSTAH the mandate to assist the Haitian state in the domains of security, political process and human rights.

All the above contributes to suggest how difficult it was for Haiti to develop healthy social, economic and political institutions acting in full compliance with

human rights, including the ability to respect, protect and fulfil the right to education for its own population.

3.2.2. The Haitian education sector

Because of its weak institutions, even before the earthquake Haiti was facing a crisis in its education sector, and was struggling to comply with the provisions contained in its Constitution as well as in the international instruments it has ratified. As mentioned above, reforms to the education system were attempted but were unsuccessful because of delays in implementation and a lack of infrastructure. Challenges and problems can be found at the level of each of the 4As.

In terms of availability and accessibility, the main problems were connected to the fact that, due to weak state institutions and the lack of public investment, the private sector had taken the lead in education. As a result, 92% of Haitian schools were privately owned in 2010, many of which charging high rates of tuition (Lattimer & Berther, 2010). The private education system in Haiti had grown by default, or, as Salmi (2000: p.165) writes, "by despair": it was not a deliberate intention of the state, which was too weak to simply enforce its policies in the education sector. Its attitude was one of passive reliance on private schools, which became the norm, while public schools covered less than 10% of the school age population (*Ibid.*). This situation is quite unique in a global perspective, especially considering that Haiti was (and still is) one of the 20 poorest countries in the world and the only one with more than 50% of children enrolled in private schools (*Ibid.*). The capacity of public schools was largely insufficient and access to public education was very limited. This is a demonstration of how the different features of the right to education are all interrelated: lack of availability results in lack of accessibility. As a consequence, for the majority of Haitian children private schools were the only option. Private schools were mainly religious schools (two thirds), while schools established by NGOs or local associations, and commercial schools were also growing in number (*Ibid.*). These schools did not receive any kind of government subsidy, and although they represented a positive

element in Haiti's education provision, their widespread presence had important negative consequences.

The main consequences were the prohibitive cost of education for families, inequality in the geographical distribution of schools, social exclusion, poor quality of education. In fact, the Haitian organisation Asanble Vwazen Solino, in its report concerning the right to education in Haiti, submitted to the UN Universal Periodic Review in 2011, reported that also public schools were not free and had numerous 'hidden' costs (for example for school maintenance, uniforms, books, and teacher-salary augmentation: this had the effect of putting even public education out of the reach of many parents). Considering the widespread poverty in the country, education was cost-prohibitive for many families, which may be required to spend up to half of their total income on their children's schooling (Asanble Vwazen Solino, 2011). Moreover, the absence of any government scholarship programme to alleviate the burden on poor families caused significant regional and social inequalities (Salmi, 2000). The fact that Haitian schools were not affordable (and therefore not accessible) is one of the major factors that explains why in 2010 only 55% of primary-school-age children attended school, and less than one third of those enrolled reached the fifth grade (Asanble Vwazen Solino, 2011). The lack of economic accessibility to school was especially significant in the rural areas, where only 23% of the school-age population actually had access to any type of formal education (Salmi, 2000). This was also the result of the lack of education opportunities at all in rural areas. Such a situation led to the separation of many families because parents sent their children to urban areas to be educated. In many instances, children were relocated to more affluent families, where a form of modern slavery was taking place: children exchanged domestic labour for the promise of education (and, of course, the most affected by this phenomenon were girls)[9] (Asanble Vwazen Solino, 2011).

The problems outlined above also impacted on acceptability and

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[9] According to www.restavekfreedom.org, this practice affects an estimated 300,000 Haitian children. It is called 'restavek': this term comes from the French language 'rester avec', that means 'to stay with'.

adaptability of education. Salmi (2000) reports that, because of the absence of public schools that could be taken as models, and of pedagogical norms established and monitored by the Ministry of Education, the education system in Haiti was working without minimum quality standards. Private schools were generally largely unregulated (three-fourths operating with no certification or license), with the outcome that the education provided was of various quality (Asanble Vwazen Solino, 2011), and in many cases not acceptable. Certainly, they were not complying with human rights standards that require the establishment and respect of minimum standards.

Basically, in Haiti the quality of the education children received depended on how much their families could afford to pay (Salmi, 2000). Public schools were overcrowded, lacked essential educational facilities (libraries, laboratories), and relied on outdated textbooks; but in general, all schools often lacked adequate sanitation facilities (with a strongest impact on girls' access to education), textbooks, coordinated development of curriculum and learning materials (Asanble Vwazen Solino, 2011; Salmi, 2000). The quality of instruction was also scarce in most private and public schools because teachers were unqualified and unmotivated: many teachers lacked the necessary training and teaching credentials, especially those working in the private sector, as a consequence of the lower salaries paid by private schools whose income was limited by the negative economic situation (Asanble Vwazen Solino, 2011; Salmi, 2000). Moreover, chronically late wage payments resulted in high teacher absenteeism (Asanble Vwazen Solino, 2011). Another critical issue, connected with both acceptability and adaptability (but also accessibility) of education, was that of language of instruction: French was used at school (as opposed to Creole, the common language of the nation). This strengthened the divide between lower-income students and the elite, because poorer students, for whom French was not the mother tongue, were not put in an equitable condition to learn, so they were unable to excel in courses and fell even more behind. In fact, French was considered the language of the elite, and was only spoken by those that could afford an education: in this way, an education system limited to the upper class

was perpetuated (Vallas & Pankovits, 2010).

Salmi (2000) points out how, even though there are no comprehensive qualitative data on learning achievement, it is clear that the kind of education the Haitian children were provided with was below international standards. Indirect indicators of the poor quality of education are the large amount of over-age students (which reflects low education efficiency), and the fact that less than a half of the population of the country could read and write. Therefore, not only public education did not comply with international requirements, but also private education did not conform to the key minimum standards established by the main international legal instruments. In conclusion, it can be said that before the earthquake of 2010 education in Haiti was far from being available, accessible (and affordable), acceptable and adaptable.

3.3. The impact of the earthquake

3.3.1. The general impact

Haiti is a small Least Developed Country covering a surface of 27,750 km^2 and located in the western part of the island of Hispaniola (of which the Dominican Republic occupies the eastern part)[10]. Its population is of approximately 9.8 million people, and it has a density of 350 inhabitants per km^2. Its territory is highly mountainous and its climate is tropical (United Nations Environment Programme - UNEP, 2011).

When a powerful earthquake hit Haiti on 12 January 2010, it was considered the worst natural disaster in the history of the Western Hemisphere (Vallas & Pankovits, 2010). It hit at 4.53 p.m. local time, reaching a magnitude of 7.0 on the Richter Scale. Its epicentre was Léogâne, one of the most important and crowded Haitian cities, located 56 km southwest of the capital, Port-au-Prince. Besides this city, the earthquake devastated also Port-au-Prince, and other cities mainly in the south of the country, including Miragoane and Jacmel (UNEP, 2011).

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[10] A physical map of Haiti is available in Appendix 3.

More than 222,000 people died in the earthquake, over 300,000 were injured, and displacement affected about 2.3 million people (*Ibid.*). The total economic loss was estimated at $7.8 billion, which is more than 120% of the gross domestic product of the country (UN Secretary General – UNSG, 2011).

The majority of buildings in the main cities were destroyed or badly damaged. A report of the UN Secretary General (2011) refers that more than 180,000 houses were seriously damaged and 105,000 were destroyed; 60% of the Government and administrative buildings, including the Presidential Palace, the Parliament, and the Supreme Court were destroyed or damaged. It is relevant to underline that the most critical assets for an effective response to the emergency were damaged too: the national Disaster Risk Management System lost important human and material resources, the buildings of the Ministry of the Interior, where the Emergency Operations Centre and the 'Direction de la Protection Civile' (DPC) were also located, were destroyed, serious damage affected the Port-au-Prince fire station and many Government vehicles (IASC, 2010). Communications and transportations would have been very difficult in any case, since already before the earthquake, only few Government officials had functioning mobile phones, and there were no municipal petrol reserves in the capital (*Ibid.*). Many hospitals, schools, police stations and prisons were also destroyed, and rural areas were affected by extensive crop losses. Also ports were damaged by rubble moving to coastal areas, and this had a catastrophic impact on fisheries as well (UNEP, 2011).

The earthquake hit one of the poorest countries in the world: UNEP (2011) points out that in Haiti the average per capita annual income at that time was of about $650; 54% of the population lived in extreme poverty (with less than $1 per day) and 78% in poverty (with less than $2/day), while less that 1% was relatively rich and controlled the majority of the fertile land. 62% of people suffered from food insecurity (*Ibid.*).

Moreover, the country was also characterised by a very long history of political instability (as mentioned above, it has experienced 32 coups in its history) (Vallas & Pankovits, 2010). According to both the United Nations and

some academic sources, among the main reasons why so many people died on 12 January 2010 in Haiti is not only the magnitude of the earthquake, but also decades of chronic political instability that left Haitians much vulnerable (UN, 2010; Gros, 2011). There would have been much fewer deaths and damage to property, if Haiti had a working state, able to enforce building codes, lead relief operations and provide emergency care (*Ibid.*).

As pointed out in the previous chapter, not all natural hazards provoke a humanitarian disaster; what is crucial is the capability of the state to react to an emergency situation that may arise from a natural hazard, and protect its citizens from it. As Gros (2011: p.134) writes, "working states save lives, failed states do not". Haiti is an eloquent example of the latter possibility, and the earthquake that hit the country five years ago dramatically underscores the importance of the role played by the state before and during an emergency. Haiti could not respond adequately to the earthquake, as to any natural or men-made disaster, because it had no organisation that could promptly mobilise human and technical resources (Gros, 2011).

One of the most dangerous consequences of the State's inefficiency was extreme urbanisation that characterised the capital Port-au-Prince. Its population more than doubled in just 15 years, due to the fact that many people moved to the city to be close to the state, looking for help, jobs, education, services, or at least for securing access to aid (Gros, 2011; Vallas & Pankovits, 2010). The massive expansion of the city took place without any planning and industrialisation program by the state, houses were built without adhering to any safety codes, and this overcrowding increased the death and injury toll of the earthquake (*Ibid.*).

Also the numerous NGOs present in Haiti had concentrated their assets in Port-au-Prince, for the same reasons of Haitian citizens, so as the earthquake hit, they were also hardly affected. At the time, Haiti was called 'La République des ONGs' (the NGO republic) because of the presence of more than 10,000 NGOs that had been working for the previous 30 years in the territory (Fatton, 2011). NGOs were the privileged partner of international financial institutions channelling assistance to the country because of the lack of trust by donors on the

government. But this does not mean that their presence was totally positive for the country. On the one hand, because aid was not given on the base of Haiti's needs, such as strengthening the State, but was aimed at the implementation of neoliberal reforms (Gros, 2011); on the other hand, because NGOs contributed to weaken the Haitian Government even more. Indeed, they functioned independently of local control and operated as parallel bureaucracies, rather than in support of the Government (*Ibid.*). As a consequence, in the eyes of Haitians, the Government resulted delegitimized, since they saw that the services it should have been providing for were performed by other actors (*Ibid.*). To make things worse, NGOs were uncoordinated among themselves, and their actions lacked coherence, often resulting in duplication of efforts. In this way, they were simply "a palliative agent in the struggle against poverty" (Fatton, 2011: p.173), and they did not help the Haitian economy, making the country dependent on charity and foreign aid. As Fatton (2011) points out, it is not necessarily true that NGOs are always better than the State, since they can suffer from the same problems that affect States, such as corruption. As Gros (2011) notes, NGOs ideally should not be an alternative to the State, but complementary to it.

These are some of the main reasons why the impact on the earthquake was so disastrous on the Haitian society. After the disaster, the reconstruction efforts were seen as providing a chance to reverse this pattern and build state capacity. The Haiti Reconstruction Fund (HRF) was established as a partnership between the international community and the Government of Haiti to help finance post-earthquake reconstruction. Its task was to mobilise, coordinate and allocate contributions from donors to finance projects and programs. The Action Plan for the Recovery and Development of Haiti was approved in March 2010, and identified four priorities: territorial, economic, social and institutional rebuilding (UNSG, 2011). Education was included in the part dealing with social rebuilding, but the education response to the disaster obviously concerned also the other domains.

3.3.2. The impact on the education sector

The impact of the earthquake on the Haitian education system was devastating. The Initial Situation Assessment, carried out by the Ministry of Education with the support of the Education Cluster, found that the earthquake destroyed 4,228 schools and the Ministry of Education building itself, and killed around 38,000 students, 1,347 teachers and 180 education personnel (UNICEF, 2010a). Between 22 and 25 February the Education Cluster conducted the Education Rapid Joint Needs Assessment surveying 240 sites in Port-au-Prince, Léogâne and Jacmel. The findings were that 28% of schools had been destroyed and a further 57% damaged: in total, 85% of schools were affected (*Ibid.*). Universities and vocational and technical schools were located for the most part in Port-au-Prince, therefore they were particularly impacted (87% of universities was affected) (Vallas & Pankovits, 2010). UNESCO (2010) reported that also the media, cultural and scientific institutions and a large part of Haiti's cultural heritage experienced severe material and human losses. After the earthquake, the whole Haitian school system shut down for three months, and 2.9 million children were left out of school (accounting for both those affected by the earthquake and those that were not going to school even before) (UNICEF, 2010a).

Besides physical damages to buildings and people, also the psycho-social consequences of the disaster were enormous, especially among children. However, the survey conducted by the Education Cluster revealed that, nearly one month after the quake, there was a high demand for education both among children and parents (*Ibid.*). As UNICEF (2010a) reported, people's confidence in the education system needed to be restored, and this was expected to require a great effort on many grounds, including ensuring the safety and security of school buildings and learning spaces as well as the reform of the education system to make it able to guarantee a fully inclusive, free and effective education. The main challenges that were identified in the immediate aftermath of the disaster for the provision of education were the clearance of rubble, and the lack of a national system of data collection, monitoring and reporting for the education sector (UNICEF, 2010a).

However, the enormous destruction provoked by the earthquake can be seen as an excellent opportunity to completely reconstruct the national education system. The earthquake attracted the attention of the international community and prompted its involvement in education reform. The country received a very important amount of support and aid to help develop and cover the costs of these extensive reforms. As Vallas and Pankovits (2010: p.11) write, "in the international aid community the attitude has been that this is not an opportunity to simply restore Haiti, but to build a new Haiti".

The following chapters will analyse the humanitarian response put in place by the Education Cluster in Haiti, with a particular focus on the action of the co-leading organisations, UNICEF and Save the Children, and the reform of the education system put in place by the Haitian Government after the disaster. The aim is to assess whether all the international standards underpinning the right to education outlined in the previous chapters have been applied in practice according to a human rights-based approach, and whether the Government of Haiti, with the international assistance it received, has taken the chance to improve its education system and finally make education truly available, accessible, acceptable and adaptable.

CHAPTER 4
THE HUMANITARIAN RESPONSE TO THE EARTHQUAKE

4.1. The general humanitarian response

4.1.1. The response at the national level

As mentioned in the previous chapter, the earthquake of 12 January 2010 destroyed the Haitian society, provoking hundreds of thousands of deaths, injuries and property damages. As always happens, the first, immediate response to the emergency was put in place by the population itself, in spite of major constraints such as widespread debris and lack of electricity, limited first aid skills and extensive psychological trauma, also tied to the widespread fear of additional aftershocks (IASC, 2010). The IASC (*Ibid.*) reported that many lives were saved and support to the injured was offered by common people helping their family, neighbours, and strangers. As the population, also the local organisations were extensively affected, but did what they could to provide immediate assistance (*Ibid.*).

As reported in chapter 3, the Government's already weak capacity of response was seriously affected by the destruction of many institutional buildings, and the death and injury of many civil servants. However, the DPC (Direction de la Protection Civile) became operational the day after the earthquake, even before the activation of the 'Centre d'Opérations d'Urgence' (COU) (*Ibid.*). Almost immediately, the Government established a mechanism of coordination with the international community. At the beginning, meetings with representatives of the international community were held daily. On 15 January 2010 six working groups were established, under the direction of a Minister or senior civil servant, with members coming from both the Government and civil society, to coordinate support in the domains of health, food aid, water distribution, fuel and energy, reconstruction, and safety for temporary shelters (*Ibid.*).

4.1.2. The response at the international and regional level

The first mobilisation of the international community in response to the earthquake took place within the first 24 hours: international Search and Rescue (SAR) teams began to arrive, and, by January 23, 67 teams had rescued 134 people, which was the highest number of live rescues by international SAR teams recorded until that moment (IASC, 2010). A United Nations Disaster Assessment and Coordination (UNDAC) team was mobilised: it worked in cooperation with staff from MINUSTAH, the European Civil Protection Mechanism (EU-MIC) and the UN Office for the Coordination of Humanitarian Affairs (OCHA), and conducted the initial damage and impact assessment and coordinated the SAR teams (*Ibid.*).

Many international humanitarian actors were already present in the country prior to the earthquake, and experienced themselves important losses. However, they were able to use the relief supplies they already had in the territory (*Ibid.*).

It was estimated that by the end of January 400 different humanitarian actors were operational in Haiti (*Ibid.*). The cluster system was reactivated on January 15[11]. The response efforts were organised in 12 clusters: Camp Coordination and Camp Management, Education, Emergency Shelter and Non-Food Items, Food, Logistics, Nutrition, Protection, WASH (Water Sanitation and Hygiene), Agriculture, Early Recovery, Emergency Telecommunications, and Health. Six 'shadow clusters' were established in the Dominican Republic (Logistics, Telecommunications, Health, Emergency Shelter, WASH, Nutrition and Protection) to coordinate support services and border or cross-border relief operations, and worked until mid-April. In the first week of February, the Humanitarian Country Team (HCT) was established, and started to meet twice a week to address key strategic issues of the humanitarian response. The HCT encompassed seven UN agencies, seven NGOs, the International Red Cross and

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[11] Clusters in Haiti had been established in 2008, in response to the Gonaives flood emergency (IASC, 2010).

Red Crescent Movement, observers from the NGO Coordination Support Office,[12] and humanitarian donors (in case of expanded meetings) (IASC, 2010). MINUSTAH, OCHA, the Logistics Cluster and other key partners coordinated themselves to use MINUSTAH's military assets for logistics support, security assistance, and technical assistance in support of humanitarian operations (*Ibid.*). In addition to MINUSTAH's, other military assets were brought to Haiti after the earthquake by 26 countries to support the humanitarian response (*Ibid.*).

At the regional level, Latin American and Caribbean countries responded immediately to Haiti's crisis with the provision of emergency supplies and personnel. The OAS, the Caribbean Community (CARICOM), and the Caribbean Disaster Emergency Management Agency mobilised their teams to provide financial and practical assistance (IASC, 2010). Many countries in the region made important individual contributions as well. The Dominican Republic, which is located in the same island as Haiti but did not suffer heavy damage from the earthquake, was the first country to send relief supplies and personnel, and facilitated aid delivery through use of its airports, roads, and port. It opened its border to injured Haitians, thousands of whom were treated in both public and private hospitals (*Ibid.*). The Dominican president organised a preparatory meeting for donors to discuss future aid to Haiti the week after the earthquake, and the Dominican Red Cross coordinated early medical relief in conjunction with the International Federation of Red Cross and Red Crescent Societies (*Ibid.*).

The devastation caused by the earthquake showed the extent of the already existing vulnerabilities of the country, such as systematic poverty, structural challenges, and weak governance. It was particularly challenging for those providing assistance to distinguish people affected by the earthquake from those suffering from systematic poverty and to support the Government to conduct the reconstruction efforts (IASC, 2010). Another important challenge in the

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[12] The NGO Coordination Support Office was created in order to improve coordination and communication among NGOs and with local Haitian organisations (IASC, 2010).

humanitarian response in Haiti was represented by the fact that the earthquake occurred in an urban setting, an unfamiliar context for many humanitarian actors, which encountered significant logistics and access obstacles. In addition, as already mentioned, those who would normally have been at the frontline of the response (Government, civil society, MINUSTAH, humanitarian organisations already present in Haiti) were themselves severely affected in terms of loss of capacities, resources and staff (IASC, 2010).

From all the above it can be argued that the earthquake in Haiti put to the test the international community and the effectiveness of the Cluster Approach, which was introduced just a few years before. Moreover, it represented an opportunity to understand whether and how effectively the immediate relief operations were connected to longer-term reconstruction and development programs.

4.1.3. The establishment of the Education Cluster in Haiti

Education traditionally tended to struggle to get attention and funding within emergency response operations. However, in the aftermath of the earthquake in Haiti this sector received "a surprisingly high priority" (Lattimer & Berther, 2010: p.18), and an Education Cluster was promptly established, alongside the other clusters.

During the first week, the meetings of the Education Cluster were convened by UNESCO, the leading agency for the Education Sector Working Group, which was focusing on longer-term education support as a development activity; later the Cluster and the Working Group worked alongside one another (Lattimer & Berther, 2010). By the second week after the disaster, the Education Cluster was fully established and functioning under the leadership of the two co-leading agencies, UNICEF and Save the Children (*Ibid.*). In the initial period after the earthquake, the Education Cluster coordinated about 175 members from more than 100 local and international organisations, and held weekly meetings in Port-au-Prince (*Ibid.*). The aim was to improve efficiency in delivering aid, covering all the needs without duplication of efforts, and provide material, technical and

financial support to the government and all partners in the sector. Sub-national Education Clusters were also created in the main affected cities, precisely in Leogane, Petit and Grand Goave and Jacmel, and a shadow Education Cluster was established in the Dominican Republic with a support function (Global Education Cluster, 2010b). A strategic group was set up with representatives of larger national and international NGOs and UN organisations, to effectively coordinate these different actors that had different working methods, issues and needs (Murseli & Imoto, 2014). Moreover, Thematic Working Groups were created with a focus on specific thematic areas: capacity development and teacher training, psychosocial support, curriculum, early childhood development and infrastructure and reconstruction. Each group set norms and standards for the organisations operating under its supervision and coordinated with the most relevant actors for its activity (Global Education Cluster, 2010b; Murseli & Imoto, 2014).

The first step of the work of the Education Cluster was to create a coordination platform gathering as many education partners on the ground as possible (Murseli & Imoto, 2014). These partners were required to conform their activities to the INEE Minimum Standards for Education in Emergencies, which were adapted for use in the Haitian context. The standards had to be considered the guiding principles of all education partners, so that the relief efforts were well grounded in internationally recognised norms and were therefore more homogeneous (*Ibid.*).

The Education Cluster played a crucial role in managing and sharing information, and created an information management system ad hoc for the Haitian emergency. A common format for reporting information from all partners was adopted: it was called 4Ws and it was based on the idea that every partner needed to know Who was doing What, Where, and When (*Ibid.*). Important information that had to be shared among partners was for example: their areas of expertise, the type of activities that they are carrying out, the number of targeted beneficiaries, the start and end dates of their programmes, any limitations they foresee in their work (Global Education Cluster, 2010a). The adoption of this system helped to find gaps and fill them, avoid duplication of efforts, and spread

lessons learned. It also helped to have a broad view of how financial resources were distributed within the sector, facilitating the gathering of further funds (Murseli & Imoto, 2014).

Among the initial activities of the Education Cluster also the conduct of a Rapid Joint Needs Assessment (RJNA), in cooperation with the MENFP, was of critical importance (Lattimer & Berther, 2010). In fact, the Haitian education sector had a poor information management, and there were very little reliable data on schools, students and teachers already before the earthquake. Therefore, the work of the 40 data collectors that visited nearly 240 sites and met over 2,000 people was very much needed to inform decision-making and for the prioritisation of the initial response. Later on, the Education Cluster also participated in the multi-sector Post-Disaster Needs Assessment (PDNA), which was carried out by the Government of Haiti with support from the relevant UN agencies and partner organisations (Education Cluster, 2010).[13]

The key priorities of the Education Cluster in Haiti were three (UNICEF, 2010a). The first was access to education, which had to be expanded and be possible (under the physical and financial point of view) for both children affected by the earthquake and those who were out of school even before. The second priority was to ensure that the education provided was of quality, so that it produced quality learning outcomes. The third was the transformation of the Haitian education system through the improvement of the Government's capacity, especially under the regulatory and financial point of view.

Although the application of the human rights-based approach to the education response in Haiti will be discussed later on, it is important to underline already at this stage that these three priorities show a rather good connection with the key principles that underpin such an approach and the human rights contents of education. In fact, the focus on expanding access to education expresses the Cluster's objective of making education available and accessible to all, reflecting

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[13] A final report of the PDNA was shared with donors at a conference held in New York on 31 March 2010 (Education Cluster, 2010).

the principles of equality and non-discrimination. The importance accorded to quality education shows the attention to the principle of acceptability, and has the potential to embed also the principle of empowerment. Finally, the support given to the Government in order for it to improve the education system demonstrates the need to ensure accountability: as reminded in the first chapter, the State is the main duty-bearer for what concerns the right to education, and it has to respect international human rights law and specific standards (such as the INEE Minimum Standards in case of emergency) and translate them into practice. Through its activity, the Education Cluster had the opportunity to build the capacity of the Haitian Government to comply with its obligations, while empowering the whole society by making clear the responsibility of the state and the right of people (including children) to claim their rights.

These are just the main activities carried out and strategies identified in Haiti by the Education Cluster as the coordinating body for the humanitarian assistance provided in the education sector. In order to understand more in depth whether the INEE Minimum Standards for Education in Emergencies, as well as the other relevant international standards (especially the human rights-based approach to education and the 4As), were applied, the following sections will look at the specific activities conducted by the two co-leading organisations of the Cluster: Save the Children and UNICEF.

4.2. Save the Children

4.2.1. The response to the disaster

Save the Children had been present in Haiti since 1978 (Save the Children, 2010a). In the immediate aftermath of the earthquake, the organisation participated in assessing schools and identifying areas for temporary learning spaces, alongside the Government and the main education actors coordinated by the Education Cluster. It provided classroom tents and supplies, and it also immediately engaged in training teachers in psychological support (*Ibid.*). The objectives of the organisation for the following months were to assist the Government to restore the education sector and to provide as many children as

possible with access to schooling, also bringing education to out-of-school children (*Ibid.*).

The main activities carried out by Save the Children after the earthquake in Haiti that are mentioned in the reports of the organisation (Save the Children 2010a; 2010b; 2010c; 2013) can be divided as follows:

A) Reconstruction of school buildings and provision of temporary schooling;

B) Training of teachers;

C) Promotion of community participation;

D) Early Childhood Development (ECD) programs;

E) Extension of pre-existing education programs to the earthquake affected areas.

A) RECONSTRUCTION OF SCHOOL BUILDINGS AND PROVISION OF TEMPORARY SCHOOLING

Save the Children's strategy was to enable children to pursue their education as quickly as possible after the earthquake, while protecting them from abuse and helping them to regain a sense of normalcy. By setting up temporary learning spaces the organisation contributed to provide a safe-learning environment for education during the emergency. Communities were provided with tents for classrooms, furniture and supplies so schools could reopen as quickly as possible; children were provided with school kits including backpacks, pens, pencils, notebooks, and books; teachers were provided with teachers' kits to ensure that they had basic materials for classroom activities (Save the Children, 2010a).

It has to be remembered that the large scale of destruction of schools in the affected areas was a result not only of the magnitude of the earthquake but also of the inadequacy of the construction techniques and absence of quality controls in school buildings. Save the Children, as many other organisations, focused its programming on rebuilding schools using safe construction techniques. Special construction techniques were adopted to make the schools better resistant to disasters, being anti-seismic and anti-hurricane. The first semi-permanent school

of this kind designed by Save the Children was in Léogâne, and it was used as a model for other facilities (Save the Children, 2010b). Also the provision of access to drinking water, and gender-segregated sanitation and hand-washing facilities in schools was crucial, especially after the cholera outbreak of October 2010 (Save the Children, 2013).

B) TRAINING OF TEACHERS

Save the Children contributed to the improvement of the quality of education by providing trainings to school directors and teachers in a variety of subjects including school and classroom management, curriculum training, psycho-social wellbeing and disaster risk reduction (Save the Children, 2010b; 2010c).

In Haiti, the average level of education of a primary school teacher was of just one year of secondary education (Save the Children, 2011a). For this reason, training was even more fundamental. First of all, teachers were provided with psychosocial support themselves, since they also experienced trauma (Save the Children, 2010b). Then, they were trained to provide psychosocial support to their students: they were taught how to recognize the psychosocial needs of children, such as anxiety, and how to help them cope with the emotional stress they had suffered. Teachers also learned positive classroom management practices, which contributed to the elimination of physical and humiliating punishments in the schools supported by Save the Children (Save the Children, 2010b; 2010c; 2011a).

Another crucial aspect of teacher training was that teachers also received training in disaster risk reduction to be prepared in the event of another earthquake and to be able to handle possible aftershocks (Save the Children, 2010b). Save the Children supported several schools to create school emergency plans and trained School Emergency Response Team members on first aid; also students were trained on disaster risk reduction. Moreover, teachers, parents and children were trained on hygiene promotion and cholera prevention, as part of the Emergency Education and Healthcare project (Save the Children, 2011a).

Save the Children (2013) reported that the centrepiece of the organisation's work was the Quality Education Initiative (QEI) at more than 200 schools. Thanks to the Quality Education Initiative, teachers and school directors were trained on the national school administration support and supervision manual and on the national curriculum; the initiative also focused on the formation of parent support groups (Save the Children Canada, n.d.a).

C) Promotion of community participation

One of Save the Children's main objectives was to increase community engagement with schools, and in particular parents' and students' involvement in school decision-making. The organisation carried out activities of awareness-raising among parents and caregivers on the importance of education and on the roles they should play in children's education. It also supported the creation of parent-teacher groups that represented a bridge between school and community (Save the Children, 2013).

To structure the engagement of parents and community members, Save the Children adapted a system called the Community Action Cycle (CAC): it aimed at creating school support groups composed of individuals in the community, mostly parents and caregivers, which identified specific problems and developed plans to address them (Save the Children Canada, n.d.b). Moreover, also children themselves were made participate in school decision-making. In fact, as part of the Quality Education Initiative, schools were required to establish student committees, composed of two representatives of students of every classroom. The components of the student committee participated in activities such as the organisation and implementation of community-led school improvement projects. In this way children could express their views on what activities would be best to improve their schools (A World At School, n.d.).

D) Early Childhood Development (ECD) programs

Since it has been showed that most children's development happens before the age of five (Save the Children, 2013), another of Save the Children's

objectives was to make access of young children to preschool possible also for poor families. With this aim in mind, the organisation launched and supported early childhood development (ECD) programs. These included the rehabilitation of early childhood development centres in Port-au-Prince, training of staff and helping parents to learn to stimulate their children's development at home (Save the Children, 2013). Save the Children also engaged with the International Development Bank and the Haitian Ministry of Education in an assessment of national needs related to early childhood development in order to develop a plan of action (*Ibid.*).

E) EXTENSION OF PRE-EXISTING EDUCATION PROGRAMS TO THE EARTHQUAKE-AFFECTED AREAS

Two main Save the Children programs were expanded after the earthquake to reach more children, especially in the affected areas. The first one is 'Lekti se lavni' (Reading is the Future), a literacy program in Creole that was already in place in Haiti's Central Plateau region. It was based on the principle that children learn more easily and quickly to read in their native language, and addressed language and literacy ability amongst early grade and primary school children. This program was extended to Port-au-Prince and other areas affected by the earthquake, with the aim of helping young children to improve their reading and writing skills and providing them with the basic skills they would need in their future education (Save the Children, 2010b). It also expanded its scope to include the development of a French literacy program and an out-of-school reading program, with the cooperation of parents and volunteers from the local community (A World At School, n.d.). Also other literacy projects were run with the same aim, that is to address problems connected with language barriers and to the lack of accessibility to school by many children, who were offered the possibility to catch up on the school they had missed (Save the Children, 2010b; 2013). For the implementation of such programs, as well as for running other activities such as libraries and summer reading camps, local community members were involved (Save the Children, 2014).

The other pre-existing program that was extended was 'Healing and Education through Art' (HEART) that was already running in Jacmel. It was based on the fact that children usually respond well to the arts, and this is especially important in times of crises (Save the Children, 2010c). This program was built on this, and made students and teachers work with trained artists that introduced art to them in different ways; this is thought to help children to accept the experiences they had been through and cope creatively (Save the Children, 2010b).

It is worth noting that, if we look at the different reports Save the Children has made on the Haitian emergency (Save the Children, 2010a; 2010b; 2010c; 2011a; 2013; 2014; 2015), the education sector emerges as the one where the organisation spent more during the whole period from 2010 to 2014. This shows that education was accorded a great importance in the agenda of Save the Children in Haiti.

4.2.2. Were standards respected?

Starting from the approach outlined above, it is interesting to evaluate whether the importance and investment devoted to education entailed also the respect of the INEE Minimum Standards, the principles underpinning a human rights-based approach, and the 4As.

The first area of Save the Children's work focused on making education available for Haitian children, by providing temporary learning spaces, learning materials, and rebuilding schools. This was also combined with efforts aimed at making learning environments acceptable, with the provision of adequate facilities. The INEE Minimum Standards that are relevant to this part of the organisation's response are those regarding access and learning environment. The obligation to ensure the safety of the learning environment was respected by building schools using construction techniques to make them hazard-resistant. Therefore, the guidance notes on "security and safety", "protection", "disaster risk reduction and management" were followed (INEE, 2010: pp.61-67). However, the

reports do not emphasise whether a maximum distance between learners and their learning sites was identified and respected, and whether access routes to learning spaces were safe (*Ibid.*: p.64). The obligation to ensure that education facilities promote the safety and well-being of learners, teachers and other education personnel was also respected by providing adequate sanitation facilities, safe water and hygiene promotion, and by training teachers in psychosocial support, so they could assist traumatised children (*Ibid.*: pp.65-71). The INEE Minimum Standards on access and learning environment also entail provisions on child protection and accessibility for people with disabilities. Some initiatives related to child protection are referred to in specific sections of the reports,[14] which frequently mention the learning opportunities that are offered to children hosted in children centres. On the other hand, in the sections concerning education the main reference to protection is related to hygiene promotion and disease prevention. As regards accessibility for people with disabilities, one can imagine that this was addressed in the reconstruction phase, with the application of adequate norms; however, physical accessibility is not specifically mentioned in the reports or in the website. As regards the application of a human rights-based approach to this phase of Save the Children's activity, it seems that is was not given much priority compared with the subsequent activities, since it just consisted of the provision of materials and facilities and no one of the principles relevant to a human rights-based approach was mentioned in this phase.

Through its training activities for teachers and other education personnel, Save the Children was committed to enhance the quality of education and make it more acceptable and adaptable. Education was made adaptable both to the needs of children, by training teachers on psychosocial support, and to the context of emergency, by training them (and members of the community in general) on disaster risk reduction and preparedness. As noted above, the inclusion of hygiene promotion and disease prevention in teachers' training reflects the role of

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[14] A Protection Cluster was activated in Haiti, which had a specific sub-cluster on child protection, led by UNICEF (UN, 2010).

protection attributed to education during emergencies, and contributed to making education more acceptable and adaptable as well. Acceptability was also promoted by training teachers in positive classroom management, which led to the elimination of physical and humiliating punishments, a symbol of the enhanced respect for children's human rights in school. The INEE Minimum Standards about promoting the well-being of children in schools, belonging to the second set of standards, were overall respected, especially with reference to the guidance notes on "training on psychosocial support and well-being", on "non-violent classroom management", and on "disaster risk reduction and management" (*Ibid.*: pp.65-66). The same is valid for the standards on teaching and learning (third set), especially the guidance notes on "sanitation facilities", "safe water and hygiene promotion", and "school-based health and nutrition services" (*Ibid.*: pp.70-71). The human rights-based approach principles applied in this area of work are especially empowerment and participation. In general, the fact that teachers were trained represents a focus on quality education, which is very much connected with empowerment, of children in the first place, but also of the community as a whole. Participation is represented by the involvement of parents and community members in specific trainings (hygiene, disaster management), and by activities of awareness-raising in the communities about the importance of parents' and caregivers' support of education, in order for them to "become advocates for education in their communities" (Save the Children, 2012b: para.6). Through the creation of school support groups, the community was empowered, because people learned that they had the right to demand that problems (within the education system but also more in general) be addressed and solved. In the same way, through the creation of students committees, children and youth learned that they have the right to express their views and be heard on matters that affect them (such as education), as required by the CRC. This reflects another principle of the human rights-based approach, which is link with the law. An excerpt from one of the organisation's press releases published on its website well summarises the embedment of these principles in its approach:

"Save the Children has been working to increase children's access to schools so that they can be in a supervised environment and learn about their rights while also building the skills they need to lead their nation forward. Save the Children will work to ensure children's long term safety and well-being through support for children's clubs and community-based child protection committees and networks" (Save the Children, 2011b: para.10).

Community participation is also part of the first set of the INEE Minimum Standards: it can be affirmed that Save the Children respected those standards, especially those on "inclusive community participation", "community education committees", "participation of children and youth in education activities", "capacity building" (*Ibid.*: pp.22-27). However, the reports of the NGO and the articles on its website do not explain in details how community participation was organised in all phases of the response (planning, design, implementation, monitoring, evaluation), nor do they mention the organisation of social audits to evaluate the programs put in place. On the other hand, it is also true that both the reports and the website contain various accounts of individual stories of Haitian children and adults, therefore it can be deduced that such evaluations were conducted, even if we don't know the specific procedure.

Through the importance given to early childhood development, to enhancing children's literacy skills and to overcoming the language barrier, Save the Children promoted wider accessibility to education. In effect, there were various barriers that were hindering access to education for Haitian children, as explained in chapter 3; by contrasting those barriers and promoting equal access to education, Save the Children also applied the principle non-discrimination. In fact, children who entered primary school and were taught to read in a language they did not speak were obviously discriminated against, and their capacity of learning was compromised. By giving children the possibility to learn to read in their own language, Save the Children helped to render education not only accessible, but also acceptable and adaptable to Creole-speaking children. Moreover, the fact that local community members helped to run the organisation's programs is another demonstration of the fact that the principle of participation was applied. On the other hand, the HEART program was aimed at making

education more adaptable to children's needs. In an emergency context, the possibility offered to children to elaborate their trauma and heal through the arts reflects very well the importance given by the INEE Minimum Standards to the availability of different and appropriate ways for children to express themselves, especially the standard on "equal access", the one on "a range of quality education opportunities", and "flexibility" (*Ibid.*: pp.57-58).

4.3. UNICEF

4.3.1. The response to the disaster

UNICEF had been working for children in Haiti since 1949 (Alleyne, 2010). After the earthquake, it devoted a large amount of efforts in restoring the education system, and played a crucial role throughout all the phases of the emergency, from the immediate aftermath to the longer-term programming.

The main activities conducted by the UN agency that emerge from its reports (UNICEF, 2010a; 2010b; 2011; 2012) can be categorised in the following way:

A) Information collection and sharing;

B) Debris removal, provision of safe temporary learning spaces, and school reconstruction;

C) Training activities;

D) Advocacy activities;

E) Mobilisation and coordination of stakeholders and support to the Government.

A) INFORMATION COLLECTION AND SHARING

As explained in the first section of this chapter, the education sector in Haiti suffered from poor monitoring and recording. With the earthquake, the already limited Government' records were lost and the weak system of data collection collapsed. As a consequence the humanitarian actors that wanted to provide assistance in the education sector had to come to terms with the lack of any

reliable information about the quantity of schools in the country and the scope of the damage (UNICEF, 2010a). This obviously hindered a fast response to the needs of the affected population, and the prioritisation of interventions, since the education partners had first to collect such information. UNICEF played a very important role in the Education Cluster's Rapid Joint Needs Assessment: a UNICEF team surveyed and mapped approximately 4,000 schools (out of a total of 5,000 schools that were mapped), collecting GPS coordinates and measuring available space for temporary classrooms and water and sanitation facilities (*Ibid.*). Later on, this information was also used to conduct damage assessment of the school buildings and decide which ones were worth restoring and which ones had to be demolished (*Ibid.*).

After the first months of emergency, UNICEF supported the handover of the Education Cluster database to the Ministry of Education (UNICEF, 2010b). This work led in the end to the first 'school census' since 2003 conducted by the Haitian Government, for which UNICEF provided planning and data collection support: it represented a critical update on key statistics about the education sector of the country, producing for example data on the number of schools, the number of pupils registered and the status of the infrastructure (UNICEF, 2012). The collection of such data was important because the policy of improvement of the education sector put in place by the Government (which will be analysed in chapter 5) started from that step.

B) DEBRIS REMOVAL, PROVISION OF SAFE TEMPORARY LEARNING SPACES, AND SCHOOL RECONSTRUCTION

Another big challenge faced by the humanitarian community in the immediate provision of education after the earthquake was the need to clear the rubble, for which specific equipment (trucks and heavy lifting systems) was needed and the final disposal had to be decided. This had obviously to happen as soon as possible, in order to find safe places to set up temporary learning spaces (UNICEF, 2010a). In order to solve the problem of site clearance, UNICEF started its own works and also coordinated with some of the components of the

MINUSTAH forces to have rubble removed (*Ibid.*); also the local communities were asked to participate in these activities, and contributed to the clearance of 40% of schools (UNICEF, 2010b). In the meanwhile, as many other organisations, UNICEF immediately engaged in the provision of tents, furniture, school materials, as well as water and sanitation facilities, so that children could at least gather in safe learning spaces. The aim was to restore learning as soon as possible and make children come back to a sense of normalcy (UNICEF, 2010a).

UNICEF also engaged in school construction and reconstruction. The organisation's strategy for supporting school reconstruction consisted of three phases (UNICEF, 2010b). The first phase was that of setting up temporary schools with the supply and installation of tents. The second phase was represented by the replacement of temporary schools with semi-permanent structures. The last phase was to build new, child-friendly permanent schools, possibly also in places where there was no school before, and children has to walk for miles to reach the nearest one. Of course, the building of schools, as of any new building, was driven by the willingness and the need of building back better structures, resistant to natural hazards such as earthquakes and hurricanes and suitable for people with special needs. The building of these new schools was made in partnership with the Ministry of Education and other partners, after a consultation with children, and according to the Haitian culture and traditions (*Ibid.*). UNICEF also coordinated with the WASH sector for the provision of drinking water and sanitation facilities (separated for girls and boys) in such schools, and with the World Food Program (WFP) for the provision of daily meals for students (*Ibid.*).

C) TRAINING ACTIVITIES

To guarantee that the education provided was of good quality, UNICEF organised seminars and workshops with the aim of strengthening the capacity of education personnel. Different categories of people were trained, such as education officials, representatives of various NGOs, school inspectors, directors and teachers (who would be later training other teachers and spreading the acquired skills) (UNICEF, 2010a). The topics of the training were the teacher's

Guide validated by the Ministry of Education and adapted to the Haitian context, the use of the UNICEF education kit that the organisation provided to be used in classrooms, minimum standards on education in emergencies, but also basic teaching theory for literacy, numeracy and life skills, and psychosocial support to children (UNICEF, 2010a; 2011). During the first weeks, classes were focused on non-formal learning, paying particular attention to the provision of psychosocial support to help children to overcome the trauma caused by the disaster, and to disaster preparedness and disaster risk reduction (also in view of the coming hurricane season) (UNICEF, 2010a). UNICEF also helped the Ministry of Education to develop an adapted curriculum for a condensed second semester, so that children would not have to repeat the year, as well as a new detailed curriculum for the new school year (UNICEF, 2010b; 2011).

D) ADVOCACY ACTIVITIES

Another critical problem that UNICEF tried to solve, was the low enrolment rate in primary school among Haitian children. Moreover, the organisation's report of six months after the disaster (UNICEF, 2010b) shows that after the earthquake there was a consistent drop in school enrolment, which was considered to be quite alarming. Therefore, after the summer break, UNICEF, in coordination with partners in the Education Cluster, launched a nationwide campaign called 'All to School', targeting both children who stopped going to school as a result of the earthquake and those who had never had access to education before; this was done in correlation with the provision of basic learning and teaching materials for children and teachers (UNICEF, 2011).

In addition, an article on the organisation's website emphasises how UNICEF encouraged youth to engage in advocacy and activism, providing them with appropriate resources and tools (access to social media, mapping applications) (Koné & Sydney, 2013). In the article, UNICEF Country Representative in Haiti explains that "this type of digital tool enables youth, particularly the most vulnerable, to weigh in more heavily on public debates and hence to promote positive social change" (para.12). In fact, a 17-year-old girl

interviewed for the article said that thanks to these tools she "learned how to use GPS and mobile technology to report on pertinent issues, and most importantly to represent other youth" (para.11).

UNICEF (2010a) reported that also the need to find additional teaching personnel was quite urgent. In fact, many teachers did not come back to their work after the earthquake. The main explanation was that many of those who survived were displaced and lacked the means to continue their work (UNICEF, 2010b). Connected to this, UNICEF was committed also to solve the issue of teachers compensation, which was mainly borne by students' families and severely affected their income if they wanted their children to attend school. The organisation (2010a) emphasised that it was of the foremost importance that the costs of employing teachers not fall on the shoulders of the children's families, which after the disaster were put even more under hard economic pressure. As a consequence, it engaged with the Government to reinforce its capacity of leveraging resources to invest in education (UNICEF, 2010a, 2010b).

E) MOBILISATION AND COORDINATION OF STAKEHOLDERS AND SUPPORT TO THE GOVERNMENT

As one of the co-leading agencies of the Education Cluster, but also in its own capacity, one of the most important goals of UNICEF was to restore the Haitian education system as soon as possible. One of UNICEF's main achievements for this was to mobilise stakeholders and bring partners at all levels together to plan and realise the reconstruction and the expansion of the Haitian education system (2010b). In particular, UNICEF worked very closely with the Haitian Ministry of Education throughout all phases of the response, supporting it to be operational again (UNICEF, 2010a; 2010b; 2011; 2012). UNICEF played a critical role in providing financial and logistical assistance to the Ministry of Education, and technical assistance with the embedment of some of its staff within government structures, so that it was possible to assist the Government in the long-term expansion of the education system, including through reforms and an operational plan (UNICEF, 2010a; 2010b; 2012).

On the other hand, UNICEF also worked closely with Haitian communities, and, for instance, it organised, in partnership with other organisations, an initiative aimed at gathering the views and aspirations of children for the reconstruction and transformation of Haiti (UNICEF, 2010b).

Although the reports of UNICEF on the Haiti emergency response that were retrieved for this thesis (as explained in the introduction) only cover the period of the immediate response in the first months of 2010 until the second year after the earthquake (to January 2012), it is possible to note that during that period the UN agency, as Save the Children, among all the sectors of intervention devoted the largest amount of funding to education (UNICEF, 2012). This is another demonstration that the education sector received a great deal of attention, as Lattimer and Berther (2010) argued.

4.3.2. Were standards respected?

We shall now try to understand whether the attention and funding employed in the education response in Haiti by UNICEF were translated into the application of all relevant international standards that regulate education as a human right and its protection in emergencies.

The extensive activity of information collection and sharing conducted by UNICEF clearly shows the organisation's leading role in coordination and analysis, which are two of the INEE foundational standards (INEE, 2010: pp.31-40). Such standards mandate that, when the education authorities are unable to take on a leadership role in the education response or in some of its components, an inter-agency coordination committee must coordinate the response. In the Haiti case, as we mentioned above, the national system of information management collapsed, and the Education Cluster coordinated the activities in this domain, with UNICEF covering the majority of the mapping. The aim of collecting such information was to plan the response in a way that improved the availability of education after the disaster. The fact that UNICEF was one of the co-leading organisations of the Education Cluster already implies that coordination, both

within the education sector and with other relevant sectors, represented one of its main tasks, but since Save the Children did not put as much emphasis on this activity as UNICEF did, it can be argued that the latter was facilitated in this task by its stronger institutional and technical capacity resulting from the fact of being a UN agency. Actually, as will be explained in the next section, there were some problems of coordination within the Cluster, but in its overall response, UNICEF seemed to have acted following the provisions of the INEE coordination and analysis Minimum Standards. Moreover, the fact that information was collected through surveys and visits on site (which was probably the only possible way, given the situation) reflects that also the participation standard was respected (*Ibid.*: p.22). This is significant because, as we have already noted above, participation is also a signal of the application of a human rights-based approach.

As in the similar area of work of Save the Children, for the school reconstruction phase and the provision of temporary learning spaces, the relevant INEE Minimum Standards are those related to access and learning environment (*Ibid.*: pp.61-71). It is clear that UNICEF put its efforts into the rehabilitation and (re)construction of school buildings, so that safe learning spaces were available for children. Differently from Save the Children, the UN agency stressed a lot the importance of rubble removal, which was the very first step for making learning spaces available and accessible again (and improved); in this activity the participation of the community played a very important role. In its reports and articles on the website the organisation also emphasises the application of innovative techniques, so that buildings were physically accessible to all, including children (and teachers) with disabilities, and safe even in case of other natural hazards. This represents the translation into practice of the principles of acceptability and adaptability of education. Acceptability was also implemented by making water, sanitation and food available for students. The fact that schools and provisional learning spaces were adapted to the Haitian local culture and traditions, thanks to the process of consultation conducted by the organisation, entails the application of the principle and standard of community participation in the planning of reconstruction. This also meant empowerment of children, who

had their views taken into consideration, and link to human rights law. Indeed, through the consultation process, children had the opportunity to learn that they have rights, and that they can claim them also in the future. The issue of accessibility is strictly connected with the principle of non-discrimination. However, UNICEF reports do not address non-discrimination in details. They briefly mention that physical accessibility was ensured, and new schools were being made available also to children living in remote rural areas. Moreover, some protection measures for girls were put in place, such as the provision of separate toilets (other protection measures for girls were tackled in the sections dealing with child protection more than in those on education, and more in the website than in the reports). On the other hand, differently from Save the Children, UNICEF did not seem to take steps to overcome the language barrier to access to education (maybe this was left to other organisations, according to the coordination principle). As regards the major barrier to access to education, the economic one, it is always mentioned in connection to UNICEF's support to the education authorities for the improvement of the system with the aim of making primary education finally free. This makes clear that the main accountable actor for this problem remains the state, and it will be interesting to understand, in chapter 5, whether the international support given to the Haitian Government has finally resulted in free (and therefore really compulsory) primary education.

The training activities organised by UNICEF can be seen as applying both the INEE Minimum Standards on learning environment and those on teaching and learning (*Ibid.*: pp.62;65-66;72;80-88). More precisely, the first set of standards has to do with the training of teachers to provide psychosocial support to traumatised children, while the second is related to the quality of teaching that makes education acceptable. In fact, only if teachers are appropriately trained, can they provide a participatory and inclusive learning environment that empowers children. Therefore, the fact that UNICEF provided training on multiple subjects, from school subjects to teaching theory and INEE Minimum Standards, reflects this view. Moreover, this kind of comprehensive training also empowers teachers, and builds the capacity of the whole education personnel. The fact that training

was spread by trained teachers also entails community participation. As far as learning was concerned, the principle of adaptability was applied. In fact, not only was attention paid to children's psychosocial recovery and were non-formal learning activities put in place, but the learning curricula were also adapted to the peculiar situation, allowing for students to catch up with the education they missed. Several articles in the organisation's website also mention peculiar learning activities that took place through play, music, radio and art. In addition, disaster risk reduction was included in the curricula, and this reflects both adaptability of education and empowerment of children, teachers, and families. Empowerment was also fostered by providing youth with the appropriate tools to encourage them to become advocates and activists of their rights. What is not explicitly mentioned in the education sections of the reports (nor in the articles on the website) is the inclusion of human rights education in the curricula, which represents the embodiment of empowerment.

Through the campaign 'All to School', UNICEF tried to address the issue of accessibility to education. As explained above, this was a particularly important problem in Haiti, where people showed to be aware of the high value of education but could not afford it.[15] Therefore, if on the one hand it can be argued that the campaign was a useful instrument to raise awareness in the communities about the increased availability of schools, on the other hand it was not possible for it to reach alone the goal of making education accessible to all, because other issues had to be tackled as well. Such issues were, notably, the availability of teachers and the abolition of costs associated to education. As stressed by the INEE Minimum Standards on teachers and other education personnel, a sufficient number of teachers has to be recruited, supported and regularly compensated (*Ibid.*: pp.95-102). The availability of teachers is very much related to acceptability of education (too many pupils per teacher means bad quality education), and for this reason it is emphasised in UNICEF reports. In this way it is stressed that the Government is the duty-bearer for the fulfilment of children's

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[15] This was one of the findings of the Rapid Joint Needs Assessment.

rights (such as free access to education), but also of teachers' rights. For this reason, the only thing UNICEF could do in this domain was to assist the Government in the process of review of the education system, which it did, and put a great emphasis on it in its reports. This activity of support and advocacy is also connected both to the principle of link to the law and to the fifth set of INEE Minimum Standards on education policy (*Ibid.*: pp.107-113). Those standards mandate that the state is responsible of planning and implementing education policies and programs that reflect international and national standards (which require that primary education is free and compulsory). Therefore, UNICEF's advocacy action can be considered a positive step in this direction, but its real results will be evident only in chapter 5, which, as already anticipated, will deal with the action taken by the Haitian Government in improving the education sector.

The mobilisation and coordination of different actors represents another demonstration of the adherence by UNICEF to the INEE coordination standards. Moreover, this activity also reflects the importance attributed to the participation of different stakeholders from all levels to the planning and implementation of education response during the emergency in Haiti. In particular, the consultation initiatives conducted among the local communities are very relevant, since they led to their empowerment. For this reason, they could maybe have been given more space in the organisation's reports; however, consultations are more dealt with in the news section of UNICEF website. As regards UNICEF support to the Government, it represents a connection with the principles of accountability and link to the law, and, as stated above, its results will be analysed in the next chapter.

4.4. UNICEF and Save the Children as the co-leading organisations of the Education Cluster

As mentioned at the end of chapter 2, the Global Education Cluster was created later in comparison with the other clusters, thanks to the advocacy activity of the two organisations that became its co-leaders, UNICEF and the Save the

Children Alliance. The main peculiarity of the Education Cluster is that it is the only cluster which is co-led by a UN agency and an NGO (and Save the Children is the only NGO that co-leads a cluster at global level) (Anderson, & Hodgkin, 2010; Save the Children, 2012a).

Even if the type of organisation is different, UNICEF and Save the Children have many common points in their activities and objectives. Most importantly, they share the same commitment to protect and advance children's rights as enshrined in the CRC and in other international human rights instruments. In addition, one of the main areas of their work worldwide is education. They work for children's right to education in 150 and 120 countries respectively (Global Education Cluster, 2010a), and have developed strong institutional capacities at all levels for emergency preparedness and response and for cooperation with other humanitarian partners. Both of them usually provide operational and technical capacities, logistics, various supplies; mobilise funding; and engage in advocacy and communication campaigns (*Ibid.*).

Being the co-leading organisations of the Education Cluster both at the global level and, very often, at the country level means that they have to coordinate their work together with that of all partners, for which they share accountability. More precisely, they are both accountable for securing emergency preparedness and technical capacity to respond to any crisis, and more effective cooperation and inter-agency responses (Anderson, & Hodgkin, 2010). In particular, at the global level their task is to establish broad partnerships that work in three main domains: standard and policy-setting, building response capacity, and operational support (*Ibid.*).

There were some early concerns, also by the organisations themselves, about the feasibility of this partnership, related especially to the differences in size, scope and organisational culture (Anderson, & Hodgkin, 2010). The Education Cluster is actually still facing some important challenges in its work posed by its peculiar co-leadership. At the beginning of its activity there were problems in the division of labour and coordination, and being the organisations' attention focused on internal matters, less time was dedicated to the cluster's work

(*Ibid.*). In a review process conducted on the co-leadership arrangement (The Partnering Initiative, TPI, 2010), it was pointed out that the practical implementation of co-leadership, including decision-making and accountability procedures, was not sufficiently made clear at the beginning. Moreover, the overall management procedure was not clear either, and because the two organisations have different internal structures, also internal communication could be difficult or not effective. It was also found (*Ibid.*) that the Cluster had not yet achieved an identity as a single entity, and equity between the two partners did not seem to be reached (this was also demonstrated by the fact that the funding of the Cluster came from a single source and was administered exclusively through UNICEF).

However, the Education Cluster's co-leadership is thought to be one of the major factors that contributed to its successful achievements, both in the specific case of Haiti and more in general. Indeed, this partnership brought important benefits. For example the amount of work was divided between the two organisations, allowing them to broaden the cluster's agenda (TPI, 2010). In addition, the Cluster was able to speak with a more authoritative voice to a broader range of partners, while sending a clear message of cooperation and inclusion to the whole humanitarian community (Save the Children, 2012a). In fact, the Cluster gained visibility and uniqueness from the co-lead arrangement; this also made UNICEF enhance its legitimacy with the NGO community, and Save the Children enhance its legitimacy with UN agencies and governments (TPI, 2010).

In Haiti, the Education Cluster was able to achieve very important results in a very short time. A report on lessons learned, written following a consultation process with the main actors in the territory, notes that it was considered "a strong Cluster with broad and inclusive membership" (Global Education Cluster, 2010b: p.6). Among the most important achievements of the Education Cluster in Haiti are included: the adaptation of the INEE Minimum Standards for Education in Emergencies to the Haitian context and the adherence to the Standards by Cluster

members; the Rapid Joint Needs Assessment and the fact that the Cluster represented the major source of information in the education sector for all partners in the country; the extensive training activities on psychosocial recovery, disaster risk reduction and emergency preparedness; the production of guidance notes and strategy documents; the support to the Government in developing norms and plans for the future; the systematic information-sharing between Cluster partners; and the good links with other Clusters relevant to the education sector, such as Health, WASH, Shelter, Camp Coordination and Camp Management, as well as civil-military cooperation with MINUSTAH (Global Education Cluster, 2010b; 2012).

It seems clear that all this would not have been possible without an effective cooperation of the two co-leading organisations of the Education Cluster. The brief summary of the activities carried out by UNICEF and Save the Children reported in the previous sections shows that they put in place quite a similar response to the emergency. Their work focused on the same objectives, and therefore, broadly speaking, their agenda was almost the same. However, it is also evident that the activities they gave more weight to in their reports were different. In fact, Save the Children wrote more about its training programs for teachers, its literacy objectives and programs, and community involvement. On the other hand, UNICEF's reports seemed to emphasise the agency's critical role in supporting the Government and in building the capacity of the Ministry of Education, and its activity of reconstruction of schools.

This probably reflects the slightly different capacities of the two organisations. Save the Children, as an NGO, is more focused on the community level, and looks more committed to community's and children's participation, while UNICEF, as a UN agency, has better working relationships with national governments and can afford more to realise rubble-clearance and rebuilding activities. The two agendas are complementary, and this is the demonstration that difference can be a resource when coordination is effective. Indeed, both the organisations brought their different expertise, experience, and perspective to the Education Cluster's work, which enjoyed the benefits of representing a more open forum of humanitarian actors (thanks the Save the Children's role in the

international NGO community), while remaining closely tied to the UN system, through which the Cluster system works.

The findings of the first report on the work of the Education Cluster in Haiti (Global Education Cluster, 2010b) show that the co-leadership was perceived to cause some obstacles to its activities. The main problems reported are: the fact that UNICEF and Save the Children did not seem to have fully understood their role as Cluster members in addition to their role as co-leads; the perception that the Cluster did not really speak with one voice; the difficulty of creating one team between two distinct agencies; the fact that the role and responsibilities of the two organisations sometimes was not clear and this generated confusion and tension (*Ibid.*). Moreover, there were some critical issues with staffing. In the initial (and more critical) phase, the staff structure for Cluster Coordination resulted unclear, and the solution of operational issues was too time-consuming; the staff deployed did not appear to be enough, reporting lines were not always clear to workers, and some of them had a "low level of understanding of the Cluster approach and the work of the Education Cluster more specifically" (*Ibid.*: p.11).

It is difficult to strike a balance between advantages and disadvantages of having two organisations of different type co-leading the Education Cluster. As already mentioned in the introduction, one of the main limitations of this thesis is the reliance on secondary data, due to the impossibility to reach the country. It is arguable that for a more comprehensive assessment of the issues relating to the Cluster coordination it would have been better to reach the Cluster's staff that worked there at the time of the emergency. However, this is not the main focus of this thesis. Moreover, the Global Education Cluster has already conducted intensive investigations about the functioning of the Haiti Education Cluster. From that assessment much more criticalities than positive results emerge, but this can be explained by the role of that investigation and of the resulting report, which was to understand the weaknesses of the system in order to improve it in the future. In fact, a consistent set of recommendations is presented in relation to every critical issue. Therefore, it is hopeful that the lessons learned in Haiti have been useful to make the Education Cluster work more efficiently in other contexts

(always bearing in mind that the Haitian emergency had its own peculiarities that cannot be found anywhere else).

What is more relevant for this thesis is the fact that the major challenges in the work of the Education Cluster in the Haitian context do not seem to be connected with co-leaders partnership, but rather with the weakness of the Government and pre-existing structural deficiencies, as will be explained in chapter 5.

4.5. Overall assessment of the education response realised by Save the Children and UNICEF in Haiti

In this chapter we have outlined the education response put in place by the international community after the earthquake in Haiti, moving from the general response to the more specific analysis of the activities carried out by the two co-leading organisations of the Education Cluster, Save the Children and UNICEF. In this last section we will try to sum up the most relevant findings, categorising them according to the five principles that underpin the human rights-based approach.

PARTICIPATION

In both Save the Children and UNICEF periodic reports and websites articles on the Haiti emergency, participation is accorded a relevant role. Both organisations had been working in Haiti long before the earthquake hit, and this has probably helped them to establish contact with the communities affected by the disaster, because people already knew them and their work. In fact, the two organisations quoted very frequently the words and experiences of children and adults in their periodic reports, and even more on their websites. This was probably done to make the situation clearer to a broad audience, and through people's words they also demonstrated their closeness to the affected population. From this, we can reasonably suppose that they talked to children, parents, teachers and school directors, and took into consideration their views.

Structured surveys and consultations are mentioned quite frequently by the

two organisations. However, the various documents they published do not address in depth the specific methods employed to involve the community at the different levels of the education response (analysis, planning, design, implementation, monitoring, evaluation), nor do they specify the level of inclusiveness of vulnerable groups in the consultation process. For instance, community-based evaluations of education programmes (what the INEE Handbook calls 'social audits') are not specifically mentioned in the reports nor on the websites. In many phases, partnership with the Government seemed to have been prioritised more than the involvement of the local communities. For example, reports say that the identification of areas where to set up temporary safe spaces for learning was done in cooperation with the Ministry of Education, but local communities are not mentioned.

The INEE first minimum standard suggests that humanitarian actors support the creation of community education committees that would engage in dialogue with the education authorities. Such committees are seldom mentioned, and only in the latest reports and articles, and it is not clear whether these committees were created after the earthquake or were already present. Knowing that education was not very participatory in Haiti before 2010, we could suppose that they were created thanks to the support of international humanitarian organisations that intervened in response to the disaster. For sure, Save the Children facilitated the formation of school support groups, both in partnership with the Quality Education Initiative and through the Community Action Cycle system. What has been frequently stressed by both Save the Children and UNICEF is the importance of mobilising parents and community members in general to advocate for education in their communities. Moreover, as noted above, both organisations have consulted children specifically during their education response.

Concerning the participation of the communities in terms of local resources, it can be stated that, more than material and financial resources (which were not available after the earthquake), human resources were employed in various activities. This contributed to building the capacity of Haitian workers and to their empowerment (as we will underline also later). This was obtained especially by

hiring local staff, training them and making them participate in the reconstruction of their country.

Overall, the principle of participation was applied by both Save the Children and UNICEF. By reading the organisations' reports and websites applying the lens of a human rights-based approach, a greater emphasis on participation and a more detailed account of the participatory methods employed could have been expected. It is also worth noting that both organisations progressively increased their attention to participation as the response shifted from early emergency response to long-term development. A possible interpretation is that the principle of participation is considered by the organisations easier to apply in development work than it is in emergency response.

NON-DISCRIMINATION

For education to be accessible to all children, there has to be no discrimination. To begin with, non-discrimination means that schools and other learning spaces have to be physically accessible to all, included children (and teachers, and parents) with disabilities. In fact, the INEE Minimum Standards mandate that any barrier to accessibility has to be removed and that learning environments have to be safe. UNICEF explicitly noted in its reports that the schools it made available were built according to accessibility standards for people with disabilities, and it also devoted an article on its website to the issue of accessibility for people with disabilities (Nybo, 2013). On the other hand, Save the Children did not specifically mention this issue. However, since all organisations working under the Education Cluster had to apply the same standards and norms, it is deducible that accessibility for people with disabilities was included also in Save the Children's work, with the application of safety assessments and norms during the reconstruction phase.

Apart from that, the main grounds of discrimination identified in this thesis in the access to education in Haiti are: gender; family income, in relation to the high costs of private and even public education; place of residence, because children who lived in remote rural areas had to walk long distances to go to school

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and this very often prevented their attendance; language, because classes were held in French, the language of the elite, while the majority of children spoke Creole.

Save the Children and UNICEF reports and websites sometimes mention the fact that boys and girls must be guaranteed equal access to education. Related to this, the provision of separated sanitation facilities for boys and girls can be seen as an action taken to avoid discrimination against girls, who could be prevented from going to school because of the lack of such facilities. Both organisations address the issue of gender-based violence within the sections devoted to child protection in their documents, while the issue was not tackled when dealing with education. Save the Children promoted a specific financial literacy program for adolescent girls. UNICEF addressed the issue of discrimination against women and girls especially on its website, but very seldom in relation to education. Other than that, the two organisations do not specify any methods used to guarantee equal access to education to boys and girls.

The barrier posed by the costs that characterise education in Haiti does not seem to be addressed with specific actions by the humanitarian organisations. This can be explained by the fact that the State was the only actor that could change the situation and make primary education free of charge (as we will see later when dealing with the principle of accountability). Therefore, besides advocating with the Government for an increased investment in education, what the organisations tried to do meanwhile was to alleviate the negative economic situation that affected Haitian children and parents. For example they facilitated family reunification, so that children had someone who could possibly pay for their education, and made possible for families to earn some money through cash for work programs, so that parents could afford to pay school fees for their children. Another thing that humanitarian organisations did was to provide all children with the material they needed at school, so they did not need to purchase it.

According to the INEE Minimum Standards, schools have to be close to the population they serve. Between the two organisations considered, only UNICEF mentioned several times (especially in its website) its effort to provide rural

populations with schools and learning opportunities. On the other hand, Save the Children did not mention the issue in its reports and website (this does not necessarily mean that it did not respect the standard, it is just a signal that maybe this was not considered an important information).

As regards addressing the language barrier, Save the Children seems to have been far more active than UNICEF. In fact, while UNICEF did not mention this issue in its reports (again, maybe because it decided to let it to other organisations as part of the Cluster coordination), Save the Children addressed the lack of reading skills among young children through its Creole literacy program 'Lekti se Lavni' (Reading is the Future).

Although some of the barriers hindering equal access to education were considered by UNICEF and Save the Children, if we read the organisations' reports and websites through the non-discrimination lens we find that this principle is not very much emphasised. They probably applied it when carrying out their programs (even if it could have been emphasised more), but they did not address the main barriers to access to education, apart from the linguistic and physical ones. This is explainable by the fact that the Government was the only accountable actor that could and had to remove all the barriers, more importantly the economic one. To help this process to take place, both UNICEF and Save the Children (with the former emphasising it more) engaged in supporting capacity building within the Government, so that a reform in the education sector could be introduced.

EMPOWERMENT

What stands out when reading UNICEF and Save the Children reports and websites and looking for the application of the principle of empowerment is that it is dealt with more in the sections on child protection than in those on education. Especially Save the Children underlines how child-friendly centres, set up for protection purposes in the immediate aftermath of the earthquake, allowed children to learn about their rights through different non-formal learning opportunities (young children through play, youth through discussions). A

possible explanation for this is that such centres were set up as a place to gather vulnerable children before the education response started to be put into practice, so they were the first places were some non-formal learning activities took place. UNICEF (2010b) also noted that such centres represented the only learning opportunities available for children whose family could not afford formal education. Therefore, they were obviously the right place where to teach children their rights. But this does not exclude that those who were lucky enough to go to school could learn their rights with formal education.

In any case, the important support given by UNICEF and Save the Children to Haitian workers by helping building their capacity in different sectors is itself empowering. In the sections specifically dedicated to education, the action that contributes more to empowerment, besides making parents and children participate in the education response, is probably teacher training. Both organisations reported that 2,300 teachers were trained during the first phase of the response (Save the Children, 2010c; UNICEF, 2010b), and had their professional capacity improved. The subjects of the training, outlined in the sections above, are in line with the ones proposed by the INEE Minimum Standards on teaching and learning, but do not explicitly include human rights and specific children's rights. In the same way, the subjects of learning curricula are not outlined, and the presence of human rights education was not explicitly mentioned in any of the reports. We have to remember that the actor that has the duty of including human rights in school curricula is the State. However, the organisations supported the State in adapting and improving learning curricula, and should have made clear the importance of including such empowering topic. Moreover, being both organisations those who delivered teacher training, they should have included human rights and children's rights in it. It is true that many other subjects of the training that are mentioned seem closely connected to that, for example child-centred teaching or positive class management. Therefore it would probably be wrong to state that human rights were not included in the training and in the learning curricula. Nevertheless, since education is *par excellence* the instrument to achieve empowerment, we could argue that it was worth being emphasised more.

The work of UNICEF and Save the Children to ensure availability, accessibility, acceptability and adaptability of education in Haiti with the activities outlined above is clearly connected to the right to education as enshrined in human rights law (and especially the ICESCR and General Comment No.13). In particular, availability was improved with the identification of safe temporary learning spaces, the provision of tents and education material and the reconstruction of schools. Accessibility was considered especially by supporting the Government to make primary education free of charge, and by tackling some of the barriers to equal access, such as the linguistic and the physical ones. Acceptability was enhanced by training teachers, with the aim of increasing the quality of education, by conducting consultations in order to shape the education response according to the Haitian culture and traditions, and by providing for adequate water and sanitation facilities in schools. Adaptability was ensured introducing accelerated curricula that allowed catching up with the education missed, and including disaster risk reduction and psychosocial support both in teacher training and in learning curricula. Moreover, a clear link with the CRC was also established by UNICEF when it mentioned and acted upon the right of children to be heard and have their views considered in matters that affect them.

As shown above, the activity of the two organisations was also linked to the INEE Minimum Standards for Education in Emergencies. This is very important, even if such standards are not legally binding but just soft law, because they represent the most comprehensive guidance measures for the protection of the right to education during emergencies. Both organisations paid attention especially to the respect of the first three sets of standards: foundational standards (on participation, coordination, and analysis), those on access and learning environment, and those on learning and teaching, while the last two sets, on teachers and other education personnel and on education policy are more closely related to the State's legislation.

It is interesting to note, however, that the reports of the two organisations do not mention human rights law explicitly. It is mainly UNICEF that sometimes

mentions education as a right, and it does so more on its website than in its reports. However, the stress on the quantity of tents and material provided, the schools built and even teachers trained makes the reader think more about a mere activity of supply than about the assistance in the fulfilment of a right. This is probably connected to the fact that rights are duties that the State has the responsibility to fulfil, while the classical view of education as a service and humanitarian organisations as just providing for material and technical assistance still prevails.

ACCOUNTABILITY

Humanitarian organisations have responsibilities towards their mandate, towards donors (in the use of resources), and, very importantly, towards the population they assist: they have to respect people's rights while strengthening existing institutions and fostering transparency and participation of all stakeholders (Save the Children, 2010c). Moreover, as mentioned above, the co-leading organisations of the Education Cluster are accountable for the preparedness and the capacity with which the international community effectively puts in place its education response to a crisis. However, even it times of emergency, the primary duty-bearer for the right to education is the state.

As we have seen in chapter 1, to promote accountability means to increase the capacity of the duty-bearer to meet its obligations. From this point of view, especially UNICEF (but also Save the Children) played an important role in advocating for free and compulsory primary education for all, and in supporting the Ministry of Education to take on its responsibilities and improve the education system to meet that goal.

Accountability also means that there are mechanisms in place whereby rights-holders can complain about a violation of their rights and seek remedy. It is probably because such mechanisms have to be put in place by the state that UNICEF and Save the Children never mentioned them. However, they did not mention them even when reporting their activity of assistance to the Government for the improvement of the system.

International humanitarian organisations that intervene in an emergency situation have to play a complicated role towards the Government of the country where they work. On the one hand, they cannot criticise it too much and have to be supportive of it (otherwise they would run the risk of being prevented from doing their job); on the other hand, they should put pressure on the State, advocating for the improvement of the human rights situation. It can be argued that in the case of the right to education in Haiti this was easier, because the Government was aware of its weakness and demonstrated its willingness to improve the system: basically all stakeholders agreed that a reform was needed.

Since a relevant part of the education response of both UNICEF and Save the Children in Haiti was to support the Government to address the problems affecting the education system outlined throughout this thesis, the following chapter will deal with the steps taken by the Haitian State towards making education available, accessible, acceptable and adaptable to all.

CHAPTER 5
THE REFORM OF THE HAITIAN EDUCATION SYSTEM

5.1. Building back better

In the previous chapter we have outlined the education response put in place by the two main international organisations that intervened to bring humanitarian assistance after the earthquake in Haiti. The findings of the assessment, conducted by analysing the reports of UNICEF and Save the Children and their adherence to the principles of the human rights-based approach and the core contents of the right to education, directly conducted this research to look at the Haitian Government's action in the education sector. Since the Government received wide international support after the disaster (from the financial, material and technical point of view), it will be interesting to understand if that support resulted in an improvement of the Haitian education system, which, as previously indicated, had many critical problems even before the earthquake.

As anticipated in chapter 3, the international humanitarian community that intervened in the education sector in Haiti after the earthquake adopted a 'building back better' approach, meaning that the aim was not simply to restore the system as it was before, but to build a new, better one (Vallas & Pankovits, 2010). This is confirmed by the words of both the organisations analysed in the previous chapter. In one of its press releases Save the Children declared that "the longer term rehabilitation of Haiti's education system (...) remains a crucial part of Save the Children's five-year 'build back better' initiative" (Save the Children, 2010d: para.7). Also UNICEF "believes the unprecedented international commitment, support and funding seen since the earthquake struck must be used to build back better for all young Haitians" (Khadivi, 2010: para.15).

This attitude reflects the developmental approach to education in emergencies introduced by Pigozzi in 1999. She writes that "an emergency can provide a 'crisis situation' in which immediate change is possible" (Pigozzi, 1999:

p.4). This means that, while in ordinary times it may be difficult to introduce important changes into the education system of a country, this could result much easier when a crisis completely destroys the system. Therefore, after an emergency there can be a real opportunity for transformation, a chance for building a new system that complies with the human rights contents of education and that represents the realisation of a human rights-based approach.

Also Kirk (2008) wrote about this approach, and explained that the notion of 'building back better' does not apply only to the physical infrastructure, which obviously has to be rebuilt more resistant to natural hazards and child-friendly, with adequate spaces and facilities. This view has a broader meaning, related to the possibility to address pre-existing problems of accessibility and quality. And while infrastructural issues can be taken care of by the humanitarian organisations that organise the reconstruction, access and quality issues can only be solved by the Government, which is the primary duty-bearer of the right to education.

This was the case also in Haiti. Indeed, in chapter 4 we made clear that UNICEF and Save the Children responded rather well in terms of making safe learning spaces available for children, together with the provision of learning and teaching material, and training for the education personnel. They also tried to address some of the barriers that were impeding equal access to education, and enhanced community participation and empowerment. But, as already noted, a very important part of their work in Haiti was to support the Ministry of Education to improve the situation. Therefore, what remains to be assessed is whether the Government did its part in building back a better system, by addressing accessibility and acceptability issues.

5.2. The reform of the Haitian education system

5.2.1. *Action Plan for National Recovery and Development of Haiti*

In March 2010, the Government presented to its partners in the international community its Action Plan for National Recovery and Development of Haiti. In this document the Government made clear that, with the help of the international community, its approach was one of turning the disaster into an opportunity to

rebuild a better Haiti. As regards education, the need to make the system more efficient and equitable was recognised, and the long-term goal was confirmed to be free and universal access to primary education. As a consequence, the strategy envisaged by the Ministry of Education included that the return to school of the students living in the affected areas was guaranteed with equity, providing aid to all children and teachers (necessary pedagogical and administrative support). More concretely, the establishment of shelters, the provision of psychosocial assistance, and exemption from the payment of school fees were the main action taken to facilitate children's return to school (Government of the Republic of Haiti, 2010a).

The Post Disaster Needs Assessment (PDNA), published as an annex to the Government's Action Plan, underlined that support was going to be provided also to non-public schools in terms of temporary shelters and staff salaries, with a view to starting a cooperation with the private sector on a contractual basis in the following months (Government of the Republic of Haiti, 2010b). The need of adapting school reconstruction to the country's peculiar vulnerability and to its employment opportunities was also emphasised, together with the need of strengthening the participation of the communities in the recovery process. The main suggestion that came from the PDNA was for the State to gradually take greater control of the education sector and to increase public investment in education, also in partnership with the socio-economic sector (*Ibid.*). Short-term training programs for young people, attention to psychosocial support and protection of vulnerable groups, and inclusion of life skills and disaster risk reduction into school curricula were other important issues highlighted in the PDNA, while, in the medium term, the suggestion was to establish an education information system, as well as an educational accreditation system (*Ibid.*).

5.2.2. Operational Plan 2010-2015

The Government of Haiti decided, in May 2010, to start the process of reform of the education system, and constituted a task force composed of the Inter-American Development Bank (IDB), the Ministry of Education (MENFP)

and the National Education Commission, with the task of drafting the reform (MENFP, 2011). The result of this work was a five-year operational plan worth 4.2 billion US dollars, to address not only the issues posed by the earthquake (infrastructure destruction, students' displacement out of the school system) but also – and more importantly – pre-existing issues such as accessibility and quality of education (*Ibid.*).

The Plan was divided into four chapters that addressed the key features of the reform. The first chapter was about the problems of the Haitian education sector, notably the inadequacy of schools and their inequitable distribution, the poor quality of education, and the poor governance and resources that characterise the MENFP. To address these problems and improve the country's education system, Haiti committed itself to making quality education accessible to all Haitians without discrimination based on gender, place of residence, or socio-economic status; making education consistent with the needs of the national economy, and progressively involving municipalities in its management (MENFP, 2011).

The second chapter of the Plan was divided into nine areas of intervention: the first three were more general and addressed governance, curriculum and training of the personnel; the fourth was about early childhood, pre-school and primary school (up to the ninth grade); the following areas were those of secondary education, vocational training, higher education, special education and adult education. Among these, the areas of work that are more closely related to education as a human right of all children, as enshrined in international legal instruments and in the national constitution as well, and therefore more relevant for this thesis, are the first four and the eighth.

In particular, to improve governance the main objectives set by the MENFP were to build additional human capacity, to promote better organisation of the Ministry and decentralisation, and to strengthen its planning, monitoring and evaluation capabilities. To develop an appropriate national curriculum, skills benchmarks would be developed, and the relevant competences the curriculum would be focused on were linguistic (French, Creole, Spanish and English),

scientific and technologic, and civic, including culture of peace and respect for the environment. It was decided to strengthen the institutions providing training for teachers, and to make it possible for school staff to receive continuing education.

It is relevant to stress that the overall goal of the reform was (as in the case of the previous attempts of reform) to guarantee that all children had equal access to free (publicly funded) quality primary education (McNulty, 2011), with all children being enrolled in free education up to sixth grade by 2015 and ninth grade by 2020 (Bruemmer, 2011). In particular, the first phase of the plan consisted of subsidizing private schools: the Government would pay the salaries of teachers and administrators of the private schools that participated in the initiative, which would become publicly funded, so that children could attend those schools without having to pay tuition and fees in the first two cycles of fundamental school (pre-school and primary school to sixth grade) (Bruemmer, 2011; MENFP, 2011). In order to participate to this initiative and be part of the reformed system, private schools had to undergo a certification process to verify the number of their students and staff; according to that number, they would receive, as an incentive, financial assistance to buy education materials and textbooks and to improve their facilities (IDB, 2010; Bruemmer, 2011). Then, to remain certified, private schools had to meet some standards, that would be increasingly stringent (IDB, 2010): for example, they had to adopt the national curriculum, and conform to the national training and facility improvement programs (*Ibid.*). Of course, participating schools had to be structurally sound and offer free tuition (Bruemmer, 2011). On the other hand, the plan was also meant to finance rehabilitation of suitable existing buildings which could be used as schools, and the construction of new schools in safe locations, conforming to the appropriate construction standards so that schools would be hazard-resistant; such schools would also be used to provide other services, like nutrition and healthcare (IDB, 2010). Specific actions and programs were also going to be put in place to reach out-of-school and over-aged children. In order for education to play a relevant role in the protection of vulnerable children, three programs were foreseen to address early childhood development and pre-school, nutrition, and

special education for children with disabilities, both physical and mental (MENFP, 2011). Concerning education for children with disabilities, three main objectives were included in the Operational Plan: to guarantee access to education for children with special needs; to improve the quality of the education they receive, so to foster their development; to improve the governance of the system, for it to be more effective also in this domain (MENFP, 2011).

The third chapter of the Plan dealt with the estimated costs for its implementation. According to the assumptions made by the drafters, Haiti would be able to cover with its domestic resources about 22% of the plan needs, while international donors and cooperation agencies would cover approximately another 9%. Proposed strategies for the remaining gap to be filled included: increasing domestic investment in the education sector; asking for additional funding from bi- and multi-lateral donors and foreign foundations; creating and Education Fund where to gather donations coming from the private sector, civil society, and the Haitians abroad; seeking assistance from the World Bank (MENFP, 2011).

The fourth chapter addressed the procedures of application and evaluation of the Plan. In particular, it proposed the creation of specific executive bodies at the strategic, planning and monitoring, and operational levels. In addition, other mechanisms were suggested for the successful implementation of the plan, such as consultations with external partners, the creation of monitoring and evaluation mechanisms, the establishment of a complementary but autonomous institution for the evaluation of the progress made.

5.2.3. Universal, Free, and Compulsory Education Program and other measures

After one year from the adoption of the Operational Plan, President Martelly (elected in May 2011) made education a cornerstone of his government program and launched the Universal, Free, and Compulsory Education Program (PSUGO). The program was meant to function through a dedicated fund, financed by fees posed on international telephone calls and money transfers, in addition to the investment of the MENFP (IMF, 2015). The aim was to pay school fees for primary school children and finally comply with the country's obligation to make

primary education free and accessible to all children. In particular, it was decided that public schools would be paid about 6 US dollars per student per year, while private schools would receive about 90 US dollars per student per year[16] (Haiti Grassroots Watch, 2013). The program was also supposed to make new schools available and provide students with the necessary supplies and books, and teachers with appropriate training (*Ibid.*). Moreover, the establishment of departmental and municipal commissions for the effective management of the program was also envisaged (Haiti Libre, 2014c).

The MENFP worked in partnership with the World Food Program and established the National School Meals Program in order to guarantee that children received one hot meal every day (Haiti Libre, 2011b). Moreover, at the beginning of the school year 2011-2012, free bus transport service for all students in uniform was announced (Haiti Libre, 2011a). Both these measures were intended to encourage children to attend school.

More recently, the MENFP put in place other measures to improve the Haitian education system, in accordance with the Operational Plan 2010-2015. In August 2014 the Ministry announced the application of twelve 'major measures' to improve the quality of education and the governance of the system. Such measures consisted, for instance, of the requirement of certification for teachers and school buildings, the monitoring of schools with a high rate of students failing their exams, the separation of different types of secondary schools, the realisation of an immunisation campaign for children (MENFP, 2014). Other initiatives were, for example, the revision of the public investment in education, the creation of a national commission for the reform of the school curriculum, the establishment of new norms for school infrastructures (*Ibid.*), and the equalisation of all public primary schools uniforms as a first step towards social equality (Charles, 2015). In April 2014, the National Assizes on Quality Education were launched by the

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[16] Among the sources consulted, no explanation was given about the reason for this big difference in funding between public and private schools. The amount of funding received probably corresponds to the fees students would have to pay if schools did not receive the subsidy, but this does not explain why the same support is valued so differently in public and private schools.

President and the Minister of Education, as a control mechanism to check if education in Haiti complied with established standards, and especially with the Operational Plan (Haiti Libre, 2014b). Another control mechanism recently created (in July 2015) was the General Inspectorate of the Administration of National Education and Vocational Training (IGAENF), which controls and evaluates how the different bodies under the MENFP manage the public funds they receive (Haiti Libre, 2015a).

5.2.4. Do the measures undertaken reflect a human rights-based approach?

From the provisions on the right to education put in place by the Haitian Government after the earthquake of 2010, it seems that a human rights-based approach has been taken into consideration and applied.

PARTICIPATION

Participation was guaranteed through the involvement of communities at the departmental and municipal level in the management of education and in its monitoring, with the decision of creating dedicated commissions.

NON-DISCRIMINATION

Non-discrimination clearly underpins the whole reform, since the main objective was to guarantee equal access to education to all children without discrimination. As already underlined in chapter 4, the most critical ground of discrimination for the access to education in Haiti was probably the economic one; the Government committed itself to eliminate this barrier by subsidizing schools so that children's families would not have to pay tuition. The reform also represented a commitment towards accessibility to education for children with disabilities and other vulnerable children, and towards the provision of schools with safe structures and facilities, learning materials and textbooks. Also the School Meals Program and the guarantee of free bus transportation for children in uniform are measures intended to overcome discrimination in school accessibility

based on poverty and place of residence. All such measures are aimed at increasing accessibility to education, but also its adaptability to the specific Haitian context.

EMPOWERMENT

The reformed national curriculum specifically includes civic education, culture of peace and respect for the environment: this is a clear signal that children's empowerment was promoted. In addition, also disaster risk reduction and other relevant life skills were included. The provision of psychosocial support to children was another action that signalled that the Government valued their development. Support and training was also offered to young people, so that they could become able to contribute to the reconstruction of their country. The general aim of building additional adequate human capacity for the future of the country well reflects the principle of empowerment.

ACCOUNTABILITY

As already made clear several times throughout this thesis, the Government is the primary duty-bearer of the right to education, and it must ensure accountability for the fulfilment of this right. With this reform, the Haitian Government committed itself to increase public investment in education, which is a clear signal of taking on the responsibility to guarantee the right to education. The fact that it engaged in guaranteeing free food and transportation for children symbolises that the Government was committed to comply with its responsibilities in making education more accessible. Also the commitment to strengthen its planning, monitoring and evaluation capabilities, with the decision to create specific bodies for this, reflects the principle of accountability. The launch of a national evaluation on the quality of education in 2014 was a way of implementing the State's responsibility. However, there seems to be no mention in the Government programs of complaint mechanisms, which represent another fundamental aspect of the principle of accountability.

As regards the application of the principle of link to the law, we should remember that until 2013 Haiti was not part of the ICESCR; however, it was bound by the UDHR and the CRC, which the Haitian Constitution automatically incorporated. Moreover, the provisions on the right to education contained in the Constitution of the State largely reflect those of international human rights law on free and compulsory primary education. In fact, we can recognise in the reform programs that also the 4As scheme has been taken into consideration. The rehabilitation of buildings and the construction of new schools, the provision of school materials and books reflect the principle of availability; the objective of making education free of charge implements the principle of accessibility, together with the attention to children with disabilities and other vulnerabilities; the reform of the national curriculum (including subjects as civic education, culture of peace and respect for the environment), the launch of the twelve major measures for quality education, the provision of psychosocial support, the training of teachers, the provision of adequate facilities make education acceptable; the inclusion of disaster risk reduction and life skills in the curriculum, the construction of new schools in accordance with the specific situation of the country from the environmental and economic point of view, the availability of specific education for children with disabilities and of training activities for youth, reflect the principle of adaptability.

The reform's major objectives are linked to and address the main problems of the Haitian education system: the high costs that families had to bear to send children to school and the absence of quality standards for the majority of schools that were private and could not be directly monitored by the State. These two problems were addressed together, by subsidizing private schools to allow children not to pay any fees, and in exchange those schools accepted to conform with national standards. What remains to be assessed, is whether this reform was successfully implemented.

5.2.5. Criticisms on the implementation of the reform

The first important criticism that was made by the national public opinion about the PSUGO program was that the national education fund, through which it was financed, represented an arbitrary taxation that was not legal, since the law that established such fund had yet to be approved at the end of 2013 (Haiti Libre, 2013). Also the establishment of appropriate monitoring and accountability mechanisms did not happen until 2014 (Haiti Libre, 2014c). Therefore, the lack of transparency and accountability in the way the fund was managed represented a negative aspect of the program (Péralte, 2014).

Moreover, the exact amount of money raised with this fund does not appear to be clear. Ross (2013) maintains that there is a big discrepancy between what the Government claims to have raised and the hypothetical amount of money that can be calculated by the taxation formula. He writes that "an exact total of money collected from phone taxes is unavailable" and "the numbers presented by Martelly's representatives have fluctuated widely". Also the number of children that benefited from the Government's subsidies does not seem to be clear, and "varies depending on who the number is coming from" (Ross, 2013). In addition, the big discrepancy of funding between public and private schools mentioned above, combined with the fact that the big majority of schools are private, led the public opinion to think that building an effective public education system would not be easy (*Ibid.*); on the contrary, it could also cast some doubts on whether this was the final aim of the reform.

Only in 2015 a first assessment of the program was carried out, and it was found that corruption and fraud were jeopardising its functioning. It emerged that 85 schools were excluded from the program because they had lied about the number of students they had in their classes with the aim of receiving a larger amount of money, and some of them did not even exist; moreover, the money received was not spent to improve school infrastructure or hire more teachers (Haiti Libre, 2015b; Beaucejour, 2015). Therefore, another very negative aspect of the education reform was its implementation, which seemed to be "disorganised and dysfunctional" (Ross, 2013).

On the other hand, teachers had been striking and protesting for long about their conditions of work. They demanded the payment of several months of arrears, and many of them also wanted their employment letters, which they had not received in years (some teachers were working since October 2011 without any document or salary) (Papillon, 2014; Charles, 2015). Obviously, the fact that teachers had to face such bad conditions of work jeopardised enormously the quality of education, since they were not motivated to do their job, and when they were striking to claim their rights, education for children was suspended.

This was not just a problem concerning teachers: an Haitian NGO called Haiti Grassroots Watch (2013) discovered that in November 2012 (ten weeks after the beginning of classes) only one out of 20 schools visited had been paid for that school year, while only two in 20 had received the due school supplies and books.

All these problems, that have been made known by the national and international press, lead us to deduce that, even if the reform was well formulated on paper, when it had to be put in practice it did not result effective anymore. This is mainly due to ingrained problems in the Haitian public sector, such as corruption, fraud and lack of a proper management system to deploy the needed financial and material assets and to oversee the functioning of the reformed system.

5.3. Was the chance taken to improve the education system?

In order to better understand whether the reform of the education sector in Haiti is being successful or not, we shall look at specific indicators for the right to education such as those mentioned at the end of chapter 1. Since structural legislative measures that guarantee free access to quality education are already in place (as, to a certain extent, they were also before the earthquake), we will focus in particular on process and outcome indicators.

It has not been possible to retrieve all the necessary data and statistics that we would need to apply all the indicators mentioned in chapter 1. Actually, very few updated statistics are available about education in Haiti. It is true that the MENFP, with the support of the Education Cluster, recently conducted a school

census, but the data reported refer to 2010-2011, so they do not reflect the effects of the reform in the longer term. The only recent data available are those provided by UNICEF's State of the World's Children Report of 2015, the news section on UNICEF's website, and UNESCO's Institute for Statistics (UIS).

AVAILABILITY

Regarding availability indicators, the proportion of the state's GDP devoted to education is not available, nor are the proportion of funding allocated to the construction and maintenance of schools or the proportion of schools per capita. Actually, President Martelly stated in 2014 that 7% of Haitian GDP was allocated to education, while the proportion was of just 2% in 2000 (Haiti Libre, 2014a). However, this figure is not reported in any of the official statistics that have been consulted. The only outcome indicators such as pupil/teacher ratio or the number of teachers available are outdated, since they come from the last census and refer to 2010-2011. At that time, 2,210,221 pupils and 70,009 teachers were counted in primary school, and the pupil/teacher ratio was of 32 pupils per teacher. (MENFP, 2013).

ACCESSIBILITY

The net enrolment rate is generally an outcome indicator for availability, but, especially in the case of Haiti, it is also an indicator of accessibility. The sources mentioned above do not contain this information, but the net attendance ratio is available, with reference to the period up to 2013 (UNICEF, 2014; Marion, 2013). As noted in chapter 1, the enrolment rate does not really represent the quantity of children that actually go to school, so the availability of the attendance rate is a positive information, and we can use this information to assess whether there has been an improvement in terms of accessibility to education. UNICEF's State of the World's Children Report 2015 (2014) indicates that the net attendance rate for primary school is of 77% for male students and 78% for females. This means that three in four children of primary school age are actually going to school, and it represents an important improvement if compared with the

enrolment rate before the earthquake, which was of around 50% (Marion, 2013; Save the Children, 2015). From this information, it can be deduced that the proportion of out-of-school children is of about 23% (which is still quite high if compared to the general goal of 100% children in school and 0% out of school). Moreover, the fact that the rate referred to girls is basically the same as that of boys (even 1% higher) is very important as well. The net attendance rate is also disaggregated by residence and household wealth. In urban areas 86% of children attend school, while in rural areas the children attending school are only 73%; among the 20% richest families the attendance rate is of 92%, while among the 20% poorest ones it is only of 66% (UNICEF, 2014). Therefore, even if we do not know the exact proportion of students that have to pay for their education and of those that have to travel more than a reasonable distance to reach school (which are other important indicators of accessibility), it can be argued that, despite some improvements, there are still important disparities in the Haitian society, and the economic and logistical barriers have not been fully overcome yet.

ACCEPTABILITY

Among the process indicators of acceptability, we can note the presence of some mechanisms for measuring the quality of education (even if established only recently).[17] Among the outcome indicators of acceptability, the most cited one is usually the literacy rate, and more precisely the literacy rate of youth (15-24 years old), since it reflects more directly the progress made during the last years (and is not mixed with literacy levels of adults, who do not go to school anymore). This, too, has improved in Haiti after the earthquake. The UIS (2015) reports that in 2015 the average youth literacy rate is of 82.1 % (being that of boys 82.6% and that of girls 81.6%), while it was of 72.3% in the period 2005-2010 (UIS, 2012). This means that in the last years education has been more effective in teaching students how to read and write. This is also important as literacy opens the door to

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[17] The mechanisms we refer to are those outlined above, notably the National Assizes on Quality Education and the IGAENF.

the exercise of other rights; it is, in fact, an essential step for empowerment. Being able to read and write allows children (and people in general) to live their life with dignity and to exercise most of their rights, not only the right to education but also the right to work, to food, to housing and to health (Gallón, 2015). Moreover, it makes it possible for people to protect themselves from abuse and exploitation, and to be able to advocate for their rights and promote respect for human rights in their community.

However, in order to have a more complete idea of the acceptability of Haitian education, it would be relevant to know also the repetition and drop-out rates, as well as the average students' scores on standardized tests. From the State of the World's Children Report (UNICEF, 2014), we can retrieve the survival rate to last primary grade, which represents the percentage of children that reach the last grade of primary school. The rate for Haiti is 88%. This being said, it is worth noting that this is not official information (which is not available) but it was collected through a survey. In addition it is referred to the period 2008-2013, so it accounts also for the years before the reform. Nevertheless, what we can understand from this data is that the remaining 12% of children drops out. The reasons for drop-out are not examined in statistics, but the surveys conducted after the earthquake as part of the Education Cluster's Rapid Joint Needs Assessment showed that Haitians gave a very high value to education and considered cost the biggest barrier to school attendance (UNICEF, 2010a). Therefore, a lack of motivation among children and parents does not seem to be the right explanation for drop-outs, while the costs associated to education seem to be the most relevant reason. It is true that when the RJNA was conducted the reform was not in place yet, but given the difficulties in its implementation that have been underlined above, it is likely that the explanation is still that of costs, together with the fact that for many children the nearest school is miles away from where they live, and the lack of an adequate number of trained teachers and learning materials. In other words, drop-outs are arguably connected to the limitations of availability, accessibility and acceptability of education.

As far as exam results are concerned, the most updated results available

refer to the school year 2013-2014. About 25% of sixth grade students and 28% of ninth grade students failed their final exams, with 417 schools having no student admitted to seventh grade, 80 schools having less than 10% students admitted and other 800 schools being under 20% of students admitted (AlterPresse, 2014). The rate of failure to the national exams was even more alarming for secondary school students, of whom 70% did not pass the first level of secondary degree and 50% did not pass the second level (AlterPresse, 2014). This is clear evidence of the fact that the quality of education in Haiti is still low. The fact that students are not well prepared for their exams is a signal that they are not able to learn what they have been taught in class, and this is likely to apply to all subjects, even relevant life skills, civics and peace culture, disaster risk reduction. This is a demonstration that going to school is not enough (nor is it to just learn to read and write) if education is not relevant, and therefore not acceptable. The problem of the high rate of exam failures could be tied to inappropriate learning materials, bad methods of teaching, or even to the way students are tested, which could be inappropriate to capture students' understanding of the different subjects. In the latter case, this would also represent a problem in adaptability.

As underlined several times, acceptability also means that schools are provided with adequate facilities meeting quality standards. Although general official data on the proportion of schools that do not have adequate facilities were not found, Human Rights Watch (2014) reports that in 2014 about 60% of schools in Haiti did not have toilets, and more than 75% lacked access to water. Therefore, we could argue that the situation did not improve much since when the UN Independent Expert on the Situation of Human Rights in Haiti Michel Forst in his report referred to 2012 expressed his worries about the inadequacy of school buildings, writing that "60 per cent of schools are housed in unsuitable premises (small churches or hangars) with up to 75 students per class ,and have no teaching equipment" (Forst, 2013: para.83).

From the indicators retrieved to assess acceptability, it can be deduced that, although the literacy rate has improved, this does not mean that an acceptable level of quality education has been reached yet. This is probably related to the fact

that schools did not receive adequate funding for supplies, infrastructure and staff: Ross (2013) reported that "the only benefit that the students get is that they don't pay anything. Apart from that, there's nothing". This means that children go to school and learn just the bases of literacy, but do not have the means to learn more. This is likely to be a consequence of the mismanagement of funds, corruption and fraud that characterised the reformed system. This situation, in turn, was only possible due to the lack of monitoring and supervision by the MENFP.

ADAPTABILITY

Concerning adaptability, outcome indicators such as the number and proportion of bilingual and special education teachers, and enrolment rates and dropout rates for students with special needs are not available. In Haiti's report to the CRC (CRC, 2015), written in 2013, a long paragraph in the education section is devoted to education for children with disabilities, but the figures reported refer to 2010-2011. The inclusion of topics such as civic education and disaster risk reduction into the national curriculum, as well as the attention to education for children with special needs paid by the MENFP can be considered as positive process indicators of adaptability. However, since statistics and other relevant data are not available, we cannot be sure that those commitments are being put into practice.

From the available indicators analysed above, it can be stated that progress has been made in the education sector in Haiti since the reform was launched. Both the attendance rate and literacy rate have increased in the last years, and this represents a step forward towards the achievement of accessible and acceptable education. However, it seems that the reform has focused, until recently, more on enrolment (accessibility) than on quality education (acceptability). This is confirmed by the fact that, even if the attendance rate has increased, the amount of dropouts and exam failures is still very high. Both in terms of accessibility and acceptability, much still needs to be done. In particular, it seems clear that the

Government's commitment to making education free of charge for all children has yet to be realised. Concerning availability and adaptability, specific outcome indicators are not available, so it can be deduced, by looking at some of the process indicators, that the reform is going in the right direction, but it is not possible yet to evaluate whether the desired results have been achieved.

The difficulty of retrieving updated statistics, and the fact that much data are not available, can be considered an indicator itself. In fact, among the various responsibilities that the Government has in order to fulfil the right to education, it must monitor the situation in the entire territory, collect data and make them available. The State is the first actor that needs the data to address possible problems, and it cannot put in place any action without updated and comprehensive information. This can be considered as just an aspect of a broader problem that seems to characterise the education reform in Haiti, which is inadequacy of public funding. In fact, the inability of the Government to make updated statistics available can be explained as a consequence of the lack of technical capacity and financial resources to carry out regular data collection. Evidence of this is for example the fact that the Haitian Institute of Statistics and Informatics website still reports data of the 2003 school census, even if a new census has been conducted in 2011-2012 and at least three years have passed since new data have been collected. Nevertheless, the recent establishment by the Government of monitoring mechanisms and standards on quality education is an encouraging signal towards progress.

Indicators are needed because, as in the case of Haiti, the existence of laws and programs is not enough to prove that a country has improved its education system. But if relevant updated statistics are not available, the news and opinions coming from the civil society seem to be the most valuable means to understand what direction the country is moving in. The role of civil society, both of local NGOs and media, in collecting information for the monitoring of the State's progress to fulfil certain rights, such as the right to education, was not the focus of this thesis – focused as it is on the effectiveness of the humanitarian response and the role of the State - but it would be interesting to continue researching in that direction.

CONCLUSIONS

The right to education is enshrined in contemporary international human rights law since its origin. In fact, it is protected by article 26 of the Universal Declaration of Human Rights, whose provisions are further expanded by articles 13 and 14 of the ICESCR. The content of the right to education has been clarified in the 1990s by the first UN Special Rapporteur on the right to education, Katarina Tomaševski, and her 4As scheme (availability, accessibility, acceptability and adaptability) was embedded in General Comment No. 13 of the Committee on Economic, Social and Cultural Rights. The right to education is also included in all the main international treaties concerning specific categories of people or specific regions, and its importance has been confirmed by its inclusion in important ad hoc soft law instruments, the last of which is the Incheon Declaration, adopted by the World Education Forum in May 2015. All these instruments clarify that children not only have the right to education, but have rights in education and through education.

Exactly because education is an empowering right, it is given a very high value also in emergency situations (despite the tendency still present nowadays to consider economic, social and cultural rights just as services that can be suspended in such situations). The INEE Minimum Standards for Education in Emergency represent the most extensive guidelines to protect this right in situations of conflict or natural disaster, and clearly reflect the provisions contained in human rights law.

The aim of this thesis was to understand whether and to what extent the existing standards on the right to education were respected, and the human rights-based approach was applied, in the specific emergency situation in which Haiti found itself after the earthquake of January 2010.

With this purpose in mind, the first step was to outline the political and social context of Haiti before the disaster. The main findings were that poverty

and corruption were two major problems in Haitian society, and even if the right to education was embedded with all its features in the Haitian constitution, the actual education system did not fully guarantee availability, accessibility, acceptability and adaptability of education. Public schools were far from available, and the majority of families were obliged to send children to private schools if they wanted them to receive an education. Contrary to human rights standards, the prevalence of private schools, on the one hand obliged students to pay high tuition fees for education, and, on the other hand, did not correspond to a good quality of teaching and learning.

After the earthquake hit the country, humanitarian organisations intervened also in the education sector. Therefore, the second step of the thesis was to analyse the work of the two co-leading organisations of the Education Cluster, Save the Children and UNICEF. Our finding showed that their cooperation was considered successful, also because of the different type of international organisation they represented. Despite their differences, they adopted quite a similar agenda, focusing on reconstruction and provision of temporary learning spaces, learning materials and teacher training. Moreover, an important part of their work consisted of supporting the Government in reforming the education system. All three actors considered in this thesis took into account and applied a human rights-based approach, which was reflected by their action in respecting the principles of participation, non-discrimination, empowerment, accountability, and link to the law.

PARTICIPATION

All actors examined here accorded an important role to participation in organising their activities of humanitarian response and system reform. The two international organisations spoke with the affected communities (and children specifically) by conducting surveys and interviews, and stressed the importance of mobilising parents and caregivers to advocate for the improvement of education. Specific committees and groups were formed with this purpose. Local communities gave an important contribution in the reconstruction of their country,

and this was also possible because UNICEF and Save the Children hired and trained local staff. The Government also planned to involve communities in the management and monitoring of education, creating dedicated departmental and municipal commissions. However, neither the Government nor the two organisations explained in depth the specific methods employed to involve local communities at the various levels of the education response. Since it is one of the pillars of the human rights-based approach, a greater emphasis on participation and a more detailed account of the methods used for its implementation could have been expected in the information made public by both organisations and by the Government.

NON-DISCRIMINATION

The main barriers to equal access to education in Haiti were (and still are) disability, gender, family income, place of residence and language. It was found that UNICEF emphasised its efforts in making new schools available for children living in rural areas and accessible for children with disabilities, while Save the Children seemed to focus more on eliminating the language barrier with its literacy programs, some of which targeted girls specifically. On the other hand, it was not within the powers of these organisations to overcome the economic barrier that impeded access to education to a large proportion of Haitian children; they could only support the Government in its reform process to guarantee free and equal access to education to all children. In fact, the reform launched by the Government was aimed at subsidizing schools so that children would not have to pay tuition. The reform also represented an attempt to eliminate discrimination on the grounds of disability and place of residence. However, even if the overall attendance rate for primary school children has increased over the last years, there are no updated statistics confirming an improvement in access to education of children with disabilities. Moreover, the attendance rates disaggregated by place of residence and household wealth show that, despite some improvements, the gap in education opportunities between urban and rural population and between rich and poor families still exists.

EMPOWERMENT

Education is the main tool of empowerment, as indicated by General Comment No. 13 and also by the INEE Minimum Standards. However, the reports and websites of UNICEF and Save the Children dealt with it more when writing about child protection than about education. It is true that these two sectors are closely interrelated (and education is a way of protecting children), but it would have been worth to emphasise more the fundamental link between education and empowerment. Nevertheless, the high relevance given to training activities and to building the capacities of Haitians working in the education sector (as in any other sector), showed that both organisations were committed towards empowerment. It is true that they did not mention human rights education and children rights as subjects of their trainings or of the learning curricula, but many subjects they cited reflected quite well the vision of education as an empowerment tool. It was the duty of the Government to modify the national curriculum and include empowering subjects, which it did as part of the reform. The inclusion of civics, culture of peace, respect for the environment, disaster risk reduction and relevant life skills in the national curriculum, together with the training offered to young people, well reflect the application of the principle of empowerment by the Haitian Government. However, we have no specific data yet to prove that this was effective.

ACCOUNTABILITY

Supporting the Government in taking on its responsibilities to fulfil the right to education represented an important part of both UNICEF and Save the Children's response to the emergency. The former, as a UN agency, was in a privileged position to work with the Government, and it had an important influence on the reform process. As far as the Government is concerned, it demonstrated to be aware of the main problems that characterised its education system and to be willing to improve the situation. In other words, it showed to be ready to take on its responsibilities as the duty-bearer of the right to education. In fact, immediately after the disaster, it adopted a 'building back better' approach

and launched a reform of the education system. This alone reflects the application of the principle of accountability. The main commitments of the Government were linked to the main problems of the Haitian education system. By increasing public investment in education and subsidizing both public and private schools it committed itself to making education accessible to all, and by monitoring that schools conformed with national standards it showed commitment to guaranteeing that education was of good quality. On the other hand, neither the Government nor any of the organisations mentioned the creation or existence of complaint mechanisms, which represent another fundamental aspect of accountability.

LINK TO THE LAW

The work of UNICEF and Save the Children and the reform of the Government are clearly connected to the right to education as enshrined in international human rights law, as well as in the INEE Minimum Standards for Education in Emergency.

The 4As

Availability of education was ensured with the cooperation of the Government and the two international organisations in rehabilitating and building schools. Moreover, it was especially UNICEF and Save the Children that provided children and teachers with adequate learning and teaching materials. Accessibility was especially promoted by the Government by subsidizing public and private schools, and also by establishing relevant partnerships such as that with the WFP and that with the bus company that guaranteed free transportation of students. Attention to accessibility of children with disabilities or other vulnerable children was paid by both the Government and the two organisations, with UNICEF focusing more on physical accessibility of buildings and Save the Children especially taking care of overcoming the linguistic barrier to education. Acceptability was addressed by the Government when obliging all schools participating to the reformed system to conform to some minimum standards, and also with the update of the national curriculum. Save the Children and UNICEF particularly promoted acceptability of education with their training activities for

teachers and with the provision of adequate facilities and services in schools. Adaptability was taken into consideration by the Government and both organisations by introducing accelerated and other special curricula, including disaster risk reduction and psychosocial support in learning activities and in teacher training, and involving the local communities in programming the education response and reform.

The INEE Minimum Standards

Overall, all the INEE standards relevant to the Haitian emergency have been respected. It was especially one of the tasks of the organisations part of the Education Cluster to act according such standards, but in many of them the cooperation of the Government was required. As already noted, the Haitian Government demonstrated its willingness to improve the system, so its cooperation was not a problem. In particular, it is worth noting that it was especially UNICEF that engaged in the activities suggested by the standards on coordination and analysis, probably because of its more authoritative role and largest resources. Other than that, Save the Children and UNICEF seemed to pay equal attention to the standards on participation, on access and learning environment and on teaching and learning. On the other hand, the standards on teachers and other education personnel were not very relevant to the activity of the organisations; they seemed more connected with the role that the Government should play, but were not really addressed by the reform. The fifth set of standards concerns the conformity of the State's education policy with its international obligations, which, as we are arguing in this thesis, was quite satisfying, at least in theory.

In conclusion, it can be argued that the human rights-based approach was applied in theory by the three actors, but there were some obstacles to its full implementation in practice. The main obstacles are connected to inherent problems that have been characterising the Haitian society and political system for many decades. These are especially corruption, fraud and lack of technical and financial resources, which have to be considered together with the extensive destruction caused by the earthquake of 2010.

Moreover, also the theoretical conflict existing between humanitarian action and human rights can be considered as an obstacle to the extensive application of a human rights-based approach by humanitarian organisations. This can be detected for example in the lack of emphasis put on human rights principles by such organisations in their reports. However, their intervention in the education sector in Haiti was facilitated by the recognition by the Government of the need to build back a better system.

The results of the process of reform of the education system in Haiti, together with those of the continuing efforts in implementing it, are not clear yet, also because data take time to be collected and analysed to produce comprehensive statistics. For this reason, it would be interesting to conduct a similar research in five years, so to understand what results would be reached after 10 years from the earthquake and the reform. This being said, it can be argued that judging from the policies and programs adopted, their wording and their intent, the country is going in the right direction towards effectively fulfilling the right to education.

ACRONYMS

CADE	Convention against Discrimination in Education
CARICOM	Caribbean Community
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
CERD	Convention on the Elimination of all Forms of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
COU	Centre d'Opérations d'Urgence
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CteeRC	Committee on the Rights of the Child
DPC	Direction de la Protection Civile
ECD	Early Childhood Development
EU-MIC	European Civil Protection Mechanism
GCPEA	Global Coalition to Protect Education From Attack
HCT	Humanitarian Country Team
HEART	Healing and Education through Art
HRBA	Human Rights-Based Approach
HRF	Haiti Reconstruction Fund
IASC	Inter-Agency Standing Committee
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IDB	Inter-American Development Bank
IGAENF	General Inspectorate of the Administration of National Education and Vocational Training
IMF	International Monetary Fund
INEE	Inter-Agency Network for Education in Emergencies

MENFP	Ministère de l'Education Nationale et de la Formation Professionnelle, Haitian Ministry of National Educational and Professional Training
NPET	National Plan of Education and Training
OAS	Organisation of the American States
OCHA	United Nations Office for the Coordination of Humanitarian Affairs
OHCHR	Office of the High Commissioner for Human Rights
PARQUE	Programme d'Amélioration de la Qualité de l'Education/Program for the Improvement of the Quality of Education
PDNA	Post-Disaster Needs Assessment
PSUGO	Programme de scolarisation universelle, gratuite et obligatoire/Universal, Free, and Compulsory Education Program
QEI	Quality Education Initiative
RJNA	Rapid Joint Needs Assessment
SAR	Search and Rescue
TPI	The Partnering Initiative
UDHR	Universal Declaration of Human Rights
UIS	UNESCO Institute for Statistics
UN	United Nations
UNDAC	United Nations Disaster Assessment and Coordination
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNISDR	United Nations Office for Disaster Risk Reduction
UNSG	United Nations Secretary General
WASH	Water Sanitation and Hygiene
WFP	World Food Program

APPENDIXES

APPENDIX 1

INTERNATIONAL PROVISIONS ON THE RIGHT TO EDUCATION

Universal Declaration of Human Rights, 1948

Article 26

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

Convention Relating to the Status of Refugees, 1951

Article 22

1. The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.

2. The Contracting States shall accord to refugees treatment as favourable as possible, and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.

UNESCO Convention against Discrimination in Education, 1960

Article 1

1. For the purposes of this Convention, the term `discrimination' includes any distinction, exclusion, limitation or preference which, being based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education and in particular:

(a) of depriving any person or group of persons of access to education of any type or at any level; (b) of limiting any person or group of persons to education of an inferior standard; (c) Subject to the provisions of Article 2 of this Convention, of establishing or maintaining separate educational systems or institutions for persons or groups of persons; or (d) of inflicting on any person or group of persons conditions which are in-compatible with the dignity of man.

2. For the purposes of this Convention, the term `education' refers to all types and levels of education, and includes access to education, the standard and quality of education, and the conditions under which it is given.

Article 2

When permitted in a State, the following situations shall not be deemed to constitute discrimination, within the meaning of Article 1 of this Convention: (a) The establishment or maintenance of separate educational systems or institutions for pupils of the two sexes, if these systems or institutions offer equivalent access to education, provide a teaching staff with qualifications of the same standard as well as school premises and equipment of the same quality, and afford the opportunity to take the same or equivalent courses of study; (b) The establishment or maintenance, for religious or linguistic reasons, of separate educational systems or institutions offering an education which is in keeping with the wishes of the pupil's parents or legal guardians, if participation in such systems or attendance at such institutions is optional and if the education provided conforms to such standards as may be laid down or approved by the competent authorities, in particular for education of the same level ;

(c) The establishment or maintenance of private educational institutions, if the object of the institutions is not to secure the exclusion of any group but to provide educational facilities in addition to those provided by the public authorities, if the institutions are conducted in accordance with that object, and if the education provided conforms with such standards as may be laid down or approved by the competent authorities, in particular for education of the same level.

Article 3

In order to eliminate and prevent discrimination within the meaning of this Convention, the States Parties thereto undertake: (a) To abrogate any statutory provisions and any administrative instructions and to discontinue any administrative practices which involve discrimination in education; (b) To ensure, by legislation where necessary, that there is no discrimination in the admission of pupils to educational institutions; (c) Not to allow any differences of treatment by the public authorities between nationals, except on the basis of merit or need, in the matter of school fees and the grant of scholarships or other forms of assistance to pupils and necessary permits and facilities for the pursuit of studies in foreign countries ; (d) Not to allow, in any form of assistance granted by the public authorities to educational institutions, any restrictions or preference based solely on the ground that pupils belong to a particular group; (e) To give foreign nationals resident within their territory the same access to education as that given to their own nationals.

Article 4

The States Parties to this Convention undertake furthermore to formulate, develop and apply a national policy which, by methods appropriate to the circumstances and to national usage, will tend to promote equality of opportunity and of treatment in the matter of education and in particular: (a) To make primary education free and compulsory; make secondary education in its different forms generally available and accessible to all; make higher education equally accessible to all on the basis of individual capacity; assure compliance by all with the obligation to attend school prescribed by law; (b) To ensure that the standards of education are equivalent in all public educational institutions of the same level, and that the conditions relating to the quality of the education provided are also equivalent; (c) To encourage and intensify by appropriate methods the education of persons who have not received any primary education or who have not completed the entire primary education course and the continuation of their education on the basis of individual capacity; (d) To provide training for the teaching profession without discrimination.

Article 5

1.The States Parties to this Convention agree that: (a) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms; it shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace; (b) It is essential to respect the liberty of parents and, where applicable, of legal guardians, firstly to choose for their children institutions other than those maintained by the public authorities but conforming to such minimum educational standards as may be laid down or approved by the competent authorities and, secondly, to ensure in a manner consistent with the procedures followed in the State for the application of its legislation, the religious and moral education of the children in conformity with their own convictions; and no person or group of persons should be compelled to receive religious instruction inconsistent with his or their convictions; (c) It is essential to recognise the right of members of national minorities to carry on their own educational activities, including the maintenance of schools and, depending on the educational policy of each State, the use or the teaching of their own language, provided however: (i) That this right is not exercised in a manner which prevents the members of these minorities from understanding the culture and language of the community as a whole and from participating in its activities, or which prejudices national sovereignty; (ii) That the standard of education is not lower than the general standard laid down or approved by the competent authorities; and (iii) That attendance at such schools is optional. 2. The States Parties to this Convention undertake to take all necessary measures to ensure the application of the principles enunciated in paragraph 1 of this Article.

Convention on the Elimination of All Forms of Racial Discrimination, 1965

Article 5

In compliance with the fundamental obligations laid down in article 2 of this Convention,

States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

(e) Economic, social and cultural rights, in particular:

(v) The right to education and training;

Article 7

States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and this Convention.

International Covenant on Economic, Social and Cultural Rights, 1966

Article 13

1. The States Parties to the present Covenant recognise the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognise that, with a view to achieving the full realisation of this right:

(a) Primary education shall be compulsory and available free to all;

(b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;

(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;

(d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;

(e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching

staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph I of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 14

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

Convention on the Elimination of All Forms of Discrimination against Women, 1979

Article 10

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

(a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;

(b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;

(c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;

(d) The same opportunities to benefit from scholarships and other study grants;

(e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the

earliest possible time, any gap in education existing between men and women;

(f) The reduction of female student drop-out rates and the organisation of programmes for girls and women who have left school prematurely;

(g) The same opportunities to participate actively in sports and physical education;

(h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

Convention on the Rights of the Child, 1989

Article 28

1. States Parties recognise the right of the child to education and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

(a) Make primary education compulsory and available free to all;

(b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;

(c) Make higher education accessible to all on the basis of capacity by every appropriate means;

(d) Make educational and vocational information and guidance available and accessible to all children;

(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29

1. States Parties agree that the education of the child shall be directed to:

(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilisations different from his or her own;

(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

(e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Convention on the Protection of the Rights of All Migrant Workers and Members of their families, 1990

Article 12.4

States Parties to the present Convention undertake to have respect for the liberty of parents, at least one of whom is a migrant worker, and, when applicable, legal guardians to ensure the religious and moral education, of their children in conformity with their own convictions.

Article 30

Each child of a migrant worker shall have the basic right of access to education on the basis of equality of treatment with nationals of the State concerned. Access to public pre-school educational institutions or schools shall not be refused or limited by reason of the irregular situation with respect to stay or employment of either parent or by reason of the irregularity of the child's stay in the State of employment.

Article 43.1

Migrant workers shall enjoy equality of treatment with nationals of the State of employment in relation to: (a) Access to educational institutions and services subject to the admission requirements and other regulations of the institutions and services concerned; b) Access to vocational guidance and placement services;(c) Access to vocational training and retraining facilities and institutions;

Article 45.1

Members of the families of migrant workers shall, in the State of employment, enjoy

equality of treatment with nationals of that State in relation to: a) Access to educational institutions and services, subject to the admission requirements and other regulations of the institutions and services concerned; b) Access to vocational guidance and training institutions and services, provided that requirements for participation are met.

Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities, 1992

Article 4

1. States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law.

2. States shall take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national law and contrary to international standards.3. States should take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue.

4. States should, where appropriate, take measures in the field of education, in order to encourage knowledge of the history, traditions, language and culture of the minorities existing within their territory.

Persons belonging to minorities should have adequate opportunities to gain knowledge of the society as a whole.

Convention on the Rights of Persons with Disabilities, 2006

Article 24

1. States Parties recognise the right of persons with disabilities to education. With a view to realising this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning directed to:

a) The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;

b) The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;

c) Enabling persons with disabilities to participate effectively in a free society.

2. In realising this right, States Parties shall ensure that:

a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and

compulsory primary education, or from secondary education, on the basis of disability;

b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;

c) Reasonable accommodation of the individual's requirements is provided;

d) Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;

e) Effective individualized support measures are provided in environments that maximise academic and social development, consistent with the goal of full inclusion.

3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including:

a) Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;

b) Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;

c) Ensuring that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximise academic and social development.

4. In order to help ensure the realisation of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.

5. States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.

Declaration on the Rights of Indigenous Peoples, 2007

Article 14

1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.

3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

Article 15

1. Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.

2. States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.

Article 17

1. Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law.

2. States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.

Article 21

1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.

2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

INTER-AMERICAN FRAMEWORK

Charter of the Organisation of American States, 1967

Article 49

The Member States will exert the greatest efforts, in accordance with their constitutional processes, to ensure the effective exercise of the right to education, on the following bases:

a) Elementary education, compulsory for children of school age, shall also be offered to all others who can benefit from it. When provided by the State it shall be without charge;

b) Middle-level education shall be extended progressively to as much of the population as possible, with a view to social improvement. It shall be diversified in such a way that it meets the development needs of each country without prejudice to providing a general education; and

c) Higher education shall be available to all, provided that, in order to maintain its high level, the corresponding regulatory or academic standards are met.

Article 50

The Member States will give special attention to the eradication of illiteracy, will strengthen adult and vocational education systems, and will ensure that the benefits of culture will be available to the entire population. They will promote the use of all information media to fulfil these aims.

Additional Protocol to the American Convention on Human Rights, Protocol of San Salvador, 1988

Article 13

1. Everyone has the right to education.

2. The States Parties to this Protocol agree that education should be directed towards the full development of the human personality and human dignity and should strengthen respect for human rights, ideological pluralism, fundamental freedoms, justice and peace. They further agree that education ought to enable everyone to participate effectively in a democratic and pluralistic society and achieve a decent existence and should foster understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups and promote activities for the maintenance of peace.

3. The States Parties to this Protocol recognize that in order to achieve the full exercise of the right to education:

a. Primary education should be compulsory and accessible to all without cost;

b. Secondary education in its different forms, including technical and vocational secondary education, should be made generally available and accessible to all by every

appropriate means, and in particular, by the progressive introduction of free education;

c. Higher education should be made equally accessible to all, on the basis of individual capacity, by every appropriate means, and in particular, by the progressive introduction of free education;

d. Basic education should be encouraged or intensified as far as possible for those persons who have not received or completed the whole cycle of primary instruction;

e. Programs of special education should be established for the handicapped, so as to provide special instruction and training to persons with physical disabilities or mental deficiencies.

4. In conformity with the domestic legislation of the States Parties, parents should have the right to select the type of education to be given to their children, provided that it conforms to the principles set forth above.

5. Nothing in this Protocol shall be interpreted as a restriction of the freedom of individuals and entities to establish and direct educational institutions in accordance with the domestic legislation of the States Parties

Article 16

Every child has the right to free and compulsory education, at least in the elementary phase, and to continue his training at higher levels of the educational system.

APPENDIX 2
INEE MINIMUM STANDARDS FOR EDUCATION IN EMERGENCY

1) Foundational Standards

Community Participation

Standard 1 - Participation: Community members participate actively, transparently and without discrimination in analysis, planning, design, implementation, monitoring and evaluation of education responses.

Standard 2 - Resources: Community resources are identified, mobilised and used to implement age-appropriate learning opportunities.

Coordination

Standard 1 - Coordination: Coordination mechanisms for education are in place and support stakeholders working to ensure access to and continuity of quality education.

Analysis

Standard 1 - Assessment: Timely education assessments of the emergency situation are conducted in a holistic, transparent and participatory manner.

Standard 2 - Response Strategies: Inclusive education response strategies include a clear description of the context, barriers to the right to education and strategies to overcome those barriers.

Standard 3 - Monitoring: Regular monitoring of education response activities and the evolving learning needs of the affected population is carried out.

Standard 4 - Evaluation: Systematic and impartial evaluations improve education response activities and enhance accountability.

2) Access and Learning Environment

Standard 1 - Equal Access: All individuals have access to quality and relevant education opportunities.

Standard 2 - Protection and Well-being: Learning environments are secure and safe, and promote the protection and the psychosocial well-being of learners, teachers and other education personnel.

Standard 3 - Facilities and Services: Education facilities promote the safety and well-being of learners, teachers and other education personnel and are linked to health, nutrition, psychosocial and protection services.

3)   Teaching and Learning

Standard 1 - Curricula: Culturally, socially and linguistically relevant curricula are used to provide formal and non-formal education, appropriate to the particular context and needs of learners.

Standard 2 - Training, Professional Development and Support: Teachers and other education personnel receive periodic, relevant and structured training according to needs and circumstances.

Standard 3 - Instruction and Learning Processes: Instruction and learning processes are learner-centred, participatory and inclusive.

Standard 4 - Assessment of Learning Outcomes: Appropriate methods are used to evaluate and validate learning outcomes.

4)   Teachers and Other Education Personnel

Standard 1 - Recruitment and Selection: A sufficient number of appropriately qualified teachers and other education personnel are recruited through a participatory and transparent process, based on selection criteria reflecting diversity and equity.

Standard 2 - Conditions of Work: Teachers and other education personnel have clearly defined conditions of work and are appropriately compensated.

Standard 3 - Support and Supervision: Support and supervision mechanisms for teachers and other education personnel function effectively.

5)   Education Policy

Standard 1 - Law and Policy Formulation: Education authorities prioritise continuity and recovery of quality education, including free and inclusive access to schooling.

Standard 2 - Planning and Implementation: Education activities take into account international and national educational policies, laws, standards and plans and the learning needs of affected populations.
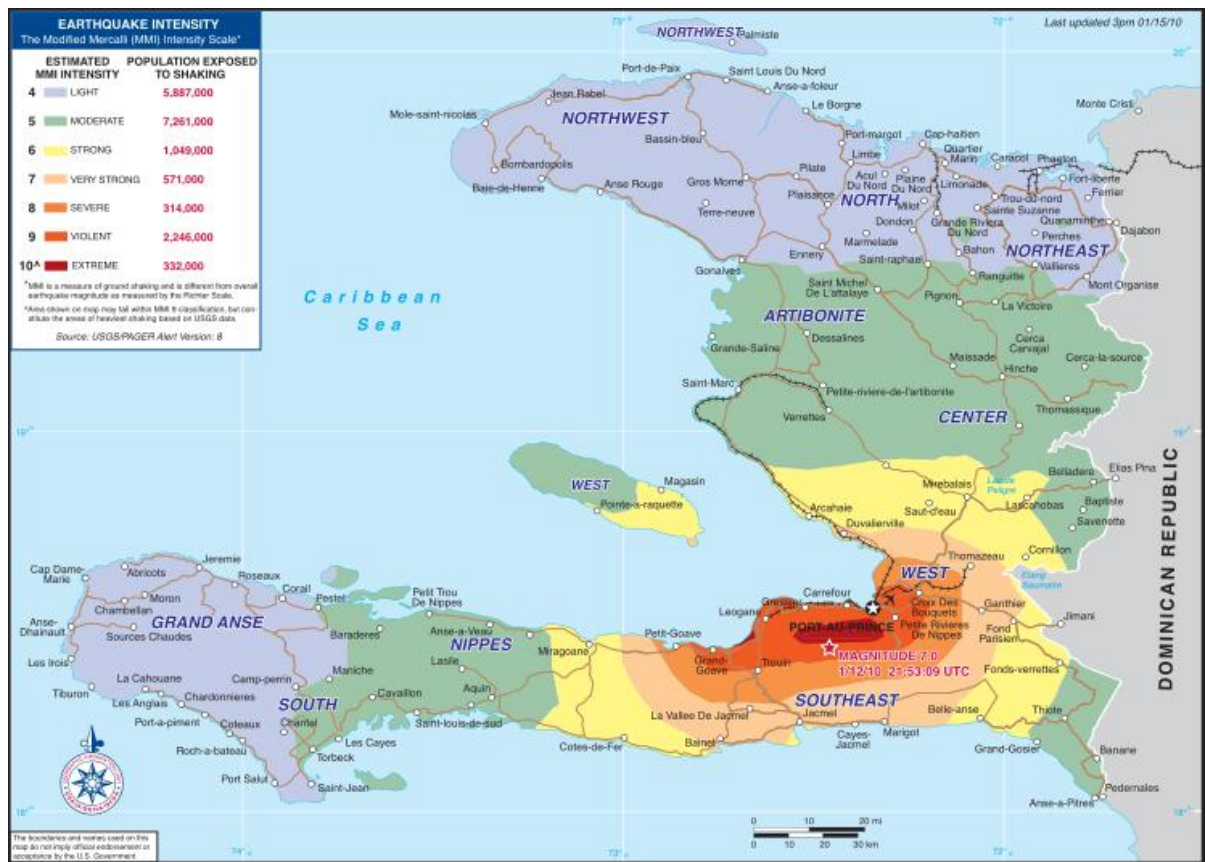
APPENDIX 3
HAITI MAPS

Map 1: Physical map of Haiti.
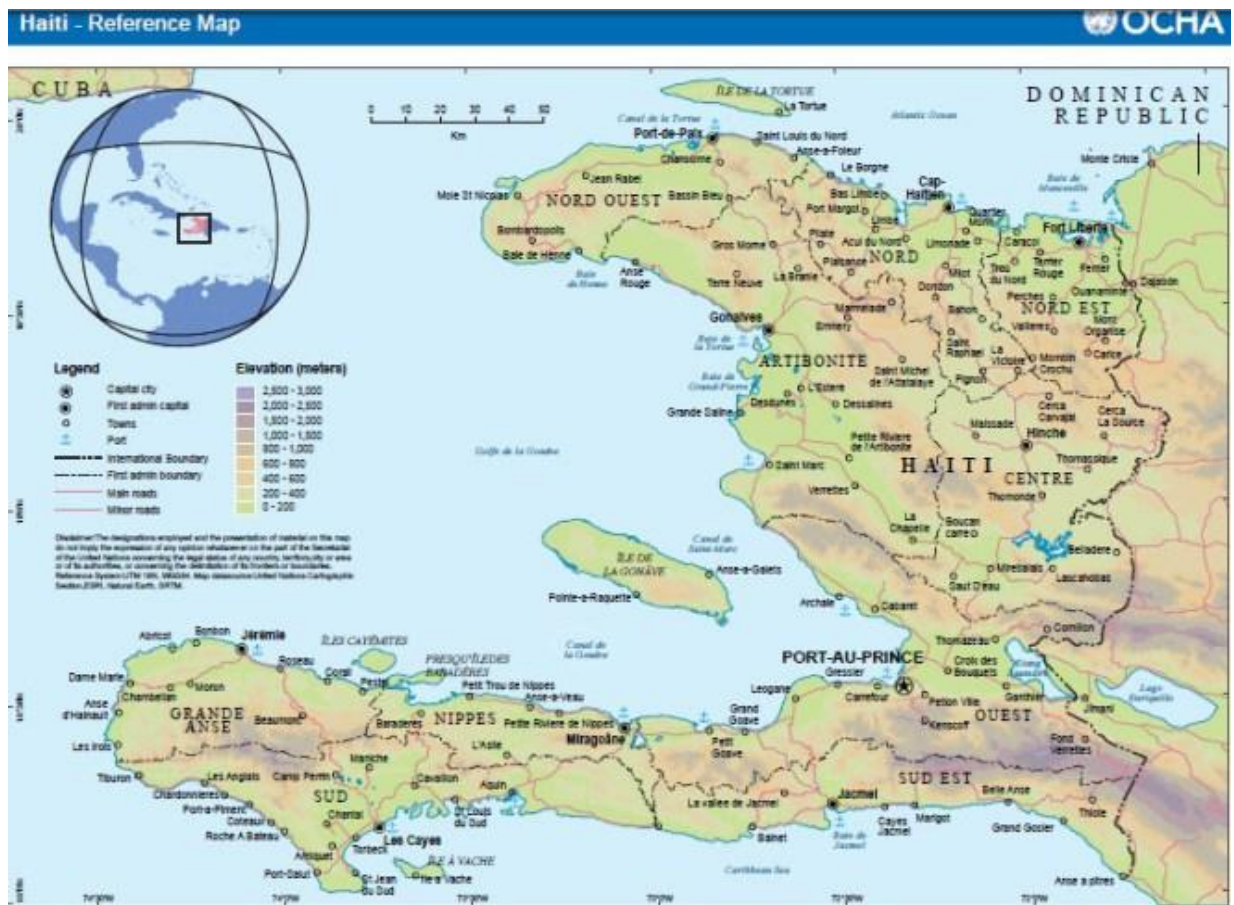
Source: OCHA, n.d..

Map 2: Intensity map for the earthquake of 12 January 2010.

Source: USAID, 2012.

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