



**The Right of Children with Disabilities to Education:  
A Rights-Based Approach to Inclusive Education  
in the CEECIS Region  
Background Note**

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## Summary

The democratic and human-rights based intent of Inclusive Education is defined in the Salamanca Statement, and represented in the “recognition of the need to work towards ‘schools for all’ – institutions which include everybody, celebrate differences, support learning, and respond to individual needs”<sup>i</sup>. A commitment to this approach is central to UNICEF’s work in the Central Eastern Europe and Commonwealth of Independent States Region, which seeks to build Inclusive Education systems that promote schools based upon

*‘a child-centered pedagogy capable of successfully educating all children, including those who have serious disadvantages and disabilities. The merit of such schools is not only that they are capable of providing quality education to all children; their establishment is a crucial step in helping to change discriminatory attitudes, in creating welcoming communities and in developing an inclusive society. A change in social perspective is imperative’<sup>ii</sup>.*

However, pursuit of this goal, given, the realities of the CEECIS Region, requires very specific approaches, positions, and solutions. Countries in this region place great value on education and have a long history of universal access and high attendance rates. However, the Region is also steeped in long-standing traditions based on a philosophy of defectology and leading to the placement of children with disabilities, and often, also, Roma children, in residential institutions where they remain indefinitely, marginalized, and isolated from society.

Across the CEECIS Region, the total number of children who are now officially recognized as disabled, tripled from about 500,000 in 1990, to 1.5 million in 2002. However, when compared to international benchmarks, that place the global percentage of children with disabilities at 2.5 per cent<sup>iii</sup>, this figure suggests that **over a million children with disabilities are not included in the data, and are rendered invisible. In the CEECIS Region, the number of children in institutional care is the highest in the world<sup>iv</sup>.**

UNICEF estimates that across CEECIS, **a child with a disability is almost 17 times as likely to be institutionalised as one who is not disabled.<sup>v</sup>** More than 626,000 children are institutionalized, and the rate of children in institutional care **increased** between 2000 and 2007, with approximately 60% of all institutionalized children being registered as children with disabilities<sup>vi</sup>. It can further be estimated that approximately **1,1 million children with disabilities in the CEECIS Region remain unaccounted for, and likely out-of-school.**

Given these challenges, a broad range of strategies at all levels are needed to realise the right of children with disabilities to inclusive education: Government-wide measures to establish the necessary infrastructure, and specific targeted measures to promote the right to access and full participation in quality education, and the respect for rights within learning environments.

This background note provides a framework for addressing the very specific issues that affect the inclusion of **children with disabilities** in the CEECIS region. Children with disabilities form a significant proportion of the out-of-school population. They are presented here as a **priority target group**, one that is subject to severe discrimination, segregation, and exclusion from all social aspects of life. The purpose of this paper is to provide clear strategy options for programming in the area of inclusive education, while keeping in mind the need for system-wide approaches designed to address the needs of ALL children.

## Inclusive education: the way forward

Education for All (EFA), which represents an international commitment to ensure that every child and adult receives basic education of good quality, is based both on a human rights perspective, and on the generally held belief that education is central to individual well-being and national development. However, EFA has not, to date, given sufficient attention to some marginalised groups of children, in particular those seen as having ‘special educational needs’ or disabilities<sup>vii</sup>. Children with disabilities have remained relatively invisible in the efforts to achieve universal access to primary education. It has become clear that, without targeted measures to help them overcome the barriers, the goals of EFA will not be achieved for children with disabilities.

### Emerging recognition of the need for change

In response to the perceived failures to date of EFA, a growing focus has been placed on inclusion as the key strategy for promoting the right to education, including for children with disabilities. While EFA offers the goal of universal entitlement, inclusion can be understood, not merely as a vehicle for ending segregation, but rather as a commitment to creating schools which respect and value diversity, and aim to promote democratic principles and a set of values and beliefs relating to equality and social justice so that all children can participate in teaching and learning<sup>viii</sup>. In so doing, it brings the education agenda much closer to the broader understanding of the right to education embodied in the key human rights instruments.

UNESCO defines **inclusive education** as ‘*a process of addressing and responding to the diversity of needs of all learners through increasing participation in learning, cultures and communities, and reducing exclusion within and from education. It involves changes and modifications in content, approaches, structures and strategies, with a common vision which covers all children of the appropriate age range and a conviction that it is the responsibility of the state to educate all children*’<sup>ix</sup>. **Inclusive education is not a marginal issue, but is central to the achievement of high-quality education for all learners and the development of more inclusive societies.**

However, while the inclusive education debate has undoubtedly played a significant role in raising concerns about disabled children in international forums, it is important to understand it not as a philosophy or educational approach exclusively for children with disabilities, but as an approach that is fundamental to achieving the right to education for children from all marginalised groups – for example, girls, Roma children, or working

children. In 2008, UNESCO argued that a broad concept of inclusive education *'can be viewed as a general guiding principle to strengthen education for sustainable development, lifelong learning for **all** and equal access of all levels of society to learning opportunities so as to implement the principles of inclusive education'*.<sup>x</sup> Furthermore, children with disabilities are not a homogeneous group. They may identify more strongly with other aspects of their overall identity, such as their gender, economic status, or ethnicity, or a combination. Belonging to one or more of these groupings significantly increases their vulnerability, and investment in addressing the right to education needs to take account of such multi-vulnerabilities<sup>xi</sup>. It is helpful to acknowledge disability as one of many issues of difference and discrimination, rather than an isolated form of exclusion, and inclusion as a strategy for addressing all forms of exclusion and discrimination.

Disability, of course, can be understood very differently across different communities and cultures. In order to pursue a coherent approach to addressing inclusive education for children with disabilities, a **definition of disability** is required. Article 1 of the CRPD describes persons with disabilities as *'those who have long-term physical, mental, intellectual, or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others'*. This approach is consistent with the WHO's *International Classification of Functioning, Disability and Health*, known more commonly as ICF, which conceptualizes a person's level of functioning as a dynamic interaction between her or his health conditions, environmental factors, and personal factors. It defines functioning and disability as multidimensional concepts relating to:

- The body functions and structures of people
- The activities people do and the life areas in which they participate; and
- The factors in their environment that affect these experiences.

Both approaches allow for a **broad approach to disability which acknowledges the importance of the context and environment in enabling or disabling individuals from participating effectively within society.**

## Understanding inclusion

There have, traditionally, been **three broad approaches** to the education of children with disabilities: **segregation** in which children are classified according to their impairment and allocated a school designed to respond to that particular impairment; **integration**, where children with disabilities are placed in the mainstream system, often in special classes, as long as they can accommodate its demands and fit in with its environment; and **inclusion** where there is recognition of a need to transform the cultures, policies and practices in school to accommodate the differing needs of individual students, and an obligation to remove the barriers that impede that possibility.

It has been argued that **inclusive education** is not only about addressing issues of input, such as access, and those related to processes such as teacher training, but that it **involves a shift in underlying values and beliefs held across the system**<sup>xii</sup>. It requires that all children, including children with disabilities, not only have access to schooling within their own community, but that they are provided with appropriate learning opportunities to achieve their full potential. Its approach is underpinned by an understanding that all children should

have equivalent and systematic learning opportunities in a wide range of school and additional educational settings, despite the differences that might exist.

Inclusive education provides a fundamentally different pedagogical approach to one rooted in deviance or difference. In other words, it stresses<sup>xiii</sup>:

- a. the open learning potential of each student rather than a hierarchy of cognitive skills;
- b. reform of the curriculum and a cross cutting pedagogy rather than a need to focus on student deficiencies;
- c. active participation of students in the learning process rather than an emphasis on specialized discipline knowledge as key to teachers expertise;
- d. a common curriculum for all, based upon differentiated and/or individualized instruction, rather than an alternative curriculum being developed for low achievers;
- e. teachers who include rather than exclude.

Radical changes are required in education systems, and in the values and principles of the people involved in delivering education, if the world's most vulnerable and disadvantaged children are to realise their right to gain access to their local school<sup>xiv</sup>. Central to an inclusive approach are a commitment to<sup>xv</sup>:

- Putting inclusive values into action
- Valuing every life equally
- Helping everyone feel a sense of belonging
- Promoting children's participation in learning and teaching
- Reducing exclusion, discrimination and barriers to learning and participation
- Developing cultures, policies and practices to promote diversity and respect for everyone equally
- Learning from inclusive practice to share the lessons widely
- Viewing differences between children and between adults as a resource for learning
- Acknowledging the right of children to locally based high quality education
- Improving schools for staff and parents as well as children
- Emphasising the value of building positive school communities as well as achievements
- Fostering positive relationships between schools and their values and surrounding communities
- Recognising the inclusion in education is one aspect of inclusion in society

## The case for inclusion

Clearly there is a human rights and principled case for inclusion, but there are also strong social and educational benefits<sup>xvi</sup>:

- It can produce positive changes in attitudes within schools towards diversity by educating all children together and leading to greater social cohesion.
- Children with disabilities are less stigmatised, and more socially included
- Children without disabilities learn tolerance, acceptance of difference and respect for diversity

- Children with disabilities have access to a wider curriculum than that which is available in special schools.
- It leads to higher achievement for children than in segregated settings. Indeed, there are educational benefits for all children inherent in providing inclusive education, through major changes in the way schooling is planned, implemented and evaluated.
- Education is a means to ensure that people can enjoy and defend their rights in society and contribute to the process of democratisation and personalisation both in society and in education.

Furthermore, there are powerful economic arguments in its favour, particularly with regards to poverty reduction and reducing the costs of education. One of the messages emerging from the General Discussion Day on the rights of children with disabilities, held by the Committee on the Rights of the Child in October 1997, was the importance of recognising children with disabilities as contributors to society, not burdens. The World Bank has estimated that people with disabilities may account for as many as one in five of the world's poorest people (1999), while a 2005 World Bank study also suggested that *“disability is associated with long-term poverty in the sense that children with disabilities are less likely to acquire the human capital that will allow them to earn higher incomes”*.<sup>xvii</sup> Educating children with disabilities is a good investment. A World Bank paper notes that it reduces welfare costs and current and future dependence. It also frees other household members from caring responsibilities, allowing them to increase employment or other productive activities. It is in the economic interests of governments to invest in the education of children with disabilities in order that they can become effective members of the labour force as they grow up.

## Overview of inclusive education for children with disabilities in the CEECIS region

The challenges facing the region, in creating environments in which the education rights of children with disabilities are respected, are considerable. Despite significant efforts to address their exclusion from mainstream schooling, and many examples of positive practice, many countries are still struggling to address the issue of equitable and inclusive access for children with disabilities. Recent reviews of the education of children with disabilities by both OECD and UNICEF have found a wide gap between official recognition of inclusive education in the form of international treaties and legislative frameworks, and the actual situation on the ground.<sup>xviii</sup>

The causes are multiple: lack of co-ordination and collaboration between ministries providing services to children with disabilities, the prevailing influence of the concept of defectology on the design of education provision for children with disabilities; limited availability of social service providers, lack of reliable and detailed data and indicators, inadequate financial and human resources, and hostile public attitudes. It is apparent that legal reforms, which, in theory, create the opportunity and means to claim rights, will not, on their own, be capable of challenging the deep-seated discriminatory practices which currently impede change. Measures are needed to build the capacity of the system as a

whole in order to challenge inequity, and meet the obligations to promote and protect the rights of children with disabilities undertaken by all countries in the region.

### The historical context

Throughout the CEECIS region, during the Soviet era, children with disabilities were treated through the lens of ‘defectology’, based on the philosophy that disabilities are faults that can be corrected if appropriate services are provided<sup>xx</sup>. Defectology is a discipline rooted in a medicalised approach in which children with disabilities are considered ‘defective’ from the norm.

The consequence of this approach has been the systematic placement of children, according to type of disability, in residential institutions, so that they can grow and develop with support, and protected from general society. Children who are classified as ‘handicapped’ are those with mental or physical defects that are thought to hinder their optimal development within the conventional educational system. The policy led to very significant numbers of children with medium and severe disabilities being placed in residential schools, transferring as they got older to adult institutions where they would spend the rest of their lives. Invariably these facilities each catered for large numbers of children, segregated from their communities and cut off from families<sup>xx</sup>. A variety of types of institutions existed, including infant homes, hospitals, special institutions or *internats* (boarding schools) run by the education ministry, boarding homes for the severely disabled operated by social services, and children’s homes administered by the health department.

Children with milder learning disabilities were typically disregarded altogether or sent to special schools with a remedial curriculum, where they were unlikely to receive appropriate support for their needs. Those who were deemed ‘uneducable’ were sent to institutions or confined to the home. Children who did stay in their families had little chance of a normal life, given that streets and buildings were not accessible, community-based services, education and recreation were largely unavailable, and children with disabilities and their families were often shunned in public spaces or so shamed that they avoided venturing out in public. This, then, was the context, which informed social and educational policy for children with disabilities, at the fall of the Communist regimes 20 years ago, the consequence of which was that children with disabilities were highly marginalised and largely invisible. Regrettably, it remains very much the picture today in many parts of the region.

### Prevalence of disability

The total number of children in the 27 countries across the region who are now officially recognized as disabled, tripled from about 500,000 at the onset of transition (between 1990 and 2001), to 1.5 million. This surge is largely due to greater recognition of disability rather than to actual increases in impairments. The total child population is estimated at just over 100 million.<sup>xxi</sup> Given that the international benchmark for the prevalence of disability among children is assumed to be a rate of 2.5%, this figure of 1.5 million suggests that over a million children with disabilities are not included in the data. UNESCO estimates that 1.8 million of all children of primary-school age are missing from school in the whole of the South Eastern Europe (SEE), Central Europe (CE), and Commonwealth of Independent States (CIS) region<sup>xxii</sup>.

The information that does exist, both in relation to prevalence and access to education, derives largely from the following sources:

- hospital registries of children that are identified at birth as having a disability;
- data on the number of children living in institutions or attending special schools or classes;
- lists of children registered by parents or doctors as having disabilities, which leaves out all children whose parents do not or are ashamed to register them.

However, the data provided by these sources is seriously flawed:

- Significant numbers of children in institutions are often not counted in disability registers or education data as they are considered uneducable<sup>xxiii</sup>.
- The data does not generally include those children with disabilities that develop after birth.
- Shame and stigma leads to many parents failing to register their children as having disabilities.
- Responsibility for children with disabilities is commonly split between government ministries (education, social, health, labour) leading to a lack of co-ordination in data collection.
- Many children with disabilities, even when living at home, do not attend school and are therefore not visible in the system<sup>xxiv</sup>.
- While data does exist for children in special schools, and to some extent for children in special classes in regular schools, the number of children with disabilities with milder disabilities in regular classes is often not collected.

The problems are compounded as a result of different definitions of disability and different terminology to describe impairments. These conflicting definitions arise not only regionally, but also within countries between different ministries and organizations. Official definitions of disability across the region generally remain medically-based and anchored in functional limitations; that is, that an individual is incapable in some basic way. The perpetuation of an approach which persists in understanding disability as a medical condition, inherent to the child, that can be repaired, renders it almost impossible for governments to envision what children with disability can accomplish in mainstream school settings.

There is a pressing need for more data on the education of children with disabilities in the region. Overall, the available data across the region on the learning achievement or school success of children with disabilities either in inclusive classrooms or in special schools is extremely limited, with very few systems set up for collection. Where it does exist, it indicates that children with disabilities generally receive a very restricted education. In many countries, national level education data fails to include information on numbers and placements of children with disabilities. Overall, the problem of acquiring accurate information on educational outcomes for children with disabilities is compounded by the fact that children from many socially vulnerable families, including Roma children, are placed in special schools.

## Policies towards disability since transition

In the last 20 years, culminating in the adoption of the CRPD in 2006, there has been an accelerating shift internationally towards the recognition of people with disabilities as holders of rights rather than problems to be solved<sup>xxv</sup>. Alongside this development, the disability community has promoted adoption of a 'social model' of disability. This approach challenges the medical model where the focus is on changing the individual with a disability. Instead, it emphasizes the extent to which the physical, cultural, communication, attitudinal, transportation barriers in the environment serve to disable people, and therefore need to change.

However, CEECIS countries, overall, still conceptualize disability as primarily a chronic medical condition of the individual, for which the solutions are health care, rehabilitation, institutionalisation, or social supports such as special education and pensions. Little differentiation is made between impairment, illness and disability. And despite universal ratification of the Convention on the Rights of the Child (CRC) across the region, strong encouragement to promote inclusion and programmes of de-institutionalisation in accession countries, the overwhelming majority of countries having signed and ratified the Convention on the Rights of Persons with Disabilities (CRPD), and many countries having introduced progressive legislation to strengthen the rights of children with disabilities, progress remains patchy.

## De-institutionalisation

Institutionalisation remains the overwhelming policy approach across the region, with defectology continuing as the academic discipline governing the care and treatment of children with disabilities. Consistent with this context, the number of children in institutional care in the region is the highest in the world<sup>xxvi</sup>. UNICEF estimates that across CEECIS, a child with a disability is almost 17 times as likely to be institutionalised as one who is not disabled.<sup>xxvii</sup> More than 626,000 children reside in these institutions. The rate of children in institutional care in CEECIS has on average been almost stagnant since 2000. But in 12 countries, the rate *increased* between 2000 and 2007<sup>xxviii</sup>. This means that despite ongoing reforms, institutional care is becoming more frequent in more than half the countries.

Following the collapse of Communism and greater exposure to, and support from the West, conditions in institutions for children in the region did begin to improve. However, some countries, faced with severe economic difficulties, have experienced challenges in finding the necessary resources to maintain improved standards in institutions, with children often suffering from poor diet, lack of heat, insanitary conditions and inadequate staffing levels. The UN Study on Violence against Children highlighted profound concerns about conditions in institutions including violence, neglect, dangerous environments, including children being left for hours on urine soaked mattresses, or physically or medically restrained, understaffing and lack of monitoring or independent scrutiny<sup>xxix</sup>.

Research undertaken in 2001 found that the death rate among institutionalized disabled children in several countries in Eastern Europe was almost twice that for children in the general population and for disabled children who are kept at home<sup>xxx</sup>. Despite this evidence, the high levels of poverty in many of the countries leads to some parents arguing that

institutions meet their child's needs better than they can – providing rehabilitative services as well as diet. And, there are positive examples of some institutions building opportunities for children to connect more closely with their local communities.

De-institutionalisation depends on the development of effective alternative community-based services. Such services have improved since the early 1990s, but still have a long way to go. A survey by UNICEF published in 2005 found that there were substantial differences both among and within countries, with a significant divide between CEECIS sub-regions, north and south, richer and poorer countries, urban and rural populations<sup>xxxix</sup>.

### Early assessment, identification and care

The emphasis in assessment, throughout CEECIS, remains strongly medically focused. The CEECIS still largely retains its legacy of rigid Soviet style screening commissions, and in most countries, children receive only a medical diagnosis at birth and a medical screening around age 6. Routine assessments tend to overlook the developmental and behavioural dimensions of health, and few countries provide comprehensive assessments with a coordinated multidisciplinary team. The problem is particularly acute in peripheral and especially rural areas. There is only limited training for health and other social service professionals about disabilities.

Efforts have been made to reform the commissions, to include social, emotional, and educational, as well as medical factors, when determining an appropriate educational plan for children. Nevertheless, a recent UNICEF survey revealed that in many countries throughout the region, they continue to rely on the defectology model to determine disability classifications and educational capabilities for the child, and are rarely followed by a more comprehensive assessment or a re-examination of the original diagnosis.<sup>xxxix</sup> Furthermore, in many parts of the region, screenings are not compulsory and parents have to pay for them, resulting in the most at-risk children not receiving supportive services and being placed in inappropriate educational settings.

Even where early assessments are provided, they can prove detrimental. When any kind of development difference is noticed at birth, there is still a widespread practice of immediate separation of the child from the mother, depriving the child of essential breastfeeding support, bonding and contact. Once a diagnosis of disability is made, it is very hard to change it. This is especially true for children deemed 'uneducable' and placed in institutions. The commissions can pass down disability labels that are virtually impossible to appeal.

### Education

The pattern of early years' education varies considerably across the region. While Early Childhood Education for children under 2 was not universally available in the region prior to transition, it has now fallen to levels of between 10-15%.<sup>xxxix</sup> However, there is no accurate information on the extent to which children with disabilities have access to such services.

There does, however, appear to be a growing understanding throughout the countries of the region that all children have a right to education under international and national law; that all children are capable of being educated; and that it is a government's responsibility to provide educational settings that respect these rights and capabilities<sup>xxxix</sup>. The national

education laws in the majority of countries in the region do now state that all children have the right to receive an education in mainstream schools along with individualized instruction appropriate to their abilities<sup>xxxv</sup>. Most of the countries also have laws or regulations specifically designed to ensure equal opportunity for children with disabilities to receive full benefits of education at all levels.

There is also a trend toward inclusive education policy in the region. A number of countries include a component on 'inclusive education' in their national education strategic plans and national education reports. However, budgetary support, action frameworks, indicators, and implementation commitments are not included, inclusive education is generally not harmonized with general education planning, and policies towards and understanding of inclusion vary considerably. The concepts of integration and inclusion are not always clearly distinguished from each other and are often used interchangeably. Furthermore, there is a gulf between policy and practice on the ground<sup>xxxvi</sup>.

Current provision ranges from special schools, institutions, and 'correctional education centres' to special classrooms, supported home schooling, day care centres, inclusive classrooms, and individualized curricula in special classes in general education schools. Some inclusive classrooms do exist in all countries, either by government policy or as a consequence of NGOs or donor organizations piloting inclusive education programmes, although the total numbers of students involved is very difficult to ascertain<sup>xxxvii</sup>. In general, it is children with mild or moderate degrees of disability who are deemed to be candidates for inclusive classrooms. And, although there have been some moves towards inclusion in mainstream schools, the reality is that there has been a bigger demand for and creation of special schools for children with disabilities in many countries and in practice, segregation of children with disabilities in special schools is still the predominant practice, with the majority of children with disabilities systematically excluded from mainstream education.

Institutes of Defectology continue to administer the majority of training for teachers who will teach children with disabilities. Some efforts have been made towards renaming these institutes. However, these shifts are not generally accompanied by appropriate paradigmatic changes towards an inclusive philosophy<sup>xxxviii</sup>. Overall, the traditional Soviet approach to education that valued the use of uniform methods and standardized curricula is still very much in evidence. Pre-service teacher training in the region is a long way from succeeding in teaching inclusive pedagogy. Countries report an acute shortage of high quality in-service training programs. Nine countries of 22 in the region report having teachers trained to teach inclusively<sup>xxxix</sup>. And only four countries have pre-service teacher training programmes that incorporate inclusive education as a specific skill component. Often sponsored by NGOs, these programmes are rarely widespread and organizations rarely have the resources to scale them up.

The quality of training is further hampered by the inadequacy of practical experience during pre-service training across the region. In some countries, teachers have as little as one day to practice teaching before they are hired as teachers, with very few ever having the chance to observe an inclusive classroom in action.

## Stigmatisation and prejudice

Discrimination and negative attitudes toward disability continue to permeate the region, which, in part, can be traced to the Communist past, when individuals were valued according to their productivity and contributions to the advancement of the state. These attitudes impede progress towards inclusion. The language widely used to describe disability serves to perpetuate negative stereotypes and prevent full inclusion. Professionals, as well as the wider society, commonly use derogatory terms such as ‘defective’, and ‘imbecile’ when referring to disability, while the belief that these ‘defects’ must be corrected prevails in the region.

Implementation of inclusive education is hampered by persisting negativity towards disability among the professionals in the education system. Government commitment to inclusion initiatives and the philosophies supporting them are very new, and counter many deeply held beliefs about education. The majority of teachers continue to have the same discriminatory attitudes towards disability as those evidenced in the majority population.

However, some countries in the CEECIS region have made significant efforts to raise awareness about children with disabilities, create tolerance and emphasise the value of inclusion. Fourteen of the 22 countries in the region have used targeted campaigns that debunk myths about disability and present disability in a positive light to change attitudes and raise general awareness about the importance of inclusive education. Successful disability campaigns in the region contain clear, contextualized messages that quickly and effectively relay information using innovative techniques with an overall aim to ensure that children with disabilities are more present and accepted in societies.

## A human rights-based approach to inclusive education for children with disabilities

### The relevant human rights standards

All governments in the region have ratified the Convention on the Rights of the Child (CRC), a holistic human rights treaty addressing the social, economic, cultural, civil, political and protection rights of children. It emphasises both the right to education on the basis of equality of opportunity, and the broad aims of education in terms of promoting the fullest possible development of the child.

Article 2 of the CRC introduces, for the first time in an international human rights treaty, an explicit obligation on governments to assure the realisation of **all rights to every child without discrimination, including on grounds of disability**. In addition, Article 23 of the CRC specifically addresses the right of children with disabilities to assistance to ensure that they are able to access education in a manner that promotes their social inclusion. The Committee on the Rights of the Child, in a General Comment on children with disabilities, has further stressed that inclusive education must be the goal of educating children with disabilities<sup>x1</sup>.

Fulfilment of the obligation to ensure the equal right of all children with disabilities to education necessitates an approach based on a holistic understanding of the CRC. The Committee on the Rights of the Child has identified four rights which must also be understood as general principles to be applied in the realisation of all other rights – non-discrimination, the

best interests of the child, the optimum development of the child and the right of the child to be heard and taken seriously in accordance with age and maturity<sup>xii</sup>. These principles need to underpin all actions to promote the right of children with disabilities to education. In addition, it is necessary to take account of all other relevant rights. For example, many children with disabilities will continue to experience barriers in realising their right to education, unless measures are taken to provide early assessment and access to early years provision, to tackle prejudice and discrimination, to provide protection from bullying and violence, and to develop appropriate support and services for families.

Despite these commitments, the rights of children with disabilities continue to be widely neglected and violated. The UN Convention on the Rights of Persons with Disabilities (CRPD) was drafted, not to introduce new rights – the rights of persons with disabilities are exactly the same as those of every other person – but to re-affirm those rights and introduce additional obligations on governments to ensure their realisation. The CRPD includes detailed provisions on the right to education, stressing more explicitly than in the CRC, the obligation of governments to ensure *'an inclusive system of education at all levels'*. It also introduces a range of obligations to remove the barriers that serve to impede the realisation of rights for people, including children, with disabilities, and to ensure more effective protection and a stronger voice for children with disabilities to claim their rights.

### Principles underpinning a rights-based approach to education

A rights-based approach to education is informed by seven basic principles of human rights. These principles need to be applied in the development of legislation, policy and practice relating to the right to inclusive education:

- **Universality and inalienability:** Human rights are universal and inalienable, the entitlement of all people everywhere in the world. An individual cannot voluntarily give them up. Nor can others take them away.
- **Indivisibility:** Human rights are indivisible. Whether civil, cultural, economic, political or social, they are all inherent to the dignity of every person
- **Interdependence and interrelatedness:** The realization of one right often depends, wholly or in part, on the realization of others.
- **Equality and non-discrimination:** All individuals are equal as human beings, and by virtue of the inherent dignity of each person, are entitled to their rights without discrimination of any kind.
- **Participation and inclusion:** Every person and all people are entitled to active, free and meaningful participation in, contribution to and enjoyment of civil, economic, social, cultural and political development.
- **Empowerment:** Empowerment is the process by which people's capabilities to demand and use their human rights grow. The goal is to give people the power and capabilities to claim their rights, in order to change their own lives and improve their communities.
- **Accountability and respect for the rule of law:** A rights-based approach seeks to raise levels of accountability in the development process by identifying 'rights holders' and corresponding 'duty bearers' and to enhance the capacities of those duty bearers to meet their obligations.

## Obligations to ensure the right to education for children with disabilities

When governments across the region ratified the CRC and signed or ratified the CRPD, they undertook to take all necessary measures to ensure that the rights they contain are realised. This involves action:

- **To fulfil the right to education** - for example, by ensuring that quality education is available for all children, promoting inclusive education, and introducing positive measures to enable children to benefit from it, for example, making physical adaptations to buildings, providing accessible transport, adapting the curricula to the needs of all children, and providing necessary equipment and resources.
- **To respect the right to education** – for example, by avoiding any action that would serve to prevent children accessing education, for example, legislation that categorizes certain groups of children with disabilities as uneducable, school entry testing systems that serve to categorise children with disabilities as not ready for school.
- **To protect the right to education** - for example, by taking the necessary measures to remove the barriers to education posed by individuals or communities, for example, resistance by teachers to accepting children with disabilities, or violence, abuse or bullying in the school environment.

However, in order to achieve inclusive education, action is needed, beyond national governments, to involve stakeholders at every level.

- **For local authorities** - the development of local policies for implementation of inclusion; appropriate support for individual schools; provision of funding; securing the necessary building adaptations and the provision of resource centres.
- **For individual schools** - the introduction of an inclusive educational environment which addresses the culture, policies and practices of the school to ensure that the basic conditions exist in which all children can participate and learn.
- **For parents** – sending all their children to school, and supporting them both in their education, and in helping ensure that schools comply with the principles of an inclusive approach.
- **For children** – to take advantage of opportunities to participate and learn, support their peers and co-operate with the values of inclusive schooling.
- **For civil society**- supporting the development of community-based inclusive education and contributing to an environment of respect and acceptance.

## A conceptual framework for promoting the right to inclusive education

These basic principles and overarching government obligations can be applied to develop a clear conceptual framework to pursue the EFA goals within an inclusive approach, and ensure that children with disabilities are able to realise their right to education. A rights based approach to education requires more than '*business as usual*', and a commitment to inclusive education would embrace a three-dimensional approach. It requires an understanding of inclusion as an approach to education for all children that includes: (1) Education policies and strategies to promote the right to access education; (2) the right to quality education; and (3) respect for rights within the learning environment. In addition,

this approach needs to be underpinned by a broad strategic commitment across government to create the necessary environment for ensuring the rights of children with disabilities.

## **Summary of key actions needed**

### **Approaches to realising the right of children with disabilities to inclusive education**

The implementation of these commitments would necessitate the following actions on the part of governments.

#### **1 Government-wide measures**

##### **1.1 Political will and good governance**

- Measures to promote accountability, transparency, access to justice and the rule of law
- Recognition of and commitment to comprehensive and sustained measures to tackle the social exclusion of and discrimination against children with disabilities in the education system
- Scaling up of programmes, policies and strategies that have been successful – evidence based advocacy should be used to increase the scale of impact

##### **1.2 Government structures**

- Responsibility for education of children with disabilities to rest within education ministries to bring an end to the segregation of provision
- Co-ordination across and between ministries to ensure a coherent and comprehensive approach to fulfilling the right to inclusive education for children with disabilities - for example, ministries of finance, health, social work, social protection, employment and vocational training, transport as well as education
- Devolved government structures – devolving responsibilities to the local level to strengthen local accountability, but to be accompanied by capacity building, guidance, dedicated budgets and transparent reporting

##### **1.3 Ending institutionalisation**

- Commitment to ending the placement of children in long term residential institutions through planned process of transition to community based care
- Introduction of the necessary legislative and policy framework to achieve the transition to community based alternatives to institutional care
- Strengthening cross-sectoral community-based services based on a commitment to case management as the key intervention to co-ordinate services from birth
- Strengthening support for families to build their capacities to care for children with disabilities at home

#### **1.4 Financing**

- Commitment to initial investment of expenditure to achieve system reform, while recognising that in the long term, inclusive education is a cost effective approach to achieving education for all
- Provision of an adequate flexible funding and fair allocation formula to promote incentives for inclusive education
- Removal of requirements that children are labelled and categorised in order to receive appropriate services - rather they should be geared towards providing flexible, effective and efficient responses to learners' needs
- Introduction of effective tracking of expenditure to strengthen accountability, transparency and ensure more effective use of funds

#### **1.5 Guarantee the right to non-discrimination**

- Ratification of the CRPD and Optional Protocol
- Introduction of legislation prohibiting discrimination on grounds of disability
- Introduction of accessible and affordable mechanisms for challenging discrimination
- Provision of information to children with disabilities and their families on their right to non-discrimination, its implication and how to challenge violations

#### **1.6 Strengthening information systems**

- Introduction of a common definition of disability based on the ICF and rooted in the social model of disability
- Development of comprehensive education information management systems leading to improved collection of data on prevalence, developments in progressing inclusive education, as well as disaggregated data on educational access and outcomes
- Investment in capacity building in data collection

#### **1.7 Learning from what works**

- Systematic monitoring and evaluation of innovative programmes to promote inclusive education
- Analysis and dissemination of the lessons learned
- Government investment in mainstreaming the emerging lessons into models of inclusive education across the sector
- Further investment in the NGO sector to explore new approaches to achieving improved educational outcomes for children with disabilities

#### **1.8 Partnerships and participation**

- Commitment to investment in partnerships with families, children, NGOs and DPOs and all other all key stakeholders in all stages of the development of inclusive education
- Investment in removing the barriers that impede parental involvement in the education of children with disabilities including lack of awareness of educational alternatives, fear of hostility within communities, poverty and lack of information on their children's rights
- Respect for the contribution families are able to make as active partners throughout the life cycle of their children's education

### **1.9 Capacity building and awareness-raising**

- Investment in capacity building at all levels to promote awareness of the rights of children with disabilities to inclusive education and to the development of the necessary systems and practices for its attainment– including national and local government officials, professionals working with children with disabilities within education, social work, and health.

## **2 Education policies and strategies to promote the right to access education**

Every child has the right to education on the basis of equality of opportunity. Children with disabilities are particularly at risk of being marginalised or discriminated against in the realisation of this right. Governments need not only to establish the entitlement of every child to education, but must also take action to identify and remove the barriers and bottlenecks that impede access. A broad range of both universal and targeted measures are required to ensure that children with disabilities are equally able to realise the right to education alongside other children. This will include working to support parents in order that they can support their children's access to education, early identification and assessment, early years education, ensuring access to and availability of inclusive education for all children, with all necessary supports and adaptations, and creating inclusive learning environments in which children learn together.

### **2.1 Removing the barriers to inclusive education**

- Removing the physical, communication, mobility and sensory barriers to education including investment in development of public spaces that are both safe and inclusive, providing that all education environments have physically accessible features and all the necessary conditions for learning, and introducing accessible transport
- Addressing attitudinal barriers by public awareness campaigns, use of appropriate language to challenge negative stereotypes of disability and encouraging the media play a positive role in challenging the barriers to inclusion
- Addressing socio-economic barriers through provision of appropriate, accessible and non-stigmatizing social protection measures

### **2.2 Working with and supporting parents**

- Provision of parental education programmes to help parents support their child's learning, for example through parent-to-parent counselling, mother-child clubs, or civil society outreach through house to house visits
- Building partnerships between them and local schools, encouraging them to join school boards and developing programmes which explicitly address their concerns.

### **2.3 Early childhood education and care services**

- Investment in early assessment and intervention to both prevent institutionalisation and promote the possibility for effective and appropriate support
- Provision of comprehensive ECCE providing care, stimulation, parental support and access to relevant services

- Developing universal access to inclusive pre-school provision

#### **2.4 Ensuring access to and availability of inclusive education**

- Introduction of legislation and policies establishing the right to inclusive education which includes a clear definition of inclusion and the specific objectives it is seeking to achieve, as well as guaranteeing children with and without disabilities the same right to access mainstream learning opportunities, with the necessary support services
- Provision of a consistent framework for the identification, assessment, and support required to enable children with disabilities to flourish in mainstream learning environments
- Introduction of an obligation on local authorities to plan and provide for all learners with disabilities within mainstream settings and classes, including in the most appropriate languages and modes and means of communication.

#### **2.5 Creating inclusive learning environments**

- Building inclusive cultures within schools through:
  - Translation of national policies of inclusion into school based policies setting out both the commitment to non-discrimination and inclusion, including for example, the development of a child friendly school framework, school self-assessments as well as school development plans.
  - Engagement of teacher associations, school boards, parent-teacher associations, and other functioning school support groups with programmes to increased their understanding and knowledge of disability
  - Ensuring that such policies are reflected in all aspects of the life of the school: classroom teaching and relationships, school and board meetings, teacher supervision, school trips, playground behaviour, budgetary allocations, and any interface with the local community or wider public.
- Ending segregation within schools by:
  - Ensuring a commitment to inclusive classroom teaching.
  - Developing municipal policies for inclusive classroom environments, involving schools, teachers, municipal officials, school administrators, parents and children, as well as other stakeholders
  - Provision of support within mainstream classes to children with disabilities.
  - Monitoring schools on a regular basis to ensure that segregation is not taking place either formally or informally. Monitoring should involve parents of children with disabilities in order that systems are transparent and accountable to them and their children.

### **3 The right to quality education**

Education has to be of the highest possible quality to help every child reach her or his potential, and that quality should be consistent across regions, different populations, and urban and rural settings. Quality in education can only be achieved through the development of child-friendly inclusive learning environments, dedicated to a holistic approach to children's development. All learning environments and educational content, teaching and learning processes should reflect human rights principles. This means

addressing children's multiple rights, using strategies that build links between the school and the family and community. Although there is no single definition of 'quality education', it is broadly understood to incorporate the opportunity for both effective cognitive learning, together with opportunities for creative and emotional development. In order to achieve these goals, education for children with disabilities must encompass positive learning opportunities providing appropriate support for all children, investment in and support for teachers to enable them to teach within inclusive environments, rights based learning and assessment, and child friendly, safe and healthy environments.

### **3.1 Securing the appropriate individualised support for children with disabilities**

- Introduction of IEPs as a key strategy for supporting children with disabilities in inclusive settings
- Involving students, parents and all relevant staff in the design and setting of targets
- Provision, where needed, of holistic packages of care involving support, not only in children's education, but also in the provision of health or social care services, technical assistance, and psychological support
- Establishing partnerships between service providers, NGOs, research and teaching institutes to support regular providers of education, health care and social care to provide the best possible all round care to enable children to benefit to the fullest possible extent from their education.

### **3.2 Developing inclusive curricula, teaching and learning methods**

- Promotion of active, participatory and child centred learning and teaching methods to allow children to work at an appropriate pace, in groups or individually, and partnering children with and without disabilities as peer educators to enable mutual learning
- Adopting a curriculum to enable all children to acquire the core academic curriculum and basic cognitive skills, together with essential life skills, including respect for human rights.
- Creative use of assistive technology to make it easier for students with disabilities to learn, including physical resources, computers and use of ICTs

### **3.3 Introduction of rights based and inclusive student assessment**

- Adoption of a holistic view of student assessment that considers academic, behavioural, social and emotional aspects of learning
- Ensuring that children with disabilities are able to fulfil their educational potential through a system of individualized supports, which emphasize treatment according to need, and aim toward equitable success that is measured broadly.
- Measuring student progress in the general education curriculum, with clear standards and benchmarks and use multiple forms of student assessments to inform and facilitate teaching and learning
- Introduction of school self-assessment systems that measure whether commitments to inclusive education are being fulfilled and to help identify changes and improvements necessary for moving forward

### **3.4 Investment in teacher training**

- Reviewing the content of teacher training curricula to ensure that it embodies child centred methodology, teaching in inclusive and multi-cultural environments, using

individual educational plans to adapt and support children with specific educational needs, human rights, and in particular, recognition of non-discrimination as a human right and positive strategies for promoting tolerance and tackling discriminatory behaviour

- Providing increased levels of opportunity for practical work experience as part of teacher training
- On-going, high quality professional development opportunities for teachers that address inclusive methodologies

### **3.5 Support within schools for teachers**

- Ensuring adequate staffing levels to provide teachers with the time and resources needed to achieve effective inclusive education
- Provision of strong support from school leadership, with ownership by the governing body, and all school policies consistent with the goal of inclusive education
- Involvement of family and community as resources in classrooms to support individual learning programmes and increased individual attention that children with disabilities often need.

### **3.6 Establishing resources to provide specialist support**

- Building multi-disciplinary support through a range of different specialist services, organisations and resource centres, and professionals working collaboratively to provide a comprehensive and seamless service to support inclusive education.
- Development of collaborative practice and provision through networks of learning communities
- Utilising parental expertise as a significant source of support both to other families and to schools.
- Improving teachers' conditions of service to ensure that they are adequately supported, paid and respected.

### **3.7 A child centred, safe and healthy environment**

- Establishing close links between health and education services to provide a connection between school, community and the family, revolving around the child's well-being.
- Promoting effective community partnerships to ensure positive interaction between the school and the community
- Developing health and safety standards for the building of schools to reflect the needs of children in inclusive settings
- Providing safe and stimulating opportunities for play and recreation for all children
- Ensuring that, in the case of natural and man-made disasters, all children are easily able to evacuate any buildings and routines are in place on how to respond in such situations.

## **4 Respect for rights within the learning environment**

Human rights are "inalienable". In other words, they are inherent to each human being, and must be respected within learning environments, as in all other contexts. Education needs to be delivered in an environment which is respectful of the cultural, protection and

participation rights of children. This will necessitate a commitment to respect for identity by recognising, for example, the right of deaf and blind children to respect for their culture and language through provision of learning in sign language, respect for the right to be listened to and taken seriously in all aspects of education, and to the right, both within school and when travelling to/from school, to be protected from all forms of violence, bullying or harassment, school discipline which is respectful of their dignity.

#### **4.1 Right to respect for identity, culture and language**

- Recognition of the right of children under international law to recognition of their cultural and linguistic identity
- Recognition of sign language as a language which must be recognised within the meaning of the right to language and culture
- Recognition of children's right to respect for their language and culture within their education and schooling

#### **4.2 Respect for children's participation rights**

- Introduction of legislation guaranteeing school children the right to establish democratic bodies such as school councils, and requiring that such bodies comply with principles of non-discrimination and promote inclusion of children with disabilities, as well as both girls and boys.
- Development of guidance for local municipalities and schools on developing opportunities for children to be heard, which emphasises the necessity for inclusive and non-discriminatory approaches.
- Introduction of mechanisms for ensuring that children are able to express a view on school placements, and have their views taken seriously in accordance with their age and maturity.
- Development of school policies in partnership with children on rights, inclusion, respect for diversity and non-discrimination
- Introduction of safe, accessible and confidential complaints mechanisms through which children with disabilities can raise concerns

#### **4.3 Right to respect for personal and physical integrity**

- Explicit prohibition of corporal and other humiliating punishments by law, and reinforced by other necessary measures, reinforced by clear enforcement mechanisms, and strong messages that all forms of violence against children is unacceptable
- Establishment of clear codes of conduct reflecting child rights principles for all staff, students and their families and communities, which include accessible complaints or reporting mechanisms which can be used safely and confidentially
- Training and support for all school staff in the use of effective non-violent and respectful classroom management strategies, as well as specific skills to prevent patterns of bullying and other gender-based violence and to respond to it effectively.
- Emphasis on tolerance, respect, equity, non-discrimination, and non-violent conflict resolution within the curriculum, textbooks and teaching methods
- Involvement of children themselves, including children with disabilities, as active agents in building safe environments, challenging bullying, prejudice and discrimination and providing peer-to-peer support.

## Conclusion

Children with disabilities remain marginalised across the region, with their right to education far from being fully realised. Although significant efforts have been made to overcome the historic discrimination and exclusion they experience, too often such measures are fragmented and un-coordinated both across and within ministries. Furthermore, they fail to address the necessity for tackling the institutionalised barriers impeding change: the continued reliance on the narrow pedagogy of defectology, rooted in a medicalised understanding of disability; the continued focus on segregation and institutional care, with insufficient investment in community-based services and supports; the deep-seated prejudices among those professionals charged with the responsibility for promoting inclusive education; and the lack of sufficient engagement with and respect for the expertise and potential contribution of families of children with disabilities, as well as the children themselves.

Lack of resources is often cited as a barrier to change. Of course, there will always be limits to the resources available, but the emerging evidence indicates that the provision of inclusive education is cost-effective. Not only is it no more expensive to provide than a segregated system, but the educational and social outcomes for children both with and without disabilities have been found to be positive. And, in the long term, providing quality inclusive education for children with disabilities reduces dependency on the state and promotes their potential economic capacity.

Most important is the political will to invest in measures at all levels to create the necessary environment to support and facilitate inclusive education. Piecemeal initiatives, however well-intentioned, are not enough. Governments need to commit to the introduction of legislation, policies, financing, data collection, capacity building, and partnerships as the vital building blocks in the creation of the infrastructure needed to support inclusive education. They will provide the basis for establishing the specific education measures required to achieve the right to access quality education on the basis of equality of opportunity for every child, which is also respectful of the human rights of those children. This goal is attainable. And it is not only the right way to go, and an obligation on the part of all governments, but it will bring long term benefits for all children and the wider society.

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