



# Convention on the Rights of Persons with Disabilities

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## Committee on the Rights of Persons with Disabilities

### General comment No. 4 (2016)

#### Article 24: Right to inclusive education

## 1 INTRODUCTION

1 Historically viewed as welfare recipients, persons with disabilities are now recognised under international law as right-holders, with a claim to the right to education without discrimination and on the basis of equal opportunities. The United Nations Convention on the Rights of the Child (CRC, 1989), the World Declaration on Education for All (1990), the United Nations Standard Rules on Equalization of Opportunities for Persons with Disabilities (1993), and the Salamanca Declaration and Framework for Action (1994) all embody measures testifying to the growing awareness and understanding of the right of persons with disabilities to education.

2 Recognition of inclusion as the key to achieving the right to education has strengthened over the past 30 years, and is enshrined in the Convention on the Rights of Persons with Disabilities (herein after: the Convention), the first legally binding instrument to contain a reference to the concept of quality inclusive education. Sustainable Development Goal (SDG) 4 also affirms inclusive quality and equitable education. Inclusive education is central to achieving high quality education for all learners, including those with disabilities, and for the development of inclusive, peaceful and fair societies. Furthermore, there is a powerful educational, social, and economic case to be made. The OHCHR Thematic Study of the Rights of Persons with Disabilities to Education (2013) affirms that only inclusive



education can provide both quality education and social development for persons with disabilities, and a guarantee of universality and non-discrimination in the right to education.<sup>1</sup>

3 However, despite progress achieved, the Committee on the Rights of Persons with Disabilities (herein after: the Committee) is concerned that profound challenges persist. Many millions of persons with disabilities continue to be denied a right to education, and for many more, education is available only in settings where they are isolated from their peers and receive an inferior quality of provision.

4 Barriers that impede access to inclusive education for persons with disabilities can be attributed to multiple factors, including:

- a) the failure to understand or implement the human rights model of disability, in which barriers within the community and society, rather than personal impairments, exclude persons with disabilities;
- b) persistent discrimination against persons with disabilities, compounded by the isolation of those still living in long-term residential institutions, and low expectations about those in mainstream settings, allowing prejudices and fear to escalate and remain unchallenged;
- c) lack of knowledge about the nature and advantages of inclusive and quality education, and diversity, including regarding competitiveness, in learning for all; lack of outreach to all parents and lack of appropriate responses to support requirements, leading to misplaced fears, and stereotypes, that inclusion will cause a deterioration in the quality of education, or otherwise impact negatively on others;
- d) lack of disaggregated data and research, necessary for accountability and program development, impeding the development of effective policies and interventions to promote inclusive and quality education;
- e) lack of political will, technical knowledge, and capacity in implementing the right to inclusive education including insufficient education of all teaching staff;
- f) inappropriate and inadequate funding mechanisms to provide incentives and reasonable accommodations for inclusion of students with disabilities, inter-ministerial coordination, support and sustainability;
- g) lack of legal remedies and mechanisms to claim redress for violations.

5 States parties must have regard for the underlying general principles of the Convention in all measures undertaken to implement inclusive education and must ensure that both the process and outcomes of developing an inclusive education system comply with article 3.

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<sup>1</sup> A/HRC/25/29 para 3

6 The General Comment is applicable to all persons with actual or perceived disabilities.<sup>2</sup> The Committee recognizes that some groups are more at risk of exclusion from education than others, such as: persons with intellectual disabilities or multiple disabilities, persons who are deafblind, persons with autism or persons with disabilities in humanitarian emergencies.

7 Consistent with Article 4, paragraph 3, States parties must consult with and actively involve persons with disabilities, including children with disabilities, through their representative organisations (OPDs), in all aspects of planning, implementation, monitoring and evaluation of inclusive education policies. Persons with disabilities and, when appropriate, their families, must be recognised as partners and not merely recipients of education.

## **2 NORMATIVE CONTENT OF ARTICLE 24**

8 According to article 24, paragraph 1, States parties must ensure the realization of the right of persons with disabilities to education through an inclusive education system at all levels, including pre-schools, primary, secondary and tertiary education, vocational training and lifelong learning, extracurricular and social activities, and for all students, including persons with disabilities, without discrimination and on equal terms with others.

9 The right to inclusive education encompasses a transformation in culture, policy and practice in all formal and informal educational environments to accommodate the differing requirements and identities of individual students, together with a commitment to remove the barriers that impede that possibility. It involves strengthening the capacity of the education system to reach out to all learners. It focuses on the full and effective participation, accessibility, attendance and achievement of all students, especially those who, for different reasons, are excluded or at risk of being marginalized. Inclusion involves access to and progress in high-quality formal and informal education without discrimination. It seeks to enable communities, systems and structures to combat discrimination, including harmful stereotypes, recognize diversity, promote participation and overcome barriers to learning and participation for all by focusing on well-being and success of students with disabilities. It requires an in-depth transformation of education systems in legislation, policy, and the mechanisms for financing, administration, design, delivery and monitoring of education.

10 Inclusive education is to be understood as:

- a) A fundamental human right of all learners. Notably, education is the right of the individual learner, and not, in the case of children, the right of a parent or caregiver. Parental responsibilities in this regard are subordinate to the rights of the child.

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<sup>2</sup> Article 1, para 2, Convention on the Rights of Persons with Disabilities

- b) A principle that values the well-being of all students, respects their inherent dignity and autonomy, acknowledges individual requirements and ability to effectively be included in and contribute to society.
- c) A means of realizing other human rights. It is the primary means by which persons with disabilities can lift themselves out of poverty, obtain the means to participate fully in their communities, and be safeguarded from exploitation.<sup>3</sup> It is also the primary means through which to achieve inclusive societies.
- d) the result of a process of continuing and pro-active commitment to eliminate barriers impeding the right to education, together with changes to culture, policy and practice of regular schools to accommodate and effectively include all students.

11 The Committee highlights the importance of recognising the differences between exclusion, segregation, integration and inclusion. *Exclusion* occurs when students are directly or indirectly prevented from or denied access to education in any form. *Segregation* occurs when the education of students with disabilities is provided in separate environments designed or used to respond to a particular or various impairments, in isolation from students without disabilities. *Integration* is a process of placing persons with disabilities in existing mainstream educational institutions, as long as the former can adjust to the standardized requirements of such institutions.<sup>4</sup> *Inclusion* involves a process of systemic reform embodying changes and modifications in content, teaching methods, approaches, structures and strategies in education to overcome barriers with a vision serving to provide all students of the relevant age range with an equitable and participatory learning experience and environment that best corresponds to their requirements and preferences. Placing students with disabilities within mainstream classes without accompanying structural changes to, for example, organisation, curriculum and teaching and learning strategies, does not constitute inclusion. Furthermore, integration does not automatically guarantee the transition from segregation to inclusion.

12 The core features of inclusive education are:

- a) Whole systems approach: education ministries must ensure that all resources are invested toward advancing inclusive education, and toward introducing and embedding the necessary changes in institutional culture, policies and practices.
- b) Whole educational environment: the committed leadership of educational institutions is essential to introduce and embed the culture, policies and practices to achieve inclusive education at all levels: classroom teaching and relationships, board meetings, teacher supervision, counselling services and medical care, school trips, budgetary allocations and any interface with parents of learners with and

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<sup>3</sup> CESCR E/C.12/1999/10

<sup>4</sup> A/HRC/25/29, para. 4 and UNICEF, *The Right of Children with Disabilities to Education: A Right-Based Approach to Inclusive Education* (Geneva, 2012).

without disability when applicable, the local community or wider public.

- c) Whole person approach: recognition is given to the capacity of every person to learn, and high expectations are established for all learners, including learners with disabilities. Inclusive education offers flexible curricula, teaching and learning methods adapted to different strengths, requirements and learning styles. This approach implies the provision of support and reasonable accommodation and early intervention so that they are able to fulfil their potential. The focus is on learners' capacities and aspirations rather than content when planning teaching activities. It commits to ending segregation within educational settings by ensuring inclusive classroom teaching in accessible learning environments with appropriate supports. The education system must provide a personalized educational response, rather than expecting the student to fit the system.
- d) Supported teachers: All teachers and other staff receive education and training giving them the core values and competencies to accommodate inclusive learning environments, which include teachers with disabilities. The inclusive culture provides an accessible and supportive environment which encourages working through collaboration, interaction and problem-solving.
- e) Respect for and value of diversity: All members of the learning community are welcomed equally, with respect for diversity according to, inter alia, disability, race, colour, sex, language, linguistic culture, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age or other status. All students must feel valued, respected, included and listened to. Effective measures to prevent abuse and bullying are in place. Inclusion takes an individual approach to students.
- f) Learning-friendly environment: Inclusive learning environments must create an accessible environment where everyone feels safe, supported, stimulated and able to express themselves, with a strong emphasis on involving students themselves in building a positive school community. Recognition is afforded to the peer group in learning, building positive relationships, friendships and acceptance.
- g) Effective transitions: Learners with disabilities receive the support to ensure the effective transition from learning at school to vocational and tertiary education, and finally to work. Learners' capacities and confidence are developed and learners receive reasonable accommodation and equality regarding assessment and examination procedures, and certification of their capacities and attainments on an equal basis with others.
- h) Recognition of partnerships. Teacher associations, student associations and federations and OPDs, school boards, parent-teacher associations, and other functioning school support groups, both formal and informal, are all encouraged to increase their understanding and knowledge of disability. Involvement of

parents/caregivers and the community must be viewed as assets with resources and strengths to contribute. The relationship between the learning environment and the wider community must be recognized as a route towards inclusive societies.

- i) **Monitoring:** As a continuing process, inclusive education must be monitored and evaluated on a regular basis to ensure that segregation or integration is not happening either formally or informally. Monitoring, according to article 33, should involve persons with disabilities, including children and persons with intensive support requirements, through OPDs, as well as parents or caregivers of children with disabilities where appropriate. Disability-inclusive indicators must be developed and used consistent with the 2030 Agenda for Sustainable Development.

13 Consistent with the UNESCO Convention against Discrimination in Education, paragraph 1 affirms that the right to education must be assured without discrimination and on the basis of equality of opportunity. States parties must prohibit all discrimination on the basis of disability and guarantee to all persons with disabilities equal and effective protection against discrimination on all grounds. Persons with disabilities can experience intersectional discrimination based on disability, gender, religion, legal status, ethnic origin, age, sexual orientation or language. Additionally, parents, siblings, and other relatives can also experience discrimination on grounds of disability by association. The measures needed to address all forms of discrimination include identifying and removing legal, physical, communication and language, social, financial and attitudinal barriers within the educational institutions and the community. The right to non-discrimination includes the right not to be segregated and to be provided with reasonable accommodation and must be understood in the context of the duty to provide accessible learning environments and reasonable accommodation.

14 Situations of armed conflict, humanitarian emergencies and natural disasters disproportionately impact the right to inclusive education. States parties should adopt inclusive Disaster Risk Reduction strategies for comprehensive school safety and security in emergencies, which are sensitive to learners with disabilities. Temporary learning environments in such contexts must ensure the right of persons, and particularly children, with disabilities to education on the basis of equality with others. This includes accessible educational materials, school facilities, counselling, or access to training in local sign language for deaf learners. According to Article 11, and recognizing the heightened risk of sexual violence in such settings, measures must be taken to ensure that learning environments are safe and accessible for women and girls with disabilities. Learners with disabilities must not be denied access to educational establishments on the basis that their evacuation in emergency situations would be impossible, and reasonable accommodation must be provided.

15 Article 24, paragraph 1 (a) reiterates the aims of education in line with the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the CRC, that education must be directed to the full development of the human potential and sense of dignity and self-worth, strengthening of respect for human

rights and human diversity. States parties must ensure that education conforms to the aims and objectives of ICESCR as interpreted in the light of the World Declaration on Education for All (Jomtien, Thailand, 1990) (art. 1), the CRC (art. 29 (1)), the Vienna Declaration and Programme of Action (Part I, para. 33 and Part II, para. 80), and the Plan of Action for the United Nations Decade for Human Rights Education (para. 2). These include additional elements such as references to gender equality and respect for the environment.<sup>3</sup> The right to education is a matter of access as well as content, and should be directed to a wide range of values, including understanding and tolerance.<sup>4</sup> Inclusive education must aim at promoting mutual respect and value for all persons and at building educational environments in which the approach to learning, the culture of the educational institution, and the curriculum itself, reflect the value of diversity.

16 According to article 24, paragraph 1(b) education should be directed to the development of the personality, talents and creativity of persons with disabilities as well as their mental, physical and communicational abilities to the fullest potential. The education of persons with disabilities too often focuses on a deficit approach, on their actual or perceived impairment and limiting opportunities to pre-defined and negative assumptions of their potential. States parties must support the creation of opportunities to build on the unique strengths and talents of each individual with a disability.

17 According to Article 24, paragraph 1(c) the aims of education must be directed towards enabling persons with disabilities to participate fully and effectively in a free society. Article 23 of the CRC stresses that, regarding children with disabilities, assistance must be provided to ensure that they have ‘*effective access to .....education... in a manner conducive to achieving the fullest possible social integration and individual development.*’ States parties must recognise that individual support and reasonable accommodation are priority matters and should be free of charge at all compulsory levels of education.

18 Paragraph 2 (a) prohibits the exclusion of persons with disabilities from the general education system, including any legislative or regulatory provisions that limit their inclusion on the basis of their impairment or its “*degree*”, such as by conditioning their inclusion “*to the extent of the potential of the individual*”, or by alleging a disproportionate and undue burden to evade the obligation to provide reasonable accommodation. General education means all regular learning environments and the education department. Direct exclusion would be to classify certain students as ‘*non-educable*’, and thereby ineligible for access to education. Non-direct exclusion would be the requirement to pass a common test as a condition for school entry without reasonable accommodations and support. In line with Article 4 (b), all legislation and policy must be reviewed to ensure that it is not discriminatory for persons with disabilities and in violation of Article 24, and where necessary repealed or amended in a systematic and time-bound manner.

19 Paragraph 2 (b) requires that persons with disabilities can access inclusive, quality and free primary and secondary education and ensure a smooth transition between the two on

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<sup>3</sup> CESCR E/C.12/1999/10

<sup>4</sup> Committee on the Rights of the Child (CRC) General Comment No 1, Aims of education, CRC/GC2001/1

an equal basis with others in the communities where they live. The Committee draws on the interpretation by the Committee on Economic, Social and Cultural Rights (CESCR) that to fulfil this obligation, the education system must comprise the four following interrelated features.<sup>7</sup>

20 Availability: Public and private educational institutions and programmes must be available in sufficient quantity and quality. States parties must guarantee a broad availability of educational places for learners with disabilities at all levels throughout the community.

21 Accessibility – consistent with article 9 of the Convention, and with the Committee’s General Comment No. 2, educational institutions and programmes must be accessible to everyone, without discrimination. The entire education system must be accessible, including buildings, information and communication, comprising ambient or frequency modulation assistive systems, curriculum, education materials, teaching methods, assessment and language and support services. The environment of students with disabilities must be designed to foster inclusion and guarantee their equality throughout their education,<sup>8</sup> for example, school transport, which should be inclusive, accessible and safe; water and sanitation facilities, including hygiene and toilet facilities; school cafeterias; and recreational spaces. States parties must commit to the prompt introduction of Universal Design. States parties should prohibit and sanction the building of any future education infrastructures that are inaccessible, together with establishing an efficient monitoring mechanism and time frame for all existing education environments to be rendered accessible. States parties must also commit to the provision of reasonable accommodation in educational environments when so required. The Universal Design approach does not exclude the provision of assistive devices, applications, and software to those learners with disabilities who may require them. Accessibility is a dynamic concept and its application requires periodic regulatory and technical adjustments. States parties must ensure that the rapid development of innovations and new technologies designed to enhance learning are accessible to all students, including those with disabilities.

22 The Committee highlights the widespread lack of textbooks and learning materials in accessible formats and languages, including sign language. States parties must invest in the timely development of resources in ink or Braille, and digital formats, including through the use of innovative technology. They should also consider developing standards and guidelines for the conversion of printed material into accessible formats and languages, and making accessibility a central aspect of education-related procurement. The Committee recalls the urgency of ratifying and implementing the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled.

23 Accessibility requires that education at all levels be affordable for students with disabilities. Reasonable accommodation should not entail additional costs for learners with disabilities. Compulsory, quality, free and accessible primary education is an immediate

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<sup>7</sup> CESCR E/C.12/1999/10

<sup>8</sup> CRPD General Comment 2, Article 9, Accessibility, CRPD/C/GC/2

obligation. In line with the 2030 Agenda for Sustainable Development, States parties must progressively adopt measures to ensure that all children, including children with disabilities, complete free, equitable and quality secondary education, and to ensure equal access for all women and men with disabilities to affordable and quality technical, vocational and tertiary education, including university, and life-long learning. States parties must ensure that persons with disabilities are able to access education in both public and private academic institutions on an equal basis with others.

24 Acceptability is the obligation to design and implement all education-related facilities, goods and services taking full account of and respecting the requirements, cultures, views and languages of persons with disabilities. The form and substance of education provided must be acceptable for all. States parties must adopt affirmative action measures to ensure that education is of good quality for all. Inclusion and quality are reciprocal: an inclusive approach can make a significant contribution to the quality of education.

25 Adaptability - the Committee encourages States parties to apply the Universal Design for Learning (UDL) approach. UDL is a set of principles, providing teachers and other staff with a structure to create adaptable learning environments and develop instruction to meet the diverse needs of all learners. It recognizes that each student learns in a unique manner and involves developing flexible ways to learn: creating an engaging classroom environment; maintaining high expectations for all students, while allowing multiple ways to meet expectations; empowering teachers to think differently about their own teaching; and focusing on educational outcomes for all, including those with disabilities. Curricula must be conceived, designed and applied to meet and adjust to the requirements of every student, and providing appropriate educational responses. Standardised assessments must be replaced by flexible and multiple forms of assessments and recognition of individual progress towards broad goals that provide alternative routes for learning.

26 Paragraph 2(b) also requires that persons with disabilities are able to attend primary and secondary schools within the communities where they live. Students should not be sent away from home. The educational environment must be within safe physical reach for persons with disabilities, including safe and secure transport, or accessible via information communication technology. However, States parties should avoid relying exclusively on technology as a substitute for direct involvement of students with disabilities and interaction with teachers and role models within the educational environment itself. Active participation with other students, including siblings of learners with disabilities, is an important component of the right to inclusive education.

27 Paragraph 2 (c) requires States parties to provide reasonable accommodation, for individual students to enable them to access an education on an equal basis with others. “Reasonableness” is understood as the result of a contextual test that involves an analysis of the relevance and the effectiveness of the accommodation, and the expected goal of countering discrimination. The availability of resources and financial implications is recognized when assessing disproportionate burden. The duty to provide reasonable

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• CESCR E/C.12/1999/10

accommodation is enforceable from the moment it is requested.<sup>10</sup> Policies that commit to reasonable accommodation must be adopted at national, local and education institution levels, and at all levels of education. The extent to which reasonable accommodation is provided must be considered in light of the overall obligation to develop an inclusive education system, maximising the use of existing resources and developing new ones. Using the lack of resources and financial crises as justification for failure to make progress towards inclusive education violates article 24.

28 The Committee reiterates the distinction between the general accessibility duty and the obligation to provide reasonable accommodation.<sup>11</sup> Accessibility benefits groups of the population and is based on a set of standards that are implemented gradually. Disproportionality or undue burden cannot be claimed to defend the failure to provide accessibility. Reasonable accommodation relates to an individual and is complementary to the accessibility duty. An individual can legitimately request reasonable accommodation measures even if the State party has fulfilled its accessibility duty.

29 The definition of what is proportionate will necessarily vary according to context. Availability of accommodations should be considered with respect to a larger pool of educational resources available in the education system, and not limited to resources available at the academic institution in question; transfer of resources within the system should be possible. There is no “one size fits all” formula to reasonable accommodation, and different students with the same impairment may require different accommodations. Accommodations may include changing the location of a class, providing different forms of in-class communication, enlarging print, materials and/or subjects in sign, or providing all handouts in an alternative format, providing students with a note-taker, or a language interpreter or allowing students to use assistive technology in learning and assessment situations. Provision of non-material accommodations, such as allowing a student more time, reducing levels of background noise, sensitivity to sensory overload, alternative evaluation methods or replacing an element of curriculum by an alternative element, must also be considered. Discussions between the educational authorities and providers, the academic institution, the student with a disability, and depending on the student’s age and capacity, if appropriate, their parents/caregivers and/or family members must take place to ensure that the accommodation meets the requirements, will, preferences and choices of the student and can be implemented by the institution provider. Provision of reasonable accommodation may not be conditional on a medical diagnosis of impairment and should be based instead on the evaluation of social barriers to education.

30 The denial of reasonable accommodation constitutes discrimination and the duty to provide reasonable accommodation is immediately applicable and not subject to progressive realization. States parties must ensure that independent systems are in place to monitor the appropriateness and effectiveness of accommodations, and provide safe, timely, and accessible mechanisms for redress when students with disabilities, and if relevant, their families, consider that they have not been adequately provided or have experienced

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<sup>10</sup> CRPD General Comment 2, Article 9, Accessibility, CRPD/C/GC/2

<sup>11</sup> CRPD/C/GC/2

discrimination. Measures to protect victims of discrimination against victimization during the redress process are essential.

31 Paragraph 2 (d) affirms that students with disabilities are entitled to the support they require to facilitate their effective education and enable them to fulfil their potential on an equal basis with others. Support in terms of general availability of services and facilities within the education system should ensure that students with disabilities are able to fulfil their potential to the maximum extent possible, including, for example, the provision of sufficient trained and supported teaching staff, school counsellors, psychologists, and other relevant health and social service professionals, as well as access to scholarships and financial resources.

32 Paragraph 2 (e) requires that adequate continuous personalised support is provided directly. The Committee emphasizes the necessity for the provision of individualised education plans, which can identify the reasonable accommodations and specific support required for an individual student, including the provision of assistive compensatory aids, specific learning materials in alternative/accessible formats, modes and means of communication, and communication aids and assistive and information technology. Support can also consist of a qualified learning support assistant, either shared or on a one-to-one basis, depending on the requirements of the student. Individualized education plans must address the transitions experienced by the learners from segregated settings and between levels of education. Effectiveness of these plans should be regularly monitored and evaluated with the direct involvement of the learner concerned. The nature of provision must be determined in collaboration with the student, together, where appropriate, with the parents or caregivers/third parties. The learner must have access to recourse mechanisms if the support is unavailable or inadequate.

33 Any support measures provided must be compliant with the goal of inclusion. Accordingly, they must be designed to strengthen opportunities for students with disabilities to participate in the classroom and in out-of-school activities alongside their peers, rather than marginalise them.

34 Regarding article 24, paragraph 3, many States parties are failing to make appropriate provision for persons with disabilities, particularly persons on the autism spectrum, those with communication impairments and with sensory disabilities, to acquire the life, language and social skills essential for participation in education and within their communities.

- a) Blind and partially sighted students must be provided with opportunities to learn Braille, alternative script, augmentative and alternative modes, means and formats of communication, as well as orientation and mobility skills. Investment in access to appropriate technology and alternative communication systems to facilitate learning should be supported. Peer support and mentoring schemes should be introduced and encouraged.
- b) Deaf and hard of hearing students must be provided with the opportunity to learn sign language, and measures taken to recognise and promote the linguistic identity of the

deaf community. The Committee draws the attention of States parties to UNESCO's Convention against Discrimination in Education which establishes the right of children to be taught in their own language, and reminds States parties that Article 30(4) requires that persons with disabilities are entitled, on an equal basis with others, to recognition of and support for their specific cultural and linguistic identity, including sign language and deaf culture. In addition, hard-of-hearing students must also have access to quality speech therapy services, induction loop technology and captioning.

- c) Students who are blind, deaf or deafblind must be provided with education delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize personal, academic and social development both within and outside formal school settings. The Committee emphasises that for such inclusive environments to occur, States parties should provide the required support, including by way of resources, assisted technology, and provision of orientation and mobility skills.
- d) Learners with communication impairments must be provided with the opportunity to express themselves and learn using alternative or augmentative communication. This may include but is not limited to provision of sign language, low or high tech communication aids such as tablets with speech output, voice output communication aids (VOCAS) or communication books. States parties should invest in developing expertise, technology and services in order to promote access to appropriate technology and alternative communication systems to facilitate learning.
- e) Learners with social communication difficulties must be supported through adaptations to classroom organisation, including working in pairs, peer tutoring, seating close to the teacher and the creation of a structured and predictable environment.
- f) Learners with intellectual impairments must be provided with concrete, observable/visual and easy-read teaching and learning materials within a safe, quiet and structured learning environment, targeting capacities that will best prepare student for independent living and vocational contexts. States parties should invest in inclusive interactive classrooms using alternative instructional strategies and assessment methods.

35 Article 24, paragraph 4 requires States parties to take appropriate measures to employ administration, teaching and non-teaching staff with the skills to work effectively in inclusive education environments and qualified in sign language and/or Braille, orientation and mobility skills. An adequate number of qualified and committed school staff is a key asset in the introduction and sustainability of inclusive education. The lack of understanding and capacity remain significant barriers to inclusion. States parties must ensure that all teachers are trained in inclusive education based on the human rights model of disability.

36 States parties must invest in and support the recruitment and continuous education of teachers with disabilities. This includes removing any legislative or policy barriers requiring candidates to fulfil specific medical eligibility criteria, and the provision of reasonable

accommodations for their participation as teachers. Their presence will serve to promote equal rights for persons with disabilities to enter the teaching profession, bring unique expertise and skills into learning environments, contribute to breaking down barriers and serve as important role models.

37 According to article 24, paragraph 5, States parties should 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. Attitudinal, physical, linguistic, communication, financial, legal and other barriers to education at these levels must be identified and removed in order to ensure equal access. Reasonable accommodation must be provided to ensure that persons with disabilities do not face discrimination. States parties should consider taking affirmative action measures in tertiary education in favour of learners with disabilities.

### 3 OBLIGATIONS OF STATES PARTIES

38 States parties should respect, protect and fulfill each of the essential features of the right to inclusive education: availability, accessibility, acceptability, adaptability. The obligation to *respect* requires avoiding measures that hinder the enjoyment of the right, such as legislation excluding certain children with disabilities from education, or denial of accessibility or reasonable accommodation. The obligation to *protect* requires taking measures that prevent third parties from interfering with the enjoyment of the right, for example, parents refusing to send girls with disabilities to school, or private institutions refusing to enrol persons with disabilities based on their impairment. The obligation to *fulfill* requires taking measures that enable and assist persons with disabilities to enjoy the right to education, for example, that education institutions are accessible and that education systems are adapted appropriately with resources and services.

39 Article 4.2 requires that States parties undertake measures to the maximum of their available resources regarding economic, social and cultural rights, and, where needed, within a framework of international cooperation, with a view to achieving progressively the full realisation of those rights. Progressive realization means that States parties have a specific and continuing obligation “*to move as expeditiously and effectively as possible*” towards the full realization of article 24.<sup>12</sup> This is not compatible with sustaining two systems of education: mainstream and special/segregated education systems. Progressive realization must be read according to the overall objective of the Convention to establish clear obligations for States parties in respect of the full realization of the rights in question. Similarly, States parties are encouraged to redefine budgetary allocations for education, including transferring budgets to develop inclusive education. Any deliberately retrogressive measures in that regard must not disproportionately target learners with disabilities at any level of education.<sup>13</sup> They must be only a temporary measure limited to the period of crisis,

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<sup>12</sup> see CESCR General Comment 3, para. 9, The nature of States parties' obligations (art. 2, para. 1, of the Covenant), 1990.

<sup>13</sup> CESCR, General Comment 3, The nature of States parties' obligations (art. 2, para. 1, of the Covenant), 1990.

be necessary and proportionate, not be discriminatory and comprise all possible measures to mitigate inequalities.<sup>14</sup>

40 Progressive realization does not prejudice those obligations that are immediately applicable. Drawing from CESCR's General Comment, States parties have "*a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels*" of each of the features of the right to education.<sup>15</sup> Therefore States parties should implement the following core rights with immediate effect:

- a) Non-discrimination in all aspects of education and encompassing all internationally prohibited grounds of discrimination. States parties must ensure non-exclusion from education for persons with disabilities and eliminate structural disadvantages to achieve effective participation and equality for all persons with disabilities. They must take urgent steps to remove all legal, administrative and other forms of discrimination impeding the right of access to inclusive education. The adoption of affirmative action measures does not constitute a violation of the right to non-discrimination with regard to education, so long as such measures do not lead to the maintenance of unequal or separate standards for different groups.
- b) Reasonable accommodations to ensure non-exclusion from education for persons with disabilities. Failure to provide reasonable accommodation constitutes discrimination on disability grounds.
- c) Compulsory, free primary education available to all. States parties must take all appropriate measures to guarantee this right, on the basis of inclusion, to all children and youth with disabilities. The Committee urges States parties to "ensure access to and completion of quality education for all children and youth to at least 12 years of free, publicly funded, inclusive and equitable quality primary and secondary education, of which at least nine years are compulsory, as well as access to quality education for out-of-school children and youth through a range of modalities" as per the Education 2030 Framework for Action.

States parties must adopt and implement a national educational strategy which includes provision of education at all levels for all learners, on the basis of inclusion and equality of opportunity. The educational objectives elaborated in article 24, paragraph 1, place equivalent obligations on States parties and must therefore be regarded on a comparable basis of immediacy.

41 With regard to international cooperation, and in line with SDG 4 and the Education 2030 Framework for Action, all bilateral and multilateral cooperation must advance inclusive

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<sup>14</sup> Letter dated 16 May 2012 addressed by the Chairperson of the Committee on Economic, Social and Cultural Rights to States parties to the International Covenant on Economic, Social and Cultural Rights

<sup>15</sup> CESCR General comment No. 3: The nature of States parties' obligations (art. 2, para. 1, of the Covenant), 1990

and equitable quality education and promote lifelong learning opportunities for all, including support for capacity building, exchange and information sharing and best practices, research, technical and economic assistance, and facilitating access to accessible and assistive technologies. All data and spending of international assistance on education should be disaggregated by impairment. Consideration of an international coordination mechanism on inclusive education to operationalize SDG 4 and to build evidence, contribute to a better policy dialogue and monitor progress.

#### **4 RELATION WITH OTHER PROVISIONS OF THE CONVENTION**

42 States parties must recognize the indivisibility and interdependence of all human rights. Education is integral to the full and effective realization of other rights.<sup>16</sup> Conversely, the right to inclusive education can only be realized if certain other rights are implemented. It must be underpinned by the creation of inclusive environments at the wider societal level. This will necessitate the adoption of the human rights model of disability whereby recognition is afforded to the obligation to remove the societal barriers that serve to exclude and marginalize persons with disabilities and the adoption of measures to ensure implementation of the following rights.

43 Article 5 enshrines the principle of equal protection of all persons before and under the law. State parties must prohibit all disability-based discrimination and provide persons with disabilities effective and equal protection against discrimination on all grounds. To address systemic and structural discrimination and to ensure “equal benefit of the law” State parties must take affirmative action measures, such as removing architectural and communicative or other barriers to mainstream education.

44 Article 6 recognises that women and girls with disabilities are subject to multiple discrimination and States parties must adopt measures to ensure the equal enjoyment of their rights. Intersectional discrimination and exclusion pose significant barriers to the realization of the right to education for women and girls with disabilities. States parties must identify and remove these barriers including, inter alia, gender-based violence and lack of value placed on education of women and girls, and put in place specific measures to ensure that their right to education is not impeded by gender and/or disability discrimination, stigma or prejudice. Harmful gender and/or disability stereotypes must be combatted in textbooks and curricula. Education plays a vital role in combating traditional notions of gender that perpetuate patriarchal and paternalistic societal frameworks.<sup>17</sup> States parties must ensure the access and retention of girls and women with disabilities in education and rehabilitation services as instruments for their development, advancement and empowerment.

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<sup>16</sup> See Committee on Economic, Social and Cultural Rights, general comments No. 11 (1999) on plans of action for primary education and No. 13 (1999) on the right to education.

<sup>17</sup> CEDAW Concept Note on the Draft General Recommendation on Girls'/Women's Right to Education, 2014

45 Article 7 asserts that, in all actions, the best interests of the child shall be a primary consideration. The best interests is a concept aimed at ensuring the full and effective enjoyment by the child of all human rights and the child's holistic development.<sup>18</sup> Any determination of the best interests of a child with a disability must consider the child's own views and individual identity, the preservation of the family, care, protection and safety of the child, any particular vulnerability, and the child's right to health and education. The CRC has affirmed that the best interests of the child must be the basis on which education policies and provision are determined. Article 7 further asserts that children with disabilities have the right to express their views and the latter be given due weight on all matters affecting them, according to their age and maturity on an equal basis with other children, and that they must be provided with disability and age-appropriate assistance. Guaranteeing the right of children to participate in their education must be applied equally to children with disabilities – in their own learning and individualized education plans, within the classroom pedagogy, through schools councils, in the development of school policies and systems, and in the development of wider educational policy.<sup>19</sup>

46 Article 8 calls for measures to raise awareness and challenge stereotypes, prejudices and harmful practices regarding persons with disabilities, particularly targeting those affecting women and girls with disabilities and persons with intellectual disabilities and intensive support requirements. These barriers impede both access to, and effective learning within the education system. The Committee notes the practice of some parents of children without disabilities removing their children from inclusive schools, based on lack of awareness and understanding of the nature of disability. States parties must adopt measures to build a culture of diversity, participation and involvement into community life and to highlight inclusive education as a means to achieve a quality education for all students, with and without disabilities, parents, teachers and school administrations, as well as the community and society. States parties must ensure that mechanisms are in place to foster, at all levels of the education system, and among parents and the wider public, an attitude of respect for the rights of persons with disabilities. Civil society, in particular OPDs, should be involved in all awareness raising activities.

47 Articles 9 and 24 are closely interconnected. Accessibility is a precondition for the full and equal participation of persons with disabilities in society. Persons with disabilities cannot effectively enjoy their right to inclusive education without accessibly built environment, including schools and all other places of education, without accessible public transport, services, information and communication. Modes and means of teaching should be accessible and should be conducted in accessible environments. The whole environment of students with disabilities must be designed in a way that fosters inclusion. Inclusive education itself, on the other hand, is a powerful tool for the promotion of accessibility and universal design.

48 The Committee calls States parties' attention to general comment on article 12 (CRPD/C/GC/1) and stresses that inclusive education provides an opportunity to develop the expression of the will and preferences of students with disabilities, particularly those with

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<sup>18</sup> CRC, General Comment No.14, CRC/C/GC/14, May 2013

<sup>19</sup> CRC General Comment No.12 CRC

psychosocial or intellectual impairments. States parties must ensure that inclusive education supports learners with disabilities in building their confidence to exercise legal capacity, providing the necessary support at all educational levels including to diminish future requirements for support in its exercise if they so wish.

49 Persons with disabilities, particularly women and girls, can be disproportionately affected by violence and abuse, including physical and humiliating punishments by educational personnel, for example, the use of restraints and seclusion, and bullying by others in and on route to school. Article 16 requires that States parties take all appropriate measures to protect from and prevent all forms of violence and abuse towards persons with disabilities, including sexual violence. Such measures must be age, gender and disability sensitive. The Committee strongly endorses the recommendations of the CRC, the Human Rights Committee and CESCR that States parties must prohibit all forms of corporal punishment, and cruel, inhuman and degrading treatment in all settings, including schools, and ensure effective sanctions against perpetrators.<sup>29</sup> It encourages schools and other educational centers to involve students, including students with disabilities, in the development of policies, including accessible protection mechanisms, to address disciplinary measures and bullying, including cyberbullying, which is increasingly recognized as a growing feature of the lives of students, particularly children.

50 Inclusive education requires recognition of the right of persons with disabilities to live within the community and enjoy inclusion and participation in the community (article 19). It also demands recognition of the equal right of persons with disabilities to family life, or, failing that, to alternative care within a community setting. Children in the care of the State party, residing for example in foster care or care homes, must be ensured the right to inclusive education and the right to appeal against decisions of the State party which deny them the right to inclusive education. Too many persons with disabilities remain living in long-term institutional care, lacking access to community-based services, including education, consistent with their right to, inter alia, family life, community living, freedom of association, protection from violence and access to justice. The introduction of inclusive education in the local community must take place alongside a strategic commitment to the ending of institutions for persons with disabilities (see para 64). States parties should note the role that exercising the right to inclusive education will play in building the strengths, skills and competencies necessary for all persons with disabilities to enjoy, benefit from and contribute to their local communities.

51 For inclusive education to be realised effectively, persons with disabilities must be guaranteed personal mobility on an independent basis (article 20). Where transportation is not readily available, and where no personal assistants are available to support access to educational institutions, persons with disabilities, particularly blind and visually impaired persons, must be given adequate training in mobility skills to promote greater independence. States parties should also provide persons with disabilities with the opportunity to acquire mobility aids and appliances at affordable cost.

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<sup>29</sup> CRC General Comment No. 8, CRC/C/GC/8, March 2007;

52 Fulfilment of the right of persons with disabilities to enjoy the highest possible standard of health without discrimination (article 25) is integral to the opportunity to benefit fully from education. The ability to attend educational environments and learn effectively is seriously compromised by lack of access to health and to appropriate treatment and care. States parties should establish health, hygiene and nutrition programmes with a gender perspective that are integrated with education services and allow for continual monitoring of all health needs. Such programmes should be developed on the principles of universal design and accessibility, provide regular school nurse visits and health screening, and build community partnerships. Persons with disabilities, on an equal basis with others, must be provided with age-appropriate, comprehensive and inclusive sexuality education, based on scientific evidence and human rights standards, and in accessible formats.

53 States parties must take effective measures, to provide habilitation and rehabilitation services within the education system, including healthcare, occupational, physical, social, counselling and other services (article 26). Such services must begin at the earliest stage possible, adopt a multidisciplinary assessment of a student's strengths, and support maximum independence, autonomy, respect of dignity, full physical, mental, social and vocational ability and inclusion and participation in all aspects of life. The Committee stresses the significance of supporting the development of community-based rehabilitation, that addresses early identification, and peer support.

54 Quality inclusive education must provide persons with disabilities with preparation for work life through the foundation of the knowledge, skills and confidence necessary for participation in the open labour market and in an open, inclusive and accessible work environment (article 27).

55 Full participation in political and public life is enhanced through the realisation of the right to inclusive education. Curricula for all students must include the topic of citizenship and the skills of self-advocacy and self-representation as fundamental basis for participation in political and societal processes. Public affairs include forming and participating in student organisations such as students' unions and States Parties should promote an environment in which persons with disabilities can form, join and effectively and fully participate in such student organisations through all forms of communication and language of their choice (art 29).

56 States parties must remove barriers and promote accessibility and availability of inclusive opportunities for persons with disabilities to participate on an equal basis with others in play, recreation and sport in the school system, extra-curricular activities and other educational environments (article 30).<sup>21</sup> Appropriate measures must be in place within the educational environment to ensure opportunities for persons with disabilities to access to cultural life and to develop and utilize their creative, artistic and intellectual potential, not only for their own benefit but also for the enrichment of the society. Such measures must ensure that persons with disabilities are entitled to recognition of their specific cultural and linguistic identity, including sign languages and deaf culture.

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<sup>21</sup> CRC No.17, CRC/C/GC/17, April 2013

## **5 IMPLEMENTATION AT THE NATIONAL LEVEL**

57 The Committee has identified a number of consistent challenges facing States parties in the implementation of Article 24. The following measures need to be addressed at the national level in order to implement and sustain an inclusive education system for all persons with disabilities:

58 Responsibility for the education of persons with disabilities at all levels, together with the education of others, must rest with the education ministry. In many countries, the education of persons with disabilities is currently marginalized within ministries of social welfare and/or health which has resulted in, inter alia, exclusion from mainstream education legislation, policy, planning and resourcing, lower levels of per capita investment in the education of persons with disabilities, a lack of overarching and coherent structures in place to support inclusive education, a lack of integrated data collection on enrolment, retention and attainment, and a failure to develop inclusive teacher education. States parties must take urgent measures to put education of learners with disabilities under the competence of the ministry of education.

59 States parties must ensure a comprehensive and inter-sectoral commitment to inclusive education across government. It cannot be realized by education ministries in isolation. All relevant ministries and commissions with responsibilities that cover substantive articles of the Convention must commit to and align their understanding of the implications of an inclusive education system in order to achieve an integrated approach to work collaboratively towards a shared agenda. Accountability measures for all ministries involved must be put into place to uphold such commitments. Partnerships should also be forged with service providers, OPDs, media, wider civil society organisations, local authorities, students associations and federations, universities, and teacher education colleges.

60 States parties, at every level, must implement or introduce legislation, based on the human rights model of disability that fully complies with article 24. The Committee recalls that article 4 (5) requires federal states to ensure that article 24 is implemented without limitations or exceptions in all parts of the State party.

61 A comprehensive and co-ordinated legislative and policy framework for inclusive education must be introduced, together with a clear and adequate time frame for implementation and sanctions for violations. It must address issues of flexibility, diversity and equality in all educational institutions for all learners, and identify responsibilities at all levels of government. Key elements will include:

- a) Compliance with international human rights standards.

- b) A clear definition of inclusion and the specific objectives it seeks to achieve at all educational levels. Inclusion principles and practices must be considered as integral to reform, and not simply an add-on programme.
- c) A substantive right to inclusive education as a key element of the legislative framework. Provisions, for example, which define certain categories of students as ‘uneducable’ must be repealed.
- d) A guarantee for students with and without disabilities to the same right to access inclusive learning opportunities, within the general education system, and for individual learners to the necessary support services at all levels.
- e) A requirement for all new schools to be designed and built following the principle of Universal Design through accessibility standards, together with a time frame for adaptation of existing schools in line with the Committee’s general comment No. 2 (CRPD/C/GC/2). The use of public procurement to implement this element is encouraged.
- f) Introduction of comprehensive quality standards for inclusive education and disability-inclusive monitoring mechanisms to track progress in implementation at all levels and ensure that policies and programmes are implemented and backed by the requisite investment.
- g) Introduction of accessible monitoring mechanisms to ensure that policy, together with the requisite investment, is implemented.
- h) Recognition of the need for reasonable accommodations to support inclusion, based on human rights standards, rather than on the efficient use of resources, together with sanctions for failure to provide reasonable accommodation.
- i) All legislation that potentially impacts upon inclusive education within a country should clearly state inclusion as a concrete goal.
- j) A consistent framework for the early identification, assessment and support required to enable persons with disabilities to flourish in inclusive learning environments.
- k) An obligation on local authorities to plan and provide for all learners, including persons with disabilities, within inclusive settings and classes, including in the most appropriate languages, accessible formats, modes and means of communication.
- l) Establishment of legislation to guarantee all persons with disabilities, including children with disabilities, the right to be heard and their opinion given consideration within the education system, including through school councils, governing bodies,

local and national government, as well as mechanisms through which to challenge and to appeal decisions concerning education.

- m) Creation of partnerships and coordination between all stakeholders, including persons with disabilities through OPDs, different agencies, development organizations, non-governmental organizations (NGO), and with parents/caregivers.

62 Legislation must be supported by an Education Sector Plan, developed in consultation with OPDs, including children, and detailing the process for the implementation of an inclusive education system. It should contain a timeframe and measurable goals, including measures to ensure consistency. The Plan should be informed by a comprehensive analysis of the current context pertaining to inclusive education in order to provide a baseline from which to progress, including data on, for example, current budgetary allocations, quality of data collection, numbers of children with disabilities out of school, challenges and barriers, existing laws and policies, key concerns of both persons with disabilities, families and the State party.

63 States parties must introduce independent, effective, accessible, transparent, safe and enforceable complaints mechanisms and legal remedies in cases of violations of the right to education. Persons with disabilities must have access to justice systems which understand how to accommodate persons with disabilities and are capable of addressing disability-based claims. States parties must also ensure that information about the right to education itself, and how to challenge denial or violations must be widely disseminated and publicized to persons with disabilities, with the involvement of OPDs.

64 Inclusive education is incompatible with institutionalisation. States parties must engage in a well-planned and structured process of de-institutionalisation of persons with disabilities. Such a process must address: a managed transition setting out a defined time frame for the transition; the introduction of a legislative requirement to develop community based provision, the re-direction of funds and the introduction of multi-disciplinary frameworks to support and strengthen community-based services; the provision of support for families; and collaboration and consultation with OPDs, including children, as well as parents/caregivers of persons with disabilities. Pending the process of de-institutionalisation, persons in institutional care settings should be given access to inclusive education with immediate effect through linking them with inclusive academic institutions in the community.

65 Early childhood interventions can be particularly valuable for children with disabilities, serving to strengthen their capacity to benefit from education and promoting their enrolment and attendance. All such interventions must guarantee respect for the dignity and autonomy of the child. In line with SDG 4, and the 2030 Agenda for Sustainable Development, States parties are urged to ensure access to quality early childhood development, care and pre-primary education, together with the provision of support and training to parents and caregivers of young children with disabilities. If identified and supported early, young children with disabilities are more likely to transit smoothly into pre-primary and primary inclusive education settings. States parties must ensure coordination

between all relevant ministries, authorities and bodies as well as OPDs and other NGO partners.

66 In accordance with Article 31, States parties must collect appropriate disaggregated data to formulate policies, plans and programmes to fulfill their obligations under Article 24. They must introduce measures to address the lack of accurate data on prevalence of persons with different impairments, as well as the lack of sufficient quality research and data relating to access to, permanence, and progress within education, provision of reasonable accommodation and the associated outcomes. Census, survey and administrative data, including Education Management Information System (EMIS), must capture data on students with disabilities including those still living in institutional settings. States parties should also gather disaggregated data and evidence on the barriers that prevent persons with disabilities from having access to, remaining in, and making progress in inclusive quality education to enable the adoption of effective measures to dismantle such barriers. Strategies must be adopted to overcome the exclusion of persons with disabilities from standard quantitative and qualitative data gathering mechanisms, including reluctance of parents to admit the existence of a child with a disability, lack of birth registration, or invisibility within institutions.

67 State parties must commit sufficient financial and human resources throughout the development of Education Sector and cross-sector Plans to support the implementation of inclusive education, consistent with progressive realization. States parties must reform their governance systems and financing mechanisms to ensure the right to education of all persons with disabilities. States parties should also allocate budgets using mechanisms available under public procurement processes and partnerships with the private sector. These allocations must prioritise, inter alia, ensuring adequate resources for rendering existing educational settings accessible in a time bound manner, investment in inclusive teacher education, making available reasonable accommodations, providing accessible transport to school, making available appropriate and accessible text books, teaching and learning materials, ensuring assistive technology provisioning and Sign Language, and providing awareness raising initiatives to address stigma and discrimination, particularly bullying in educational settings.

68 The Committee urges States parties to achieve a transfer of resources from segregated to inclusive environments. States parties should develop a funding model that allocates resources and incentives for inclusive educational environments to provide the necessary support to persons with disabilities. The determination of the most appropriate approach to funding will be informed to a significant degree by the existing educational environment and the requirements of potential learners with disabilities who are affected by it.

69 A process of educating all teachers at pre-school, primary, secondary, tertiary and vocational education levels must be initiated to provide them with the necessary core competencies and values to work in inclusive educational environments. This requires adaptations to both pre and in-service training to develop appropriate skill levels in the shortest time possible to facilitate the transition to an inclusive education system. All teachers must be provided with dedicated units/modules to prepare them to work in inclusive

settings, as well as practical experiential learning, where they can build the skills and confidence to problem-solve through diverse inclusion challenges. The core content of teacher education must address a basic understanding of human diversity, growth and development, the human rights model of disability, and inclusive pedagogy including how to identify students' functional abilities -strengths, abilities and learning styles- to ensure their participation in inclusive educational environments. Teacher education should include learning about the use of appropriate augmentative and alternative modes, means and formats of communication, such as Braille, large print, accessible multimedia, easyread, plain language, sign language and deaf culture, education techniques and materials to support persons with disabilities. In addition, teachers need practical guidance and support in, among others: the provision of individualized instruction; teaching the same content using varied teaching methods to respond to the learning styles and unique abilities of each person; the development and use of individual educational plans to support specific learning requirements; and the introduction of a pedagogy centred around students' educational objectives.

70 Inclusive education requires a support and resource system for teachers in educational institutions at all levels. This might include partnerships between neighbouring education institutions, including universities, promoting collaborative practice including team teaching, study groups, joint student assessment processes, peer support and exchange visits as well as partnerships with civil society. Parents/caregivers of students with disabilities, where appropriate, can serve as partners in the development and implementation of learning programmes, including individualized education plans. They can play a significant role in advising and supporting teachers in provision of support to individual students, but must never be a pre-requisite for admission into the education system. States parties should utilise all possible sources of support for teachers, including OPDs learners with disabilities and local community members who can contribute significantly in the form of peer mentoring, partnering and problem solving. Their involvement provides an additional resource in the classroom and also serves to build links with local communities, breaking down barriers and rendering them more responsive and sensitive to strengths and requirements of students with disabilities.

71 Authorities at all levels must have the capacity, commitment and resources to implement the laws, policies and programmes in place to support inclusive education. States parties must ensure the development and delivery of training to inform all relevant authorities of their responsibilities under the law, and to provide an understanding of the rights of persons with disabilities. The skills, knowledge and understanding necessary to implement inclusive education policies and practice will include: understanding of the concept of the right to inclusive education and its aims, knowledge of the relevant international and national legislation and policies, development of local inclusive education plans, collaboration and partnerships, support, guidance and supervision of local education institutions, monitoring and evaluation.

72 Quality inclusive education requires methods of appraising and monitoring students' progress that considers the barriers faced by students with disabilities. Traditional systems of assessment, utilising standardized achievement test scores as the sole indicator of success for

both students and schools may disadvantage students with disabilities. The emphasis should be on individual progress towards broad goals. With appropriate teaching methodologies, support and accommodations, all curricula can be adapted to meet the needs of all students, including those with disabilities. Inclusive student assessment systems can be strengthened through a system of individualized supports.

73 Compliant with article 33, and to measure progress on the realization of the right to education through the establishment of an inclusive education system, States parties must develop monitoring frameworks with structural, process and outcome indicators, and specific benchmarks and targets for each indicator, consistent with SDG 4.<sup>28</sup> Persons with disabilities, through OPDs, should be involved in both the determination of the indicators as well as the collection of data and statistics. Structural indicators should measure barriers to inclusive education and not be limited merely to collecting data disaggregated by impairment. Process indicators, such as changes to accessibility of physical environments, curriculum adaptations or teacher training will enable monitoring of the progress of the transformation. Outcome indicators must also be established, for example, percentage of students with disabilities in inclusive learning environments obtaining final official certification or diplomas, or the percentage of students with disabilities admitted to secondary education. States parties should also consider measuring the quality of education through, for example, the five dimensions recommended by UNESCO: respect for rights, equity, relevance, pertinence, efficiency and efficacy. Monitoring affirmative action measures, such as quotas or incentives may also be considered.

74 The Committee notes the growth in many countries of private sector education. States parties must recognize that the right to inclusive education extends to the provision of all education, not merely that provided by public authorities. States parties must adopt measures to protect against infringements of rights by third parties, including the business sector. Regarding the right to education, such measures must address the obligation to guarantee the provision of inclusive education, and as necessary, involve legislation and regulation, monitoring, oversight, and enforcement, and adoption of policies to frame how business enterprises can impact on the effective enjoyment and exercise of rights by persons with disabilities. Educational institutions, including private educational institutions and enterprises, should not charge additional fees for reasons of accessibility and/or reasonable accommodation.

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<sup>28</sup>See OHCHR, *Human Rights Indicators: A guide to measurement and implementation* (New York and Geneva, 2012)