



# General Assembly

Distr.: General  
22 January 2019

Original: English

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## Human Rights Council

### Fortieth session

25 February–22 March 2019

Agenda items 2 and 3

### Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

**Promotion and protection of all human rights, civil  
political, economic, social and cultural rights,  
including the right to development**

## **Empowering children with disabilities for the enjoyment of their human rights, including through inclusive education\***

### **Report of the United Nations High Commissioner for Human Rights**

#### *Summary*

In the present report, submitted pursuant to Human Rights Council resolution 37/20, the United Nations High Commissioner for Human Rights provides an overview of the legal framework and practical measures to empower children with disabilities. She focuses on empowerment through participation and inclusive education, and analyses how to foster the personal and public decision-making of children with disabilities, their inclusion in the community and their protection from abuse, exploitation and violence. The High Commissioner concludes the report with a number of recommendations to assist States in empowering children with disabilities for the enjoyment of their human rights.

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\* Agreement was reached to publish the present report after the standard publication date owing to circumstances beyond the submitter's control.



## I. Introduction

1. In its resolution 37/20, the Human Rights Council requested the United Nations High Commissioner for Human Rights to prepare a report on the theme of empowering children with disabilities for the enjoyment of their human rights, including through inclusive education, and to present it to the Council at its fortieth session with a view to providing information for the annual full-day meeting on the rights of the child.

2. Children with disabilities hold the same rights as all children, and their empowerment depends upon the realization of those rights. Recognition and respect for a child's agency as a participant in the family, community and society is frequently overlooked, or rejected as inappropriate across cultures and regions. Children with disabilities face a range of intersecting barriers to the enjoyment and exercise of their rights due to their gender, age, impairment, colour, race, ethnic or social origin and religion, among other grounds. From birth, children with disabilities face a greater risk of not being registered nor counted, being denied education and equal opportunities of play and inclusion in the community. Compared to other children, they are more likely to be placed in institutions and to be exposed to violence in those settings, as well as in the home, at school and in the community at large. The rights violations that children with disabilities experience are intensified by the barriers that they face in claiming their rights, including their right to participation, to express their views and be heard in decision-making, and in their access to justice.

3. Although "empowerment" has not been defined by international human rights law, it is widely understood as a term that covers a broad range of measures aimed at achieving self-determination and full participation in society. Empowerment is about enabling each individual to take hold of their own inherent power to shape their life and the life of their community. It is also about avoiding and eliminating measures and practices that have the effect of diminishing, ignoring or dismissing one's power in this same respect. In the present report, the High Commissioner addresses the empowerment of children with disabilities in terms of supporting and fostering their agency, and equipping them with the competences, knowledge and environments to enable them to determine the direction of their own lives and of the life of their community, particularly in the exercise of their rights and in matters concerning them.

4. A robust legal and policy framework, increased understanding and awareness of the rights of children with disabilities, and the implementation of good practices for inclusion and participation can help to empower children with disabilities to enjoy their rights in full and on an equal footing with other children. Their inclusion in education is one crucial element of such empowerment and a central pathway to enabling their active involvement in the community and in decisions and policies that affect them. Children with disabilities can be empowered by system-wide measures to eliminate discrimination and harmful stereotypes, protect them from violence and abuse, ensure their right to live in their community supported by their families in their empowerment, and ensure effective monitoring, accountability and access to justice.

5. For the preparation of the present report, the Office of the High Commissioner addressed a note verbale to all Member States requesting their input. The Office received written contributions from 25 States. It also received submissions from a number of civil society organizations, United Nations agencies and other international entities, including the United Nations Children's Fund (UNICEF) and the Special Representative of the Secretary-General for Children and Armed Conflict.<sup>1</sup>

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<sup>1</sup> See [www.ohchr.org/EN/Issues/Children/ThematicReports/Pages/ChildrenWithDisabilities.aspx](http://www.ohchr.org/EN/Issues/Children/ThematicReports/Pages/ChildrenWithDisabilities.aspx).

## II. Empowerment through participation

6. Empowerment and decision-making are mutually reinforcing. Having a say and taking part in decisions concerning one's own life and community promote agency and empowerment. At the same time, an enabling environment that fosters empowerment and the exercise of rights serves to strengthen participation and decision-making further. Participation is an ongoing process that includes information-sharing and dialogue between children and adults based on mutual respect, and in which children can learn how their views and those of adults are taken into account and shape the outcome of such processes.<sup>2</sup> The meaningful participation of children with disabilities in all matters affecting their lives is fundamental in the implementation of their rights, and should thus be at the heart of their empowerment.<sup>3</sup> It empowers children by helping them to build competence, skills and knowledge, expand aspirations and gain confidence. It also leads to the recognition on the part of duty bearers that children with disabilities are rights holders entitled to play an active role in their communities and in society at large.<sup>4</sup> Participation is a cross-cutting concept that is both a substantive right and a principle underlying the realization of all human rights of children with disabilities.

### A. Legal framework

7. Both the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities set out a robust normative framework for the full and effective participation of children with disabilities in all decisions that affect them, whether they concern them individually or directly, regarding the entire range of their rights, including access to care, education, health, play or any other aspect of their life, or they relate to general policies relevant to all children, with or without disabilities. According to article 12 of the Convention on the Rights of the Child, States parties are to assure to the child who is capable of forming his or her views the right to express their views freely in all matters affecting the child, the views of the child being given due weight in accordance with the child's age and maturity. This right reinforces the status of the child as an active participant in the promotion, protection and monitoring of his or her rights. The Committee on the Rights of the Child has interpreted the right to be heard under article 12 as one of the Convention's fundamental values and general principles, along with the right to non-discrimination, the right to life and development, and the primary consideration of the child's best interests.<sup>5</sup>

8. The Convention on the Rights of Persons with Disabilities builds on the language of article 12 of the Convention on the Rights of the Child by requiring States to ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability- and age-appropriate assistance to realize that right. It differs from the Convention on the Rights of the Child in that it does not refer to the child's capability to form his or her views as a prerequisite to enjoy the right to be heard. This omission reflects the understanding that all children, regardless of their age and manner of communication, should be regarded as capable of forming views and, with appropriate support, conveying them. As stressed subsequently by the Committee on the Rights of the Child, the young age or the impairment of a child does not deprive them of the right to express their views nor reduce the weight given to the child's views in determining their interests.<sup>6</sup>

<sup>2</sup> Committee on the Rights of the Child, general comment No. 12 (2009) on the right of the child to be heard, para. 3.

<sup>3</sup> Committee on the Rights of Persons with Disabilities, general comment No. 7, paras. 24–26, 33 and 74.

<sup>4</sup> *Ibid.*, paras. 24–26 and 74.

<sup>5</sup> Committee on the Rights of the Child, general comment No. 12, para. 2.

<sup>6</sup> *Ibid.*, para. 21.

9. The Convention on the Rights of the Child thus reinforces the obligation of States to recognize and respect the evolving capacities of children with disabilities and to provide support to strengthen their capacities to enable independent decision-making. In its general comment No. 20 (2016) on the implementation of the rights of the child during adolescence, the Committee on the Rights of the Child called for the provision of supported decision-making for adolescents with disabilities in order to facilitate their active participation in all matters concerning them. Direction and guidance should be offered in a child-centred way, through dialogue and example, in ways that enhance young children's capacities to exercise their rights, including their right to participation.<sup>7</sup> In this respect, article 7 of the Convention introduces an explicit requirement that children with disabilities must be provided with disability- and age-appropriate assistance to realize their right to be heard.

10. Examples of specific support and accommodation that children with disabilities may require include sign language interpretation, Easy Read format, Braille, tactile communication, communication software, gesture to voice conversion technology and personal digital assistants. Non-verbal forms of communication, including play, body language, facial expressions and drawing and painting, must also be recognized and respected. For instance, expression through art has been successfully used to explore the perspective of children with disabilities who do not communicate verbally. It may require time to build an appropriate communication method as, for example, in the case of children with autism or multiple impairments, whose communication may have to be facilitated through specific means.

11. The requirement to involve the child in all matters affecting them must be interpreted broadly.<sup>8</sup> The child's views should be sought and taken into account in all decisions and proceedings affecting them, and their right to be heard should be consistently applied by all those concerned, including parents, teachers, caregivers, medical professionals, social workers, administrators, judges, lawyers, parliamentarians and others. This is particularly important in those areas where children with disabilities are more likely to be subjected to human rights violations, for example, in relation to enjoying and exercising their rights to family, to live and be included in the community, to freedom from abuse, exploitation and violence, and to access to justice and inclusive education, among others.

## **B. Enabling children with disabilities to decide on their own lives**

12. Children with disabilities must have a say on where and with whom they want to live. They must be enabled to meaningfully participate in all decisions relating to their care arrangements, including proceedings concerning removal from parents or placement in alternative care.<sup>9</sup> In its general comment No. 7 (2018) on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention, the Committee on the Rights of Persons with Disabilities recommended that States ensure consultations with and the active involvement of children with disabilities in the adoption of all plans and strategies as well as for follow-up and monitoring when implementing the right to independent living in the community. Family law and policies should moreover include provisions to support and educate the parents of children with disabilities on their responsibility to involve their children in decisions affecting them.

13. Empowerment implies that children with disabilities exercise specific skills that are generally not acquired in family settings where there is no experience relating to living with an impairment. Furthermore, the needs arising from particular impairments may not relate to existing knowledge in their communities, and children may require specific training in order to manage their day-to-day needs. Learning how to manage their own bodies

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<sup>7</sup> Committee on the Rights of the Child, general comment No. 5, para. 17.

<sup>8</sup> Committee on the Rights of the Child, general comment No. 12, paras. 26 and 27.

<sup>9</sup> *Ibid.*, paras. 53, 54 and 97.

according to their diversity without stigma is fundamental to building their autonomy and self-esteem. Children should have access to such training so that they can develop independence to be fully included and participate in society.

14. For children with disabilities, understanding how their bodies function and to acquire the skills necessary to take care of themselves has repercussions beyond their social inclusion and development. For example, gender-based violence can be underreported when young people with disabilities do not know the boundaries of their intimacy and, consequently, do not denounce when such limits have been breached against their will. Children with disabilities are often treated as children beyond reaching majority, and commonly face infringements of their intimacy in family and institutional settings. Children with intellectual and psychosocial disabilities are disproportionately affected by this phenomenon. Sexuality education builds understanding of their own bodies as well as confidence to identify their own limits, and thus helps to prevent abuse and facilitate their healthy transitioning from childhood to adolescence and adulthood.

### **C. Participation of children with disabilities in decisions affecting them**

15. All children, including children with disabilities, are entitled to participate in public decision-making and measures that affect their lives.<sup>10</sup> Both the Committee on the Rights of the Child and the Committee on the Rights of Persons with Disabilities have emphasized that there is no limitation on the scope of proceedings in which the child can be heard.<sup>11</sup> This should include not only issues that can be described as “disability-related” (for example, deinstitutionalization, disability benefits, personal assistance, accessibility requirements or reasonable accommodation policies), but also issues that affect all children (such as family and support services, education, health, access to justice, social and environmental protection urban planning, public resource allocation, transport, or school design). Article 4, paragraph 3 of the Convention on the Rights of Persons with Disabilities explicitly refers to the obligation of States to “closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations” in the development and implementation of legislation and policies and other decision-making processes concerning them.

16. The Committee on the Rights of Persons with Disabilities has explained that “representative organizations” are organizations that are led, directed and governed by persons with disabilities. They include organizations and initiatives of children and young persons with disabilities that are fundamental for the participation of children in public and community life and for their right to be heard and their freedom of expression and association.<sup>12</sup> The Committee has emphasized that adults have a key and supportive role to play in enabling children and young persons with disabilities to establish and act, formally or informally, within their own organizations and initiatives. The State is responsible for creating an enabling environment for the establishment and functioning of child-led organizations, including by increasing public resources to enable them to fulfil their role under the Convention.<sup>13</sup> These spaces should allow children to safely explore and express their views without criticism or punishment. Particular attention should be paid in this regard to the inclusion of the most marginalized groups and girls with disabilities, and the constituencies or representative organizations of persons with disabilities representing specific impairment groups.

17. Many States are already implementing good practices in this regard. For example, in its submission, the Plurinational State of Bolivia explained that the Ministry of Education coordinates actions with organizations led by persons with disabilities in order to strengthen their participation, representation and co-responsibility within the community. In this

<sup>10</sup> Committee on the Rights of the Child, general comment No. 12, para. 87.

<sup>11</sup> *Ibid.*, para. 32.

<sup>12</sup> Committee on the Rights of Persons with Disabilities, general comment No. 7, para. 12 (f).

<sup>13</sup> See CRPD/C/GAB/CO/1, para. 9, CRPD/C/KEN/CO/1, para. 8, CRPD/C/AUS/CO/1, para. 13 and CRPD/C/HUN/CO/1, para. 14.

context, councils have been set up to support the participation of persons with impairments in matters affecting them, in coordination with associations of parents of children with disabilities. Ombudspersons also play an important role in supporting the participation of children and adolescents with disabilities in decision-making at the municipal level.

18. In its submission, Denmark described how the Danish Disability Council supports campaigns to raise awareness and promote respect for the rights of persons with disabilities. The Act on Social Services stipulates that municipalities, in cooperation with parents, are to involve the child or young person with impaired physical or mental function when identifying their needs, taking into account their views, age and maturity, as well as their best interests. A caseworker tool, developed to strengthen the support given by municipalities to children with disabilities, stores relevant information on their circumstances, including on the individual views of the child.

### III. Core elements of an enabling environment

#### A. Living and being included in the community

19. Families can be a fundamental channel to a child's empowerment. The importance of growing up in a supportive family environment for the full and harmonious development of a child's personality is recognized throughout the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities.<sup>14</sup> Article 23 of the latter treaty guarantees the equal rights of children with disabilities with respect to family life, and sets out the State's obligation to provide early and comprehensive information, services and support to children with disabilities and their families in order to prevent concealment, abandonment, neglect and segregation of children with disabilities (para. 3). It prohibits a child's separation from their parents against their will unless deemed in the child's best interests, precluding any separation on the basis of a disability of either the child or one or both of the parents (para. 4); and where the immediate family is unable to care for them, every effort should be made to provide alternative care within the wider family and, as a measure of last resort, within the community in a family setting (para. 5). The standards clearly show that, for children, the core of the right to live independently and be included in the community entails a right to grow up in a family, and that the necessary information, guidance and assistance should be provided to families to ensure that they can in turn provide support and living conditions necessary for the child's optimum development.<sup>15</sup> This support must be respectful of the rights and evolving capacities of the child and the increasing contribution they make to their own lives.<sup>16</sup>

20. Despite the fact that the placement of children with disabilities in institutional care remains a practice in many countries,<sup>17</sup> according to article 19 of the Convention on the Rights of Persons with Disabilities, all persons with disabilities have the right to live in the community, with choices equal to those of others, and must have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others. The institutionalization of children with disabilities heightens their risk of rights violations on multiple grounds, and is in itself an inherently disempowering practice that impedes their inclusion and participation in the community. The Committee on the Rights of Persons with Disabilities has in particular highlighted the higher risk run by children with intellectual disabilities, children with autism and children with psychosocial disabilities

<sup>14</sup> See preamble to the Convention on the Rights of the Child, and preamble to the Convention on the Rights of Persons with Disabilities and arts. 5, 9 and 18.

<sup>15</sup> See Committee on the Rights of Persons with Disabilities, general comment No. 5, paras. 37, 67, 75 and 87, and Committee on the Rights of the Child, general comment No. 20, para. 50.

<sup>16</sup> Committee on the Rights of the Child, general comment No. 20, para. 50.

<sup>17</sup> UNICEF, *Children and Young People with Disabilities*, Fact Sheet, May 2013, p. 24. See also UNICEF, *The State of the World's Children Report 2013: Children with Disabilities*, May 2013, p. 42; and United Nations, *Realization of the Sustainable Development Goals by, for and with Persons with Disabilities*, UN Flagship Report on Disability and Development 2018, p. 247.

being placed into institutions, frequently upon the advice of medical professionals. There is ample evidence demonstrating that institutions are detrimental to a child's development and well-being. Children growing up in institutional environments experience delays in their development, especially in early childhood, and potentially irreversible psychological damage, including that caused by emotional neglect. Institutionalized children run a much higher risk of psychological, physical and sexual violence. Moreover, institutionalization is one of the most serious barriers to inclusive education.

21. Article 19 of the Convention on the Rights of Persons with Disabilities provides for the right to live independently and be included in the community, which precludes segregation and institutionalization for the purposes of care or treatment. The Committee on the Rights of Persons with Disabilities has repeatedly identified deinstitutionalization as a matter of priority. It has stressed that States are required to have a strategy and a concrete action plan for deinstitutionalization that requires the closure of institutions as well as systematic transformation leading to the creation of community-based inclusive support services.<sup>18</sup> These strategies must be cross-sectoral, involving social welfare, social protection, health, education and finance ministries, in order to establish coherent and sustainable community and family-based services. They should engage all actors to the same end, including training and awareness-raising among community and social workers, as well as health and education professionals, in order to foster a commitment by the entire community.

22. Engagement with the community is necessary to facilitate empowerment. No child is an island; children flourish when they are included in their community, and they should be exposed to multiple spaces where they can participate and feel that they belong. School should not be portrayed as the only option; sports and peer support and exchange are also activities and spaces that foster their inclusion and empowerment.

23. In spite of the ongoing practice of institutionalizing children with disabilities, targeted efforts towards deinstitutionalization are being made in a number of countries. In its submission, Croatia described its plan of deinstitutionalization and transformation of social welfare homes and other legal entities, a national strategy to implement deinstitutionalization and the transformation of care institutions, particularly by developing the range of non-institutional services for children with developmental disabilities, and supporting their full inclusion in community life by ensuring the availability of the requisite services. A variety of community services have been developed to support the inclusion of children with developmental disabilities in community life. These include organized housing with support, counselling and other services provided through mobile teams, psychosocial support services, and early intervention and assistance to facilitate the inclusion of children with disabilities in education. The strategy includes specialized training for education assistants and efforts to increase the involvement of children with disabilities in the community through sport, alongside the expansion of accessible sporting and other community facilities.

24. According to the submission of Romania, the National Authority for the Protection of the Rights of the Child and Adoption is implementing a project on the development of plans for the deinstitutionalization of children deprived of parental care and their transfer to community-based care, with the aim of continuing the process of deinstitutionalization of children, including children with disabilities. The project supports the capacity of local authorities to close down institutions and to develop alternative services for children through the social protection system. Children with disabilities are involved in the assessment of activities carried out within the project, and their opinions are taken into account when the placement centres where they reside are in the process of being closed.

25. In Sweden, in order to promote the full participation and equality of children with disabilities, all institutional accommodation has been phased out, replaced by alternative forms of community-based financial support and targeted services, developed to enable children with disabilities to live independently. The Försäkringskassan administers targeted

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<sup>18</sup> See Committee on the Rights of Persons with Disabilities, general comment No. 5.

social insurance for parents who have children with disabilities, in addition to the regular financial support provided under the social insurance system.

## **B. Freedom from abuse, exploitation and violence**

26. Children with disabilities face a heightened risk of abuse, exploitation and violence as much in times of peace as in situations of humanitarian emergency. This is due to a number of factors, including widespread stigma and discrimination, lack of accessible information or support with regard to their right and due assistance, lack of legal standing, and lack of access to justice. The result is a vicious circle of harm and impunity that disempowers children with disabilities and impedes their participation and exercise of rights.

27. While data remain scarce and unsystematic, there is widespread evidence that women and girls with disabilities are more likely to be subjected to violence, including sexual violence.<sup>19</sup> Children with psychosocial or intellectual disabilities are among the most vulnerable, with almost five times the risk of sexual violence than their non-disabled peers.<sup>20</sup> Girls with disabilities are particularly vulnerable, as they are often the target of violence and other harmful practices adopted within the family, communities and institutions. In many countries, girls with disabilities are at greater risk of infanticide, and vulnerable to other intersecting forms of risk associated with their specific situation or identity, such as in the case of girls living in institutions, in situations of conflict or migration, or those with albinism.<sup>21</sup>

28. In some cases, girls and boys with disabilities become the object of “correction” or treatment by families, caregivers or within institutions, made to undergo traumatic or abusive procedures without their consent, such as electroconvulsive therapy, psychosurgery, experimental mercury detoxification treatment, harsh behavioural modification regimes (including packing for autistic children), conductive education for children with cerebral palsy, and limb-lengthening for children with restricted growth. Measures may also be taken to halt a girl’s sexual and reproductive development, such as in the case of growth attenuation treatment, forced sterilization or forced contraception, which violate the right to health, the right to family, the protection of personal and physical integrity, protection from violence, abuse and exploitation. Such interventions are invasive, painful and irreversible, and may amount to torture or ill-treatment, particularly when applied against the subject’s will (A/73/161, para. 41). In addition, these practices are inherently disempowering and violate the principle of respect for the evolving capacities of children with disabilities and their right to preserve their identity, as stipulated in article 3 (h) of the Convention of the Rights of Persons with Disabilities.

29. Article 16 of the Convention requires States to take all appropriate legislative, administrative, social and education measures to protect persons with disabilities from all forms of exploitation, violence and abuse, including their gender-based aspects, both within and outside the home, and specifically calls for women- and child-focused legislation to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted.<sup>22</sup> In its general

<sup>19</sup> United Nations, UN Flagship Report, pp. 290–294.

<sup>20</sup> World Health Organization (WHO), “Violence against adults and children with disabilities”, available from [www.who.int/disabilities/violence/en](http://www.who.int/disabilities/violence/en).

<sup>21</sup> Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2014) on harmful practices, para. 9.

<sup>22</sup> This provision is complemented by article 19 of the Convention on the Rights of the Child, Committee on the Rights of the Child, general comments No. 13 (2011) on the right of the child to freedom from all forms of violence and Committee on the Elimination of Discrimination against Women, general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, and their joint general recommendation No. 31/general comment No. 18, in which each Committee highlights the need to take targeted measures to prevent and respond to violence against children with disabilities.

recommendation No. 35, the Committee on the Elimination of Discrimination against Women called upon States to establish appropriate and accessible protection mechanisms to prevent further or potential violence, and to remove the barriers that persons with disabilities face;<sup>23</sup> and to adopt measures to ensure that both services and information are accessible to them, including hotlines, shelters, victim support services and reporting and complaints mechanisms (see CEDAW/C/FIN/CO/7, para. 33, CEDAW/C/KEN/CO/8, paras. 23 and 47, and CEDAW/C/ARG/CO/7, para. 21). Furthermore, an independent body must be designated with the mandate to monitor services and facilities for children and adults with disabilities, including institutions (art. 16, para. 3), and data on victims and survivors of violence should be collected and disaggregated in order to better formulate policies for prevention and protection (see CRPD/C/HTI/CO/1, para. 31 and CRPD/C/MNE/CO/1, para. 33).

30. Children with disabilities are also more exposed to bullying at school and beyond. Bullying can be manifested in different ways – as violence, but also as indifference and “invisibilization”. Children with disabilities are particularly vulnerable to bullying in segregated settings, such as in homes, special schools or day-care centres. Although bullying is not an issue faced exclusively by children with disabilities, segregated and mainstream educational settings can facilitate it. All children should be valued as human beings; inclusive education settings should foster diversity in all its expressions, including on the basis of disability.

### C. Access to justice

31. Access to justice and the availability of effective remedies allow children with disabilities to receive redress and reparation for violations of their human rights. While in most cases it will be unlikely that they can return the individual to the situation before the violation was committed, the act of seeking justice and having the wrong acknowledged is a process of exercising agency, and can in itself be empowering for the particular individual and beyond – for their family and community. For most children, and children with disabilities in particular, however, access to justice is beyond reach. Public administration and justice systems and services are not tailored to recognize children’s rights and agency, or their own unique experiences and perspectives.<sup>24</sup> The act of reporting or seeking assistance is impeded when children with disabilities do not have accessible information or contact with the outside world. They may not know that they possess rights, or what their rights entail, nor how to report and file a complaint or seek justice.

32. Article 12, paragraph 2 of the Convention on the Rights of the Child specifically empowers children to be heard in any judicial and administrative proceedings relevant to them. In its general comment No. 10 (2007) on children’s rights in juvenile justice, the Committee on the Rights of the Child emphasized that different accommodations should be made to ensure access to justice for children, including children with disabilities. For example, age-appropriate procedural accommodations may require modified courtroom procedures and practices, specific settings and age-appropriate assistance, among others. According to article 13 of the Convention on the Rights of Persons with Disabilities, States parties to the Convention should ensure effective access to justice and participation by persons with disabilities in that process on an equal basis with others, including through the provision of procedural and age-appropriate accommodations. In the view of the Committee on the Rights of Persons with Disabilities, legal reforms should be undertaken to ensure the provision of procedural accommodations appropriate to age and impairment (see CRPD/C/DEU/CO/1, para. 28), so that all children with disabilities have access to justice and may express their opinion in the course of the determination of their best interests (see CRPD/C/MEX/CO/1, para. 26).

<sup>23</sup> Committee on the Elimination of Discrimination against Women, general recommendation No. 35, para. 40 (b).

<sup>24</sup> UNICEF, *Children’s Equitable Access to Justice: Central and Eastern Europe and Central Asia*, 2015, p. 118.

33. In order for the above to be possible, the relevant mechanisms must provide accessible, inclusive, confidential and gender-sensitive procedures to ensure that children with disabilities can participate on an equal basis with others and voice their views without risk of re-victimization or fear of reprisal.<sup>25</sup>

34. The absence of accessible, child-friendly information and awareness-raising about children's rights limit the opportunities for children with disabilities to invoke their rights and to hold the Government and others to account. Learning about their rights, acquiring the skills of participation, gaining confidence in gathering and applying information, engaging in dialogue with others and understanding the responsibilities of Governments are all vital elements in creating an articulate citizenry.<sup>26</sup> Moreover, children with disabilities can be supported by civil society and national human rights institutions in navigating the system to submit complaints and seek justice; for example, in Turkey, between 2014 and 2016, 24 regional seminars were held to build the capacity of civil society and to enhance dialogue between public sector and civil society organizations, particularly those advocating for the rights of persons with disabilities, including children with disabilities. This initiative was complemented by national public awareness-raising campaigns on the rights of persons with disabilities, which also involved the release of three educational animated films.

#### **D. Awareness-raising**

35. Discrimination against children with disabilities may be fuelled by widespread stigma and negative stereotypes about their impairments, as well as by other grounds, such as gender and age. Beliefs that children with disabilities are cursed and bring misfortune to the family and community, that they practice witchcraft, cannot be educated or are a burden to society are direct causes of segregation and institutionalization, and render such persons particularly vulnerable to violence, abuse, bullying and exploitation.

36. To combat discrimination, article 8 of the Convention on the Rights of Persons with Disabilities calls upon States to foster respect for the rights and dignity of persons with disabilities and to combat stereotypes, prejudices and harmful practices, including those based on sex and age, in all areas of life. Public awareness-raising campaigns should be carried out to promote positive perceptions and greater social awareness of persons with disabilities, and recognition of their skills and contributions. Furthermore, training and other information programmes should be conducted to educate children with disabilities and others about their rights, as a key means to changing attitudes. Campaigns and training should aim at raising awareness of the risks that children with disabilities face and at deconstructing disempowering social and cultural beliefs concerning children with disabilities, including beliefs held with regard to specific impairments, such as in the case of children with albinism, intellectual disabilities, autism or psychosocial disabilities.

37. In Norway for example, the Escalation Plan against Violence and Abuse (2017–2021) was devised to address the challenges associated with violence against and abuse of children, including children with disabilities. In this context, the Government has committed to more effectively provide information to groups of children at heightened risk of experiencing violence, in particular children with disabilities. Among other measures, it launched “Jeg Vet”, a digital resource used to educate children, including those with disabilities, on their right to be protected from violence. In addition, the Directorate for Children, Youth and Family Affairs has published guidelines and public information on how to disclose and address violence and sexual abuse against children with disabilities.

38. In Malta, the Career Guidance and Transitions Programme empowers children with disabilities by encouraging them to believe that they can and should pursue their education to tertiary level, alongside other students. The specific measures in place were designed to support them to continue with post-secondary opportunities, thereby reducing the number

<sup>25</sup> Ibid.

<sup>26</sup> UNICEF, *Take Us Seriously! Engaging Children with Disabilities in Decisions Affecting their Lives*, June 2013, p. 10.

of early school-leavers among children with disabilities. The programme includes vocational training and career guidance for children and young people with disabilities, and efforts to integrate them into their general education. A one-week career exposure experience is offered to students with disabilities to introduce them to the world of work, alongside a career portfolio exercise whereby students are guided individually to understand their interests, abilities and future career possibilities.

#### **IV. Empowerment through inclusive education**

39. The right of children with disabilities to inclusive education is enshrined in both the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities. Article 28 of the Convention on the Rights of the Child requires that education, including free compulsory primary education and accessible secondary education, must be provided to every child on the basis of equality of opportunity. This provision should be read in conjunction with article 2, which prohibits discrimination on any ground, including disability, and article 23, which requires the provision of support to children with disabilities to enable them to have effective access to and receive education and training.<sup>27</sup> Article 24 of the Convention on the Rights of Persons with Disabilities guarantees the right to education, spelling out and strengthening its inclusive aspect, as it obliges States to ensure an inclusive education system at all levels, including inclusive, quality and free primary education and secondary education in the community, and prohibits the exclusion of children with disabilities from the general education system on the basis of disability.

##### **A. Inclusive education as a multiplier right**

40. Inclusive education empowers children with disabilities because it equips them with the competences, knowledge and skills that they need to enjoy fully their human rights and participate fully in society, throughout their childhood and later as adults. The empowering effect of education is highlighted in article 29 of the Convention on the Rights of the Child, which defines the aims of education and its central role in realizing rights. In its general comment No. 1 (2001) on the aims of education, the Committee on the Rights of the Child explained that education as interpreted in article 29 went far beyond formal schooling to embrace the broad range of life experiences and learning processes which enable children, individually and collectively, to develop their personalities, talents and abilities and to live a full and satisfying life within society. The concept of empowerment through education is similarly reflected in article 24 of the Convention on the Rights of Persons with Disabilities, which includes among the goals of inclusive education those of enabling persons with disabilities to participate effectively in a free society, and the development of their personality, talents and abilities to their fullest potential.

41. Viewed in this light, the right to inclusive education is a multiplier right. In its general comment No. 4 (2016) on the right to inclusive education, the Committee on the Rights of Persons with Disabilities explained that inclusive education was to be understood as a means of realizing other human rights and, in particular, the primary means by which persons with disabilities could lift themselves out of poverty, obtain the means to participate fully in their communities and be safeguarded from exploitation. It was also the primary means of achieving inclusive societies.<sup>28</sup> By the same token, when access to inclusive education is denied, the disempowering impact extends beyond the right to education. For instance, the lack of inclusive education has been a major driving force behind the institutionalization of children with disabilities; in the absence of inclusive schools in the community, parents are often compelled to place their children in an

<sup>27</sup> See also Committee on the Rights of the Child, general comment No. 20, paras. 68 and 70.

<sup>28</sup> In paragraph 85 of its general comment No. 7 (2018) on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention, the Committee provided further recognition of how inclusive education is essential to the right to participate.

institution with the misconceived expectation that they receive at least some form of education.

## **B. Implementing the right to education**

42. Inclusion in education is more than a means of ending segregation. Inclusive education involves “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>29</sup> In its general comment No. 4, the Committee on the Rights of Persons with Disabilities pointed out that inclusive education was not about placing children with disabilities in existing mainstream educational institutions and leaving them to adjust to the standardized requirements of such institutions; rather, it involved 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 the environment that best corresponds to their requirements and preferences. Inclusive education recognizes the capacity of every child to learn.

### **1. Legal and policy framework**

43. The implementation of the right to inclusive education requires that States put in place a comprehensive and coordinated legislative and policy framework ensuring a non-discrimination approach and a progressive realization process to transform the general education system into an inclusive system.<sup>30</sup> To ensure the non-discrimination perspective, laws and policies should explicitly comprise a “no-rejection clause”, forbidding the denial of admission into mainstream schools and guaranteeing continuity in education. As an anti-discrimination measure, such a clause would have immediate effect, and should be reinforced and complemented by the provision of reasonable accommodation for individuals with disabilities. Impairment-based assessment for the assignment of schools should be discontinued, and the support needs for effective participation in mainstream schools assessed.

### **2. Transformation of the education system**

44. Inclusive education requires that the entire educational system be made accessible, while the organizational culture of schools must be transformed to include all students, including those with greater support requirements. A curriculum that has been adapted to the situation of students with disabilities and others can support the transformational process towards fully inclusive systems. Resources currently dedicated to special education should be made available in the general education system, as segregated settings are progressively replaced by inclusive settings. This implies investing in training, and the provision of support and accessible materials and technologies.

### **3. Training**

45. Inclusive education cannot be achieved if teachers are insufficiently aware of its benefits, have uninformed or outdated opinions about the educational capabilities and needs of children with disabilities, or lack the expertise to work with all students, with and without disabilities. Conversely, teachers who are committed to teaching all children and have the pedagogical skills to work in a diverse classroom environment are instrumental in empowering children with disabilities to benefit fully from their education. As part of both their initial training and continuous professional development, teachers at the preschool, primary, secondary, tertiary and vocational education levels should be provided with the core competencies and values necessary to work in an inclusive educational environment.

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<sup>29</sup> *The right of children with disabilities to education: a rights-based approach to inclusive education*, Position Paper, UNICEF, 2012, p. 8.

<sup>30</sup> Committee on the Rights of Persons with Disabilities, general comment No. 4, para. 63.

Teachers should be trained to assess pupils' strengths and needs, and to adapt their teaching programmes and methodologies accordingly. They should be trained also to engage collaboratively with other professionals, work in partnership with parents, use available technologies in order to support learning, and monitor the success of the approaches employed. As a priority, States should invest in and support the recruitment and continuous education of teachers with disabilities, who bring unique expertise and skills into the learning environment, help to break down barriers and serve as important role models for students with disabilities.

#### 4. Gender equality

46. Special attention should be paid to ensuring full access to inclusive education for girls with disabilities, who often face additional barriers due to intersecting forms of discrimination and exclusion. When parents refuse to send girls with disabilities to school, the State has a duty to intervene to protect the child's right to education, including by addressing the lack of value placed on the education of girls.<sup>31</sup> The consequences are telling: women with disabilities have markedly lower rates of literacy and employment when compared to both women and men in general, and even to men with disabilities.<sup>32</sup> Girls with disabilities are also particularly vulnerable to violence and abuse, including sexual violence, in educational settings.<sup>33</sup> States must take special measures to prevent gender-based violence in educational settings, and tackle gender stereotyping. Such measures should include the elimination of negative gender stereotypes from textbooks and curricula.<sup>34</sup>

#### 5. Resource allocation

47. Inclusive education cannot be fully implemented without the allocation of adequate financial resources. For instance, in Ireland, almost 19 per cent of the overall education budget is allocated to additional support for children, including for, in particular, those with disabilities. The allocation covers teaching assistant posts, learning support/resource teacher posts, teacher training and continuous professional development, an assistive technology scheme, school transport arrangements, and modifications to school buildings. It is, however, important to stress that inclusive education does not necessarily require larger public spending, especially considering the long-term perspective. It has been empirically shown that maintaining segregated, separate and parallel education systems is more expensive and less sustainable than inclusive education models. Collaborative work between students, parental involvement in the classroom and teacher problem-solving and mutual support have been shown to be effective. Some of the most innovative developments in inclusive education have been witnessed in low-income countries, such as the Lao People's Democratic Republic, Lesotho, Morocco, Uganda, Viet Nam and Yemen.<sup>35</sup>

#### 6. Data collection and disaggregation

48. To understand gaps and identify those who have been left behind, article 31 of the Convention on the Rights of Persons with Disabilities requires the State to collect information and to disaggregate data in order to identify and address barriers faced by children with disabilities.<sup>36</sup> The Sustainable Development Goals echo the obligation of States to make available high-quality, timely and reliable data disaggregated by several grounds, including gender, age and disability (target 17.18). Various types of qualitative and quantitative data are needed, including information on the type of impairment, the barriers encountered and the support provided, and the impact on the family's situation. Disaggregated information specifically on the areas considered in the present report, such

<sup>31</sup> Ibid., paras. 39 and 46.

<sup>32</sup> See United Nations, United Nations Flagship Report, pp. 137–138.

<sup>33</sup> Committee on the Rights of Persons with Disabilities, general comment No. 4, para. 51.

<sup>34</sup> Ibid., para. 46.

<sup>35</sup> Peter Mittler, *Overcoming Exclusion: Social Justice through Education* (London, Routledge, 2013).

<sup>36</sup> Also recommended by the Committee on the Rights of the Child in its general comments No. 5 and No. 9; see also CRC/C/ERI/CO/4, para. 20, CRC/C/HND/CO/4-5, para. 16, CRC/C/GHA/CO/3-5, para. 16, CRC/C/MEX/CO/4-5, para. 46 and CRC/C/NL/CO/4, para. 17.

as awareness-raising, decision-making, access to justice, freedom from abuse and exploitation, inclusive education, among others, are also needed.

## 7. Situations of humanitarian emergency

49. In situations of humanitarian emergency, children with disabilities are less likely to have access to humanitarian aid, such as food and medicines, or to receive an education than other children;<sup>37</sup> girls with disabilities are also less likely to attend school in refugee camps than boys with disabilities.<sup>38</sup> The Committee on the Rights of Persons with Disabilities has recognized that situations of armed conflict, humanitarian emergencies and natural disasters have a disproportionate impact on the rights of children with disabilities, and has called upon States parties to adopt inclusive disaster risk reduction strategies in their humanitarian responses (see CRPD/C/NPL/CO/1, para. 20 and CRPD/C/OMN/CO/1, para. 24). Children should have access to humanitarian aid as a priority, and enjoy equal access to inclusive education as other children in situations of humanitarian emergency. Their views and realities should be taken into consideration in the different governing structures in camps and emergency settlements.

50. Learning environments, whether they are set up as a temporary measure or continue in a protracted crisis, must ensure the right of children with disabilities to education on the basis of equality with others. Furthermore, measures should be taken to ensure that learning environments are safe and accessible for girls with disabilities, within the classroom but also on the way to and from school. Learners with disabilities must not be denied access to educational establishments on the basis that evacuating them in emergency situations would be impossible, and reasonable accommodation must be provided.<sup>39</sup>

## V. Conclusions and recommendations

51. **Children with disabilities hold the same rights as all children, and their empowerment is essential to the realization of their rights. Yet they often encounter significant barriers in exercising and having access to these rights, such as stigma and stereotypes due to their age, gender, impairment or other factor. International human rights law, particularly the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities, provides a robust framework for the empowerment of children with disabilities through a broad range of measures aimed at fostering personal and public decision-making, ensuring their full inclusion in education and in the community, protecting them against abuse, exploitation and violence, raising awareness and ensuring their access to justice. States should embrace these obligations to promote the empowerment of children with disabilities and their full participation in society.**

52. **In the light of the above conclusions, the United Nations High Commissioner for Human Rights recommends that States and other stakeholders:**

(a) **Recognize and implement through the legislative and policy framework the right of children with disabilities to be heard, regardless of their impairment, age or manner of communication, on all matters affecting their lives and within public decision-making, including in situations of humanitarian emergency, and ensure that information and support are accessible and made available in a manner that respects their evolving capacities and strengthens their independent decision-making;**

(b) **Adopt and implement in the legislative, policy and budgetary framework the right to inclusive education, ensuring equal access of children with disabilities to mainstream schools, including by means of a non-rejection policy; individual education plans; the provision of reasonable accommodation; accessibility of educational environments and materials; the provision of adapted educational materials, assistive devices, information and communications technology and support;**

<sup>37</sup> See UNICEF, *Guidance: Including children with disabilities in humanitarian action*, p. 13.

<sup>38</sup> See Women's Refugee Commission, *Disabilities among Refugees and Conflict-Affected Populations*, 2008.

<sup>39</sup> Committee on the Rights of Persons with Disabilities, general comment No. 4, para. 14.

ensuring bilingual and multilingual education; ensuring the teaching of sign languages, deaf culture and human rights education; mandatory and regular training of all teachers including within core teaching curricula; and the employment of teachers with disabilities across all schools;

(c) Actively involve children with disabilities and their representative organizations in all matters affecting them by adopting strategies to ensure their participation in decision-making that include disability- and age-appropriate support; guaranteeing the accessibility of all procedures, spaces and communications relating to public decision-making and providing reasonable accommodation; and supporting the establishment of representative organizations of children with disabilities, in particular self-advocacy organizations of children with intellectual or psychosocial impairments, and those representing girls with disabilities;

(d) Adopt a strategy and action plan for deinstitutionalization involving systematic transformation, including the development of community-based support services and peer support networks, covering support for families to uphold the right of children with disabilities to grow up in their family or in a family-based setting, and to participate and be included in the community;

(e) Prohibit violence against and abuse and exploitation of children with disabilities, including all harmful practices that violate their integrity, dignity and right to preserve their identity, including the right to health and sexual and reproductive health, with apply effective criminal sanctions to perpetrators;

(f) Ensure the availability of appropriate and accessible protection mechanisms to prevent and respond to abuse, violence and exploitation, such as accessible information, hotlines, shelters, victim support services and reporting and complaint mechanisms; and designate an independent body with a mandate to monitor services and facilities for children with disabilities, including institutions, supported by disaggregated data on victims and survivors of violence;

(g) Take immediate measures to ensure that girls and boys with disabilities have access to accessible, inclusive, confidential and gender-sensitive redress mechanisms by guaranteeing the provision of procedural and age-appropriate accommodations to ensure their effective role as direct and indirect participants, including as witnesses, in all legal proceedings; and conduct regular training on the rights of children with disabilities, together with reasonable accommodation and support for personnel working in the administration of justice, social assistance and community services, health care and education;

(h) In consultation with children with disabilities and their representative organizations, conduct local and nationwide awareness-raising campaigns to combat stereotypes and promote their positive role as equal and active participants in and contributors to society, and to increase public information and awareness on the rights of children with disabilities, including their equal right to education;

(i) Alongside children with disabilities and their representative organizations, undertake monitoring and evaluation, research, studies and the systematic collection and publication of accessible data, disaggregated by sex and disability, among other criteria, across all sectors, in order to formulate effective policies and programmes for their empowerment;

(j) Implement transparent and participatory budgeting involving children with disabilities, and define specific budgetary lines for children with disabilities that are protected in situations of humanitarian emergency, natural disaster or economic recession;

(k) Promote the empowerment of children with disabilities and the realization of their rights, and their participation and full inclusion in society, in the context of international cooperation and the implementation of measures to achieve the Sustainable Development Goals.