

# INCLUSIVE AND QUALITY EDUCATION

---

A pending debt in Latin America





# CONTENTS

## **04.** The right to inclusive education

---

## **05.** The obstacles to inclusive education in Latin America

---

## **09.** Priority actions to promote inclusive education

---

## **11.** Closing remarks

---

# Inclusive and quality education: a pending debt in Latin America

## 01. The right to inclusive education

Article 24 of the Convention on the Rights of Persons with Disabilities (CRPD) -adopted by the United Nations General Assembly in 2006 and ratified by almost all the countries in Latin America- lays down the obligation for State Parties to ensure inclusive education systems, in which all persons -with and without disabilities- are educated together. Additionally, several international human rights treaties, such as the International Covenant on Economic, Social and Cultural Rights, the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities, the American Convention on Human Rights and the Protocol of San Salvador recognize the right to education without discrimination and therefore prohibit any form of exclusion or segregation within the education realm.

The 2030 Agenda for Sustainable Development has gone in the same direction, by including in SDG 4 the need to achieve an inclusive and equitable quality education and promote lifelong learning opportunities for all people, with the aim of leaving no one behind. This Goal, composed by 10 targets and 43 indicators, expressly mentions that groups in vulnerable situations, including persons with disabilities, must be guaranteed equal access to all levels of education, and that learning environments ought to be safe, non-violent, inclusive and take into account the needs of all children.

Furthermore, international human rights bodies have been categorical when they pointed out that the right to education can only be fulfilled through an inclusive approach, ensuring that all persons receive education in the same classrooms, learning and participating equally. Thus, entities such as the Office of the United Nations High Commissioner for Human Rights, the Committee on the Rights of Persons with Disabilities and the United Nations Educational, Scientific and Cultural Organization (UNESCO) have affirmed that exclusion, segregation and integration perspectives<sup>1</sup> are discriminatory, that inclusive education is the only capable of ensuring universality and equality

<sup>1</sup> The Office of the United Nations High Commissioner for Human Rights and the Committee on the Rights of Persons with Disabilities have recognized three approaches that education systems have adopted towards persons with disabilities: exclusion, segregation and integration. According to these bodies, exclusion occurs when students are directly or indirectly prevented from or denied access to education in any form. Segregation

in the right to education, and that it is essential to provide quality education to all students, fight against discrimination and build inclusive, peaceful and just societies<sup>2</sup>.

Inclusive education is no longer an option for States. On the contrary, they have committed themselves to ensuring it at all levels and to all children without exception, and must, therefore, direct all their efforts and transfer all the necessary resources -both budgetary and human- to strengthen mainstream schools, in order to make them places that nourish from diversity.

## 02. The obstacles to inclusive education in Latin America

Despite the obligations imposed by international human rights law, the building of inclusive education systems continues to be a pending debt in Latin America. Regulations, policies and educational practices prevailing in the region still evidence a persistent and systematic discrimination against persons with disabilities, who face multiple barriers to access, pursue and conclude their trajectories in mainstream schools. These barriers deepen when disability is crossed with other variables that create inequality, such as gender, socioeconomic status, rurality and belonging to indigenous or migrant communities.

In Latin America, a large number of children with disabilities are absolutely excluded from the education system, since they do not attend any school and are forced to stay in health or social care environments, which are generally subject to few controls. These practices constitute an afterthought of the medical model of disability, which excludes them under the consideration that they should not be educated, but “rehabilitated” or “protected”.

On the other hand, among those who manage to enter the education system, there is a high percentage attending special schools, in many occasions as a result of being rejected by regular ones. General educational institutions usually argue that children with disabilities will not be able to comply with the school requirements, that there are no vacancies left, that the

---

occurs when 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 they can adjust to the standardized requirements of such institutions. Inclusion, which has emerged in response to these three discriminatory approaches, implies that educational institutions adapt to the characteristics and interests of each student, building an education system capable of receiving all persons under the consideration that being educated all together is better from an individual and social point of view.

2 See the Thematic Study on the Right of Persons with Disabilities to Education by the Office of the United Nations High Commissioner for Human Rights (A/HRC/25/29), General Comment no. 4 on the right to inclusive education by the Committee on the Rights of Persons with Disabilities (CRPD/C/GC/4) and UNESCO’s document “Guidelines for Inclusion. Ensuring Access to Education For All”.

“disability quota”<sup>3</sup> has been fulfilled, that their facilities are not accessible or that their personnel is not prepared to carry out the inclusion process. It is also common for their enrollment to be conditioned upon the availability of a support person, the results of medical studies or IQ tests, the payment of additional amounts or the subscription of agreements that violate the rights of students or limit institutional liability. Therefore, large amounts of children end up in institutions that carry out rehabilitation activities instead of educating, do not follow the mandatory curricula, do not deliver diplomas that certify the completion of educational levels and deprive them from interacting with persons without disabilities and growing in environments that reflect the diversity inherent to every society. This is why international human rights bodies have qualified special schools as institutions that respond to a logic of segregation that must be overcome<sup>4</sup> and expressed that “progressive realization” (the duty to proceed as expeditiously and effectively as possible to achieve full application of article 24) “*is not compatible with sustaining two systems of education: mainstream and special/segregated education systems*”<sup>5</sup>. In a truly inclusive education system, there are no institutions that enroll only persons with disabilities, nor institutions that decide not to accept them. In a truly inclusive education system, we all learn together.

As can be seen, persons with disabilities cannot choose their school freely, but must content themselves with attending the one that receives them. In many cases, this involves being sent far away from their homes, which separates them from their center of life and natural supports and weakens their participation as full members of the communities in which they live. In this regard, the affirmation by the Committee on the Rights of Persons with Disabilities stating that students should not be sent away from home must be highlighted<sup>6</sup>.

Finally, those who attend general schools also do not receive inclusive education. This educational paradigm involves more than moving students from special to mainstream schools: it means ensuring they acquire meaningful learning, feel respected and valued and create links with their peers. However, education systems in the region do not comply with the obligation to provide accessibility, support and reasonable accommodation allowing to reach inclusive school environments.

There is still a strong prevalence of the integrative approach and of perspectives that focus on the “impairment” of the student, instead of designing strategies based on his/her potential. Oftenly, support personnel design curricula that are mere content reductions, and work in isolation with students with disabilities, instead of stimulating their inclusion with the rest of the class and in co-responsibility with the classroom teacher. Thus, it is common to find “specialized” or “exclusive” classrooms within general schools, or students with disabilities that –even sharing the same rooms– are segregated, working with parallel curricula and without

3 In some countries, regular schools arbitrarily set a maximum number of students with disabilities per classroom.

4 See paragraphs 4 and 5 of the Thematic Study on the Right of Persons with Disabilities to Education by the Office of the United Nations High Commissioner for Human Rights and paragraph 11 of General Comment no. 4 on the right to inclusive education by the Committee on the Rights of Persons with Disabilities.

5 Committee on the Rights of Persons with Disabilities, General Comment no. 4 on the right to inclusive education, CRPD/C/GC/4, 2016, par. 39.

6 *Ibid.*, par. 26.

being considered part of the group by his/her teachers. The educational trajectories of these students are currently traversed by prejudices, low expectations and normalizing approaches that ignore their needs and have a negative impact on the construction of their subjectivities.

In some countries, human resources provided by the Ministries of Education to uphold inclusion (support teachers, personal assistants, Sign Language interpreters, etc.) are insufficient to cover the existing demand, and do not usually have the required qualifications to fulfill the role. This forces persons with disabilities and their families to resort to services provided by other professionals or entities outside the education system (such as those belonging to the health system or to civil society organizations), which are financed with their own resources and do not usually work with the proper approach. Additionally, the procedures to obtain support personnel are highly bureaucratized and schools and Ministries of Education often understand that families have the sole responsibility to search for them.

Moreover, the implementation of augmentative and alternative modes, means and formats of communication, the accessibility of building facilities, study plans and materials, and the adequacy of teaching methodologies and evaluation procedures is not guaranteed in schools. All of this raises school dropout rates, leads to the referral of children with disabilities to special schools or to their stay in general schools but with high rates of over-age and repetition, and deprives them from acquiring effective learning.

Frequently, persons with disabilities attending special schools or regular ones with reasonable accommodation do not receive diplomas, or receive differentiated documents that do not accredit the completion of years and levels, and, as a result, cannot continue studying, enter the labor market on an equal basis with others nor build an autonomous life project respectful of their own desires and preferences. Paradoxically, the education system tells persons with disabilities how far can they go and which paths they will not be able to transit. By doing that, it becomes a device that limits opportunities instead of creating, facilitating and enhancing them.

Another major barrier to inclusive education is the lack of training among school personnel. Those who work in mainstream schools and public officials in charge of education policies (which are, in many cases, the ones in charge of controlling institutions' behavior) are not usually familiar with the rights that the CRPD recognizes to persons with disabilities and the basic tools to ensure equal participation to all students (Universal Design for Learning, assistive technologies, augmentative and alternative formats of communication, etc.), which awakens negative attitudes towards persons with disabilities that hinder their inclusion. Frequently, teachers and headmasters from different levels invoke their lack of training, refuse to implement accessibility measures and reasonable accommodation, to ensure participation of students with disabilities in every activity and to work in collaboration with support teams, recommend their referral to special schools, or simply do not assume responsibility for their learning and well-being. In this sense, it should be noted that inclusive teachers are not those who know about diagnoses, but those who have the necessary flexibility to listen to their students, modify their strategies when they are not learning and understand that they are better professionals when they know how to educate in diverse environments.

Moreover, countries in the region do not have regulatory frameworks ensuring inclusive education. With a few exceptions<sup>7</sup>, laws and other regulations regarding education of persons with disabilities at the domestic level do not guarantee their right to access regular schools nor they establish that rejections based on disability in those institutions will be considered a discrimination. They neither create mechanisms for reparation of discriminatory behaviors, and do not design systems to ensure implementation of accessibility measures, the provision of supports and reasonable accommodation according to each student's individuality. On the contrary, they usually condition attendance to mainstream schools to the "possibilities" of each person and respond to medical and biological perspectives that focus on the "rehabilitation" or "normalization" of persons instead of addressing the barriers posed by the environment, in open contradiction with the social model of disability embraced by international human rights law.

The significant gap between the legal recognition of the right to inclusive education at the international level and its practical implementation at the domestic level, as well as the lack of fast, transparent, effective and accessible complaint mechanisms, has led many students and their families to resort to the judicial branch, demanding enrollment in regular schools, provision of support resources for inclusion and cessation of discriminatory behaviors. However, difficulties in accessing the judiciary -particularly the excessive time and economic cost involved in processing legal actions- act as a deterrent factor. Thus, in many cases not even the judicial system effectively safeguards this right. The situation in our countries shows that at present discrimination against students with disabilities is devoid of any cost.

The lack of information on the educational situation of persons with disabilities is also a relevant obstacle to the full implementation of an inclusive education system. The CRPD, in its article 31, imposes States the obligation to produce adequate, sufficient, disaggregated and useful information to assess compliance with their conventional obligations. Nonetheless, when reviewing data generated by the different countries in the region, it can be seen that they do not have basic information to analyze and evaluate their educational trajectories, nor do they elaborate structural process and impact indicators to monitor progresses regarding this problem. In 2016, the UNESCO Institute for Statistics pointed out that only 11% of the countries surveyed in Latin America and the Caribbean were in a position to disaggregate data to monitor SDG 4 by disability<sup>8</sup>.

This lack of information, which reveals that inclusive education is not a priority issue for the governments in the region, invisibilizes persons with disabilities in public policies, prevents from knowing the levels of compliance of their right to education without discrimination, the specific barriers they face and the effects of the juxtaposition of disability with other factors that contribute to the situation of vulnerability (socioeconomic condition, gender, migrant status, membership in indigenous communities, etc.) and hampers civil society's control of

---

7 Inclusive Education Law in Paraguay (law 5.136/2013), Brazilian Law of Inclusion (law 13.146/2015), Decree 1421/2017 in Colombia, among other regulations.

8 UNESCO Institute for Statistics, *Availability of information for the calculation of indicators SDG 4 - Education 2030: diagnosis for Latin America and the Caribbean, 2016*, p. 13



public management. States cannot design relevant and sustainable plans if they do not know the living conditions of their recipients and the factors that hinder the full exercise of their rights. Hence, the production of sufficient, adequate and disaggregated data is an essential condition to move towards the implementation of education policies and practices providing all students with the same opportunities.

The Committee on the Rights of Persons with Disabilities, entity that interprets and develops CRPD's content and monitors its compliance, has also been aware of this reality. Thus, when making its concluding observations to the countries in the region, it repeatedly expressed concern about the discrimination faced by this population group within the education system, urging them to adopt measures to overcome these barriers<sup>9</sup>. Specifically, it challenged the number of children with disabilities who are still out of school or segregated in special schools, the low levels of enrollment in the regular system, the prevalence of specialized classrooms, the lack of accessibility, supports and reasonable accommodation, the low levels of instruction and the high levels of dropout among students with disabilities, as well as the lack of teacher training.

## 03. Priority actions to promote inclusive education

In this context, it is essential that governments adopt effective and long-term public policies to produce the structural transformation our education systems require. In this regard, it is fundamental and urgent that States:

- 01.** Harmonize domestic laws and policies with the Convention on the Rights of Persons with Disabilities and SDG 4.
- 02.** Guarantee all persons with disabilities are admitted to mainstream schools near their homes by generating protocols to prevent rejections based on disability.
- 03.** Elaborate a plan with concrete measures, deadlines and indicators to transform special schools into regular ones or into resource centres for inclusion.
- 04.** Transfer human and budgetary resources from segregated to inclusive settings, avoiding any measure that violates the principle of non-regression applicable to economic, social and cultural rights.

<sup>9</sup> See the concluding observations made by the Committee on the Rights of Persons with Disabilities to Argentina, Bolivia, Chile, Colombia, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Panama, Paraguay, Peru and the Dominican Republic, among others.

- 05.** Ensure the availability of personnel, in sufficient quantity and quality, to support teachers in the acquisition of tools to include all students.
- 06.** Develop policies and mechanisms to guarantee accessible school environments, the provision of supports and reasonable accommodation so that each student can learn and participate equally.
- 07.** Guarantee that persons with disabilities certify their capacities and attainments on an equal basis with others.
- 08.** Promote training of teachers and support personnel in the social model of disability, providing them with tools to ensure that persons with disabilities can learn and participate on an equal basis with others within the general education system.
- 09.** Train public officials to design, implement and evaluate public policies related to inclusive education, ensuring that they have the political leadership and the necessary tools to promote structural changes.
- 10.** Empower persons with disabilities, families, organizations of persons with disabilities (OPD) and civil society organizations (CSO) in order to disseminate the social model of disability and deconstruct attitudes and paternalistic approaches.
- 11.** Assure persons with disabilities and their families the availability of accessible, independent and effective complaint mechanisms to reverse and sanction discriminatory practices in the educational context.
- 12.** Collect sufficient, adequate and disaggregated data in order to implement public policies for inclusive education.
- 13.** Ensure that persons with disabilities fully participate and are effectively heard in the decision-making processes related to their rights.
- 14.** Incorporate the intersectionality approach into public policies regarding inclusive education in order for women, persons belonging to indigenous peoples, migrants, inhabitants of rural areas and other groups in vulnerable situations to exercise their right to education without discrimination.

## 04. Closing remarks

The consequences that the described situation have on persons with disabilities and on their life projects are irreversible. Denying them the right to inclusive and quality education reduces their chances of being included in the community and accessing the labor market on an equal basis with others, exposes them to situations of violence and abuse, pushes them into poverty and institutionalization and forces them to depend on assistencialism. Educational institutions must be contexts for valuing diversity, from which all persons should emerge strengthened, confident of themselves, with full knowledge of their rights, with skills to contribute actively to the development and well-being of their communities and with tools to be those who they choose to be.

The logics of segregation that prevail in education systems -and that prevent people with and without disabilities from interacting and valuing each other- are replicated in all areas of community life and allow the systematic reproduction of dynamics, attitudes and sociocultural patterns that generate deep inequalities and build societies incapable of responding to diversity. Receiving education in the same school with the supports and the accommodation each one requires is more beneficial for persons with disabilities, but also for persons without disabilities, who learn to live with diversity and to interact with others without prejudice. As UNESCO highlights, human variations and differences are a naturally occurring and valuable part of society and should be reflected in schools<sup>10</sup>.

---

10 United Nations Educational, Scientific and Cultural Organization (UNESCO), *Guidelines for Inclusion. Ensuring Access to Education For All*, Paris, 2005, p. 16.

The Regional Network for Inclusive Education from Latin America is a coalition of organizations of and for persons with disabilities, family members and human rights from Argentina, Brazil, Chile, Colombia, Paraguay, Peru, and Uruguay that advocate for the right of persons with disabilities to receive inclusive education in a school for all. Its aim is to politically influence at the national, regional and international level so that States ensure the right of all persons -with and without disabilities- to an inclusive education, in compliance with international mandates, particularly with Article 24 of the Convention on the Rights of Persons with Disabilities and Sustainable Development Goal no. 4.

**Facebook:** /RREI.Latinoamérica

---

**Twitter:** @RREI\_inclusiva

---

**Web:** [rededucacioninclusiva.org](http://rededucacioninclusiva.org)

---

**Mail:** [rrei.latinoamerica@gmail.com](mailto:rrei.latinoamerica@gmail.com)

---