

## **Strengthening Inclusive Education by Applying a Rights-based Approach to Education Programming**

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*All children have the right to good quality education and should be encouraged to go to school to the highest level possible. The education should help children use and develop their talents and abilities. It should teach them to live peacefully, protect the environment and respect other people.<sup>1</sup>*

### **Introduction**

Inclusive education is defined by UNESCO as a process of addressing and responding to the diverse needs of all learners by increasing participation in learning and reducing exclusion within and from education.<sup>2</sup> The objective of inclusive education is to support education for all, with special emphasis on removing barriers to participation and learning for girls and women, disadvantaged groups, children with disabilities and out-of-school children. The overall goal is a school where all children are participating and treated equally. The principle of inclusive education was adopted at the Salamanca World Conference on Special Needs Education in Spain, 1994. It involves changes and modifications in content, structures, processes, policies and strategies. Inclusive education is concerned with providing appropriate responses to the broad spectrum of learning needs in formal and non-formal educational settings. Rather than being a marginal theme on how some learners can be integrated into the mainstream education system, inclusive education is an approach that looks into how to transform the system so it will respond to the diversity of learners.

At the core of inclusive education is the basic right to education, which is rooted in many international human rights treaties since the Universal Declaration of Human Rights adopted in 1948. The World Education Forum held in Dakar, Senegal in 2000 reaffirmed education as a fundamental human right and underlined the importance of rights-based government actions in implementing Education for All (EFA) activities at the national level. To comply with the agreed principles and standards spelt out in the international human rights instruments and to develop a rights-based education system, governments need to apply a rights-based approach to education in their programming and planning processes. In this regard, reforming the educational system is often necessary so it fully promotes, protects and fosters human rights standards in content as well as in process. These attempts go hand in hand with the principles of inclusive education.

This paper aims to clarify the underlying concepts of a rights-based approach to education programming and core human rights obligations in education, and their role

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<sup>1</sup> Adapted text from Article 28 and 29 in the Convention on the Rights of the Child, 1989.

<sup>2</sup> Overcoming Exclusion through Inclusive Approaches in Education: A Challenge and a Vision, UNESCO, 2003.

in strengthening inclusive education activities. It will also briefly discuss possible entry points and tools to move forward. In addition, it is hoped that this paper will increase understanding of human rights' importance in underpinning development cooperation programming, as well as fostering a discussion on the practical aspects of implementing such programming.

### **The Right to Education of Good Quality**

Although many countries in the world have achieved relatively high initial enrolment figures, they are still struggling with poor primary school completion rates and high drop-out rates, especially for girls, children with special needs and, those from ethnic minorities. This suggests that many of the problems are related to the lack of education quality, relevance and exclusion from learning. There is a well-recognised link between overcoming the barriers to schooling/learning and achieving the EFA goals. Governments and schools must, therefore, pay special attention to children who should be in school, and are not, and to children who are in school, but are unable to succeed there.<sup>3</sup> Moreover, the Convention on the Rights of the Child, which has been ratified by 192 countries, insists on both universal access to education and the right to an education of good quality. In addition, it stresses that consideration of what is in a child's best interest must take into account the diverse needs of all children.<sup>4</sup>

Unfortunately, there are numerous examples of situations where children are deprived of their basic human rights, especially the right to education. Recent estimates stress that there are over 140 million children who are out of school, a majority being girls and children with disabilities.<sup>5</sup> In addition, the UN Special Rapporteur on the Right to Education identifies discrimination as a key barrier to fulfilling the right to education that occurs in and through the education system.<sup>6</sup> By applying a rights-based approach to education, this situation can be reversed. It means that children should be seen as holders of the right to education, which implies not only the right to have access *to* education, but also that human rights must also be applied *in* education and promoted *through* education.<sup>7</sup>

However, the perception of what human rights really means in practice is by and large not clear to most practitioners, and especially planners and decision-makers in the Ministries of Education. In addition, there is not yet an explicit acceptance of using human rights as a framework in the policy and planning process. However, there is an increasing awareness of its importance as a prerequisite for achieving sustainable human development. Indeed, there is a growing trend worldwide among the UN agencies, international NGOs and bilateral donors that stresses the need for mainstreaming human rights into development cooperation. The need to mainstream human rights derives from the fact that successful outcomes of any development activities and programmes, regardless of their particular characteristics, are dependent on participation, accountability, and can only be sustained if they are owned by the beneficiaries. There is, thus, a clear push towards applying human rights-based

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<sup>3</sup> Shaeffer, Sheldon, *A Child-Seeking School: Getting All Children Included in Schooling and Learning*, UNESCO Bangkok, 2004.

<sup>4</sup> Article 3 in the Convention on the Rights of the Child, 1989.

<sup>5</sup> *The State of the World's Children*, UNICEF, 2004.

<sup>6</sup> Report to the Commission on Human Rights, E/CN.4/2005/50, 17 December 2004.

<sup>7</sup> *Education, Democracy and Human Rights in Swedish Development Cooperation*, Sida, 2001.

approaches as a built-in component of development assistance provided by the UN and a growing number of bilateral donors and international NGOs.

### **What is a Rights-based Approach to Education Programming?**

It is a conceptual analytical and methodological framework for identifying, planning, implementing and monitoring development activities based on international human rights standards. There is no single, universally agreed approach, although there is a Statement of Common Understanding<sup>8</sup> among the UN agencies on the core elements of a human rights-based approach. First, it states that all programmes of development cooperation, policies and technical assistance should advance the realisation of human rights as declared in international human rights instruments. Second, that human rights standards contained in, and principles derived from these instruments, should guide all activities in all development sectors and in all phases of the programming process. Third, that the development activities should contribute to the building of capacities of ‘duty-bearers’ to meet their human rights obligations and to the strengthening of the capacities of ‘rights-holders’ to claim their rights.<sup>9</sup>

A rights-based approach tries to integrate the norms, standards and principles of the international human rights system into the plans, strategies, policies and the processes of development programming. A rights-based approach is comprehensive in its consideration of the full range of indivisible, interdependent and interrelated rights: [civil, cultural, economic, political and social]. The norms and standards are those contained in the internationally agreed treaties and conventions. Equally important is that a rights-based approach applies guiding principles to ensure an acceptable development programming process. The main principles followed may be summarised in the simple acronym PANEL<sup>10</sup> that stands for: *participation, accountability, non-discrimination, empowerment and linkages to human rights standards.*

A rights-based approach requires a high degree of participation from the targeted beneficiaries, including local communities, civil society, minorities, indigenous peoples, women and others. Participation must be active, free and meaningful; mere formal or ceremonial consultations with beneficiaries are not sufficient. The approach gives attention to issues of accessibility, including access to development processes, institutions, information, and redress or complaints mechanisms. This also means situating development projects close to partners and beneficiaries. Such approaches necessarily select process-based development methodologies rather than externally created or imported models.

Another principle of a rights-based approach focuses on raising the levels of accountability and transparency by identifying the ‘rights-holders’ and the corresponding ‘duty-bearers.’ This should contribute to the enhancement of the capacities of ‘duty-bearers’ to meet their obligations. In this regard, it looks both at the positive obligations of duty-bearers (to protect, promote and provide) and at their negative obligations (to abstain from violations). It takes into account the duties of the full range of relevant actors, including individuals, governments, local organisations and authorities, private companies, aid donors and international institutions. While the

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<sup>8</sup> The Human Rights Based Approach to Development Cooperation, UN, 2003.

<sup>9</sup> Ibid

<sup>10</sup> UNDP Philippines Training Manual on a Rights-based Approach to Development, UNDP, 2003.

primary responsibility lies with the individual states and governments, the international community is also duty bound to provide effective cooperation in response to shortages of resources and capacities in developing countries. The approach also provides for the development of adequate laws, administrative procedures/practices, and mechanisms of redress and accountability that can deliver both on entitlements and respond to denials or violations of rights.

The human rights imperative of a rights-based approach means that particular focus is given to discrimination, equality and the status of vulnerable groups. These groups vary, but could include women and girls, ethnic minorities, children with disabilities, indigenous peoples and others. There is no universal checklist of who is most vulnerable in every given context. Rather, a rights-based approach requires that such questions be answered locally. Development data needs to be disaggregated, as far as possible, by sex, religion, ethnicity, language, age, etc. An important aspect of the approach is the inclusion of safeguards in development instruments to protect against threats to the rights and well-being of vulnerable and marginalised groups. Furthermore, all development decisions, policies and initiatives, while seeking to empower local participants, are also expressly required to guard against reinforcing any existing power imbalances.

A rights-based approach also gives preference to strategies for empowerment over mere service-delivery oriented responses. It means that the interventions should clearly contribute to the enhancement of the capacities of the 'rights-holders' to claim and exercise their rights. Empowerment is the process by which the capabilities of people to demand and use their rights are enhanced. It focuses on beneficiaries as the owners of rights and the directors of development, and emphasise the human person as the centre of the development process (sometimes indirectly, through their advocates and through organisations of civil society). The goal is to give people the power and capabilities needed to change their own lives, improve their own communities and influence their own destinies.

A defining feature of a rights-based approach is its explicit linkage to human rights standards. Human rights standards are universally accepted, set obligations and minimum guarantees. They also help to identify where problems exist, and what capacities and functions are required to address them. Moreover, they can help to define a comprehensive, but targeted, scope for development, as well as help set result-based outcomes and outputs. These standards should be respected for all. Human rights allows for this progressive realisation, although it sets clear limits on the possibility for setbacks. The principle of non-retrogression means that duty-bearers should at least protect the human rights gains already made, when factors beyond their control prevent these gains from growing further.<sup>11</sup>

A rights-based approach to education programming builds on these important principles and supports the fulfilment of internationally agreed human rights requirements that are relevant to the education sector. The right to education is acknowledged as being a fundamental human right, and education is considered to be both a goal in itself and a means for attaining all other human rights.<sup>12</sup> It is considered to be an enabling right.

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<sup>11</sup> Ibid.

<sup>12</sup> General Comment on the right to education (Art. 13 of the International Covenant on Economic, Social and Cultural Rights), UNESCO, 2003, p. 7.

International human rights law defines the right to education in a comparatively precise manner.<sup>13</sup> A rights-based approach to education also encompasses the importance of quality and inclusive education. Quality education is one that is learner-centred, leads to the realisation of every learner's full potential and prepares the learners for the challenges faced in life. It is no longer focused only on teaching and learning in the classroom, but is concerned with the well-being of the learners, the relevance of the contents and outcomes, the quality of the teaching/learning processes and the suitability of the learning environments;<sup>14</sup> in other words, the same principles that underlie inclusive education. The Dakar Framework for Action has both a goal and a strategy related to quality education.

EFA Goal number 6 states that activities should improve all aspects of the quality of education, so that recognised and measurable learning outcomes are achieved by all, especially in literacy, numeracy, and essential life skills. The corresponding strategy to realise this goal asserts that safe, healthy, protective, inclusive and sufficiently resourced educational environments should be created with clearly defined levels of achievement for all.<sup>15</sup>

### **Core Human Rights Obligations in Education**

The right to education involves four key actors: the government and its institutions as a provider of public education and duty bearer; the child as the holder of the right to education, whose duty is to comply with compulsory requirements; and the parents as manager of this child's education, whose duty is to keep the child's best interests as guiding principle; and the teachers, as both rights-holders and duty-bearers. In this perspective, the individual is empowered with rights to challenge the state, and as 'rights-holders,' children, parents and teachers are entitled to demand that the state meets its obligations to respect, protect and fulfil the rights related to education.

By signing the relevant international conventions and treaties (the main ones related to the right to education are listed in Annex 1), the state has a legal obligation to provide, promote and protect the right to education. Those obligations derived from the right to education are categorised as to make education *available, accessible, acceptable and adaptable*.<sup>16</sup>

#### *Availability:*

- Obligation to ensure compulsory and free education for all children in the country within a determined age range, up to at least the minimum age of employment.
- Obligation to respect parental freedom to choose education for their children, observing the principle of the best interests of the child.<sup>17</sup>

#### *Accessibility:*

- Obligation to eliminate exclusion from education based on the internationally prohibited grounds of discrimination (race, colour, sex, language, religion,

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<sup>13</sup> Tomasevski, Katarina, Manual on Rights-Based Education, UNESCO Bangkok, 2004, p.3.

<sup>14</sup> The Dakar Framework for Action, UNESCO, 2000.

<sup>15</sup> Ibid.

<sup>16</sup> Tomasevski, Katarina, Manual on Rights-Based Education, UNESCO Bangkok, 2004, p. 7.

<sup>17</sup> Ibid, p. 13.

opinion, origin, economic status, birth, social or HIV/AIDS, minority, indigenous or disability status).

- Obligation to eliminate gender and racial discrimination in education by ensuring equal enjoyment of all human rights in practice.<sup>18</sup>

*Acceptability:*

- Obligation to set minimum standards for education, including the contents in textbooks and curricula, methods of teaching, school discipline, health and safety and professional requirements for teachers.
- Obligation to improve the quality of education by ensuring that the entire education system conforms to all human rights.<sup>19</sup>

*Adaptability:*

- Obligation to design and implement education for children excluded from formal schooling (e.g. refugees or internally displaced children, street or working children).
- Obligation to adapt education to the best interests of each child, especially regarding children with special needs, or minority and indigenous children.
- Obligation to apply indivisibility of human rights as guidance so as to enhance all human rights through education.<sup>20</sup>

## **The Way Forward**

This rights-based framework described above is particularly meaningful for promoting inclusive education of good quality, since its own core definition includes strong elements such as gender sensitivity, non-discriminatory curricula and learning environments, child-centred teaching and learning methods, enhanced participation of all stakeholders, and a holistic approach to education, which can largely benefit from applying a rights-based framework. However, the education system can act as a double-edged sword - which help to reduce inequalities and discriminatory practices in a society, but can also increase them if no safeguards are in place and enforced. Shifting the focus from viewing education in terms of service delivery to viewing it in terms of human rights can not but contribute to developing the necessary safeguards. As exemplified through the words of UNICEF: “Using a human rights model to ensure that all girls [...] are educated means that the world has to address the issue of gender discrimination.”<sup>21</sup>

In brief, realising rights-based education requires: i) knowledge of the international human rights standards that should inform education programmes; and ii) development of necessary skills and capacity to adapt these standards to national contexts.<sup>22</sup> When applying a rights-based approach to education programming in practice, the following outline provide useful guidance:<sup>23</sup>

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<sup>18</sup> Ibid, p. iv.

<sup>19</sup> Ibid, p. 29.

<sup>20</sup> Ibid, p. 7.

<sup>21</sup> The State of the World’s Children, UNICEF, 2004.

<sup>22</sup> Tomasevski, Katarina, Manual on Rights-Based Education, UNESCO Bangkok, 2004, p. 57.

<sup>23</sup> Urban, Jonsson, Human Rights Approach to Development Programming, UNICEF, 2003.

- **Causality analysis** – What rights are violated and why?
- **Assessment of roles** – Who should do what to protect, promote and fulfil the right to education?
- **Analysis of capacity gaps** – Whose capacity, and in what area, needs to be developed to ensure this right?
- **Action** – Who has to do what to ensure this right?
- **Programme of cooperation** – How can partnerships assist in this process?

What, then, is the value added in applying a rights-based approach? First, it focuses on the individual as a subject of rights who has claims on those with duties and obligations. Second, it implies clear accountabilities and transparencies, not just ‘promises.’ Third, it requires attention to both outcome and process, and both are considered to be equally important. Fourth, it can be used to challenge power imbalances and inequality. Fifth, it promotes the rule of law to stop impunity, and corruption, and ensures equal access to justice. Sixth, it gives more attention to issues of exclusion, disparities and injustice, and addresses the basic causes of discrimination. Seventh, it focuses on institutional reform and national policy review. Eighth, it emphasises that development assistance no longer means charity or service delivery, but is an obligation of the international community. Ninth, it follows what is referred to as ‘good programming’ practices that are no longer optional - but compulsory - in development cooperation activities. Tenth, it uses internationally accepted monitoring and reporting mechanisms to monitor and track progress in countries, and to investigate and report on specific issues.<sup>24</sup>

While necessary requirements to ensure that schools are rights-based and inclusive are fairly well developed at the school level (i.e. that schools are child-seeking, child and teacher-friendly, and have a learning environment of good quality)<sup>25</sup> the same cannot be said about the system level. Therefore, when analysing entry points for intervention in the entire education sector, there is a need to follow a more systemic approach. The following list is particularly useful, as it identifies key thematic areas that must be looked at when trying to transform the education system to become more inclusive and rights-based:<sup>26</sup>

- **Policy development:** Have a clear definition in policy statements, and have references to international human rights standards.
- **Curriculum development:** Make learning meaningful, flexible, non-discriminatory and gender responsive, and link contents to the learner’s life situation.
- **Teacher education:** Support teaching and learning friendly environments, and promote child-centred teaching.
- **Education information and management systems:** Improve data collection and database analysis using disaggregated data.
- **Local capacity-building:** Build effective, transparent and accountable support mechanisms, and mobilize local resources.
- **Community involvement:** Create space for meaningful participation and means for empowerment.

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<sup>24</sup> Ibid.

<sup>25</sup> Shaeffer, Sheldon, A Human Rights-based Approach to Education Programming, UNESCO Bangkok, 2004.

<sup>26</sup> Final Report from the Regional Workshop on Inclusive Education 19-21 October 2004, UNESCO Bangkok, 2005.

In order to apply a rights-based approach to education programming that will promote a rights-based education system and ensure that the vision in the Salamanca Statement is realised for all children, UNESCO is developing a set of guidelines for planners and decision makers in the Ministry of Education and for programme officers working in international development organisations. These guidelines take a systemic approach. They emphasize the need for consistency between all levels of the education system and provide planning tools and checklists to ensure that human rights principles are in place to realize an inclusive and rights-based education system. This means an education system that has legislation, policies and practices that are consistent with human rights standards. This is reflected in the way the administration of the system operates in terms of equality, participation, inclusion, non-discrimination, accountability and transparency. Schools and other related institutions also create the climate within which teaching and learning takes place, whilst teachers and other educators model relationships and convey values. In other words, this means that a rights-based education system will be ineffective if there are contradictions between what is being taught, the teaching and learning methods used and the values conveyed by individuals and institutions.<sup>27</sup> When finalised, the guidelines will be disseminated widely, translated and supplemented with training workshops.

Furthermore, to facilitate the process of promoting learning environments that are inclusive, rights-based and of better quality, UNESCO Bangkok has developed a “Toolkit for Creating Inclusive, Learning-Friendly Environments.”<sup>28</sup> It provides teachers and school administrators with concrete guidelines, case studies and tools to improve the learning environment at the school and community level. The Toolkit covers a wide range of areas from seeking out children not in school, to removing barriers to learning, managing child-centred and learning-friendly classrooms, helping teachers to embrace diversity, ensuring safe, protective and gender responsive school environments, encouraging involvement of children, parents and the community, and finally, providing authentic assessment and monitoring techniques. It builds on experience gained over many years, and on the strategies and tools developed by many organisations and individuals working on inclusive education. The Toolkit is very comprehensive, and is designed to be user-friendly and a source of inspiration for teachers. In addition, it can be used in both formal and non-formal education settings. UNESCO Bangkok is now in the process of disseminating, translating, adapting and piloting it to different country contexts to promote its wide usage in schools and for pre-service teacher training.

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<sup>27</sup> UNESCO Guidelines to a Rights-Based Approach to Education, Draft January 2005.

<sup>28</sup> For more information and to access the Toolkit online, visit UNESCO Bangkok website at: [www.unescobkk.org/education/appeal](http://www.unescobkk.org/education/appeal)

## **Annex 1:**

### **List of the main international human rights instruments related to the right to education<sup>29</sup>**

- Universal Declaration of Human Rights, 1948  
Article: 26
- UNESCO Convention against Discrimination in Education, 1960  
Articles: 1, 3 and 4
- International Convention on the Elimination of All Forms of Racial Discrimination, 1965  
Article: 5
- International Covenant on Economic, Social and Cultural Rights, 1966  
Article: 13
- International Covenant on Civil and Political Rights, 1966  
Articles: 18 and 19
- ILO Convention on the Minimum Age for Employment, 1973  
Article: 7
- Convention on the Elimination of All Forms of Discrimination against Women, 1979  
Article: 10
- Convention on the Rights of the Child, 1989  
Articles: 28 and 29
- ILO Convention concerning Indigenous and Tribal Peoples, 1989  
Articles: 26, 27, 28, 29, 30 and 31
- ILO Convention on the Worst Forms of Child Labour, 1999  
Article: 7

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<sup>29</sup> Refer to the OHCHR website to view the full texts of these instruments at: [www.ohchr.org](http://www.ohchr.org)