



# General Assembly

Distr.: General  
22 February 2019

English only

---

## Human Rights Council

### Fortieth session

25 February–22 March 2019

Agenda item 3

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

## **Written statement\* submitted by Human Rights Advocates Inc., a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 February 2019]

---

\* Issued as received, in the language(s) of submission only.



## **Ensuring Access to Inclusive Education for Children with Disabilities: Deinstitutionalization and Desegregation**

### **A. Introduction**

Human Rights Advocates calls attention to the institutionalization or segregation of disabled children as barriers to inclusive education. Disabled children are less likely to attend school than others and children with intellectual or psychosocial disabilities face disproportionate barriers to accessing education.<sup>1</sup> The Conventions on the Rights of the Child (“CRC”) and on the Rights of Persons with Disabilities (“CRPD”) require that disabled children be included in society equally with others. Inclusion must begin with equal access to education, given that education is recognized as both a right itself and a means to realize other fundamental human rights. When disabled children are denied quality education, their ability to maintain employment or other roles in society is diminished. Thus, deinstitutionalization and desegregation of such children and development of schools that are responsive to the diverse needs of all children are effective means towards a more inclusive and equitable society.

In 1997, the CRC Committee noted that legislation that segregates disabled children into separate institutions “for care, treatment or education” was “not compatible with the principles and provisions of the Convention.” Today, 8-10 million children with disabilities are confined in institutions worldwide.<sup>2</sup> States justify these practices as a means to provide specialized care or support in the best interest of the child. However, countless reports reveal that institutionalization and segregation exposes children to increased risk of abuse and lifelong societal exclusion.

Aside from upholding human rights, there are economic arguments favorable to states to support deinstitutionalization and desegregation. Investing in educating children with disabilities increases employment and reduces welfare and future dependence costs.<sup>3</sup> Investing in well-planned community-based services to provide meaningful learning opportunities for *all* children in mainstream schools is more cost-effective in the long run than funding large-scale institutions.<sup>4</sup>

### **B. Exclusion from Education: Institutionalization and Segregation**

More than three decades after the onset of deinstitutionalization, many countries continue to exclude disabled children from quality education and deprive them of their opportunity to achieve their full potential. The following are examples of countries that have been found to institutionalize, segregate, or exclude disabled children.

#### **1. Russian Federation**

The Russian government has made positive efforts towards implementing the right to inclusive education for disabled children, such as legislation prohibiting disability-based

---

<sup>1</sup> U.N. Dep’t. of Economic and Social Affairs, *UN Flagship Report on Disability and Development 2018*, 29 (2018),

<https://www.ohchr.org/Documents/HRBodies/CRPD/UN2018FlagshipReportDisability.pdf>.

<sup>2</sup> Eric Rosenthal, *A Mandate to End Placement of Children in Institutions and Orphanages: The Duty of Governments and Donors to Prevent Segregation and Torture*, GEORGETOWN HUMAN RIGHTS INSTITUTE (Jan. 2017), <https://www.law.georgetown.edu/human-rights-institute/wp-content/uploads/sites/7/2017/07/Perspectives-on-Human-Rights-Rosenthal.pdf>.

<sup>3</sup> *The Right of Children with Disabilities to Education: A Rights-Based Approach to Inclusive Education*, UNICEF, 11 (2012), [https://www.unicef.org/disabilities/files/UNICEF\\_Right\\_to\\_Education\\_Children\\_Disabilities\\_En\\_Web.pdf](https://www.unicef.org/disabilities/files/UNICEF_Right_to_Education_Children_Disabilities_En_Web.pdf).

<sup>4</sup> World Health Organization and World Bank, *World Disability Report*, 149 (2011), [https://www.who.int/disabilities/world\\_report/2011/report.pdf](https://www.who.int/disabilities/world_report/2011/report.pdf).

discrimination and increasing the number of students with disabilities in inclusive education.<sup>5</sup> However, Russia's institutionalization or segregation of disabled children continues to thwart access to inclusive education.

In a 2012 survey of 10 countries, Russia had the highest rate of institutionalization, despite it having the lowest poverty rate.<sup>6</sup> As of 2014, approximately 30 percent of disabled Russian children live in state orphanages, despite 95 percent of whom have at least one living parent. Doctors and nurses advise parents to give up newborns because "children will be unable to develop and form relationships, that parents will be unable to care for them, or that children will die." Parents also relinquish custody at older ages because of insufficient support in their communities, such as lack of access to quality education. Disabled children are often isolated in separate wards and deprived of education and social interaction, causing severe psychological harm and developmental delays.<sup>7</sup>

Consequently, children are transferred to adult mental institutions upon turning 18 where education and inclusion into society is unlikely. Despite consent being legally required for such transfers, several cases of young people transferred without consent were reported in late 2017.<sup>8</sup>

## 2. Lebanon

In 2017, the CRC Committee noted concern for Lebanon's high rate of institutionalization of disabled children. In 2000, Lebanon enacted legislation ensuring access to education, however, disabled children cannot access education on the same basis with others due to limited support or discriminatory admissions practices; rather eligible children receive separate specialized education, learning, or occupational training.<sup>9</sup> Parents are more likely to place children with disabilities in a residential institution isolated from society and deprived of quality education because the state does not provide educational support in mainstream schools and private schools are too costly.<sup>10</sup>

Lebanon hosts one of the largest populations of refugees per capita,<sup>11</sup> yet access to education remains a challenge for disabled refugee children. Syrian refugee children with disabilities in Lebanon are twice as likely to have never gone to school compared to Syrian refugee children without disabilities.<sup>12</sup> Disabled children are often denied admission to public schools because it "is considered a charity rather than a basic right for all."<sup>13</sup> For example, a Syrian mother could not enroll her two children with intellectual disabilities in public school because it does not "accept these types of cases . . ." and that "other students would make fun of [them]." Even when admission is granted, schools are unlikely to accommodate the needs of children with intellectual or psychosocial disabilities. It was

<sup>5</sup> UN Committee on the Rights of Persons with Disabilities, *Concluding Observations on the Initial Report of the Russian Federation*, ¶4 U.N. Doc. CRPD/C/RUS/CO/1 (Apr. 9, 2018).

<sup>6</sup> *Context for Children and Policy Situation Paper*, FAMILY FOR EVERY CHILD, 4, (2012), [https://familyforeverychild.org/wp-content/uploads/2012/12/Context\\_for\\_Children\\_and\\_Policy\\_situation\\_paper.pdf](https://familyforeverychild.org/wp-content/uploads/2012/12/Context_for_Children_and_Policy_situation_paper.pdf).

<sup>7</sup> Human Rights Watch [hereinafter "HRW"], *Abandoned by the State: Violence, Neglect, and Isolation for Children with Disabilities in Russian Orphanages*, 66 (Sept. 15, 2014), [https://www.hrw.org/sites/default/files/reports/russia0914\\_ForUploadweb.pdf](https://www.hrw.org/sites/default/files/reports/russia0914_ForUploadweb.pdf).

<sup>8</sup> HRW, *Russia: Adult Prospects Dim for Youth with Disabilities: End Institutionalization, Support Independent Living*, (Dec. 6, 2018), <https://www.hrw.org/news/2018/12/06/russia-adult-prospects-dim-youth-disabilities>.

<sup>9</sup> HRW, *"I Would Like to Go to School" Barriers to Education for Children with Disabilities in Lebanon*, 21 (March 2018), [https://www.hrw.org/sites/default/files/report\\_pdf/lebanon0318\\_web.pdf](https://www.hrw.org/sites/default/files/report_pdf/lebanon0318_web.pdf).

<sup>10</sup> Article 19, *Lebanon: Disability and Access to Information*, 14 (May 2015), <https://www.article19.org/data/files/medialibrary/37983/Disability-and-access-to-information-in-Lebanon,-31-May-2015,-English.pdf>.

<sup>11</sup> UNHCR, *Global Trends: Forced Displacement in 2017*, 2 (25 June 2018), <https://www.unhcr.org/5b27be547.pdf>.

<sup>12</sup> Humanity & Inclusion and iMMAP, *Removing Barriers: The Path Towards Inclusive Access*, Lebanon Report,

<sup>13</sup> Wannes Carlier, *The Widening Educational Gap for Syrian Refugee Children*, KIDSRIGHTS FOUNDATION, 12 (2018).

reported that a school refused to accommodate a Syrian refugee child with Hunter Syndrome, a developmental disability, by not allowing him to sit in the front row to help him concentrate.<sup>14</sup> In both cases, the children were forced to remain home and completely excluded from accessing any education.

### 3. Guatemala

In 2016, the CRPD Committee urged Guatemala to stop institutionalizing children after reviewing reports of pervasive abuse. As of 2017, over 5,000 children live in 40 state and private-run Guatemalan institutions, despite 80-95 percent of whom have living parents. Guatemala spends 45 times as much,<sup>15</sup> per child, to institutionalize them than it does to support the disabled child's family at home.<sup>16</sup>

## C. Approaches to Deinstitutionalization and Desegregation

The following are examples of countries that have made progress in deinstitutionalization and/or inclusive education and are models of good practices.

### 4. Bulgaria

From 2010 to 2017, the number of disabled Bulgarian children in institutions decreased from over 7,500 to under 1,000.<sup>17</sup> In partnership with NGOs and the European Union and Commission, the government has effectively invested funds to support the transition from institutions to community-based services. Bulgaria enacted the Pre-School and School Education Act, which established the right of disabled children to specialized support, including resource teachers. As of 2015, the number of newly enrolled disabled children in kindergartens and preschool more than tripled the target number set by Bulgaria's "Social Inclusion Project."<sup>18</sup>

### 5. Italy

Italy has succeeded at deinstitutionalization through legislative and social reforms. Disabled children are legally guaranteed to attend mainstream schools and receive tailored educational support. Today, 98 percent of disabled children attend such schooling.<sup>19</sup>

## D. Recommendations

Human Rights Advocates urges the Council to:

- a. Call on States to define a strategy for de-institutionalization with deadlines and evaluation measures;
- b. Reaffirm the need for states to desegregate children with disabilities from special needs schools and invest resources to develop an inclusive education system.

HRA urges States to:

---

<sup>14</sup> HRW, *Leave No One Behind: Persons with Disabilities in Humanitarian Emergencies*, 24 (May 18, 2016), [https://www.hrw.org/sites/default/files/supporting\\_resources/drd\\_whs\\_brochure\\_lowres.pdf](https://www.hrw.org/sites/default/files/supporting_resources/drd_whs_brochure_lowres.pdf).

<sup>15</sup> HRW, *Leave No One Behind: Persons with Disabilities in Humanitarian Emergencies*, 24 (May 18, 2016), [https://www.hrw.org/sites/default/files/supporting\\_resources/drd\\_whs\\_brochure\\_lowres.pdf](https://www.hrw.org/sites/default/files/supporting_resources/drd_whs_brochure_lowres.pdf).

<sup>16</sup> DRI, *Still in Harm's Way*, 25 (2018), <https://www.driadvocacy.org/wp-content/uploads/Still-in-Harms-Way-2018.pdf>.

<sup>17</sup> UNICEF, *15 Years of De-Institutionalization Reforms in Europe and Central Asia*, 2 (2018), [https://www.unicef.org/eca/sites/unicef.org/eca/files/2018-11/Key%20Results%20in%20Deinstitutionalization%20in%20Europe%20and%20Central%20Asia\\_0.pdf](https://www.unicef.org/eca/sites/unicef.org/eca/files/2018-11/Key%20Results%20in%20Deinstitutionalization%20in%20Europe%20and%20Central%20Asia_0.pdf).

<sup>18</sup> World Bank Group, *Bulgaria Social Inclusion Project*, 13 (June 26, 2018), [https://ieg.worldbankgroup.org/sites/default/files/Data/reports/ppar\\_bulgariasocialinclusion.pdf](https://ieg.worldbankgroup.org/sites/default/files/Data/reports/ppar_bulgariasocialinclusion.pdf).

<sup>19</sup> Renzo Vianello and Guiliana Truffa, *Integrating Children with Disabilities in Italy*, Children in Europe, No. 2, (March 2002).

- a. Prioritize the deinstitutionalization of children with disabilities by placing a moratorium on new admissions and ensuring resources are directed towards developing community-based alternatives to institutions;
  - b. Ensure funds and international development aid are not being used to perpetuate the institutionalization or segregation of children with disabilities by not supporting the transition to community-based services, including individualized support in mainstream schools;
  - c. Amend laws and policies to recognize and support all children with disabilities, including non-physical conditions and refugees.
-