

INCLUSIVE EDUCATION FOR LEARNERS WITH DISABILITIES IN MAURITIUS: THE 'RIGHTS' WAY FORWARD

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Summary

It has become increasingly evident that progress towards inclusion in the realm of education for learners with disabilities in the small island nation of Mauritius has been inexplicably inconsistent, and so-called inclusive policies advocated by successive governments have had little tangible effects in practice. In order to break free from the chains of this segregationist approach, where the education of disabled learners developed in parallel to that of their non-disabled peers, a radical overhaul of our approach to education is warranted. Towards that end, adopting a rights-based approach to inclusive education can have profound implications for students with disabilities when they are provided with the same educational opportunities within mainstream settings on an equal basis with others. It is not the disabled student who should adapt to the school system, but rather it is for education providers to adapt to the particular needs of learners with disabilities.

This paper opens with a description of the education system of Mauritius before moving to a historical analysis of special educational needs in the country. The discussion will then turn to the salient features of inclusive education as conceived under international law. The final part will identify examples of good practices and provide recommendations to promote education opportunities for learners with disabilities in Mauritius, in particular to underline the legislative and policy measures that Mauritius can adopt with a view to ensuring that persons with mental or physical impairments can benefit from access to an inclusive and quality education on an equal basis with others; raise awareness as to the challenges that persons with disabilities are confronted with in both the public and private education systems; and assess to what extent inclusive education can prove to be beneficial to the Mauritian society and economy.

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1 Introduction

The education system for learners with disabilities in Mauritius has long been predicated on segregation. It is an unfortunate reality that disabled learners are not provided with equal access to all levels of education and vocational training which can ensure their full participation and inclusion in society. A close reflection on the nature of the education system in Mauritius reveals that there has been a litany of failures in the implementation of the right to an inclusive and quality education for children and adults with disabilities. Policies formulated under successive governments have clouded one's perspective entirely about the negative consequences they have spawned on the robustness of the national educational structure. It is jarring to learners with disabilities in Mauritius who have been thrust into a world where they cannot enjoy the full extent of their right to an education on an equal footing with learners without disabilities. The 'inclusive education' advocated by policy-makers in Mauritius is regrettably not a child-centred pedagogy which enables learners with disabilities to be educated alongside their non-disabled peers. The term 'inclusive' has in reality been employed as a smokescreen to camouflage the perpetuation of a separate system of education for learners with disabilities.

In the light of this, it is important to address these inadequacies by adopting a human rights-based approach to the provision of education for learners with disabilities in Mauritius. It is all the more crucial to depart from the medico-social model of disability which places the burden on learners with disabilities to adapt to the mainstream education system. If they cannot adapt, they are placed in integrated or segregated settings by virtue of their impairment, sometimes at their own cost, when education should in fact be freely accessible as a fundamental right to every child in a country that values democratic ideals above all. The human rights-based approach to education recognises that children with disabilities are first and foremost rights-holders, whose individual rights and liberties should be respected on an equal basis with their non-disabled counterparts. It follows that their right to equal and quality education can hardly be overemphasised in the fight for disability justice.

While much ink has been spilled over the issue of education of students with special needs, there is still a need to assess the impact of human rights standards in the implementation of inclusive education.¹ A human rights perspective in view of achieving systemic reforms to education will not only ensure that the right to education of learners with disabilities is being

1 See G Chung Kim Chung & C Dalais 'Inclusive Education: A Mauritian approach to the inherent rights of the child' in M Garcia et al (eds) *Africa's future, Africa's challenge: Early childhood care and development in Sub-Saharan Africa* (2008); S Grech & K Soldatic (eds) *Disability in the global south: The critical handbook* (2016); N Phasha et al (eds) *Inclusive education in African contexts: A critical reader* (2017).

safeguarded, but will equally have a positive impact on their other fundamental rights. Insofar as it is not in contention that education helps to reduce inequalities, it is incumbent upon policy-makers and society at large to extend access to the mainstream education system to all people with disabilities, irrespective of any additional financial burden this entails for educational providers. If an inclusive education model is implemented effectively, this will have far-reaching impacts on the empowerment and promotion of the social, economic and political inclusion of persons with disabilities within Mauritian society.

This paper opens with a description of the education system in Mauritius before moving to a historical analysis of special educational needs in the small island nation of Mauritius. The discussion will then shed light on the salient features of inclusive education as conceived under international human rights law. The final part will identify examples of good practices and provide recommendations to promote education opportunities for learners with disabilities in Mauritius. The main recommendations are as follows: the legislative and policy measures that Mauritius can adopt with a view to ensuring that persons with mental or physical impairments can benefit from access to an inclusive and quality education on an equal basis with others; raising awareness as to the challenges that persons with disabilities are confronted with in the general public education system and society; and assessing to what extent inclusive education can prove to be beneficial to the Mauritian society and economy as a whole.

2 The education system in Mauritius

The education system in Mauritius is based on the British system as a result of colonial occupation from 1810 up to 1968, when the country became independent. The Education Act was enacted in 1957 to cater for matters relating to education in Mauritius.² The structure of the education system is divided into pre-primary, primary, secondary and tertiary levels.³ Primary education has always been freely provided. Early on in post-independent Mauritius, the authorities pushed for reforms toward making education free and accessible to those in secondary educational

2 Government of Mauritius, Education Act 1957 [https://supremecourt.govmu.org/HighlightDoc/THE%20EDUCATION%20ACT%201957\[1\].pdf](https://supremecourt.govmu.org/HighlightDoc/THE%20EDUCATION%20ACT%201957[1].pdf) (accessed 19 May 2021).

3 See The Ministry of Education, Culture and Human Resources 'National report of Mauritius: The development of education' (2008) http://www.ibe.unesco.org/fileadmin/user_upload/archive/National_Reports/ICE_2008/mauritius_NR08.pdf (accessed 19 May 2021); AR Foondun 'Private tuition in Mauritius: The mad race for a place in a "five-star" secondary school' IIEP research and studies programme: Increasing and improving the quality of basic education Monograph 8 (1992) <https://unesdoc.unesco.org/ark:/48223/pf0000092320/PDF/92320eng.pdf.multi> (accessed 19 May 2021) (See Chapter II for a thorough description of the education system in post-independent Mauritius).

institutions. Fees were as a result abolished for secondary schools and post-secondary schools in 1977 and 1988 respectively. Fast forward a few decades and there were subsequent amendments in 2004 to the Education Act and to the Education Regulations of 1957 in view of making education free and compulsory up to the age of 16 with the introduction of the 11-year schooling system.⁴

The education system has, however, experienced significant systemic reforms in recent years. The Nine-Year Continuous Basic Education was introduced in 2015 in order to establish a comprehensive basic education cycle aimed at providing the core competencies for empowering students with knowledge and promoting access to high levels of achievement.⁵ It was a missed opportunity to work towards real inclusion for students with disabilities in the mainstream education system. One specific objective of this reform was to '[p]rovide learning opportunities to all students, including those with special education needs, for them to attain high levels of achievement according to their abilities and strengths'.⁶ However, this objective had the effect of perpetuating a parallel education system for children without disabilities and those with special educational needs. Another significant reform related to post-secondary studies which since January 2019 is free for students who opt to study at a public tertiary education institution.⁷ The education playing field is however skewed from the outset for learners with disabilities, which renders it much more difficult for most of them to access higher education at a later stage in their academic life. The few scholarships available for students with disabilities do not moreover bring any significant game-changing results to their integration in society.

According to official statistics as at March 2020, there were 319 schools providing primary education (221 public schools; 53 run by religious education authorities; and 45 privately-funded schools).⁸ With respect to secondary education, there are 179 schools in all (69 state-run; 110 privately-run). For tertiary level, the statistics are presented in terms of enrolment: as at December 2019 the total number of students was 49 205 (including full-timers, part-timers, and distance education). Of significance

4 See website of The Ministry of Education of Mauritius for the various amendments <https://education.govmu.org/Pages/Legislations/Legislations.aspx> (accessed 19 May 2021).

5 The Ministry of Education of Mauritius 'Inspiring every child: Nine year schooling' <https://education.govmu.org/Documents/educationsector/nys/Documents/NYCBE%20Booklet.pdf> (accessed 19 May 2021).

6 Ministry of Education (n 5) 8.

7 The Ministry of Education and Human Resources, Tertiary Education and Scientific Research 'Free education in tertiary education institutions' (2019) <https://education.govmu.org/Documents/educationsector/Documents/2019/Communique%20250119.pdf> (accessed 19 May 2021).

8 Statistics Mauritius 'Detailed statistics relating to education in the pre-primary, primary, secondary and post-secondary sectors' (2020) https://statsmauritius.govmu.org/Documents/Statistics/ESI/2020/EI1543/Edu_Yr20.pdf (accessed 19 May 2021).

is the number of Special Education Needs schools, which amounted to 71 in total as at March 2020 (21 state-run; 50 in all mostly run by non-governmental organisations and a few by a religious authority).⁹ The non-governmental organisations which run these specialised schools typically receive aid from the government in order to ensure better training and capacity-building for their staff. It should be highlighted, moreover, that there are reasonable accommodation measures that have been implemented for learners with disabilities such as providing them with additional time in national exams or retrofitting of schools with ramps in order to facilitate access to classrooms or restrooms. But these are the bare minimum required in terms of making it easier for all persons with disabilities to be included in the education system. And these measures are aimed mostly at students with a physical disability.

Insofar as training of special educators is concerned, a plethora of courses have been developed by the Mauritius Institute of Education operating under the aegis of the Ministry of Education and which engages in educational research, curriculum development and teacher education.¹⁰ The Mauritius Institute of Education has designed specific courses for the professional development of staff and instructors, including a Postgraduate Diploma in Special Education for lecturers of the Institute, educational psychologists and educational social workers; a Certificate in Special Education for teachers working in specialised schools for students with disabilities; a Teacher's Diploma in Special Education Needs for primary school teachers who have to look after students with mild forms of disabilities in mainstream schools; a Teacher's License in Special Education Needs for instructors already working in specialised schools; and a Foundation Course for instructors and staffs in specific specialised schools run by non-governmental organisations.

The List of Indicative Priority Fields of Study 2017/2019 recognises that education is one of the most important avenues through which social equality for learners with disabilities can be achieved in Mauritius.¹¹ The list explicitly refers to the priority of Special Education Needs training courses at both undergraduate and postgraduate levels. These courses focus on developing teaching strategies for effective management of learners with disabilities in class. On that account, the training of education teachers is avowed as instrumental in building the strengths, skills and competencies of these students. Yet, seismic shifts in the education sector in the past decade have failed to take into proper consideration the real aspirations of learners with disabilities.

9 As above.

10 The Mauritius Institute of Education website <http://portal.mie.ac.mu/> (accessed 19 May 2021).

11 The Tertiary Education Commission 'List of indicative priority fields of study 2017/2019' (January 2017) http://www.tec.mu/pdf_downloads/pubrep/LIPFS_070317.pdf (accessed 19 May 2021).

As will be explored later, the lack of a human rights perspective on the process is hampering the robustness of the whole educational structure. The approach adopted by education providers in Mauritius excludes most learners with disabilities from the mainstream education system. It can be highlighted at this juncture that learners with special education needs are more at risk of being denied the same educational opportunities than their non-disabled peers when they are placed in segregated settings.¹² This eventually results in their exclusion from society. But in an attempt to have a fuller picture of the educational structure of Mauritius, a discussion is required of the parallel regime for special educational needs that was engineered specifically for learners with disabilities.

3 In need of special education needs schools

In the early 1950s, Chief Justice Earl Warren, then at the helm of the US Supreme Court, initiated a radical change in American society by rallying other Supreme Court Justices to declare unconstitutional state laws which had the object of racially segregating students in public schools.¹³ In these same years, however, a segregationist policy approach was endorsed by Mauritian authorities in order to prevent access to mainstream schools to learners with disabilities with the creation of Specialised Government Schools. This notwithstanding the fact that 'Education for All' was the slogan of the then ruling party.¹⁴ It would appear that the main characteristic that defined Mauritian society at that time was that the creation of specific schools that could satisfy the individual needs of persons with similar disabilities could be an equaliser in the education field insofar as success in the mainstream education system was excessively challenging for those with a disability. This is reflected in the establishment of the School for the Blind by the Society for the Welfare of the Blind in 1946, the School for the Deaf by the Society for the Welfare of the Deaf in 1965, and the School for Educationally Sub-Normal Children founded by the Mauritius Mental Health Association.¹⁵

At the turn of the millennium, novel ideas about how to better guarantee access to education for persons with disabilities were starting to emerge in the policy-making arena. This led to the publication of a policy

12 HL Wang 'Should all students with special educational needs (SEN) be included in mainstream education provision? A critical analysis' (2009) 2 *International Education Studies* 154.

13 *Brown v Board of Education of Topeka* 347 US 483 (1954).

14 Think Mauritius 'Rethinking the education system in Mauritius' (14 March 2019) 9 <https://www.thinkmauritius.mu/documents/rethinking-education-system.pdf> (accessed 19 May 2021).

15 See The Ministry of Social Security, National Solidarity and Senior Citizens Welfare & Reform Institutions 'National policy paper & action plan on disability: Valuing people with disabilities' (2007) <https://www.mindbank.info/item/2675> (accessed 19 May 2021).

document entitled ‘Special Education Needs and Inclusive Education in Mauritius’ that was eventually embraced by the Ministry of Education and Human Resources in 2006 as a response to the growing need of giving effect to the special educational needs of children with disabilities.¹⁶ This policy and strategy document laid emphasis on the necessity of empowering young learners with disabilities to develop their full potential with the ultimate positive import that they become fully-fledged members of society, and accordingly contribute to the socio-economic wellbeing of the nation. Inclusive educational settings for children with disabilities was an ideal that was promoted in the document as a *sine qua non* condition for effective participation in socio-economic activities. Yet, there was a patent disregard to what really amounted to inclusion inasmuch as the understanding was that ‘children with special education needs should be included as far as possible within the general education environment commonly referred to as inclusive education’.¹⁷ The terms ‘as far as possible’ in the policy document has in practice been instrumentalised as a weapon in the arsenal of educational providers to limit as much as possible access to the general education system for learners with severe disabilities who could not conceivably adapt to the mainstream system without appropriate reasonable accommodation or financial and other support measures. While the rationale behind this policy document was to include children with disabilities into the educational system, it did not adequately capture the essence of what inclusion meant.

In its Initial Report submitted to the Committee on the Rights of Persons with Disabilities (the CRPD Committee) on the measures taken to give effect to state obligations under the Convention on the Rights of Persons with Disabilities (the Convention or the CRPD) and the progress made pursuant to article 35 of the CRPD, the State of Mauritius recognised that the 2006 policy adopted a three-pronged approach in order to provide access to education through a plethora of options for learners with disabilities.¹⁸ The first approach related to integration of learners with mild disabilities in mainstream schools; the second approach pertained to having separate classrooms for children with severe disabilities in mainstream schools; and the third approach related to having specialised schools for children who cannot be integrated in the mainstream education system by virtue of their specific educational needs. In the Education and Human Resources Strategy Plan 2008-2020, one of the strategic goals

16 The Ministry of Education and Human Resources ‘Special education needs and inclusive education in Mauritius: The policy and strategy document’ (2006) <https://education.govmu.org/Documents/educationsector/Documents/Special%20Education%20Needs/sen.pdf> (accessed 19 May 2021).

17 The Ministry of Education and Human Resources (n 16) sec 3.3.

18 Initial Report of Mauritius, CRPD Committee (11 August 2014), UN Doc CRPD/C/MUS/1 (2014) para 207.

identified by the Ministry of Education and Human Resources was to '[e]ncourage and support the inclusion of children with special needs'.¹⁹ This was touted as necessary towards their inclusion in the mainstream national education system. And it was reiterated that

the [special educational needs] policy guidelines and strategic framework move forward immediately along specifically defined goals for each year so that by 2020 all children with disabilities in Mauritius will be enjoying access to relevant high-quality education.²⁰

In 2020, the situation has remained unchanged and there is still confusion about the concepts of 'integration' and 'inclusion' which will be more fully examined in the next section.

The CRPD Committee has expressed serious concerns in its Concluding Observations on the Initial Report of Mauritius adopted at its 225th meeting on 1 September 2015 about the slow implementation of the 2006 policy on inclusive education with the consequence of 'the education system remaining mostly segregated and many children with disabilities being completely deprived of any form of education'.²¹ Another international human rights treaty body, the Committee on the Rights of the Child, has advanced similar reservations in its Concluding Observations on the Combined Third to Fifth Periodic Reports of Mauritius at its 1983rd meeting on 30 January 2015 insofar as the medical model of disability was still perpetuated, with the continuous integration of young disabled learners in the education system based on their specific disability instead of eliminating the physical, socio-economic and cultural barriers that prevent their full inclusion in schools and participation in society.²² In addition, this Committee criticised Mauritian authorities for their lack of adequate measures to move towards a truly inclusive model of education for children with disabilities, with unfitting overreliance on civil society organisations to provide specialised services to learners with disabilities, when this burden should in fact be on the state.

19 The Ministry of Education, Culture and Human Resources 'Education and human resources strategy plan 2008-2020' (October 2009) <https://education.govmu.org/Documents/Documents/Publications/EHRSP%202008-2020.pdf> (accessed 19 May 2021).

20 Education and human resources strategy plan 2008-2020 (n 19) para 208.

21 Concluding Observations on Initial Report of Mauritius, CRPD Committee (30 September 2015) UN Doc CRPD/C/MUS/CO/1 (2015).

22 Concluding Observations on the Combined Third to Fifth Periodic Reports of Mauritius, CRC Committee (27 February 2015) UN Doc CRC/C/MUS/CO/3-5 (2015).

These critical reviews from human rights treaty bodies can perhaps explain why the Government of Mauritius has in 2017 embraced another policy framework and strategy document entitled 'Inclusive Education for Children and Youth with Special Needs in Mauritius: Concept to Reality'.²³ The intended purpose of this national strategic document was to achieve inclusion by creating and providing a conducive environment to all learners in order to ensure equal access to quality education and training. Of particular importance was the application of this new operative framework envisioned to mark a shift to a rights-based model for learners with disabilities. On paper, the policies were a blueprint to be emulated by any active agent for positive change: they placed the spotlight on the fact that injustices and discrimination that have been perpetrated against learners with disabilities over decades cannot be fixed with tinkering or half-measures, as a result of which a paradigm shift was imperative towards the rights-based model recognising that learners with disabilities are rights-holders. In reality, however, the integrated approach to education was maintained insofar as there was mention in the strategic document of the establishment of a regulatory institution in order to guarantee good governance and effective oversight in the special education needs sector. This culminated in yet another law that was not in conformity with internationally accepted benchmarks regarding inclusive education.

The Special Education Needs Authority Act 2018 was enacted to cater for the setting up of a centralised regulatory framework for learners with special education needs.²⁴ The status quo of keeping to specialised schools for disabled students was thus cemented by this 2018 legislation in view of centralising the process regarding curriculum development and assessment for Special Education Needs schools. What is more striking is the reference in section 5(j) of this Act which stipulates that one of the functions of the Authority is to 'promote inclusive practices to facilitate [an] inclusive learning environment'.²⁵ The very nature and purport of this statute is at odds with the aforementioned section. Indeed, it only pays lip service to the concept of inclusion. As Professor Parsuramen, Founder and President of the Mauritian non-governmental organisation Global Rainbow Foundation, puts it:

[T]he ongoing admission of learners with disabilities in special education needs schools and now the design and implementation of a curriculum for same in the Special Education Needs Authority (SENA) Act definitely do not

23 The Ministry of Education and Human Resources 'Inclusive education for children and youth with special needs in Mauritius: Concept to reality' (27 October 2017) [https://education.govmu.org/Documents/educationsector/Documents/Special%20Education%20Needs/Salient%20Features%20Startegy%20Doc%20\(1\).pdf](https://education.govmu.org/Documents/educationsector/Documents/Special%20Education%20Needs/Salient%20Features%20Startegy%20Doc%20(1).pdf) (accessed 19 May 2021).

24 Special Education Needs Authority Act 2018 <https://mauritiusassembly.govmu.org/Documents/Acts/2018/act1818.pdf> (accessed 19 May 2021).

25 Sec 5(j) of the Special Education Needs Authority Act.

correspond to the commitment of Mauritius to implement an inclusive mainstream education system alongside special education needs institutions.²⁶

Having taken the rigorous view that children with severe forms of disabilities – in particular those with severe mental or psychosocial impairments who are institutionalised against their will – cannot be integrated in the mainstream education system, authorities lacking the requisite political will quietly sat on the fence instead of actually fighting for a complete model of inclusion in this new legislation. On the face of it, guaranteeing education for learners with disabilities was the core objective of this law, be that in segregated or integrated settings. But this finally leads to the segregation of learners with disabilities from a very young age.

Another dimension of this law that has assumed enormous proportions in terms of discrimination against children with disabilities is that the onus is placed on children with disabilities to integrate the mainstream school system. Wherever the student cannot integrate the mainstream system, the Act empowers the Authority to devise and implement plans to facilitate the early identification and assessment of persons with special educational needs as well as the setting up of a database of persons with special educational needs. ‘Special education needs’ is defined as ‘the needs of a person with disability which makes learning harder for him than another person of the same age’.²⁷ This in itself is seething with discriminatory undertones and is quite restrictive in scope. It fails to recognise the multiple and intersectional forms of discrimination that persons with disabilities may be subjected to, without reference to inclusiveness in that regard.

A striking example of the disingenuous use of the term inclusion relates to when a former Minister of Social Security, National Solidarity and Reform Institutions explained during parliamentary debates that the ambition was to move towards an inclusive education and ‘that our educational institutions should be ready to accommodate children with disabilities in the mainstream education system’. But in the same breath, the Minister indicated that ‘the Ministry of Education is in the process of creating more special integrated units in the mainstream education institution in an attempt to [enable] children with disabilities to benefit for an inclusive education’.²⁸ The problem regarding inclusion must consequently take into consideration semantics insofar as confusion of terms may lead to confused thinking. The accurate meaning that can be

26 A Parsuramen ‘Pathway to integration or segregation’ *L’Express* (Mauritius) 21 December 2018 <https://www.lexpress.mu/idee/344808/pathway-integration-or-segregation> (accessed 19 May 2021).

27 Special Education Needs Authority Act.

28 Republic of Mauritius Parliamentary Debates, Sixth National Assembly: First Session 16 of 2016 (12 July 2016) 15 <https://mauritiusassembly.govmu.org/Documents/Hansard/2016/hansard1616.pdf> (accessed 19 May 2021).

ascribed to inclusive education under international human rights law will be explored in the following section.

4 The meaning of inclusive education

According to the Guidelines of the United Nations Educational, Scientific and Cultural Organisation, 'inclusive education' can be defined as:

[A] process of addressing and responding to the diversity of needs of all learners through increasing participation in learning, cultures and communities, and reducing exclusion within and from education. It involves changes and modifications in content, approaches, structures and strategies, with a common vision which covers all children of the appropriate age range and a conviction that it is the responsibility of the regular system to educate all children.²⁹

The history and development of inclusive education have been extensively researched and analysed elsewhere and this article will not delve into the intricate details thereof.³⁰ Suffice to highlight that inclusive education should ideally be viewed through the lens of the CRPD. The Convention is the first international treaty which codifies in a single document all the human rights of persons with disabilities. It rejects the charitable and medical models of disability, and goes further than the social model of disability in favour of a human rights model.³¹ The human rights model acknowledges that disabled individuals are first and foremost right-holders and that this entails the protection, promotion and respect of their rights on an equal footing with others. A rights-based approach thus requires that the normative contents of the Convention are applied to the areas which have a considerable impact on the inclusive education of learners with disabilities.

Article 24 of the CRPD on the right to education does not *per se* provide a definition for inclusive education. Article 24(2)(b) of the CPRD states that, in the realisation of the right to education, states parties should guarantee that persons with disabilities 'can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live'. It follows that states parties have a positive obligation to impose an inclusive education system at all levels and lifelong learning without discrimination and on the basis of equal opportunity. This signals the end of the exclusion of persons with disabilities from the general education system. Education providers are

29 UNESCO 'Guidelines for inclusion: Ensuring access to education for all' (2005) para 13.

30 K Ballard (ed) *Inclusive education: International voices on disability and justice* (1999); G Thomas & M Vaughan *Inclusive education: Readings and reflections* (2004); R Slee *The irregular school: Exclusion, schooling and inclusive education* (2011).

31 T Degener 'A human rights model of disability' in P Blanck & E Flynn (eds) *Routledge handbook of disability law and human rights* (2017).

required to ensure that laws and policies incorporating disability-based discrimination against learners with disabilities are gradually scrapped and that reasonable accommodation measures are put in place to assist learners with disabilities towards that end. Crucially, article 24(2)(a) of the CRPD recognises that in view of realising the right to education for persons with disabilities, access to the general education system must not be denied on the basis of their impairment. It is not easy to establish a clear-cut definition for 'inclusive education' from a literal interpretation of article 24 of the CRPD. But the Committee has remedied this textual defect in its General Comment on article 24 of the CRPD by stating that inclusive education is to be understood as:

- (a) A fundamental human right of all learners. Notably, education is the right of the individual learner and not, in the case of children, the right of a parent or caregiver. Parental responsibilities in this regard are subordinate to the rights of the child;
- (b) A principle that values the well-being of all students, respects their inherent dignity and autonomy, and acknowledges individuals' requirements and their ability to effectively be included in and contribute to society;
- (c) A means of realizing other human rights. It is the primary means by which persons with disabilities can lift themselves out of poverty, obtain the means to participate fully in their communities and be safeguarded from exploitation. It is also the primary means of achieving inclusive societies;
- (d) The result of a process of continuing and proactive commitment to eliminating barriers impeding the right to education, together with changes to culture, policy and practice of regular schools to accommodate and effectively include all students.³²

It has further been observed that the CRPD has 'reinforced the clause of non-exclusion from any educational level on the basis of disabilities'.³³ By virtue of the postulation that economic, social and cultural rights can only be progressively realised, it is deemed reasonable that inclusive education policies cannot be implemented overnight. As a procedural obligation on state parties to international human rights instruments, progressive realisation requires the implementation of several measures in order to make effective the right of its intended beneficiaries.³⁴ It entails effort and commitment from states parties to guarantee that there is an expeditious and effective move towards the full realisation of economic, social and cultural rights.³⁵ In the context of international disability law, article 4(2) of the CRPD states in no uncertain terms that while economic, social and

32 CRPD Committee, General Comment 4: Article 24: Right to inclusive education (2016) UN Doc CRPD/C/GC/4 dated 2 September 2016, para 10 (footnote omitted).

33 MS Cisternas Reyes 'Inclusive education: Perspectives from the UN Committee on the Rights of Persons with Disabilities' in G de Beco, S Quinlivan & JE Lord (eds) *The right to inclusive education in international human rights law* (2019) 408.

34 O De Schutter *International human rights law: Cases, materials, commentary* (2014) 530.

35 CESCR, General Comment 3: Article 2(1): The nature of state parties obligations (1990) UN Doc E/1991/23 dated 14 December 1990 para 9.

cultural rights should be implemented subject to the maximum available resources of states parties, this should be done ‘with a view to achieving progressively the full realisation of these rights’. In other words, there is a positive obligation upon states parties to design a framework conducive to the proper implementation of the CRPD even if this is carried out incrementally.

Progressive realisation does not minimise the obligation of states to redefine budgetary allocations that should not only aim at special education measures, but more importantly dismantle a segregationist education system in order to build a more inclusive one over time. The CRPD Committee has clamoured for states parties ‘to achieve a transfer of resources from segregated to inclusive environments.’³⁶ This means that there should be a clear plan for the transition to an inclusive model. While the outcome in achieving inclusion is assuredly an integral part of the realisation of this right, it should be highlighted that there is a crucial need to consider more thoroughly the process leading to the outcome; in other words, more emphasis should be placed on the transformation of education systems.³⁷ Realisation of the right to inclusive education dovetails in both a detailed scrutinisation of policies adopted and the budget allotted toward that end. It follows that a law providing for the rights of persons with disabilities may be ineffective and will never translate into reality without proper policies aimed at giving effect to these rights. For instance, the state of Mauritius allocates significant resources to NGOs involved in the provision of special education to disabled students. If these resources were instead redirected toward building inclusive models of education in the mainstream school environment with the critical help of NGOs, it is highly likely that students with disabilities will be able to develop the life skills necessary in order to be included into the community when they grow up to become adults. All of this would not be possible without a proper legal framework that along with adequate public resources ‘play a key role in ensuring equal access to education also through the adoption of positive and special measures in line with Article 24 of the CRPD’.³⁸

Article 24 of the CRPD enshrines not only the value of inclusion but also of quality in education. Inclusion and quality are ‘integral, indissoluble parts of the right to education of all individuals, both being universal in character’ which is directly proportional insofar as true inclusion only exists when quality education is available to each and every student.³⁹ What can be gleaned from this elaborate definition of ‘inclusive

36 Para 68 of General Comment 4 (n 32).

37 G de Beco ‘Progressive realization and the right to inclusive education’ in G de Beco et al (eds) *The right to inclusive education in international human rights law* (2019) 211.

38 V Della Fina ‘Article 24: Education’ in V Della Fina et al (eds) *The United Nations Convention on the Rights of Persons with Disabilities: A commentary* (2017) 466.

39 Cisternas Reyes (n 33) 421.

education' from the CRPD Committee is that inclusion is first and foremost a process that involves the identification and elimination of barriers in the general education system in order to ensure that all students - irrespective of their disabilities or other socio-economic status - must have the same opportunity to access the education system. It follows that inclusion is

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.⁴⁰

The concept of inclusiveness has been contrasted with differing concepts such as exclusion, segregation and, in particular, integration. Even if the line between integration and inclusion is somewhat blurred, they are in reality distinct from each other. On the one hand, integration can be described as the process 'of placing persons with disabilities in existing mainstream educational institutions with the understanding that they can adjust to the standardized requirements of such institutions'.⁴¹ The integration approach thus focuses 'solely on enhancing the ability of the student to comply with the established standards'.⁴² On the other hand, inclusion is a process which recognises:

- (a) [T]he obligation to eliminate barriers that restrict or ban participation, and
- (b) the need to change culture, policy and practice of the mainstream schools to accommodate the needs of all students, including those with impairments.⁴³

This offers a better window into the reality of integration being modelled on an assimilationist approach to require learners with disabilities to adapt and fit into the existing arrangements of the general education system. In effect, the general education system cannot be altered to a more inclusive one if the consequences of integration are to assimilate children with disabilities into the mainstream education system without providing them with the required level of support in terms of reasonable accommodation. As an example, a visually-impaired student could benefit from the same education in a mainstream setting. Yet, without the provision of notes in braille format or a braille machine, the student will not be able to learn on an equal basis with his or her non-visually-impaired peers in the general classroom. The CRPD Committee has stated in no uncertain terms that

40 Para 11 of General Comment 4 (n 32).

41 As above.

42 'Thematic study on the right of persons with disabilities to education' OHCHR (18 December 2013) UN Doc A/HRC/25/29 (2013) para 4.

43 Thematic study (n 42) para 7.

article 24 of the CRPD does not allow for sustaining two systems of education: a general education system; and a parallel and special education system.⁴⁴ In the inclusive approach, the focus is on each individual disabled learner since educational planning must be suited for each learner with disabilities. What is certain is that inclusive education requires structural and systemic changes to the educational system and challenging teaching practices in view of accelerating the rate at which learners with disabilities can develop the acquisition of new skills and abilities in a mainstream school environment. The most important aspect regarding inclusive education revolves around the notion that it is not only access to existing facilities in the general education that must be given prominence, but the learning environment itself must be redesigned to support the learning process and other related needs of children with disabilities.

It should be pointed out that the drafters of the CRPD intended for inclusiveness to be an end in itself.⁴⁵ The means to that end was still inconclusive, thus leaving unclear the scope of where inclusion must take place.⁴⁶ This implies that article 24 of the CRPD does not explicitly place an onerous obligation on states parties to refrain from setting up special schools for learners with disabilities. But when Mauritius ratified the CRPD on 8 January 2010, it placed *inter alia* a reservation on article 24(2)(b) of the CRPD on the right to inclusive education of people with disabilities. The argument advanced for this reservation was that inclusive education will be progressively realised alongside special education.⁴⁷ It follows that Mauritius in fact recognised that the normative contents of that particular article are based on an inclusive model of education where learners with disabilities have the same opportunities in the mainstream education on an equal basis with others. While Mauritius had initially adopted an integration approach, it has recently tried to turn the tide as there is now a move - albeit at a snail's pace - towards an inclusive approach as demonstrated by the policy documents which have been endorsed by the government over recent years. But perennation of segregation will remain unchallenged unless radical policy changes are brought forward in a bid to promote and protect the right to an equal and quality education for people with disabilities in Mauritius.

44 Para 40 of General Comment 4 (n 32).

45 R Kayess 'Drafting article 24 of the Convention on the Rights of Persons with Disabilities' in G de Beco et al (eds) *The right to inclusive education in international human rights law* (2019) 122.

46 G de Beco 'Comprehensive legal analysis of article 24 of the Convention on the Rights of Persons with Disabilities' in G de Beco et al (eds) *The right to inclusive education in international human rights law* (2019) 66.

47 Initial Report of Mauritius (n 18).

5 Challenging the status quo for real inclusion

The education system in Mauritius has failed to take an enduring whole-of-society approach towards fostering the inclusion and proper assimilation of persons with disabilities into the community. Disabled children are segregated from the very beginning of their education. This segregationist approach to education for learners with disabilities in Mauritius has meant that children with disabilities are denied the opportunity to be placed in the same setting as their non-disabled counterparts. This translates into additional barriers for non-disabled persons to appreciate that impairments are not an anomaly in the anatomy of the human body but also as part and parcel of the human condition insofar as imperfections in the human mind and body are what account for the uniqueness of each individual. Segregation is a discriminatory practice against both children with disabilities and their non-disabled peers. On the one hand, children with disabilities are treated differently on the basis of their disability insofar as it is believed that their physical and mental impairments are a barrier to their effective inclusion into the 'normal' and general education system. On the other hand, children without disabilities are denied the opportunity from a young age to appreciate that children with impairments are not so much out of the ordinary.

Children with disabilities are not disabled because of their respective impairments, but instead by the way they are treated by society. As underlined in the CRPD, they are disabled as a result of the environmental and attitudinal barriers that hinder their full and effective participation in the community on an equal footing with their non-disabled counterparts.⁴⁸ These barriers are reflected in the law and policies related to education, employment and health that deny equal opportunity for disabled persons in the enjoyment of their fundamental rights. Environmental barriers may include physical obstacles regarding access to public buildings such as schools, transportation and other facilities. Attitudinal barriers encompass the mistaken perception that disabled children must constantly be treated differently by virtue of their impairment. This reinforces the negative stereotype that children with disabilities are less intellectually or physically competent than their non-disabled counterparts.

In relation to special education needs students, there is a negative impact associated with how these children develop low self-esteem and how their life opportunities are more often than not profoundly shaped by the experience of segregated education.⁴⁹ Children with disabilities are thus caught in an intricate web of causal chains, giving them the wrong impression that they should underestimate their abilities, as a result of

48 Preamble 5 of the CRPD.

49 LM Dunn 'Special education for the mildly retarded: Is much of it justifiable?' (1968) 35 *Exceptional Children* 5.

which they seldom have the impetus to expect, aspire and achieve more in terms of education. The policies adopted by successive governments in relation to the education of learners with disabilities have been nothing but an elaborate façade. What then are the policies and other measures that can be implemented to move from an education system that amplifies oppression and inequality toward a more inclusive one for learners with disabilities in Mauritius?

5.1 Specific legislative and policy measures

Sections 3 and 16 of the Constitution of Mauritius of 1968 are the operative provisions on discrimination. However, disability is not listed as a ground for discrimination.⁵⁰ There have been calls for decades to amend the Constitution in order to enshrine disability as a basis for discrimination, but after many public debates, it has unfortunately been left in limbo.⁵¹ The Minister of Social Integration, Social Security and National Solidarity has recently declared that sections 3 and 16 of the Constitution of Mauritius will have to be amended first in view of ensuring that the fundamental rights and freedoms of Mauritian citizens with disabilities are fully respected.⁵² This is characteristic of decision-making in Mauritius: an unwonted attitude to initiate radical changes that takes into consideration the aspirations, rights and will of the people insofar as this never materialises. A key recommendation is therefore for the state of Mauritius to amend the Constitution in view of bringing it into line with internationally accepted standards relating to the protection of persons with disabilities from discrimination. Accordingly, it is crucial to amend the Constitution before enacting any comprehensive law relating to disability discrimination.

If there is another thing that characterises the law-making process in Mauritius, it is related to the discrimination embedded in the laws already in place. There are a number of laws that directly or tangentially deal with the educational rights (or lack thereof) of persons with disabilities. More often than not, these laws are applied to their full extent so much so that Mauritian citizens with disabilities are treated as second-class citizens. One such law, the Equal Opportunities Act 2008, provides in its section

50 Disability is not a recognised ground for discrimination under the Constitution of Mauritius: Section 3 of the Constitution on Fundamental Rights and Freedoms of the Individual provides: 'It is hereby recognised and declared that in Mauritius there have existed and shall continue to exist without discrimination by reason of race, place of origin, political opinions, colour, creed or sex'; Sec 16 on Protection from Discrimination provides: 'In this section, "discriminatory" means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, caste, place of origin, political opinions, colour or creed ...'.

51 See A Budoo & RA Mahadew 'Mauritius' (2014) 2 *African Disability Rights Yearbook* 227.

52 Republic of Mauritius Parliamentary Debates 'Seventh National Assembly – First Session 27 of 2020' (28 July 2020) 48 <https://mauritiusassembly.govmu.org/Documents/Hansard/2020/hansard272020.pdf> (accessed 19 May 2021).

17(3), that an educational institution may discriminate against learners with disabilities who require special services or facilities to participate or to derive substantial benefit from the educational program of the institution, or even when learners with disabilities could not participate in the program or derive a substantial benefit thereof after these services have been provided.⁵³ Further, as examined above, the Special Education Needs Authority Act 2018 cemented specialised schools as a main pillar of the education system in Mauritius. These laws should subsequently be amended at the same time that the Constitution is being amended to ensure that no derogation on the right to education of learners with disabilities is permissible and that discrimination in the education sector on the basis of disability is purely and simply proscribed.

Another key recommendation for policy-makers to consider would consequently be the enactment of a law designed specifically to protect and promote the rights and interests of persons with disabilities in Mauritius. Since Mauritius ratified the CRPD in 2010, there has been an awakening of national consciousness on the need to enact a comprehensive disability law. Mauritius being a dualist state, the rights contained in the CRPD do not have any direct legal effect unless they are incorporated into a national legislation.⁵⁴ But it is worth stressing that a comprehensive law on the rights and freedoms of Mauritians with disabilities can only be effective when the necessary preconditions are met for the promotion and protection of these rights and freedoms. Put differently, if the Constitution itself does not recognise disability as a ground for discrimination, it follows that a subsequent law providing for protection against disability-based discrimination may be stifled in a constitutional void. Yet, successive governments have all been complicit in perpetuating the present state of affairs by consistently and utterly failing to articulate an alternative vision for the constitutional and legal entrenchment of the rights of persons with disabilities, which could have positive effects in terms of empowerment and inclusion for the latter in Mauritian society. The law should thus explicitly provide for the right to education of learners with disabilities to be included in the mainstream education system.

Moreover, the elaboration of national action plans is vital in marking a decisive alteration for current institutions and societal initiatives to be imbued with a rights-based philosophy so as to enable persons with disabilities to be treated as people who can exercise their civil and political as well as socio-economic rights on an equal footing with others. The CRPD Committee has stressed the importance of 'comprehensive and co-ordinated legislative and policy framework for inclusive education must be

53 Equal Opportunities Act 2008 <http://eoc.govmu.org/English/Downloads/Documents/EQUAL%20OPPORTUNITIES%20ACT.pdf> (accessed 19 May 2021).

54 A Budoo & RA Mahadew 'The golden jubilee of the Mauritian Bill of Rights: A milestone to celebrate or time for reflections?' in M Addaney, MG Nyarko & E Boshoff *Governance, human rights, and political transformation in Africa* (2020) 91.

introduced, together with a clear and adequate time frame for implementation'.⁵⁵ These measures should not be introduced in a vacuum, without considering exactly how the goals should be attained in order to improve accessibility, expanding support provision and fostering awareness-raising. The promise of national action plans in the realisation of the rights of persons with disabilities cannot be converted into reality without a planning exercise that sufficiently addresses immediate and consistent actions toward the larger goal of empowering persons with disabilities with an appropriate education. It would be desirable to incorporate any national action plan regarding inclusive education into the overall scheme designed for education in the country. Under the guise of inclusive education, the 2017 action plan touched upon earlier in this article did nothing to improve a more inclusive model of education in the general education system nor was there any real inclusive education in the classroom for those who were integrated in the mainstream education system. Without plans designed to provide proper support provisions and teacher training for including students with disabilities into the mainstream education system, the vision of inclusion will remain an unattainable goal.

It follows that current laws and policies that fail to take a rights-based approach to the inclusion of learners with disabilities into the general education system require a sweeping review from top-down processes. In other words, it is incumbent upon state actors to propose laws and policies that give effect to the right of inclusive education as developed under international human rights law for learners with disabilities in Mauritius. This would not mean that civil society organisations will become less meaningful and less relevant to the needs of learners with disabilities in Mauritius. Much to the contrary, NGOs can still play a significant role in the success of including every child in the general education system, to the maximum extent possible. The solutions are simple but there is a patent lack of political will to implement straightforward and unchallenging policies. One simple policy would be to reallocate budgets currently earmarked to special education to guarantee that special educators are trained to be assistants in mainstream schools. Considering the local context, it would be rather difficult and impractical to prevent employees of NGOs from being involved in the education of learners with disabilities. There should be recognition of their prior knowledge in the field that is transferable to their potential role as inclusive education teachers into the general education system. The first step would be to ensure that mainstream schools accommodate students with disabilities irrespective of their physical or intellectual impairments. A second step would then be to train teachers on how to handle students with disabilities in class. NGOs would therefore have a well-defined role in supporting children with disabilities in the mainstream classroom.

55 Para 61 of General Comment 4 (n 31).

In relation to the development of specific transitional measures from the parallel special education model to a more inclusive one, Mauritius can seek inspiration from the US experience in relation to free and appropriate public education for disabled students. Individualised Education Plans (IEPs), although mandated under special education law, are a perfect example of inclusive education planning. As a written document prepared for a named student which specifies the learning goals that are to be achieved by the student over a set period of time, and the teaching strategies, resources and supports necessary to achieve those goals, the IEP is a key instrument that is tailored to the specific needs of the disabled student.⁵⁶ IEPs have the potential to ensure that the unique needs of every student with disabilities is fulfilled in order for them to reach their full academic potential, while developing life skills within an environment that provide them with an appropriate education and equal opportunities to succeed in life. It is important, however, for the IEPs to identify learning goals and objectives as well as the services necessary in smoothing the learning process for the student.

5.2 Awareness-raising and public education

It has been observed earlier that there is a manifest disregard for what amounts to inclusive education under the CRPD notwithstanding the fact that more than a decade has passed since Mauritius ratified the Convention. Insofar as Mauritius maintains the reservation it placed on article 24(2)(b) of the CRPD, which caters specifically for the right to inclusive education of persons with disabilities, it will not be surprising to attest that the status quo will remain unchallenged. This is why it is of utmost importance that civil society organisations, and disabled persons organisations in particular, take it upon themselves to challenge the siloed thinking that in the third decade of this new millennium needs to be actively resisted in order for persons with disabilities to get in the driving seat to reclaim their inherent dignity as human beings. Particular attention should also be paid to awareness-raising of personnel within the education system. Closely related to the issue of awareness-raising is that of categorisation processes that represent a significant hurdle in accepting and adopting inclusive learning environments. If students with disabilities are to be truly included in the general education system, 'this cannot involve special education thought and practice'.⁵⁷ In categorising and naming students as special, the wrong perception that these students are different from others is perpetuated in the mind of the reasonable person

56 See L. Kupper (ed) 'A guide to the individualized education' Programme Office of Special Education and Rehabilitative Services, US Department of Education (July 2000) <https://www2.ed.gov/parents/needs/speced/iepguide/iepguide.pdf> (accessed 19 May 2021).

57 K Ballard 'Children and disability: Special or included?' (2004) 10 *Waikato Journal of Education* 318.

so much so that these students are not valued in present mainstream schools and society.⁵⁸

As correctly expressed, ‘upholding a segregated education system would be in clear contradiction with the prohibition of discrimination, and would resuscitate the principle of ‘separate but equal’ for a particular group of disabled people.’⁵⁹ However, considering the local context of the deeply entrenched system of special education in Mauritius, it would be unrealistic to expect the dismantlement of this deeply prejudicial system overnight. In other words, it would not be possible to close all special education schools at once. That would paradoxically have the unintended effect of discriminating against children with disabilities who are currently placed in special education schools inasmuch as they would no longer be in a position to receive an education. Children with disabilities are already subjected to negative stereotypes and stigma attached to their supposed unsuitability to the mainstream education system. The most significant obstacle to inclusion of learners with disabilities in mainstream education lies at the systemic level, as a culmination of decades of policies and structures that has shaped an attitude and disposition resistant to change.⁶⁰ Awareness-raising therefore becomes an important tool in enabling a paradigm shift in the mindset of people to accept incremental changes leading ultimately to the desegregation of special schools in view of including all learners with disabilities in a single education system.

While the Sustainable Development Goal 4 of the UN Department of Economic and Social Affairs aims to ensure access to all levels of education and vocational training with regard to the most vulnerable persons by the year 2030, it may in reality be highly difficult to enable every child with disabilities to participate in the mainstream education system.⁶¹ For students who have severe forms of intellectual, behavioural and psychosocial impairments, the provision of reasonable accommodation and support measures may not effectively enable them to receive quality education on an equal basis with their non-disabled counterparts. It should be noted that, as mentioned earlier, article 24 of the CRPD does not expressly prohibit states from resorting to special schools on this matter. Nor does it require states to adopt special schools for students with severe forms of impairments. States parties to the CRPD thus have leeway in prolonging recourse to special education for learners with disabilities. Raising awareness on segregation in the education system can however enable contemporary society to start looking at special education in a less favourable light.

58 As above.

59 De Beco (n 46) 87.

60 UNICEF Innocenti Research Centre ‘Promoting the rights of children with disabilities’ (2007) 33 http://www.un.org/esa/socdev/unyin/documents/children_disability_rights.pdf (accessed 19 May 2021).

61 UN Department of Economic and Social Affairs ‘Sustainable Goal 4’ <https://sdgs.un.org/goals/goal4> (accessed 19 May 2021).

The barriers erected by society in not recognising and respecting the rights of all learners to participate in the public-school education system are unlikely to be dismantled unless profoundly- and culturally-rooted perceptions of disability are addressed in any meaningful way. It is of crucial importance to reshape attitudinal and cultural barriers that hinder the participation of persons with disabilities in the general education system.⁶² If negative perceptions regarding persons with disabilities are to be reviewed, there is an urgent need to craft an inclusive vision which promotes understanding of how persons with disabilities have the right to participate in the socio-economic affairs of the country. Awareness-raising in terms of identification of the various means and reasons for accessing the education system may lead to better and more far-reaching outcomes for children with disabilities. Insofar as a radical shift is not fashioned in the general psyche of the population about the acceptance of persons with disabilities in all aspects of social, economic and cultural life, it will be a near impossible task to develop an inclusive society that takes the aspirations and needs of every citizen on the basis of access to equal opportunities, and in particular in the realm of education.

Acceptance of the role of persons with disabilities within the socio-economic activities of the country can become a reality if awareness-raising campaigns are not only directed to those in society who are deeply concerned about the chronic and systemic deficiencies to which persons with disabilities are subjected to, but directed in particular to multiple audiences who are not necessarily aware of the weight of suffering associated with being a disabled person in a blinkered society. Awareness-raising campaigns must thus focus on how to breakdown stereotypes and stigma associated with persons with disabilities. In the context of education, this means that these campaigns should explicitly target children and teachers in the general education system in view of generating a radical shift in the mindset of people toward better understanding and acceptance of those with disabilities. As has been observed, the development of more inclusive educational environments 'confronts traditional discriminatory attitudes towards disabled people within society and facilitates a fundamental shift in social perspectives'.⁶³

The way forward in empowering learners with disabilities to exercise their right to education on an equal basis is in the adoption of incremental processes in doing away with the special education system. Negative perceptions on the inability of learners with disabilities to successfully integrate the general education system cannot be altered overnight. It is only by educating the population about the rights-based philosophy

62 F Polat 'Inclusion in education: A step towards social justice' (2011) 31 *International Journal of Educational Development* 50.

63 M Shevlin 'Moving toward schools for all: Examining the concept of educational inclusion for disabled children and young people' in G de Beco et al (eds) *The right to inclusive education in international human rights law* (2019) 108.

espoused in the Convention that it will be possible to generate more inclusive ways of thinking about difference and making an effective contribution toward the upliftment of the educational potential of disabled learners. There should thus be a gradual transition to an inclusive model of education while enabling special education to operate until it is completely phased out from the current education system. The role of campaigning is instrumental in that regard.

5.3 Socio-economic benefit of inclusive education

It is beyond doubt that Mauritius has more to gain by using the enormous untapped potential of its disabled population, with the spillover effect of creating prosperity by providing equal opportunity and access to wealth for people with disabilities. Specialised and separate education systems 'often provide a lower standard of education and decrease their pupils' future chances of life'.⁶⁴ There is thus an economic argument that can be raised to convince policy-makers leery of the costs associated with the financial burden that veering toward an inclusive education system could impose on the state. This argument does not rest on the premise that inclusive education will be immensely beneficial to society in the long term. Yet, both UNICEF and the OECD have ascertained that inclusive education systems are less costly than segregated school systems.⁶⁵ The extensive funding of special education schools will arguably never achieve the desired outcome of an inclusive model of education for all students alike. It is incumbent upon policy-makers to invest into more inclusive models of education for learners with disabilities in Mauritius. However, if these funds are redirected in view of implementing the right to inclusive education for students with disabilities in the mainstream education system, it is likely that these funds will be insufficient, for which more investment may be required in the short term. In other words, this will bring additional costs to placing students with disabilities in the general education system. But, while states may not recoup these investments in the near future, it is highly likely that inclusive education will become profitable in the long term.⁶⁶

64 G de Beco 'Transition to inclusive education systems according to the Convention on the Rights of Persons with Disabilities' (2016) 34 *Nordic Journal of Human Rights* 40 at 50.

65 UNICEF *The right of children with disabilities to education: A rights-based approach to inclusive education* (2012) 38-39 http://www.unicef.org/ceecis/UNICEF_Right_Children_Disabilities_En_Web.pdf (accessed 19 May 2021); OECD *Inclusive education at work: Students with disabilities in mainstream schools* (1999) 22 http://www.oecd-ilibrary.org/education/inclusive-education-at-work_9789264180383-en (accessed 19 May 2021).

66 De Beco (n 36) 207.

There are clear indications from research around the globe that inclusive educational settings confer both considerable short-term and long-term benefits for learners with and without disabilities.⁶⁷ Students with disabilities placed in the mainstream educational settings tend to develop stronger social and academic skills, and are less likely to develop behavioural problems and drop out of school.⁶⁸ As the wheel in the machinery of the education system grinds at a faster pace with the inclusion of all children, students with disabilities are more likely to continue their education to high school, tertiary levels and beyond. These students are thus empowered to contribute to their community when they have the means through employment to live independently. The need to grapple with the disconnect between the general education system and the inherent unequal nature of separate educational facilities will yield to long-term positive results for the socio-economic well-being of the country. It is therefore absolutely necessary to desegregate the parallel special education system into a single inclusive education system for every citizen.

Poverty is closely linked to disability and is both a cause and consequence of disability. The World Bank has maintained that 15 per cent of the world's population have some form of impairment and are more likely to experience the adverse socio-economic disadvantages associated with the discrimination they face on the basis of their disability.⁶⁹ One fifth of the poorest people around the globe live on less than one dollar daily. They lack access to basic necessities such as adequate shelter and clean drinking water. This cycle of poverty will not be broken until these people are provided with adequate healthcare and education facilities which are in fact essential amenities for ensuring a decent survival in this context characterised by intense cut-throat competition. The inextricable link between poverty and disability constitutes an autocatalytic process that feeds itself. With these additional challenges, persons with disabilities are caught up in a process that increases and disseminates the scourge of poverty. But access to an inclusive education system can remedy the disparities that have been entrenched in the socio-economic structure of society since independence. Public education can thus act as a bridge to provide disabled students with the foundational tools to enter into the job market and effectively compete on an equal footing with their non-disabled counterparts.

It is important to further consider the long-term effects of special education on society. Insofar as students with disabilities placed in special educational settings are not afforded with the same opportunities for post-secondary and tertiary education, it would be logical to conclude that it

67 T Hehir et al 'A summary of the evidence on inclusive education' (2016) Instituto Alana.

68 As above.

69 World Bank 'Disability inclusion' (1 October 2020) <https://www.worldbank.org/en/topic/disability> (accessed 19 May 2021).

will be much more difficult for them to access the job market when they become an adult. Among the people with disabilities who are 16 years and above in Mauritius as of 2011, 82.8 per cent were economically inactive, out of which 50 per cent of them have given 'disability' as the reason for their unemployment status.⁷⁰ The International Labour Organisation explored how the exclusion of persons with disabilities from the labour market has profound negative implications for the economic development of countries around the world.⁷¹ One empirical study has even found that 'the ways to access the job market [are] determined by levels of education among persons with disabilities', with 'lower average education levels [being] one of the specific features inherently related to employment of persons with disabilities'.⁷² In yet another study on the economic costs of exclusion of people with disabilities from low and middle income countries, evidence led toward a finding that '[e]xclusion from education may lead to lower employment and earning potential among people with disabilities'.⁷³ This results in increasing the likelihood of falling into the poverty trap while also limiting national economic growth.⁷⁴

In order to be in a position to measure the progress in the implementation of the right to inclusive education, the use of human rights indicators can be helpful in monitoring the ongoing measures that are implemented over a set period of time. Human rights indicators provide specific and practical tools in the enforcement of human rights and evaluating their implementation. They can be defined as

specific information on the state or condition of an object, event, activity or outcome that can be related to human rights norms and standards; that addresses and reflects human rights principles and concerns; and that can be used to assess and monitor the promotion and implementation of human rights.⁷⁵

70 Statistics Mauritius '2011 housing and population census: Analytical report, volume vii -disability' (June 2015) https://statsmauritius.govmu.org/Documents/Census_and_Surveys/HPC/2011/HPC_AR_Vol7_Disability_Report_Yr11.pdf (accessed 19 May 2021).

71 S Buckup 'The price of exclusion: The economic consequences of excluding people with disabilities from the world of work' International Labour Office, Employment Sector, Skills and Employability Department, Employment Working Paper No 43 (14 December 2009) https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---ifp_skills/documents/publication/wcms_119305.pdf (accessed 19 May 2021).

72 A Cámara et al 'Macroeconomic cost of excluding persons with disabilities from the workforce in Spain' (2020) 10 *IZA Journal of Labor Policy* 1.

73 L Morgon Banks & S Polack 'The economic costs of exclusion and gains of inclusion of people with disabilities: Evidence from low and middle income countries' (2015) International Centre for Evidence in Disability, London School of Hygiene & Tropical Medicine <https://disabilitycentre.lshtm.ac.uk/new-report-economic-costs-exclusion-gains-inclusion-people-disabilities/> (accessed 19 May 2021).

74 As above.

75 OHCHR 'Human rights indicators: A guide to measurement and implementation' UN Doc HR/PUB/12/5 (2012) https://www.ohchr.org/Documents/Publications/Human_rights_indicators_en.pdf (accessed 19 May 2021).

Following the approach devised by the UN High Commissioner for Human Rights, a three-pronged assessment of the structural, process and outcome indicators can help inform the status of implementation and enforcement of the right in question, including the right to inclusive education.⁷⁶ With particular regard to inclusive education, the structural indicators could focus on the law, financial planning and observing institutions; the process indicators could focus on accessibility of the education system, support and reasonable accommodation measures available to students, adaptable curricula, teacher training and capacity-building, and awareness-raising campaigns; and the outcome indicators could rely on attendance, completion of studies and drop-out levels, while also taking into consideration the various social and environmental attitudes in general schools.

6 Conclusion

It has become increasingly evident that progress toward inclusion in the realm of education for learners with disabilities in Mauritius has been inexplicably inconsistent, and so-called inclusive policies advocated by successive governments have had little tangible effects in practice. In order to break free from the chains of this segregationist approach where the education of disabled learners developed in parallel to that of their non-disabled peers, a radical overhaul of our approach to education is warranted. Towards that end, adopting a rights-based approach to inclusive education can have profound implications for students with disabilities when they are provided with the same educational opportunities within mainstream settings on an equal basis with others. It is not the disabled student who should adapt to the school system, but rather it is for education providers to adapt to the particular needs of students with disabilities.

The series of measures that have been recommended in this paper require the collective participation of every stakeholder in the provision of education in Mauritius. First, the authorities have to amend the Constitution and discriminatory laws that are acting as a significant barrier for learners with disabilities to be treated as equals under the law. Law-makers should design a comprehensive law that gives effect to the right to inclusive education of disabled learners, setting out the proper framework that will best ensure the transition to an inclusive system. But enacting a new law should be followed by clear action plans setting out clear timelines for the transition to, and implementation of, an inclusive education system. The role of civil society organisations in that process must not be underestimated. Second, this paper has argued that siloed thinking must be challenged by more actively educating the population on the rights of

76 OHCHR (n 75) 93.

persons with disabilities through awareness-raising campaigns. Finally, the economic argument that inclusive education may be socio-economically more beneficial for both the state and for learners with disabilities has been advanced insofar as the current system is not providing genuine remedies for the empowerment of persons with disabilities.

This paper has offered recommendations in view of weeding out the inefficiencies deeply-rooted in the parallel special education system in Mauritius, with the hope of a long-term establishment of a more inclusive model of education. Informed by a rights-based approach whereby learners with disabilities are entitled to their right to education on an equal basis with others, policy-makers have the ethical and moral responsibility to develop an appropriate set of legal and policy tools for these learners to be in a position to vindicate their right to education. Current thinking and practice on the defunct charitable model of disability prevalent in society must be vehemently opposed. Challenging the status quo will have a broad impact on the empowerment and promotion of the social, economic and political inclusion of persons with disabilities within society. Disabled persons should first and foremost be considered as rights-holders, rather than second-class citizens who are the subject of pity and charity. This is the 'rights' way forward.