

Background paper prepared for the International Forum on inclusion and equity in education – every learner matters, Cali, Colombia, 11-13 September

The effects of the growth of private actors on inclusive and equitable education for all. The case of persons with disabilities

This document was prepared by the Asociación Civil por la Igualdad y la Justicia with support from the Open Society Foundations as background information to the International Forum on inclusion and equity in education (Cali, Colombia, 11-13 September 2019). The views and opinions expressed in this document are those of the author(s) and should not be attributed to UNESCO.

Table of Contents

Introduction.....	3
Methodology	4
Inclusive education.....	4
a. Background, core principles and its enshrinement at the international level.....	4
b. States obligations regarding the involvement of private actors in education. The pronouncements of regional and international human rights bodies and the Abidjan Principles on the human rights obligations of States to provide public education and to regulate private involvement in education.....	6
Privatization and market-based approaches to education. Rationale and main stakeholders promoting the involvement of private actors within the education system	8
Analysis of the evidence available regarding the effects of market-based reforms on the right to inclusive education of students with special education needs and particularly of persons with disabilities.....	13
a) Student enrollment patterns: access to education without discrimination and identified causes of exclusion of students with special educational needs and students with disabilities	14
Case study: Voucher system in Wisconsin, United States.....	18
i) Additional costs	20
Case Study: resistance of private schools in Brazil to guarantee inclusive education of persons with disabilities based on additional costs:.....	22
ii) Accountability: the pursuit of ‘higher achieving students’	23
iii) Autonomy, deregulation and lack of State control	25
Case study: non-enrollment of children with disabilities in private schools in Argentina.....	28
b) Segregation and stratification of the education system as a predominant effect of competition forces.....	30
Case Study: The growing trend towards standardization of education in Sub-Saharan Africa: commercial school chains and inclusive education	33
c) The provision (or denial) of reasonable accommodations and supports	35
Lack of empirical studies regarding several dimensions of quality education of persons with disabilities.....	38
Closing remarks: Is inclusive education compatible with the principles underlying a market-based approach of education?	38
Recommendations	39
Reference list:.....	41
Other documents:	51
Case law:.....	52
Annex I.....	54

Introduction

The goal of achieving education for all is still far from accomplished. According to the 2017/8 Global Education Monitoring Report, there are 264 million primary and secondary aged children and youth out of school in the world (UNESCO, 2017). Within these students, children who are considered to have special educational needs have historically been left behind. According to the World Report on Disability (2011) 'evidence shows young people with disabilities are less likely to be in school than their peers without disabilities' (p. 206) and that this pattern tends to be higher in poorer countries. Millions of persons with disabilities continue to be denied their right to education and many students are still educated in segregated settings (CRPD Committee, 2016) and face various forms of discrimination on their access, accommodation and participation in the school on an equal basis with other learners, preventing them from exercising their fundamental right to inclusive education.

The fulfillment of inclusive education faces several hurdles. These stem from very different causes such as cultural resistance, deep-rooted stigmatization, competition, lack of political will and in many cases budgetary restrictions. During the last two decades there has been a global trend towards neoliberal or market approaches to education resulting in a growth of private actor involvement in this area. Settled on principles of cost-efficiency, innovation, standardization, freedom of choice and competition, this approach has triggered great concern for advocates of inclusion, who question its compatibility with the international human rights framework on the right to education. They also warn about the challenges that privatization can entail to the goal of 'leaving no one behind'.

In the following paper we will first provide a brief background of the normative content of the right to inclusive education and State's obligation to guarantee its fulfillment. Secondly, we will address the involvement of private actors in the education system, the different typologies of privatization and question some of the foundations underpinning the promotion of a market-based system. Subsequently, we will analyze the existing research on the effects that the process of privatization has on inclusive education of students with special educational needs and students with disabilities. We will focus particularly on the enrollment patterns, the impact on segregation and stratification of learners and the implications regarding their achievement of meaningful education. Later on we will focus on the perceptions of the members of organizations of and for persons with disabilities regarding the involvement of private actors in education. Finally we will close with some concluding remarks.

Methodology

The paper is focused on analyzing the existing literature on the field. Therefore, we conducted an extensive research in the following electronic databases and academic search engines: (i) Education Resources Information Center (ERIC); (ii) Taylor & Francis; (iii) Springer; (iv) Hein Online; (v) JStor; and (vi) Google Scholar. For the research we used the following keywords: ‘privatization’; ‘private’; ‘private actors’; ‘education’; ‘inclusive education’; ‘disability’; ‘special needs’; ‘market’; ‘market-based’; ‘marketized’; ‘equity’; ‘segregation’; ‘voucher’; ‘choice’; ‘school choice’, combined in different manners. We also searched on general research engines such as Google and reviewed available resources at Researchgate. Additionally, we reviewed related studies undertaken by –or on behalf of– relevant stakeholders in education. We also reviewed related documents from human rights bodies and studies and reports conducted by relevant civil society organizations from different countries and regions focused both on the topics of education and disability. We reviewed a total of 135 documents including academic literature, research studies, reports and statements from international human rights bodies and organizations from 1990 until 2019.

Furthermore, we conducted 7 interviews with members of organizations of and for persons with disabilities from the Latin American Regional Network for Inclusive Education. The interviewees were from Peru, Colombia, Brazil, Chile, Paraguay, Argentina and Uruguay. The interviews were based on the questionnaire included as Annex I. These stakeholders provided their perceptions as interlocutors who face barriers that the educative systems pose to students with disabilities during their daily work.

Inclusive education

a. Background, core principles and its enshrinement at the international level

Inclusive education is focused on the value of diversity, and demands that all students from the learning community be educated together, equally and without discrimination. It entails respect for diversity regarding disability, race, color, gender, linguistic culture, ethnic, social origin, property, and other status, with the pursuit of quality education for all learners with the aim of developing inclusive and fair societies (CRPD Committee, 2016). Inclusive education is a fundamental right of all learners (CRPD Committee, 2016), and thus, ‘the right to education is a right to inclusive education’ (OHCHR, 2013, par. 3).

Inclusive education can be defined in many ways (Ainscow & Miles, 2008; Ainscow, Farrell & Tweddle, 2000). In a wider sense, inclusive education ‘is concerned with reducing all exclusionary pressures, and all devaluations of students’ on any discriminatory basis (Booth, Ainscow & Dyson, 2012). As such, it is a continuous process of addressing and overcoming barriers that prevent students from learning and participating on an equal basis with their peers. The notion implies predominantly avoiding the exclusion of students with special educational needs and particularly students with disabilities, as it has been one of the groups

most historically excluded from education (UNESCO, 2018). For the purpose of this research, we focused on these groups of students, and the attitudinal and environmental barriers that hinder their full and effective participation in the education system on an equal basis with others (based on the human rights model of disability). It is worth noting that persons with disabilities 'can experience intersectional discrimination based on disability and gender, religion, legal status, ethnic origin, age, sexual orientation or language' (CRPD Committee, 2016, par. 13), and other sources of social disadvantages including class, culture, socioeconomic background and power (Liasidou, 2012). Therefore, any approach to promote and protect their right to inclusive education must take intersectionality into account. For example, persons with disabilities are overrepresented among those living in absolute poverty (HLPF, 2016), and girls with disabilities are one of the most discriminated groups regarding access to education (IDDC, 2016).

Inclusive education symbolizes a long history of struggle for the implementation of educational equality. The year 1994 represented a major milestone in which the inclusion of students with special educational needs was embraced by many States and education stakeholders as a key issue that would guide future developments in the education policy field. Facing the fact that 'education for all' was for 'almost all' and many students were historically educated in a segregated system of special education (Ainscow & Miles, 2008), the Salamanca Statement and framework for action on special needs education laid the foundations – resuming previous documents such as the pledge made in the 1990 World Conference on *Education for All* and the 1993 United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities– for the ongoing fight towards a 'school for all' and the provision of education for students with special educational needs within the regular education system. In this regard, it established that 'students with special educational needs must have access to regular schools that should accommodate them within a child-centered pedagogy capable of meeting these needs' (Principle 2).

The adoption of the Convention on the Rights of Persons with Disabilities in 2006 –which has been ratified by 179 State Parties as of today– represented the recognition of the right to inclusive education of persons with disabilities as legally binding. Article 24 of this instrument provides that 'States Parties shall ensure an inclusive education system at all levels' and shall guarantee that persons with disabilities are not excluded from the general education system and prohibit all other types of discrimination on the basis of disability. In particular, States must assure the access of children with disabilities to an inclusive, quality and free primary and secondary education on an equal basis with others. It also states that persons with disabilities must enjoy reasonable accommodation (whose rejection constitutes discrimination on the basis of disability, according to Article 2) and receive the support required within the general education system. The Convention leaves no great margin of

interpretation when enshrining the right to inclusive education and proclaims the social and human rights model of disability¹.

Further on, the 2030 Sustainable Development Agenda introduces Sustainable Development Goal (SDG) number 4, to 'ensure inclusive and equitable quality education and promote lifelong learning opportunities for all'. This goal was subject to further review by the World Education Forum held in 2015 with the resulting Incheon Declaration for Education 2030 and Framework for Action, setting the profile for education in the following years with the aim of 'leaving no one behind' and addressing all forms of exclusion and marginalization, disparities and inequalities in access, participation and learning outcomes, focusing on the most disadvantaged persons, especially persons with disabilities (point 7).

Notwithstanding the strong international foundations on which inclusive education lies today, as the CRPD Committee pointed out in the General Comment on the right to inclusive education (2016), the fulfillment of this human right still faces several challenges that need to be addressed urgently.

b. States obligations regarding the involvement of private actors in education.
The pronouncements of regional and international human rights bodies and the Abidjan Principles on the human rights obligations of States to provide public education and to regulate private involvement in education

According to international statistics, there has been a growing trend towards the involvement of private actors in education (Verger et al, 2017a, according to UNESCO Institute for Statistics) both in primary and secondary level (HRC, 2019), and the introduction of market-based reforms and for-profit institutions with commercial interests in the education system (HRC, 2015a) over the past two decades. This phenomenon has developed both in the global south and the global north (although with different approaches).

This pattern has been addressed by many human rights bodies when analyzing its impacts on the enjoyment of the right to education, particularly under the Human Rights Council (HRC, 2014; HRC, 2015a; HRC, 2015b; HRC, 2015c; HRC, 2019). Kishore Singh, the former Special Rapporteur on the right to education, stressed in his report on the protection of the right to education against commercialization that 'the introduction of private, for-profit education into the national education landscape has a number of serious repercussions' (HRC, 2015a, par. 39). These include widening disparities in access to education and the aggravation of inequality through the structural exclusion of certain groups.

¹ The social model of disability is centered on the 'disabling social and environmental barriers' that the current organization of society impose and perpetuate to the inclusion of people with impairments (Barnes & Mercer, 2004) and thus focuses on the identification and eradication of those disabling barriers rather than on individual impairments of a person (Oliver, 2013). In this sense, the CRPD embodies the social model stating that 'disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others' (Preamble).

Accordingly, other human rights bodies have shown concern for the growing privatization in educational systems. In this regard, the Committee on Economic, Social and Cultural Rights (CESCR), in its concluding observations for Chile, Kenya, Pakistan, United Kingdom, Morocco and Uganda, among other countries, highlighted its concern for the growing involvement of private actors in education and the resulting effect of segregation or discriminatory access. It recommended States to exercise the necessary supervision for the effective implementation of the right to education, particularly in the conditions of students' enrollment. The Committee on the Rights of the Child has expressed itself in similar terms². In the case of Chile, the CESCR urged the State to effectively implement the Inclusive Education Act and eliminate all mechanisms that result in segregation and discrimination of children based on their social or economic background (E/C.12/CHL/CO/4, 2015). Also in this regard, the African Commission on Human Rights adopted Resolution 420 (2019), that explicitly calls on States Parties to 'ensure that privatization in education does not exacerbate discrimination against children in having access to quality education', particularly girls, children with disabilities and vulnerable and marginalized children.

The increasing involvement of private actors in the education system entails the 'reconfiguration' of the provision of a public service within a globalized world (HCR, 2015a), where private actors have taken a stronger presence and role in all countries regardless of their income (HRC, 2019). But the former Special Rapporteur on the right to education reminds that it is the obligation of the State to ensure the right to education without discrimination or exclusion. In this regard, the CRPD Committee remarked on the General Comment on the right to inclusive education (2016) the growth in many countries of private sector in education and highlighted that 'the right to inclusive education extends to the provision of all education, not merely that provided by public authorities' (par. 74). It urged States to adopt measures to ensure and monitor the effective implementation of inclusive education.

The Abidjan Principles on the human rights obligations of States to provide public education and to regulate private involvement³ were adopted in 2019 by a group of internationally renowned legal experts, and have since become central to the analysis of the ongoing situation. These principles develop the primary obligation of States to deliver free, inclusive, quality, public education to everyone within their jurisdiction. Also, the principles include the liberty of individuals and bodies to establish and direct private educational institutions –and of parents or legal guardians to choose educational institutions other than public ones– but always subject to regulations structured by the State in accordance with its obligations under

² E/C.12/CHL/CO/4 (2015); E/C.12/MAR/Q/4 (2015); E/C.12/KEN/CO/2-5 (2016); E/C.12/GBR/CO/6 (2016); E/C.12/PAK/CO/1 (2017); CRC/C/CHL/Q/4-5 (2015); CRC/C/GHA/CO/3-5 (2015); CRC/C/MAR/CO/3-4 (2014); CRC/C/NPL/CO/3-5 (2016); among others. See: The Global Initiative for Economic, Social and Cultural Rights, *Human Rights Bodies Statements on Private Actors in Education*, available at: <https://www.gi-escr.org/concluding-observations-private-education>

³ They are comprised of 97 guiding principles and 10 overarching principles that provide a summary.

international human rights law. In this sense, the State remains under the obligation to ensure and monitor the realization of the right to education where private actors are involved.

The principles proclaim that States must ensure that all educational institutions, public and private, are inclusive; that everyone has equal access to quality inclusive education, and States must protect all learners against all forms of discrimination on any ground, including the conditions of enrollment, admission and learning of vulnerable, marginalized and disadvantaged groups (principles 13, 24, 26, 31, 55). In particular, the principles proclaim that States must guarantee the right to inclusive education for everyone, including all persons with disabilities in regular schools (principle 23), to have accessible and safe environments (principle 55) and with reasonable accommodation (principles 17 and 55). It also ensures that institutions do not directly or indirectly charge additional fees to any learner (principle 55). Additionally, the principles highlight that States must not fund or support any private institution that violates the right to equality and non-discrimination, including the selection, sorting or expelling of students directly or indirectly on the basis of socio-economic status, gender, disability, or any other prohibited ground (principle 73).

It is important to stress that education is a public good and therefore it shall be granted by the States (HRC, 2015a; Education 2030 Framework for Action, point 10). If operated by private actors it should be carefully regulated and effectively monitored to ensure that the human right to education is not undermined. As institutions complying a ‘public service mission’ States need to impose ‘public service obligations’ (HRC, 2019)⁴ since human rights obligations remain equally binding on States regardless of the fact that the provision of a public service is performed by a private actor. In this vein, the CRPD Committee (2016) declared that ‘States Parties should respect, protect and fulfill each of the essential features of the right to inclusive education: availability, accessibility, acceptability and adaptability’. The obligation to ‘protect’ entails all measures to prevent third parties, including private actors and the business sector, to interfere with the enjoyment of this right.

Privatization and market-based approaches to education. Rationale and main stakeholders promoting the involvement of private actors within the education system

In the last few decades there has been an increasing trend towards the involvement of private actors in education and the introduction of market mechanisms in the provision of this public good. Both in terms of the global north and the global south (Patrinos et al., 2009; OECD, 2010), with varying models and forms that go from pure non-subsidized private schools to private-public partnerships that involve the use of state funds in various ways. As many authors remark, this trend responds to the influx of liberal or ‘neoliberal’ approaches that permeated the politics in the 1990s (Verger & Moschetti, 2017) and since then private

⁴ According to General Comment No. 2 of the Committee on Economic, Social and Cultural Rights (1994) and embodied in Abidjan Guiding principle 52.

participation in education continues to grow. The underlying assumption was that governmental bureaucracy was mainly responsible for the alleged decline in educational performance (van Zanten, 2009; Howe & Welner, 2002), and thus a deregulated school market that follows business rules and work in a more flexible and efficient manner can make strong contributions to reverse this (Garda, 2012).

Privatization of education operates in each country in a very context-specific manner and under diverse conditions defined by each State on its education policy.

In many countries, the growth of private education provision was encouraged with the understanding that the private sector would contribute to fulfill an underserved demand of education provision (OECD, 2017) due to the State's inability or unwillingness to meet the requirements of this public service. This was the case of countries with very critical enrollment rates or where there are some 'historically underserved communities' (OECD, 2017). Here schools were supposed to target mainly low-income and other disadvantaged groups that are overrepresented in the out-of-school population with the idea of expanding equitable access to and improve the outcomes of the education system (Patrinos et al., 2009). At this point the intervention of the private sector is promoted to overcome structural flaws of governments which lack the capacity and resources, or political will, to provide this public service (Verger & Moschetti, 2017), or what has been referred to as 'privatization by default'⁵ (Steiner-Khamsi & Draxler, 2018; Verger et al., 2017c). This trend has been observed in countries in Latin America including Peru, Dominican Republic and Jamaica (Verger et al., 2017a) along with many African and Asian countries, in which there has been a spread of, in particular, low-fee private schools (Patrinos et al., 2009; HRC, 2015a). There is also the phenomenon of 'privatization by catastrophe'. This is whereby countries face –or have faced– humanitarian emergencies such as armed conflicts or natural disasters and where States are unable –or unwilling– to provide the educative service (Verger et al., 2017c). Such is the case of many African and Central American countries with a growing involvement of international actors in the reconstruction of educative systems.

According to an extensive study conducted by Oxfam (2019), the World Bank is one of the main advocates (particularly through its SABER program) for the expansion of private sector involvement in education, either encouraging the creation of PPPs or the reduction and flexibilization of regulatory frameworks for private providers to operate⁶. In this regard, the

⁵ According to the literature, this category is used to describe the situation in numerous low-income countries, where 'private-sector involvement in education is growing, not because governments are actively promoting it, but because states seem to be rather passive when it comes to addressing new educational demands. This is usually the consequence of many Southern countries facing several intersecting restrictions (economic, administrative, political, etc.) in ensuring Education for All (EFA)'. For a detailed description of this categorization see: Verger et al., 2016, p. 89.

⁶ Oxfam highlights on its research from 2019 that in 2018 there has been an interesting shift of the World Bank advocacy to a 'far more cautious approach regarding the potential of private education provision' based on the fact that 'there is no consistent evidence that private schools deliver better learning outcomes than public schools or the opposite'. Oxfam emphasize that in the 2018 World Development Report the discussion includes both the potential benefits and risks of the growth in private schooling.

World Bank has adopted the ‘private sector first’ approach to development⁷ as a way of achieving the development goals in education –firstly through the Millennium Development Goals and subsequently through the Sustainable Development Goals– (Verger & Moschetti, 2017; Oxfam 2019). It also constitutes one of the largest external funders of private education –including direct funding of commercial schools by the International Financial Corporation– in low-income countries, such as Ghana, Nepal, Philippines, Burkina Faso, Uganda and Pakistan, among others (Oxfam, 2019). The study also stresses that some regional development banks, corporate philanthropy and some bilateral donors (such as the UK) are financing PPPs in education in the Global South (Oxfam, 2019).

In other cases, the introduction of private or ‘quasi-private’ mechanisms responded to the widespread notion of ‘school choice’. This model asserts that the possibility for families (primarily more disadvantaged ones) to choose a school of their preference –and leave their local public schools– implies an equalization of opportunities to access high-quality education (Waitoller & Lubienski, 2019; Lubienski & Weitzel, 2009; OECD, 2012). This idea is inspired by a market-based approach that believes that competition in the education market would improve access, efficiency, effectiveness, quality and innovation in education, with flexibility to achieve these goals (Robertson et al., 2012; Verger & Moschetti, 2017; CBM, Bensheim, 2018; Kolderie, 1990; Hsieh & Urquiola, 2006; OECD, 2012; Lubienski, 2009), since providers have to compete with each other for students. School choice models have been implemented in the United States, England, Wales, Sweden, Australia, New Zealand, Colombia and Chile, among other countries. Magnússon, Göransson and Lindqvist (2019) argue that the shift towards a more decentralized and deregulated system in Sweden was the foundation for further privatization and the introduction of market logics in education. This includes the introduction of standardized national tests for school accountability.

There are many forms of private involvement in the provision of education. A growing trend of privatization in education is related to so-called private-public partnership (PPPs) arrangements involving public funding of private service provision. There are several forms of PPPs for the provision of educational services including governmental subsidies to existing private schools, governmental funding of students places, private operation of public schools (such as charter schools) and voucher schemes, among others (Patrinos et al. , 2009). PPPs are present in a great number of countries around the world, including the United States, UK, Chile, Colombia, Brazil, Australia, New Zealand, Pakistan, Haiti, Philippines, Uganda, Nepal, India, Liberia, Kenya, among others, with many different typologies and impacts on the education system. In many low-income countries low-fee commercial private institutions have rapidly developed in hands of large foreign enterprises of education such as the Bridge

⁷ The ‘private sector first approach’, as named by Oxfam in the 2019 report, refers to the approach that was agreed during the Hamburg G20 and approved by the World Bank Board on 2017, and enshrined in the following document: ‘Forward Look – A Vision for the World Bank Group in 2030 – Progress and Challenges’, Development Committee, March 24, 2017.

International Academies or the Omega Schools. These programs are not exempt of criticism⁸ (Global Campaign for Education, 2016). Thereupon, within private education providers there is a range of actors including for-profit enterprises, local communities, religious organizations, philanthropic entities and non-governmental organizations, among others (Patrinos et al., 2009). As Verger and Moschetti (2017) pointed out, different types of partners have different political and educational implications in the context of private involvement in education, and have differential outcomes regarding inclusive and quality education.

It should be noted that not all PPPs for the provision of education are market-based or lead to competition and segregation. Some of them are committed to a social interest in education (HRC, 2015b). Particular concern is placed upon for-profit private actors and commercial school chains that may seek to maximize profit at the expense of the most disadvantaged students and their rampant growth –particularly on developing countries– without effective control (HRC, 2019).

The evidence of the impacts and outcomes of private involvement in education on a range of factors is mixed and difficult to compare since they vary in size and target diverse aspects of educational policy. Therefore, while some studies find positive outcomes in achievement, a growing number of empirical studies highlight the negative effects of private involvement in education on segregation and stratification.

On the one hand, some sources, mainly focused on the analysis of OECD's Programme for International Student Assessment (PISA) data or other interpretations of quality in terms of student results, affirm that there is evidence that shows a correlation between private provision of education and education quality and positive learning outcomes (Patrinos et al., 2009; Di Gropello, 2006; Hoxby, 2003; Wolf et al., 2013; Verger & Moschetti, 2017), or positive effects of market mechanisms on student achievement. Although this is very modest and with differential effects that may benefit some groups of students or schools but not others (OECD, 2010). In this vein, it is affirmed that a strategic use of the private sector has led to the rapid expansion of access to education, increasing enrollment rates in several countries such as Senegal, Tanzania, Bangladesh, Pakistan and Colombia, satisfying 'unmet demand for schooling' if implemented correctly (Patrinos et al., 2009). Additionally, it is argued that school choice in Europe enhanced competitive school markets, leading to better achievement outcomes overall (Patrinos et al., 2009).

On the other hand, it is worth noting that both related and alternative sources also registered negative or neutral effects on education quality after the introduction of extensive policy reforms promoting privatization (Patrinos et al., 2009; Hsieh and Urquiola, 2002; Oxfam, 2019; Bettinger, 2005; Bifulco & Ladd, 2006; Cullen et al., 2005; Verger & Moschetti, 2017; Dudley-Marling & Baker, 2012; Baum, 2018; Global Campaign for education, 2016; Rouse & Barrow,

⁸ The Global Campaign for Education stress that criticism mainly involves 'unqualified teachers, scripted and standardized instruction, pressures for cost reduction driving down investment in other aspects of quality such as school facilities and negative equity impacts, including potential discrimination based on disability, ethnicity and minority status' (Global Campaign for Education, 2016, p. 34).

2009; Steiner-Khamsi & Draxler, 2018; Fitch & Hulgín, 2018; Billingham & Hunt, 2016; Hsieh & Urquiola, 2006; OECD, 2012). They assert that higher academic achievements could be related to the ability of private schools to select (by different means) the most 'able' students (Patrinos et al., 2009). Accordingly, the OECD remarked that although in the analyzed countries students in public schools score lower than private schools, however, after accounting for socioeconomic status, on average across OECD countries students in public schools scored higher (OECD, 2017).

Concerns are focused on equality issues deriving from competition. OECD's research indicates that marketization of education does have an impact on segregation between schools in different contexts and choice mechanisms, for example in Sweden, multiple states of U.S., Chile and Denmark (OECD, 2010; OECD, 2012).

In this vein, the academic literature tends to be critical with privatization of education. First and foremost based on equity implications (Barton & Slee, 1999; Verger & Moschetti, 2017; Dudley-Marling & Baker, 2012; Steiner-Khamsi & Draxler, 2018; Berhanu, 2011; Fitch & Hulgín, 2018; Bifulco & Ladd, 2007; Liasidou, 2013; Magnússon et al., 2019; Lubieniski & Weitzel., 2009; Howe & Welner, 2002; Elacqua et al., 2014; Lacruz & Bernal, 2013; de Koning, 2018). Authors tend to argue that competitive and marketized educational environments foster segregation and stratification of students and thus have a negative impact on inclusive education (Fitch & Hulgín, 2018; Apple, 2001b; Ball, 2009; Ball, 2006; OECD, 2012). As Reisner (2012) unequivocally expresses regarding privatization in U.K.'s education, it creates a built-in bias to inclusive education, favoring segregation and exclusion. This was also stated in a study on behalf of the European Agency for Development in Special Needs Education, affirming that 'a strong competitive climate within and between schools does not enhance inclusive goals' (Meijer, 1999, p. 167).

An extensive analysis of the education privatization debate through bibliographic coupling carried out by Verger et al. (2017) found that the bibliography tends to highlight negative effects of privatization (in all the variables analyzed, *i.e.* private schools, charter schools, voucher programs and marketized systems in general) more than the positive ones. It also discovered differential impacts depending on the group analyzed. In that sense, they underlined that 'education privatization seems to be especially problematic in terms of education inequalities and school segregation' (Verger et al., 2017, p. 11). This is particularly along class, ethnicity or ability lines, being the dimension 'inclusion of students with special education needs' the one that reports most negative implications—approximately 70% of the literature evidence negative impacts— among all the other dimensions analyzed (Verger et al., 2017c).

Additionally, research indicates that there is no direct link between market-based approach in education and innovation in this field (Lubieniski, 2009), but that the latter is usually related to government involvement (OECD, 2010). Moreover, there is some evidence that market-based reforms and the growing involvement of private actors tend to promote standardization

of education (Verger & Moschetti, 2017; OECD, 2009). These findings tackle one of the main arguments that defenders of competition use to highlight.

A market-based approach, by definition, demands flexibility in access and relies heavily on the availability of equal sets of choices, equal access to information about those choices and most importantly, relies upon the assumption that choice is placed on the 'consumer' (*i.e.* the family). However, it is blind to the fact that providers are not willing to engage with all consumers equally and have different incentives to do so with some more than others in the interest of remaining competitive. Further, not all families exercise choice on equal terms and this may benefit some groups with some given characteristics while impairing other disadvantaged ones (OECD, 2010; Fitch & Hulin, 2018; OECD, 2012).

Regardless of this evidence, a large set of stakeholders, *inter alia*, the World Bank, UK's Department for International Development, the OECD, the Global Partnership for Education, and others still support these types of private schemes in very diverse educational systems (Verger et al., 2017).

Based on the finding that market-based reforms have differential effects on particular groups of students, in the next section we will focus on the impact and effects that this approach has on inclusive education of students with special educational needs and particularly on students with disabilities, a historically disadvantaged and segregated group in the realm of the right to education. In the following analysis we will refer to 'privatization of education' as comprehensive of all the previous described modalities by which private actors are increasingly involved in the provision of education.

Analysis of the evidence available regarding the effects of market-based reforms on the right to inclusive education of students with special education needs and particularly of persons with disabilities

As stated in the previous section, even though the existing literature is not unanimous and the evidence on the issue is very context specific, there is a growing body of literature that reveal that a market-based approach of education gives rise to an increased segregation and stratification of education systems. There is also evidence of a wider exclusion of disadvantaged students, affecting the fulfillment of the human right to education of all (OECD, 2010; Verger & Moschetti, 2017; Oxfam, 2019; Fitch & Hulin, 2018; Global Campaign for Education, 2016). In this regard, although the enrollment rates have generally increased, the quality of education and equitable distribution of learning opportunities by gender, income, disability and several other types of marginalization are still a major concern (Oxfam, 2019), and a continued high rate of out-of-school children deepen the disparities in access to inclusive and quality education. Many authors affirm that the negative externalities of the marketization of education on equity are mostly present in the case of private for-profit schools and contexts with weak regulations of the education system or governments that do

not exercise effective control over those who provide public goods (Verger & Moschetti, 2017).

The literature has defined the extended practice of schools searching for students that are allegedly 'easier' to teach at a lower cost and thus deterring those who do not meet the expectation as 'cream skimming' (Verger & Moschetti, 2017; Gill et al., 2007; Fitch & Hulin, 2018; Lubienski & Weitzel, 2009; Apple, 2001; Hsieh & Urquiola, 2006; Dudley-Marling & Baker, 2012). This extended practice results in school discrimination, exclusion and segregation of disadvantaged groups, particularly students with disabilities (Fitch & Hulin, 2018).

These effects are displayed in –at least– three domains. First and foremost, in the enrollment patterns of students by private schools that tends to exclude –by various direct and indirect methods– some groups of learners. This includes those considered to have special educational needs. Second, the propensity of competition in the education market to stratification and overspecialization with the resulting segregation of children, particularly students with special educational needs, in separate classes or schools. Thirdly, the impact of privatization on the provision of reasonable accommodation for persons with disabilities in mainstream schools.

a) Student enrollment patterns: access to education without discrimination and identified causes of exclusion of students with special educational needs and students with disabilities

The introduction of market schemes in education, although it may provide wider choices for some families, also entails to a large extent school competition for student enrollment. This seems to be the decisive filter which ultimately decides the composition of the schools population. According to a growing number of research, the increase of private actors in education and the introduction of competitive education systems prompt student enrollment patterns, particularly exclusionary patterns towards students with special educational needs and students with disabilities. As it was stated, choice is not exercised in the same manner by all 'consumers' but tend to strengthen inequalities by constraining opportunities of disadvantaged groups of students (Waitoller & Lubienski, 2019). This has been proven to be the case for different types of private providers and in different contexts, as evidence in several countries shows an underrepresentation of students with special educational needs in private or semi-private (government-funded) schools.

Data indicates that in the U.S., students with special educational needs have significantly less participation in both charter and voucher programs than in public schools (Howe & Welner, 2002; OECD, 2010; Frankenberg, Siegel-Hawley & Wang, 2011; Bailey Estes, 2004; Garda, 2012; Gill et al., 2007; Lubienski & Weitzel., 2009; Zollers & Ramanathan, 1998; Waitoller & Lubienski, 2019; Mead & Eckes, 2018). In this regard, students with disabilities, English language learners and other students with special educational needs are more likely to remain and concentrate in public schools (Dudley-Marling & Baker, 2012; Gill et al., 2007), which are in many cases negatively affected by the competitive environment. Empirical studies have

been carried out in many of the almost 44 states of the U.S. that have introduced school choice schemes through charter schools or voucher programs. Such studies tend to evidence that students with special educational needs, in particular students with disabilities, are underrepresented in these programs. For example, in the State of Wisconsin, the proportion of students with disabilities in private schools under voucher programs is significantly lower than the proportion on public district schools. As Dudley-Marling and Baker (2012) explain, ‘a survey in 2002 indicated that half of the voucher schools in Milwaukee provided no special education services’ (p. 7). Similar experiences occur in other states such as Ohio and Florida and in many school districts, such as New Orleans, Minnesota, Boston, Massachusetts, California, Chicago, Boulder, Texas, New York City, Buffalo, Albany, Colorado, Delaware, San Diego, Arizona, Michigan, Los Angeles and Colorado (Dudley-Marling & Baker, 2012; Garda, 2012; Fitch & Hulgín, 2018; Howe & Welner, 2002). Studies funded by the National Department of Education evidence that charter schools do not grant equal access to education to children with disabilities (Garda, 2012). As the specialized literature points out, the pattern shows even lower enrollment rates in private or charter schools in the case of students with ‘severe’ disabilities—or students with extensive support needs—, compared to those with ‘mild’ disabilities (Dudley-Marling & Baker, 2012; Waitoller, 2017; Garda, 2012; Gill et al., 2007; Fitch & Hulgín, 2018; Lubienski & Weitzel, 2009; Howe & Welner, 2002; Zollers & Ramanathan, 1998; Waitoller & Lubienski, 2019). Zollers and Ramanathan (1998), who studied the case of Massachusetts, stated that while including students with ‘mild’ disabilities, for-profit charter schools have ‘engaged in a pattern of disregard and often blatant hostility toward students with more complicated behavioral and cognitive disabilities’ (p. 298), by denying their enrollment. They also found a substantial number of students with disabilities and foreign language students returning back to public schools (Zollers & Ramanathan, 1998). As Lubienski and Weitzel (2009) outline, ‘charter schools are not promoting greater integration in American education, not only in terms of race, but also in terms of socioeconomic status, academic ability and special needs’ (p. 352), and they take an active role in ‘discouraging special education students from enrolling’ (p. 361). The authors also remark that not only the likeness of their access to charter schools and private schools through voucher programs is lower, but also the probability of being included in general education classrooms is below other advantaged groups of students (Waitoller & Lubienski, 2019).

This was also evidenced in the case of independent schools⁹ (run by private actors) in Sweden. Since the 1990s this country has introduced several market-based reforms, including the creation of a voucher program in 1992 (OECD, 2012). Evidence reveals that private schools provide education to students with special educational needs in a much lower degree than public schools and segregation between schools increased according to ability, ethnicity and socioeconomic status (Magnússon & Lindqvist, 2019; OECD, 2010). The same was documented at schools after market-based reforms in the U.K. (Rouse & Florian, 1997;

⁹ According to the OECD (2012), ‘independent schools’ in the Sweden education system are private schools. They can receive public funding if they are approved by the Inspectorate and fulfill certain conditions. The study tells that ‘grant-aided independent providers are required to follow the national curriculum and are forbidden to establish admittance policies based on academic ability, socio-economic status or ethnicity’ (p. 71).

Jennings, 2010), Australia and New Zealand, where competition practices have led to the exclusion of 'neediest students', including persons with disabilities (Dudley-Marling & Baker, 2012). A review of empirical research on the effects of the introduction of market mechanisms in primary and secondary education framed under OECD's education working papers stressed that –when allowed– schools seem to try to select students on the basis of 'ability' and/or on the basis of their behavioral characteristics. If they are not allowed, they try to use their position to control and influence the admission patterns (OECD, 2010, p. 49) through various mechanisms in order to discourage the enrollment of students that do not fit their expectations.

Evidence from low-income countries also shows that low-fee private schools are not boosting the enrollment of those who were most marginalized (GI-ESCR, ISER, 2015). Conversely, the literature reveals that children with disabilities and linguistic minorities are present in low numbers in private schools and are likely to be excluded at the very moment of the selection processes (Global Campaign for Education, 2016). The case of Pakistan is very illustrative of a clear enrollment pattern that tends to exclude children with special educational needs. As found in Oxfam's latest study on PPPs (2019), low-fee private schools (mostly under PPPs) have proliferated in this country in order to reverse the extraordinary high rate of out-of-school children. As the study remarks, Pakistan had a very limited access of persons with disabilities to education. But due to the intrinsic characteristics of these newly developed private initiatives¹⁰ –framed under standardized and competitive accountability mechanisms in order to receive funding– these entrepreneurs explicitly screen and select students. As a result, they enroll very few persons with disabilities due to the prejudices they have regarding their potential and the negative incentives of the market to include them. In a previous study, Oxfam already noticed that PPP schools sampled in Punjab enrolled very few children with disabilities, *i.e.* only 11 out of 12,502 students (Oxfam, 2018). A similar research was carried out by Oxfam regarding PPPs in Uganda and the findings were in the same vein: 'the programs disproportionately exclude the poorest children, those who are out-of-school and those with disabilities' (Oxfam, 2019, p. 22). Discriminatory exclusionary selection procedures are also present in many private schools in Argentina –a large amount of them receiving subsidies from the State– and Chile –the country with the largest voucher program (Oxfam, 2019). This is also the case for many students with disabilities in Nepal where private schools tend to deny their admission, in contradiction with the right to inclusive education (Global Campaign for Education, 2016).

Some of the reviewed literature explains that there is an intersectional effect of several characteristics that tend to interact and exacerbate the exclusionary practices towards some groups of students. For example, the interaction between gender, socioeconomic status and disability may result in exclusion from private schools (Oxfam, 2019), or at least in unequal opportunities to exercise choice. In this regard, Waitoller and Lubienski (2019) examine the limitations of school choice in charter schools in the U.S., stating that black and latin students

¹⁰ The study focuses on Punjab PPPs, which is in great part financed by the World Bank.

with disabilities face evident inequalities. This is sometimes aggravated by location since 'resource and schools' capacity to serve students with disabilities tend to be unequally distributed according to the racially segregated geographies of urban centers' (p. 4). In a similar vein, Frankenberg, Siegel-Hawley and Wang (2011) affirm that it is usual to find 'white-segregated or minority-segregated schools that serve fewer students with disabilities' in the charter school marketplace (p. 13).

Case study: Voucher system in Wisconsin, United States

In the U.S., school choice policies –including both charter schools and voucher programs– proliferated since the late 1990's. Currently 42 States and the District of Columbia have authorized charter schools and voucher programs are being implemented in more than 50% of the States (Waitoller & Lubienski, 2019); in total, 44 states introduced market-based reforms in the education system (Fitch & Hulin, 2018). This growth has been accompanied by increasing equity concerns regarding some of the historically disadvantaged groups of students, including those with disabilities, since schools of choice tend to enroll lower proportions of students with special education needs –particularly students with severe disabilities– compared with public schools (Waitoller, 2017). There are many studies focusing on different states and school districts, regarding the effects of this market-based approach to education and there have been also some strong cases filed in the U.S. courts alleging discrimination against children with disabilities in both of these schemes. For example, in New Orleans the Southern Poverty Law Center filed a class action in 2010 on the basis that charter schools in New Orleans were rejecting the admission of students with disabilities or counseling them out 'after it is discovered the child had a disabling condition' (P.B. et al., v. Paul Pastorek, Louisiana State Superintendent of Education; Garda, 2012).

In 2012, the American Civil Liberties Union (ACLU), along with other complainants, filed a complaint towards the State of Wisconsin and other respondents. They argued that the State 'discriminated against students with disabilities and segregated those students in one portion of the publicly funded educational system' through its private school voucher program by failing to 'meaningfully enforce anti-discrimination laws' against these private schools. ACLU states that as a result, private schools under voucher program 'tend not to admit or accommodate students with disabilities in a non-discriminatory manner' (p. 4).

As ACLU argues in its complaint, the voucher program was serving an almost exclusively non-disabled population (only 1.6% of voucher population were students with disabilities under the Individuals with Disabilities Education Act) compared to the public schools where they represented almost the 20% of the total of students enrolled. It seems that the latter was the only genuine option available for persons with disabilities.

The plaintiff affirmed that private schools under this program excluded students with disabilities, even though they are bounded by anti-discrimination clauses regarding persons with disabilities. They discriminate against them by refusing their enrollment and discouraging the families who attempt to register them. Accordingly, ACLU stated that the voucher program has led to a situation where the majority of participating private schools are mostly or exclusively funded with public funds. However, the State allows these entities to refuse to provide special education services and they are absolved of any responsibility to provide reasonable accommodations to children with disabilities. Therefore, these entities deny their admission due to discriminatory notions of what the voucher schools believe these children need and encourage families to enroll their children at public schools since they 'provide lesser services' for students with disabilities. Voucher schools build barriers for children with disabilities to enroll and succeed in their program and exacerbate a segregated system. As a result, these schools/the voucher system 'undermine the language and purpose of non-discrimination laws' (ACLU et al. v. State of Wisconsin et al.).

The applicant highlighted the obligation of the State not to intentionally discriminate against and/or segregate persons with disabilities, but also to refrain from setting up, maintaining and substantially funding an education system that excludes children with disabilities, subjecting them to evident discrimination.

There are several ways in which private schools can exclude students with special educational needs or discourage them from enrolling onto their program, even if they are forbidden to do so. In most of the cases, national or local rules enact the prohibition to discriminate against persons with disabilities in their access to regular schools, including both public and private schools and institutions that receive public funds, even though in some countries the rules for private entities are vague and allow a wider margin for discrimination. Yet, as written in previous paragraphs, these students tend to be underrepresented in private institutions within market-based education systems. Selection of students in a direct or indirect manner is more prevalent in the private sector (The Global Campaign for Education 2016).

For ‘cherry-picking’ students, schools use diverse methods. These include applications, mandatory information sessions, asking for students test scores and their retention history, using performance data from the department of application systems –although prohibited–, forming alliances with junior schools (Jennings, 2010), screening interviews, admission tests and exclusionary requirements (Oxfam, 2019). With that information, schools either directly decline the enrollment of ‘risky’ students –when possible (Slee, 2007), or use other techniques to deter them. One of the most common strategies is the ‘counseling out’ of students with special education needs, particularly students with disabilities (Zollers & Ramanathan, 1998; Howe & Welner, 2002; Finnigan et al., 2004; Garda, 2012; Dudley-Marling & Baker, 2012; Waitoller & Lubienski, 2019; Waitoller, 2017). This practice is applied from the beginning of the admission process but continues during their educational trajectory when students manifest their ‘behavioral problems’ (Zollers & Ramanathan, 1998). Some of the most common arguments of schools are that the student ‘is not a good fit’, that ‘the program offered by the schools is not suitable’, that he or she ‘is going to be better served in another school’, that ‘it is for their best interest’, or that ‘the schools have insufficient resources or services to serve students with special educational needs’. Jennings (2010) performed an ethnographic study by interviewing principals of selected sample choice schools to find out selection processes prompted by school choice and accountability systems. The author found several of the mentioned tactics to counsel out students with special educational needs or behavioral problems that were performed during school fairs, open houses and personal interviews held with the students’ families. The literature also mentions that private education providers use marketing strategies as a very effective means to target certain types of students and persuade others from enrolling –i.e. students with disabilities, non-native speakers, etc.– (Waitoller & Lubienski, 2019; Lubienski & Weitzel, 2009; Jennings, 2010).

Other mechanisms are resorting to indirect forms of exclusion of students to pressure their way out. For example, repeated suspensions, early releases from school, student isolation in

a separate classroom without appropriate academic instruction or not providing services for its appropriate accommodation (Waitoller, 2017; Zollers & Ramanathan, 1998). Also, Jennings (2010) highlights the use of behavioral justifications to have students transferred out of the school or calling the parents for meetings every time an infraction occurs.

Several researches also point out the use of strategies to incentivize students with special educational needs and their families to change schools or return to their previous one, usually a traditional public one. These strategies range from direct exclusion to indirect encouragement to transfer students who cannot compete in the school market-place (Jennings, 2010; Apple, 2001a).

Therefore, discrimination is triggered in the enrollment phase. Although in many cases it continues during the educational trajectories, for example by expulsion practices (Verger & Moschetti, 2017) or denial of reasonable accommodation, as we will describe further on. It seems that schools compete in many cases to recruit the 'most desirable' students and therefore tend to reject students that seem to be 'harder' or 'more expensive' to educate, including those students who are perceived to be 'less academically skilled' or to have special educational needs. This was observed in many countries such as New Zealand, Australia, England, Wales, Scotland, several States in the U.S., the Netherlands, Sweden, Chile, Argentina and many other jurisdictions (OECD, 2010; Dudley-Marling & Baker, 2012; Fitch & Hulgín, 2018; Apple, 2001; Verger & Moschetti, 2017; Hsieh and Urquiola, 2006; Jabbar, 2016; Jennings, 2010; van Zanten, 2009; OECD, 2016; Oxfam, 2019).

In the following subsections we will examine some of the causes and incentives private schools have to exclude students with special educational needs and particularly students with disabilities.

i) Additional costs

One of the main identified causes that the reviewed literature highlighted for the exclusion of children with special educational needs by the competitive forces is the alleged high costs that these students may imply to the institutions (Patrinos et al., 2009; Verger & Moschetti, 2017; Dudley-Marling & Baker, 2012; Oxfam, 2019; Burch, Steinberg, & Donovan 2007; Garda, 2012; CBM, Bensheim, 2018; Apple, 2001a; Howe & Welner, 2002; Zollers & Ramanathan, 1998; Verger et al., 2017c; OECD, 2016). As some authors affirm, 'on average, students with disabilities cost 2.3 times as much as other students to educate' (Gill et al., 2007, p. 68). The argument is mostly linked to for-profit private schools –particularly low-fee private schools– (Oxfam, 2019; Lubienski & Weitzel., 2009; HRC, 2019), but has also been suggested to be present at nonprofit institutions that have very limited budgets to work with (Dudley-Marling & Baker, 2012). As Verger and Moschetti (2017) stated in their analysis of PPPs in education, 'having the state as a last resort provider, private partners may engage in 'cream skimming' and cost shifting in order to minimize risk and maximize profit while leaving the burden of unprofitable activities to the state' (p. 5) including within these unprofitable activities the

education of disadvantaged groups of students, perceiving them to be ‘financial liabilities’ to the school (Zollers & Ramanathan, 1998).

As we stated *ut supra*, market-driven education systems foster standardization of education. Thus, diversity as an intrinsic value of inclusive education may be regarded as unprofitable since schools would have to invest in additional personnel, technologies and other resources to meet the requirements of every student (Dudley-Marling & Baker, 2012). Therefore, private schools –whose objective is to maximize their resources and increase their return–, do not want to face additional expenditures on particular students such as students with special education needs, non-native speakers and students with behavioral problems. But instead they tend to prefer ‘high-achieving’ students who are seen as efficient commodities to invest in since they require few, if any, accommodations. In a highly competitive education system, students are assigned with a market value and evidently those who have a comparable lower value –the ‘costly-to-educate’ students– are systematically left behind. As a result, cost-efficiency works as an incentive to exclude these students and avoid their enrollment (Garda, 2012; Jennings, 2010; Verger et al., 2017; Verger et al., 2017c; Elacqua et al., 2014).

Some private schools even argue that their very existence would be at stake if they have to properly fulfill the particular educational requirements of students with special educational needs, particularly those students with ‘severe disabilities’. They also argue that disadvantaged students may consume a ‘disproportionate share of scarce resources’ that may undermine other students’ education (Dudley-Marling & Baker, 2012, p. 8). Furthermore, many subsidized private schools have their funding attached to accountability outcomes, therefore students that may underscore in general tests are perceived as a threat to the school survival (Dudley-Marling & Baker, 2012; Garda, 2012; Jennings, 2010; Zollers & Ramanathan, 1998). Private schools have economic incentives to compete for ‘skilled students’ and discard the ones who do not fit their expectations (Verger & Moschetti, 2017), including students with special educational needs and particularly persons with disabilities who may produce lower scores in standardized tests.

Case Study: resistance of private schools in Brazil to guarantee inclusive education of persons with disabilities based on additional costs:

The case of Brazil is very illustrative on the issue of 'additional costs' and the resistance of private entities to uphold inclusive education for all.

In 2015 the National Confederation of Educational Institutions (CONFENEN), the higher representation entity of private schools, filed a complaint (Direct Action of Unconstitutionality) arguing the unconstitutionality of the obligation of private schools to provide adequate and inclusive education for persons with disabilities pursuant to §28 of article 28 and article 30, of Law No. 13,146/2015 (Statute of Persons with Disabilities), *i.e.* the obligation of private schools to promote the inclusion of persons with disabilities in regular education without discrimination and the provisions of reasonable accommodations –in accordance with Brazil's international obligations– without charging extra costs to the families.

The main arguments alleged by the plaintiffs were: (i) that the obligation of providing inclusive education is the sole responsibility of the State, which cannot 'throw it on the shoulders' of the free enterprise at its expense or its other students who will bear the 'extraordinary, impossible and unimaginable costs caused by persons with disabilities'; (ii) that the obligations of private schools to enroll persons with special needs without any evaluation criteria risks the freedom of educational management; (iii) that these obligations place the burden of the extra costs on the private school and all its other students, unfairly altering the family budget, with real expropriation: 'everyone will pay for the additional cost of one or some'. They argue that it would imply the termination of activities for many private schools that could not afford it. This would result in unemployment and social risk, violating their right to private property in its social function, freedom to learn and teach and pluralism of ideas and pedagogical strategies and conceptions; (iv) that the law infringes the principle of reasonability by obliging the common, regular, public or private school, not specialized and unprepared for the task of receiving any and all persons with special needs of any nature, degree or depth, that the ordinary regular school will not be able to provide; and (iv) that it would not only risk school institution, but also would violate human rights of those who do not have special needs and choose private education, of professionals not prepared to provide quality education for children with special needs and thus also the rights of persons with special needs. In this regard, they argued that private schools are not required to contract or renew contracts with those that they do not want to. As well they do not have the constitutional obligation to accept anyone indiscriminately and generally, but as an option.

On June 9, 2016, the Supreme Federal Court decided to dismiss the direct action following the vote of the Rapporteur, Justice Edson Fachin, who stated that although education service can be provided by private enterprises this does not mean that the economic agents who provide it can do so unlimitedly or without liability. The school is not given discretion to choose, to segregate or to separate. However, it is its duty to teach and to include. In the same token, he argued that private education should not deprive students –with or without disabilities– of the daily construction of an inclusive and welcoming society, transmuting itself into a true place of exclusion, contrary to the current constitutional order. Regarding the cost-efficiency

pledge, he stated that private educational institutions are economically active and, as such, must adapt to receive persons with disabilities by providing educational services and that these requirements, by constitutional mandate, apply to all economic agents. Otherwise, there is a risk that private institutions of education may be created with an 'odious privilege' that makes discrimination official. Additionally, he affirmed that it is not possible to allow a 'capture of the legal order' based on supposed economic arguments that are limited to the rhetorical field.

The Court recognized that the complaint brings to discussion the apparent conflict between the rights of persons with disabilities and the principles of free competition (that characterize the economic activity) and free enterprise that tend to prioritize individual success. Revisiting this discussion, the Court reminded that education is a public service and, while the possibility of its provision by private entities is open, above private interest is the public interest that guides the legal regime. Accordingly, education is a fundamental right guaranteed to all, regardless of whether or not they have special needs. This obligation extends to private initiatives, equally subject to the general rules of education, that are necessary to stop discrimination against persons with disabilities faced with constant negatives of enrollment that prevent their access to education.

ii) Accountability: the pursuit of 'higher achieving students'

Market-based education systems often involve accountability mechanisms in exchange of some degree of management autonomy granted to schools, mainly in systems structured on PPPs that involve state funds. Private schools need to account for their investments and the usual method for doing so is by means of student scoring (quantitative performance indicators). For them to be comparable, tests have to be highly standardized and rely on quantifiable skills (Jennings, 2010). Therefore, free-market education promotes higher levels of standardization targeted to a normalized perception of students (Dudley-Marling & Baker, 2012, p. 12).

Advocates of market mechanism consider it is a useful tool for schools to compete and an incentive to improve education quality and achievements (Dudley-Marling & Baker, 2012; Garda, 2012). Notwithstanding, usually standardized high-stakes testing disregard the fact that in order to surpass certain barriers the environment poses to students with special educational needs reasonable accommodations have to be adopted for them to appropriately perform. Hence, the achievement gap increases for students who, for example, face linguistic obstacles, concentration obstacles or students with disabilities (Peters & Oliver, 2009). In most of the cases, such as in Brazil, tests are disseminated without disaggregated information. Additionally, they do not account for contextual profiles and diversity of populations (Brazilian Campaign for the Right to Education & Ação Educativa, 2014). In others, for example the U.S. mechanism of No Child Left Behind (NCLB), a regime with strong mechanisms of accountability aimed to reverse the achievement gap that 'children left behind' face—including Hispanic and students with disabilities—the literature indicates it shows little or no improvement on the

scores of persons with disabilities so far (Dudley-Marling & Baker, 2012). Instead, certain school districts exhibit a decrease on high school graduation rates of students with disabilities since the implementation of 'exit exams' (Dudley-Marling & Baker, 2012), and high levels of school drop-out rates within low-achieving students have been reported (Peters & Oliver, 2009).

Part of the literature argue that accountability requirements focused on standardized notions of achievement that disregard the diversity of student population tend to exacerbate inequalities, increase stratification and marginalize or exclude learners with disabilities who do not fit in a narrow notion of achievement (Dudley-Marling & Baker, 2012; Oxfam, 2019; European Agency for Development in Special Needs Education, 2013; Apple, 2001a; Zollers & Ramanathan, 1998; Peters & Oliver, 2009). Accountability measures tend to compensate those schools that have higher achieving students based on the aggregated results of standardized tests. This promotes the 'cream skimming' process since schools in the marketplace are thus encouraged to select and compete for the 'best' students in order to perform better in tests (OECD, 2010; Global Campaign for Education, 2016; Garda, 2012; CBM, Bensheim, 2018; Jennings, 2010; Ball, 2003; Apple, 2001; Lubienski & Weitzel, 2009; Howe & Welner, 2002; Verger et al., 2017; Verger et al., 2017c; Hsieh & Urquiola, 2006; OECD, 2012). Furthermore, if schools fail or underperform in this tests, they risk their competitiveness, their funding and they may face sanctions. In some cases, even the school's authorization could be at stake (for example in the case of charter schools). Additionally, sometimes schools compete for prestige when results are openly published (Verger et al., 2017c).

Incentive for discrimination based on test scores is present in States where the market-based approach has been implemented such as the U.S., India, Chile and Brasil (Global Campaign for Education, 2016; Elacqua et al. 2014; Hsieh & Urquiola, 2006). Indeed, authors consider that within the factors that prevent schools to become inclusive, competition between schools fuelled by league tables is a relevant one, for example in England and Wales (Slee, 2007; European Agency for Development in Special Needs Education, 2003; Liasidou, 2013; Ball, 2009; Apple, 2001; Booth, Ainscow & Dyson, 1997; Barton & Slee, 1999; Armstrong & Barton, 2007), shifting the emphasis from 'student need to student performance' (Apple, 2001, p. 413) and increasing selection within schools based on 'perceived ability' (Armstrong & Barton, 2007; Dyson, 2005). In Punjab, Pakistan, Oxfam's research evidences the impact of PPPs' requirement to meet a minimum pass rate on tests in order to receive their funding, suggesting that it creates an incentive for private schools to 'exclude the poorest children, children with disabilities and others who are likely to do poorly on tests' (Oxfam, 2019, p. 21).

In this equation of 'ideal/non-ideal students', students with special educational needs and particularly students with disabilities are likely to be excluded as a measure to assure the schools success (Liasidou, 2012; Liasidou, 2013; Dudley-Marling & Baker, 2012; Garda, 2012). They are also likely to be subjected to other types of discriminatory practices such as imposing suspensions or exempting students with special education needs to be evaluated, meaning they would not decrease the average test scores of the school (Aslam, Rawal & Saeed, 2017;

Jennings, 2010; Cullen & Reback, 2006; Slee, 2007). Additionally, in some countries, the system of standardized tests, instead of providing reasonable accommodations in order for every student to be evaluated on an equal basis, will in fact exempt students with disabilities from being tested. For example, a recent report from the National Institute of Education Evaluation of Uruguay revealed that both national and international standardized evaluations applying in the country do not allow reasonable accommodations and thus students with special educational needs are excluded from the analysis (INEEd, 2019). Therefore, the education system is designed based on information that hides a group of students, thereby interfering with the development of an inclusive system and strengthening the structural situation of lack of information disaggregated by disability that is present in many States.

Contrary to what was stated by the CRPD Committee (2016), the methods for monitoring school progress do not consider the barriers faced by students with disabilities. The Committee clearly pointed out that ‘traditional systems of assessment, utilizing standardized achievement test scores as the sole indicator of success for both students and schools may disadvantage students with disabilities’ (par. 74).

iii) Autonomy, deregulation and lack of State control

In some of the analyzed countries, private institutions operate on the basis of autonomy and are not obliged by the same regulations as public schools, particularly regarding the education of persons with disabilities. Some private schools enjoy the ability of charging high fees, establish their own admission processes and expulsion policies, and therefore promote the use of screening practices, whereas public schools are under the obligation to admit all applicants within their vacancies (Aslam, Rawal & Saeed, 2017). For example, the case of PPPs in Punjab, Pakistan which have no restrictions on student selection and screening since there is no adequate regulation towards this type of enterprises and there is a lack of control mechanisms (Oxfam, 2019). The World Bank often included within its advice (e.g. under SABER) that the States reduce regulations applicable to PPPs in order to incentivize the growth of the education market. Oxfam (2019) identified these type of recommendations mainly to low-income countries such as Ghana, Nepal, Philippines, Burkina Faso, among others. This study also identified that international chains providing education services, for example Bridge International Academies or Omega schools, tend to resist governmental regulation of the State in which they operate (Oxfam, 2019). In some countries there is a lack of due registration and authorization by the governmental authorities. The great amount of unregistered private schools is a concerning problem in many countries in Africa, including Tanzania, Nigeria (Baum et al., 2018; Uwakwe et al., 2008), Kenya and Uganda (EACHRights, ISER, & GI-ESCR, 2018), among others. For example, in Kibera, an informal settlement in Nairobi, Kenya, ‘more than 67% of private schools are not registered’ (Allavida, 2012).

In other cases, even if private schools are subject to the same obligations of non-discrimination of students with disabilities, there is a lack of State control (to assure non-selection of students, provision of reasonable accommodations, etc.). This requires a strong administrative capacity, a challenge in several countries, and is very resource and time

consuming (Bellei & Vanni, 2015; Verger & Moschetti, 2017). In this regard, Verger and Moschetti (2017) affirm that 'PPPs are not subject to the same kind of public scrutiny' and may operate outside public control mechanisms (p. 4). They confirm that negative equity externalities of the private sector involvement in education arise when market incentives are combined with restraints on government capacity and willingness to control. A good example is the class-action filed against New Orleans on the ground that public authorities had failed to enforce their obligations to a wide array of schools, including charter schools (P.B. et al., v. Paul Pastorek, Louisiana State Superintendent of Education et al., complaint class-action, 2010).

There is still a strong resistance of regular schools to embrace inclusive education and to guarantee access to school to students with special education needs, in particular children with disabilities. This resistance is tangible in the case of private schools, when regulatory frameworks and lack of state control allow them to have a broad margin of appreciation when guaranteeing the right to education of these students. For example, the Brazilian Campaign for the Right to Education and Ação Educativa in their submission to the Committee on Economic, Social and Cultural rights in 2014 stated that, as governmental agencies fail to exercise a meaningful control, 'private education systems have no specific education proposal to groups historically discriminated –people with disability, special educational needs, ethnic or linguistic diversity and populations with different cultural traditions– violating, in this sense, the right to non-discrimination' (Brazilian Campaign for the Right to Education & Ação Educativa, 2014, par. 40). Additionally, representatives interviewed from organizations in Peru, Brazil, Colombia, Uruguay and Argentina expressed that in their countries, both public and private schools are under the same rules regarding inclusive education. Nevertheless, there is a common understanding (stressed by six interlocutors, including also the one from Paraguay) that private schools are not properly audited and their compliance with their obligations is not monitored by the State. They act within a wide level of autonomy and the acts of discrimination against students with disabilities are not sanctioned. They stated that, although prohibited to do so, private schools exercise a discretionary prerogative to reject the enrollment of students with disabilities, and the State only intervenes when the family or individual with disabilities files a complaint.

A very illustrative case of the need to have clear regulation and control is the situation in Chile. This is an interesting example of how deregulation may be an incentive for private schools not to implement inclusive education. Chile has one of the largest –if not the largest– voucher programs in the world, that clearly evidences an education market with high levels of competition and privatization. As Fitch and Hulin (2018) analyzed, the cream skimming effect in Chile has been closely followed by many studies and well documented. This system prompted high levels of student segregation, both in an academic and socioeconomic basis and has been increasingly deteriorating the public education system (Queupil & Durán del Fierro, 2018), primarily before the enactment of regulation to revert this situation in 2009,

2010¹¹, 2012¹² and 2015¹³. Market-based reforms in Chile, introduced in the 1980's, increased levels of social exclusion and segregation of disadvantaged students. This was mainly through student screening mechanisms, 'selective expulsion' prerogatives and the creation of socially homogeneous niches of education, safeguarded on the alleged 'freedom to teach' (Queupil & Durán del Fierro, 2018; Elacqua & Santos, 2013; Hsieh & Urquiola, 2006). Faced with a growing demand for inclusive education and the need to put a limit to the prerogative of private schools to reject students with special education needs and students with disabilities, in 2015 the Inclusion Law was enacted, with the explicit objective of dismantling the perverse student selection mechanisms driven by marketization and privatization of education, to reduce school segregation and enhance quality education for all (Queupil & Durán del Fierro, 2018). In this regard, the law states that the selection of students or 'arbitrary discrimination' is prohibited and introduces the obligation to promote heterogeneous educative settings (Queupil & Durán del Fierro, 2018). Nevertheless, according to data included in the Global Campaign for Education, in 2016 at least 90% of the independent private primary schools in Chile screened the students that were willing to enroll in order to select those who were considered to be the 'better ones' (Global Campaign for Education, 2016).

Finally, in some cases the literature found that even if private schools are subject to the same obligations regarding students with disabilities, there is a practice in many States of private schools 'gaming' the system (see case study below) and disregarding their obligations (Oxfam, 2019). Oxfam reported this was the case in Uganda and Argentina. This is also the case of charter schools in the U.S. that are bound by federal regulations regarding students with special education needs. However, they engage in a series of strategies to circumvent the restrictions (Dudley-Marling & Baker, 2012), particularly the 'non-selection' provision. To stop these practices it is necessary to better enforce compliance. When monitoring charter schools, authorities focus on test results, dropout levels or graduation rates, but they do not usually control if schools are properly granting the right to inclusive education. Accordingly there is also no penalty for discriminating students with disabilities (Garda, 2012). It is worth noting that the CRPD Committee (2016) has established that monitoring of inclusive education is a continuing process and it is to 'ensure that neither segregation or integration are taking place, either formally or informally' (p. 12).

¹¹ With the enactment of Law 20,422, regarding equal opportunities and social inclusion of persons with disabilities.

¹² With the enactment of Law 20,609, against discrimination.

¹³ When the Inclusion Law (No. 20,845) was enacted.

Case study: non-enrollment of children with disabilities in private schools in Argentina

In Argentina there is a long-standing tradition of PPPs. Many private schools receive 'supply-side' subsidies to be allocated to the payment of teachers and principals via their salaries. However, some of these schools may charge extra fees (although limited) to families (Moschetti, 2018). The origin of this structure is complex and in some respect responds to the historic cooperation between the Church and the State (Verger et al., 2017a). The expansion of this sector nowadays is not so intrinsically linked to religious communities. It is more aimed to supplement insufficient or deteriorated public schools and expand and diversify the options (Moschetti, 2018). Although this form of privatization is not historically linked to market dynamics, there are '*de facto* competitive practices among schools' that compete to enroll the most academically able, motivated and disciplined students (Moschetti, 2018). Decree No. 2542/91 promotes state funding of 'public education with private management' with the object of 'granting all parents the right to choose the school for their children within the freedom to teach and learn granted by the Constitution'.

According to information produced by the National Ministry of Education for 2018, almost 70 percent of regular private schools in the country receive state subsidies, and 40 percent are 100 percent subsidized¹⁴. The state of Argentina is currently a major funder of private special education, whereby almost 70 percent of special schools receive public funds and more than 46 percent are fully subsidized¹⁵. Not surprisingly, as of 2017, 48.4 percent of students with disabilities in the country attend special schools¹⁶.

In particular, the City of Buenos Aires has a long tradition of subsidizing private schools. According to information from the local government analyzed by Moschetti (2018) from 2016, 'more than 50 per cent of children attend private schools, of which 80 per cent attend state-subsidized private schools and 20 per cent independent elite schools' (p. 88) and there has been a recent particular growth of low-fee private institutions that 'have increased their enrollment by almost 50 per cent in the period between 2005-2015' (p. 90¹⁷). Moreover, according to data produced by the National Ministry of Education, as of 2018, 49.4 percent of students with disabilities in the City were enrolled in special schools. This information also reveals the wide participation of private entities in the provision of special education. Whilst the consolidated information for the whole country shows that 26 percent of the students with disabilities that enrolled in special schools attended private special schools, in the City of Buenos Aires, from the 49.4 percent that are enrolled in special schools, more than 55 percent attended private schools.

Private schools in the City of Buenos Aires are under looser regulations regarding enrollment. While the public schools admission process is centralized through a 'single-blind' online application system¹⁸ that leaves no great margin for screening, private schools (subsidized or not) still directly control their admission process (Moschetti, 2018). Although these institutions are forbidden to exercise student selection and reject learners on a

discriminatory basis (Law No. 2,681 from the City of Buenos Aires), there is a long standing disregard and lack of control of the local government to monitor and sanction private schools, thus, there is a widespread practice of student screening to select the ones that 'are a good fit' for the school. Moschetti (2018) conducted a qualitative study that included on-site observations and interviews with principals, owners, teachers and legal advisors from selected low-fee private schools in the City. He found that the 'selection of students was by far the most commonly observed logic of action' (p. 95). The most commonly described methods were: (i) screening interviews; (ii) academic tests and reviewing of academic records and reports; and (iii) psychological tests. Students with disabilities and students with 'problematic' behavior records were among the most discriminated and rejected students from these institutions. In particular, students with disabilities are not only rejected, but also encouraged to enroll at special schools. As the interviewee of the organization from Argentina stated, all this happens without any kind of control from governmental authorities or mechanisms to be able to claim for the violation of the right to inclusive education.

The Civil Association for Equality and Justice very recently filed a class action against the Ministry of Education of the City of Buenos Aires, represented by the Law Clinic of the Center for Human Rights of the University of Buenos Aires Law School, challenging the illegal and systematic rejection of students with disabilities enrollment at regular private schools. They additionally denounced the omission of the Government of the City of Buenos Aires to control, monitor and sanction those private schools. Via information gathered from the testimonies of several families of children with disabilities, the plaintiff alleges private schools use several tactics to reject or council out students with disabilities during the admission process. During admission interviews families would frequently hear the following statements: 'this is not the school for your child', 'the institution does not count with necessary resources to face an inclusive education process', 'kids in this school have to be within an average range', 'we reserve the right to refuse admission', 'we have filled the quota of included students', 'the characteristics of our education project fails to match your child's needs', 'a support teacher will imply lowering down the level of the school', 'we do not work with inclusive education in this institution', within other testimonies. Many schools put children with disabilities on waiting lists for what seems an eternity. All of these responses are used by private schools principals to arbitrarily reject the enrollment of students on the basis of their disability. One testimony is very assertive, whereby the person in question states that 'children with disabilities that require support teachers cannot have

¹⁴ This information is based on data produced by the National Ministry of Education within its Annual Surveys on education, program available at: <https://www.argentina.gob.ar/educacion/planeamiento/info-estadistica/educativa/cuadernillos>

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ According to data provided by DGEGP-CABA, 2016.

¹⁸ For more information, visit the official website for student enrollment on the City of Buenos Aires education system at <https://www.buenosaires.gob.ar/educacion/estudiantes/inscripcionescolar>

the freedom to choose a school. Instead they will go to where they are taken; more often than not this will be a general public school.’ Families within this context tend to elaborate ‘lists of potential schools’ where they cross out those that dismiss their children and through this process many students with disability end up attending special schools. There are cases where persons with disabilities were rejected by almost 47 regular schools on the basis of disability¹⁹.

The plaintiff clearly states that ‘besides being unreasonable and arbitrary, these acts are illegal and go against binding rules regarding inclusive education prohibiting all education facilities, including those managed by private actors, to reject students on the basis of their disability’, and in particular claim the lack of control performed by the local government through its specialized agency ‘General Directorate for Private Managed Education’, which invokes its lack of competence to act in these cases. There is no public record of the sanctions –if any– applied by the local government in these situations. Although the ability to do so is detailed in Law No. 2,681, families of disabled children have to control and protect the right to inclusive education of their children by themselves. They do this by filing law suits at the local courts²⁰ or by making complaints at the National Institute Against Discrimination, Xenophobia and Racism (INADI)²¹.

The INADI (2018) stated in its latest report that most of the complaints filed in the first half of 2018 corresponded to acts of discrimination on the basis of disability. This comprised a 24.14 percent of the total complaints. Within this percentage, the majority were allegations of discrimination within the educational realm.

b) Segregation and stratification of the education system as a predominant effect of competition forces

Almost all the reviewed literature –even the studies of strong advocates of school choice and involvement of private actors in the education field– show concern regarding equity impacts of market-based reforms. Particularly, the effect of segregation and stratification that is usually attached to the introduction of strong competitive incentives (OECD, 2017; OECD, 2010; Patrinos et al., 2009; Magnússon & Lindqvist, 2019; OECD, 2018; Apple, 2001a). There are several studies that focus on socioeconomic, racial or ethnic segregation and there is less but consistent evidence that points out a growing segregation of students with special

¹⁹ The applicant highlights in the complaint the case of Elizabeth Aimar. This case is a public case in Argentina since Aimar, a mother of a child with disability founded the ‘Red de Asistencia Legal y Social’ (RALS). RALS focuses on giving advice to families and persons with disabilities.

²⁰ For example, the case ‘Defensoría de Menores e Incapaces N° 6 y otros c/ Colegio Mallinckrodt Hermanas de la Caridad Cristiana Hijas de la Bienaventurada Virgen María s/Amparo’, Case No. 35476/2016, 6/04/2017, Decided by the Civil Tribunal No. 99.

²¹ For example, Decisions No. 33-2011, No. 36-2011 and No. 508-2018 of the INADI.

educational needs, including persons with disabilities as a predominant outcome of market-based reforms and the growth of private actors in education.

The concern refers, on the one hand, to the segregation of students with special education needs and their resulting concentration in mainstream schools of the public domain (traditional public schools). Evidence shows that given the above mentioned incentives that market-led systems provide to private actors, public schools increasingly cater to the most disadvantaged populations (GI-ESCR, ISER, 2015; Rouse & Florian, 1997). This not only negatively affects diversity in educational settings, but also coupled with the growing transfer of public resources to expand private educational schemes and the draining of funding from public schools (Queupil & Durán del Fierro, 2018; Oxfam, 2019; ACLU et al. vs. State of Wisconsin et al., 2012), results in a pattern where most marginalized students are educated in under-resourced public schools (Oxfam, 2019) or 'schools of last resort' (Dudley-Marling C. & Baker D., 2012).

On the other hand, and also very concerning for the right to inclusive education, is the fact that the marketized approach of education has led, in some countries, to an overspecialization of education, with a focus on particular groups of students or needs (Jennings, 2010), based on the assumption that in this way they can provide higher quality education, 'tak[ing] advantage of the specialized skills offered by certain private organizations' (Patrinos et al., 2009, p. 4). In this vein, UNESCO affirms that 'within the current push for privatization of education, in countries such as the UK there is more aid towards special education structures, which in turn maintains th[e] view of children with disabilities being separate from mainstream [schools]' (UNESCO 2015, p. 111). In the same regard, Howe and Welner (2002) state that school choice is characterized by diversity but at the school level rather than at the student level. This therefore tends to the imposition of the 'separate but equal' doctrine that undermines the inclusion of students with special education needs within regular schools.

For its part, OECD's research (2010) highlights that school choice in some cases, for example in the U.S. State of North Carolina, in Copenhagen, Denmark and in Chile, resulted in an increased segregation between schools 'with different profiles'. This was mainly along three lines: socio-economic, ethnic and ability (also in OECD, 2012). Accordingly, it found that some schools in voucher programs that aimed to serve minority students only have participants of their target groups. Furthermore, some charter schools are known to focus specifically on special needs education as a specific submarket in education (OECD, 2010). It also highlighted that while proponents claim that market mechanisms result in more demand sensitivity, opponents are concerned about the negative impact of segregation on social cohesion. In the same vein, a report of Christoffel-Blindenmission Deutschland (CBM) underlines the risk that the private involvement in education provision tends to create more exclusive and standardized schools. It also explains that evidence from the UK shows that the PPP system 'is fuelling an increase in special schools enrollment and leading to less willingness among mainstream academy schools to enroll girls and boys with disabilities' (CBM, Bensheim, 2018).

Dudley-Marling and Baker (2012) highlight a trend in some states of the U.S. where, on the one hand, many charter schools enroll very few –if any– students with disabilities, whereas on the other hand, there is a small number of charter schools with ‘unusually high numbers’ of students with disabilities (the majority within the low proportion who attend charter schools, as discussed earlier in this paper). This was also underlined by other authors (Fitch & Hulin, 2018; Eppel et al., 2015). Accordingly, part of the literature refers to some charter schools that often cater exclusively students with disabilities, at-risk students or other minorities (Garda, 2012). In this regard, Fitch and Hulin (2018) point out that market education has targeted specifically in several occasions students with disabilities. Additionally, they reveal that the National Center for Special Education in Charter Schools reported the development of 115 schools (since 2014) designed specifically for children with disabilities. This was mainly present in Ohio, Texas and Florida. The latter State has also developed a voucher program targeted to students with disabilities. In addition, Magnússon, Göransson and Lindqvist (2019) showed that the number of independent schools run by private entities that specialize in the education of students in need of special support and students with disabilities has increased during the last decade. This is within a context of increased marketization of the education system in Sweden.

Likewise, Waitoller and Lubienski (2019) affirm that the market model can produce incentives for specialized schools and increase segregation of students with disabilities. In particular they are concerned with the identification of students who need special education under U.S. law and how disability in intersection with other variables tends to increase this identification. They state that ‘as compared with their white peers, black students with disabilities are disproportionately identified for special education and spend less time in the general education classroom’ (Waitoller & Lubienski, 2019, p. 6). Similar concerns are placed by other authors affirming that in market-driven perspectives ‘disproportionate numbers of students from oppressed groups are placed in special education’, when writing with regards to racial and linguistic minorities (Artiles, Harris-Murri & Rostenberg, 2006, p. 266).

It is also an indicator that traditionally there is a high presence of private providers in special and non-inclusive education (Reisner, 2012). The Brazilian Campaign for the Right to Education affirmed that there is a strong participation of the private sector within special segregated education. It asserts that ‘special or exclusive education continues to be the norm in the private sector’ and that the development of PPPs in the domain of education of students with disabilities ‘aimed to encourage expansion through exclusive education’ (Brazilian Campaign for the Right to Education & Ação Educativa, 2014, par. 42). In this regard, the interviewee from the Brazilian organization highlighted that private special schools in Brazil receive large amounts of subsidies from the State and expressed that there is a high presence of private actors in the special school system. This also occurred in England according to Slee (2007), who affirmed that market-led education system encourage the emergence of ‘niche providers’ that deal with a range of ‘disorders’, creating cluster school systems.

Case Study: The growing trend towards standardization of education in Sub-Saharan Africa: commercial school chains and inclusive education

Decentralization and privatization of education permeated the education policies in Sub-Saharan Africa in the past few decades in many countries including *inter alia* Uganda, Kenya, Nigeria, Tanzania, Liberia and Zambia. The propagation of low-fee private schools was tied to concerns regarding access, quality and equity in education (Uwakwe et al., 2008). The World Bank has an active role in promoting privatization in low-income countries through its advice and funding with the aim of increasing the quality and provision of education for low-income families (Uwakwe et al., 2008) and closing the education gap present in many developing countries, including 'inadequate geographical distribution of public schools' (Oxfam, 2019).

Within this trend, a particular private actor has been expanding in many countries in Africa (together with some countries from Asia). This is the case of international chains of schools that usually come in the form of low-fee private schools with a strong commercial input to education. In this regard, the Bridge International Academies (BIA) are well known because of their expansion and because they have become a major concern for human rights organizations and bodies (United Nations Special Rapporteur on the right to education, 2016; HRC, 2019; African Commission, 2015). These pre-primary and primary schools, initially established in Kenya (Verger et al., 2016) were then expanded to Uganda, Liberia, Nigeria and India. They are developed both in an independent way, such as in Kenya and Uganda, or in partnership with the State, but receive funding from several private and public investors, including the IFC, the UK government and the European Investment Bank (HRC, 2019; CBM, Bensheim, 2018). Its expansion is very widespread, for example in Kenya where there are more than 400 Bridge International Academy schools (EACHRights, Kenya, ISER, Uganda & GI-ESCR, 2016), so their fulfillment –or impairment– of the right to inclusive education has greatly impacted their country.

On the one hand, the literature highlights that low-fee private schools like BIAs did enhance the enrollment rates, including part of the out-of-school population in the education systems (Uwakwe et al., 2008; Adelabu & Rose, 2004), although part of the evidence stresses that the fees charged by this kind of low-fee private schools are 'unaffordable for very poor families' (ActionAid International et al., 2015).

On the other hand, concerns regarding quality and equity of education provided by BIAs are gaining ground. Primarily commercial school chains, including BIAs, raise particular concerns about their resistance to government regulation and their non-compliance with educational standards (Oxfam, 2019; GI-ESCR, ISER, 2015). It is worth noting that BIAs in Uganda have been under judicial procedures since 2016 and currently the 63 schools that operate in the country are under review. The High Court of Uganda stated that BIAs 'are operating its academies in contravention of the law' since they operate without a license

(Bridge International Academies (k) v. Attorney General, 2016). In the same token, the High Court of Kenya in Busia County ruled on 2017 that the Education Board could proceed with measures to close ten BIAs operating in that jurisdiction ‘for failing to meet education standards’ (Right to Education Project, 2017).

Regarding inclusive education, one of the main issues relies on the aim of low-fee private schools to provide education at the lowest cost as well as the standardized mechanisms of education that these schools promote (Oxfam, 2019). As such, some evidence revealed that they tend to segregate and avoid enrolling students with special educational needs because of the extra resources required (GI-ESCR, Hakijamii, 2015; ActionAid International et al., 2015). In this vein, the Initiative for Social and Economic Rights (2016) expressed its concern for the lack of accessibility, appropriate supports and reasonable accommodations for students with disabilities in several PPPs in Uganda. Some quantitative research also illustrates these findings. A report from the Allavida organization (2012) regarding access to education in Kenya –particularly in Kibera– found that in private schools, ‘children with disabilities accounted for less than 1 percent of the total school population, against 10 percent in the public school’ and that a greater proportion of children with intellectual disabilities ‘may not be attending at all, due to the high level of accommodation required in inclusive environments’ (p. 13). Furthermore, the study stresses that public schools are more accessible for children with disabilities than private ones. Additionally, some of the research points out that ‘students with lower exam scores, students with special educational needs or disabled students may be discouraged from attending BIA schools as a result of the built environment and entrance procedures’ (Education International & Kenya National Union of Teachers, 2016). Even though there is no conclusive information, the report suggests that BIA schools use different methods to avoid enrolling students with special education needs, such as establishing a minimum achievement score in admission tests, counseling out students with low test scores and the analysis of previous academic and discipline records (Education International & Kenya National Union of Teachers, 2016). Respondents who were interviewed²² for the study carried out by the Education International and the Kenya National Union of Teachers (2016) suggested that the BIAs does not generally accept children with disabilities and children with special education needs. This was because the school was not deemed appropriate for their needs, or that they did not count with the facilities ‘those children’ required. The report also points out that when BIAs enroll children with special educational needs, teachers are not well equipped or supported to accommodate and address the requirements of these students (Education International & Kenya National Union of Teachers, 2016). Also, several organizations when submitting an alternative report to the Committee on Economic, Social and Cultural Rights

²² Based on interviews and research undertaken by East African Centre for Human Rights (EACHRights) and Global Initiative for Economic Social and Cultural Rights (GIESCR) in 2016, focusing on BIA’s operations in Kenya.

related to the sixth periodic report of the UK, stated that BIAs were not well designed and are not easily accessible to persons with disabilities²³ (ActionAid International et al., 2015).

Aside from the alleged exclusion of students with special educational needs, one of the main points of concern regarding inclusive education relies on the fact that BIAs are structured on the alleged benefits of standardization of education (Verger et al., 2016; Srivastava, 2016). With the objective of reducing costs and building 'on-scale education', commercial chain schools are based on 'standardized curricula, management, instruction and assessment' (ActionAid International et al., 2015). This may be very prejudicial for educating within diversity and affect education quality. Curricula is designed to apply to very diverse contexts where international chains develop their private schools and are very rigid in leaving little space for accommodations (ActionAid International et al., 2015).

c) The provision (or denial) of reasonable accommodations and supports

The literature is very context-specific in this realm and the findings are very related to the budgetary situation of both private and public institutions. Lack of supports, inadequate or ineffective ones and the privatization of the costs of additional resources are all issues arising in most of the countries (Inclusion International, 2009). This seems to be a shortcoming for both public and private schools. It is worth noting that the CRPD Committee has clearly stressed that 'educational institutions, including private educational institutions and enterprises, should not charge additional fees for reasons of accessibility and/or reasonable accommodation' (par. 74).

Several studies have raised concerns regarding accessibility and provision of reasonable accommodations²⁴ for students with disabilities. Some literature from the U.S. is particularly concerned with voucher schemes since families who want to enroll their children under this program may not enjoy their rights under the Individuals with Disabilities Education Act

²³ They included this reference in the alternative report conducted in September 2013. The UK International Development Minister, Lynne Featherstone, who was speaking at the High Level Meeting on Development and Disability at the United Nations General Assembly announced that, with immediate effect, children with disabilities in the developing countries will be able to access and use all schools built with direct UK funding. She declared: 'from this day forward, all schools built with the direct support of British taxpayers will be designed to allow disability access', in reference to the low-fee private schools that receive finance from the UK government, including a great amount of BIAs. The report states that nevertheless, 'on-site visits from researchers and preliminary feedback from communities report that schools supported by the UK, such as BIAs, are not designed and easily accessible to persons with disabilities'.

²⁴ According to Article 2 of the CRPD, reasonable accommodation means 'necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms'. The Convention provides in the same Article that the denial of reasonable accommodation entails a discrimination on the basis of disability.

(IDEA)²⁵. Thus, students with disabilities may have to attend school without being able to enforce their rights of receiving 'related services' in order to have a meaningful educational trajectory (ACLU et al. v. State of Wisconsin et al., 2012; Waitoller & Lubienski, 2019; Gill et al., 2007). This resembles the situation with 'traditional' private schools (which do not receive public funding) who are not required to provide IDEA services, but are not allowed to discriminate against children with disabilities by denying reasonable accommodations which will 'not change the nature of their program' (ACLU et al. v. State of Wisconsin et al., 2012). In the case of charter schools, who are exempt from many administrative rules but bounded by federal law regarding disability (Howe & Welner, 2002), many condition the enrollment to the waive of the rights under the IDEA (Garda, 2012; Zollers & Ramanathan, 1998). Hence, these schools are released from their obligation to provide 'supplementary aids and services for students in general education classrooms', and establishing an individualized education plan. The argument in many cases is that students are being properly served without a stigmatizing label of disability, that public schools tend to over-identify students with disabilities, and that charter school inclusion program tends to remove the label (Zollers & Ramanathan, 1998). While avoiding over-classification of children may be a good practice in many cases, authors affirm this may be a mechanism for avoiding the provision of all services and supports that the law requires for an appropriate and meaningful education (Garda, 2012). As a result, even though charter schools in the U.S. tend to separate less in special classrooms, in many cases they include students in the classrooms without providing appropriate services but instead 'dumped [the children] in the regular classrooms where [they] have no clue what is going on', or they are only allowed to go to the regular classroom once they have reached grade level (Zoller & Ramanathan, 1998, p. 302; also in this regard Dudley-Marling & Baker, 2012). Also, some states allow charter schools to have enrollment criteria linked to their mission or scope and some allow admission criteria based on academic achievement (Howe & Welner, 2002). Both these criteria are very vague and can lead to discriminatory assessments towards students with special education needs.

Moreover, Oxfam's research (2019) laid down that in PPPs schools in Uganda no reasonable accommodations for students with disabilities were provided. They asserted that many schools were inaccessible, and others did not count with special needs teachers. Similar findings were revealed in the case of PPPs in Punjab (Oxfam, 2018).

Regarding supports (particularly support teachers), the interviewed representative of the organization from Brazil expressed that in the case of private schools, it is the schools duty to provide the necessary support. They are also forbidden to charge students with disabilities for these costs (based on the principle of solidarity). Nevertheless there are several cases where families pay for the support themselves, either because the school lacks the resources or

²⁵ The Individuals with Disabilities Education Act is a federal legislation that provides for 'free appropriate public education' for *eligible* children with disabilities, that 'ensures special education and related services to those children', including the design of an individualized education plan. To the extent these services assist a child in receiving an appropriate education, schools are required to make these services available at no cost to the student. For more information visit: <https://sites.ed.gov/idea>.

because they prefer to choose a person of their confidence. In the case of Uruguay, the interviewee stated that the cost of the support in private schools is faced by the families. This adds an element for segregation for those who cannot afford it. The same was stated by the interlocutors from Chile and Paraguay. Regarding Peru, the professional interviewed told us that private schools charge families for the costs of the supports or impose them the obligation to attend with a support in order to enroll the student. The interviewee stated that although last year a law was enacted forbidding the allocation of the costs to families, schools still continue to do so.

Finally, in the State of Colombia, as the interlocutor revealed, private schools impose differential enrollment fees to students with disabilities to cover the cost for learning supports, or they condition the admission to the provision of a support by the family. Even though this practice is prohibited and there have been several lawsuits regarding this issue, it continues to happen in practice. The main reason for the challenging issue of provision of reasonable accommodations is related to budgetary constraints. Nonetheless, market incentives, alongside creating incentives to deny compliance with this 'costly' obligation, also promotes a great deal of standardization of education shrinking the space for adaptations to address specific needs and face both schools and teachers with standardized activities, assessments, instruction, contents and evaluation criteria, usually targeted to a normalized type of student (Dudley-Marling & Baker, 2012; Brazilian Campaign for the Right to Education & Ação Educativa, 2014; Apple, 2001a; Zollers & Ramanathan, 1998; Peters & Oliver, 2009). Therefore, students must fit the school, rather than the school to be accessible and provide support and services for students to learn on an equal basis (Zollers & Ramanathan, 1998). This can substantially affect students with special education needs and their right to have access to meaningful education. Accordingly, the member of the organization from Colombia that was interviewed stressed that they have chains of international schools working in the country that perform with great autonomy in practice, and that they tend to be highly competitive and in contradiction with the inclusion of students with special educational needs and students with disabilities, since they use very standardized methods of learning and evaluation.

Although Dudley-Marling and Baker (2012) note that there are some cases of charter schools in which innovation and experimentation lead to really inclusive education, they also mention that they are rare. Similar insights were provided by the representatives of the organizations from Brazil, Uruguay, Paraguay, Peru and Chile regarding particular cases of private schools in their countries that, when complying with the right to inclusive education, tend to provide supports and make reasonable accommodations in a better and more effective manner, since public schools usually face budgetary issues and bureaucratic limitations. For its part, Apple (2001a), highlighted that in the countries studied in its research (*i.e.* the U.S., England and Wales, Australia and New Zealand) market did not encourage diversity but increased the establishment of 'dominant models' of education strategies.

Lack of empirical studies regarding several dimensions of quality education of persons with disabilities

The analysis of the existing literature regarding the effects of the growing private involvement in education on the right to inclusive education evidences that the amount of research and the type of sources produced on this topic varies widely within different regions.

In accordance with the results provided by Verger et al. (2017) on their extensive study regarding privatization of education, most of the academic literature available on the consulted platforms regarding inclusive education and particularly of students with special educational needs and disabilities comes from –and refer to– the U.S. primarily, some countries from Europe, including mainly the UK, and Australia from Oceania. There is also academic literature on this field regarding Latin American countries that is concentrated mostly on particular cases such as the Chilean extensive and controversial voucher program and some references from Argentina, Colombia and Peru. Regarding African and Asian countries, with the exemption of India and Pakistan, there is a considerably less amount of academic literature regarding privatization of education and its impact on inclusive education of persons with disabilities. Instead, it is widely focused on the equity impact regarding socioeconomic inequalities. References to persons with disabilities or students with special educational needs are mostly –although not in great amount– present in the reports or studies performed by organizations, or coalitions of them.

Overall, there is little literature –mostly from U.S. and U.K. sources– that concentrates particularly on the impacts on inclusive education of students with special educational needs and persons with disabilities. Most of it analyzes this case within a more general review of privatization or marketization of education.

There is a general lack of appropriate data regarding quality of inclusive education of persons with disabilities in private or semi-private schools. The information regarding the quality of education and the impact of market-based reforms in this realm is not disaggregated by disability and thus it is not possible to analyze if there is a differential effect for these students based on the type of disability. Empirical research in this subject area is highly encouraged.

Closing remarks: Is inclusive education compatible with the principles underlying a market-based approach of education?

Some authors believe that market-based approaches in education are incompatible or mutually exclusive with inclusive education, since they are incompatible with human difference (including language, race, culture, gender, disability, special educational needs) (Dudley-Marling & Baker, 2012; Reisner, 2015; Slee, 2011; Howe & Welner, 2002).

As evidenced by the reviewed literature, there are indeed some centrifugal forces within the logic of privatization and marketization of the education system that result in the exclusion

and segregation of students with special educational needs. This is particularly apparent in the case of students with disabilities who have been historically excluded from and segregated within the education system. These forces, such as competition, standardization, cost-effectiveness, autonomy and deregulation do seem intrinsically conflicting with the forces underpinning inclusion and, as evidenced by a great amount of the literature reviewed, can be very prejudicial for students who do not fall within pre-established parameters. Therefore, while the involvement of private actors in education (mainly not driven by profitability) may be in some cases beneficial to expand access to education for those who otherwise would be out of the reach of the public system, this has to be necessarily within clear boundaries in order to avoid incentives that might end up prejudicing those who have been historically discriminated by the education system. As Kishore Singh (2014) strongly stated, 'while private education can supplement public education, it should not supplant the Government's primary responsibility to provide basic education for all' (p. 17).

Hence, the key element in this complex scenario of education policy is the State. There are today in force legally binding instruments that enshrine the human right to inclusive education, a right that is enforceable *vis a vis* public and private institutions that conform the education system. Thus, the State is responsible to respect, protect and fulfill the right of all individuals under its jurisdiction. Within a growing global context of commercialization and privatization of education, the adoption of the Abidjan Principles has demonstrated that a wide array of stakeholders realized that education, as a public good, is the responsibility of the State. As such, it provides a very clear guide for States to fulfill both its non-delegable duty to provide equal, inclusive and free education and to effectively regulate and control private actors who access the education systems.

As the Salamanca Statement pronounce, 'Education for All effectively means FOR ALL'. Twenty five years later, the challenge still continues.

Recommendations

Governments should take all necessary measures to:

- (i) guarantee the fulfillment of its non-delegable obligation and responsibility to provide inclusive, quality and equitable education for all;
- (ii) concentrate its allocation of public funds to strengthen the provision of public, free and accessible education without discrimination and for the provision of reasonable accommodations and support for students with special educational needs or students with disabilities;
- (iii) register all private actors within the education system and establish a clear regulatory framework to prohibit any form of discrimination in education on the basis of disability;
- (iv) strengthen their legislations and regulatory provisions in order to prohibit both public and private institutions to select students in their admission processes;

(v) rearrange their accountability systems based on standardized notions of achievement into systems that produce information about education quality based on multiple factors that positively respond to students diversity and reduce incentives for student screening;

(vi) establish and enforce effective mechanisms to control and monitor private actors within their involvement in the provision of public services such as education. In particular, the fulfillment of their obligations under the right to inclusive education. This includes the prohibition to exclude students on a discriminatory basis and deny, or charge families with the cost of, reasonable accommodations and support for students with special educational needs and students with disabilities;

(vii) design appropriate complaint mechanisms for persons with disabilities and their families to claim for violations of their right to inclusive education;

(viii) progressively reduce –towards the elimination of– public financing of special and segregated education for students with special educational needs and divert those budget allocations to public policies for the inclusion of all students in mainstream settings; and

(ix) preclude the development of new special education providers, both public and private.

Advocates and external funders of private education should:

(i) cease the financing of any private school that do not comply with the right of inclusive education for all;

(ii) refrain from funding commercial private education providers and systems based on market-competitive premises that tend to result in highly segregated and stratified education provision;

(iii) redirect its advocacy programs towards the development of a strong public system of education; and

(iv) commit to the fulfillment of the right to inclusive education, particularly the right of students with disabilities to have access to, and participate in, mainstream schools on an equal basis with other students. To redirect their funding to enhance the provision of quality and equitable education for all in general, public and accessible education systems, and for the provision of reasonable accommodation and individual support that students may require.

Reference list:

- ACLU Wisconsin. (2016). Washington Post: *Senator seeks to stop DOJ from investigating private schools for violations of Americans with Disabilities Act*. Retrieved from <https://www.aclu-wi.org/en/news/washington-post-senator-seeks-stop-doj-investigating-private-schools-violations-americans>
- Action Aid International et al. (2015). *The UK's support of the growth of private education through its development aid: Questioning its responsibilities as regards its human rights extraterritorial obligations*. Alternative report presented to the Committee on Economic, Social and Cultural Rights on the occasion of the consideration of the list of issues related to the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland (UK) during the 55th session of the Committee.
- Adelabu, M. & Rose, P. (2004). Non-state provision of basic education in Nigeria, in Larbi, Adelabu, M., Rose, P., Jawara, D., Nwaorgu, O. & Vyas, S. (eds.), *Nigeria: Study of non-state providers of basic services*, International Development Department, University of Birmingham, United Kingdom.
- Ainscow, M., Farrell, P. & Tweddle, D. (2000). Developing policies for inclusive education: a study of the role of local education authorities, *International Journal of Inclusive Education*, Vol. 4, No. 3, 211-229.
- Ainscow, M. & Miles, S. (2008). Making Education for All inclusive: where next?, *Prospects*, Vol. 38, No. 1, 15-34.
- Allavida Kenya. (2012). *Access to and quality of basic education in Kibera, Nairobi, Study and synthesis report*. Retrieved from http://www.uwezo.net/wp-content/uploads/2013/01/KE_COMM_Networks_AllavidaReport.pdf
- Apple, M. W. (2001a). Comparing Neo-liberal projects and inequality in education, *Comparative Education*, Vol. 37, No. 4, 409-423.
- Apple, M. W. (2001b). Creating profits by creating failures: Standards, markets and inequality in education, *International journal of Inclusive Education*, Vol. 5, No. 2, 103-118.
- Archer, D. (2016). *Rights-based responses to non-state education provision: a tentative typology and some critical reflections*, 2016. Retrieved from <https://www.right-to-education.org/resource/rights-based-responses-non-state-education-provision-tentative-typology-and-some-critical>
- Armstrong, F. & Barton, L. (2007). Policy, Experience and Change and the Challenge of Inclusive Education: The Case of England, in Armstrong Felicity & Barton Len (eds.),

Policy, Experience and Change: Cross-Cultural Reflections on Inclusive Education, Springer.

- Artiles, A. J., Harris-Murri, N. & Rostenberg, D. (2006). Inclusion as Social Justice: Critical Notes on Discourses, Assumptions, and the Road Ahead, *Theory into Practice*, Vol. 45, No. 3, 260-268.
- Bailey Estes, M. (2004). Choice for all? Charter schools and Students with special needs, *The Journal of Special Education*, Vol. 37, No. 4, 257-267.
- Ball, S. J. (2003). *Class strategies and the education market: The middle classes and social advantage*, London, England, Routledge.
- Ball, S. J. (2006). *Education policy and social class, the selected works of Stephen J. Ball*, New York, Routledge.
- Ball, S. J. (2009). Privatizing education, privatizing education policy, privatizing educational research: Network governance and the 'competition state', *Journal of Education Policy*, Vol. 24, No. 1, 83.
- Ball, S. J., Thrupp, M. & Forsey, M. (2010). Hidden markets: the new education privatization, *British Journal of Sociology of Education*, 31:2, 229-241.
- Barnes, C. & Mercer, G. (2004). Theorising and Researching Disability from a Social Model Perspective, in Barnes, C. & Mercer, G., *Implementing the Social Model of Disability: Theory and Research*, The Disability Press.
- Barton, L. & Slee, R. (1999). Competition, selection and inclusive education: some observations, *International Journal of Inclusive Education*, Vol. 3, No. 1, 3-12.
- Baum, D. (2018). *The effectiveness and Equity of Public-Private Partnerships in Education: A Quasi-Experimental Evaluation of 17 Countries*, Education Policy Analysis Archives, Vol. 26, No. 105.
- Baum, D., Cooper R. & Lusk-Stover, O. (2018). Regulating market entry of low-cost private schools in Sub-Saharan Africa: Towards a theory of private education regulation, *International Journal of Educational Development*, Vol. 60, 100-112.
- Bellei, C. and Vanni, X. (2015). The evolution of educational policy in Chile: 1980-2014 at Schwartzman S. (ed.), *Education in South America*. New York, Bloomsbury, 179-200.
- Berhanu, G. (2011). Challenges and responses to inclusive education in Sweden: mapping issues of equity, participation and democratic values, in Artiles, A. J., Kozleski, E., Waitoller, F. (eds.), *Inclusive Education: examining equity on five continents*, Cambridge, MA: Harvard University Press.

- Bettinger, E. (2005). The effect of charter schools on charter students and public schools. *Economics of Education Review*, Vol. 24, No. 2, 133-147.
- Bifulco, R., & Ladd, H. F. (2006). The Impacts of Charter Schools on Student Achievement: Evidence From North Carolina, *Education Finance and Policy*, MIT Press, Vol. 1, No. 1, 50-90.
- Bifulco, R., & Ladd, H. F. (2007). School choice, racial segregation, and test-score gaps: Evidence from North Carolina's charter school program, *Journal of Policy Analysis and Management*, Vol. 26, No.1, 31-56.
- Billingham, C. M., & Hunt, M. O. (2016). School racial composition and parental choice: new evidence on the preferences of white parents in the United States, *Sociology of Education*, Vol. 89, No. 2, 99-112.
- Booth T., Ainscow, M. & Dyson, A. (1997). Understanding inclusion and exclusion in the English competitive education system, *International Journal of Inclusive Education*, Vol. 1, No. 4, 337-355.
- Brazilian Campaign for the Right to Education & Ação Educativa (2014). *Privatization of education and rights violations in Brazil: notes for the Committee on the Rights of the Child*, Document attached to the II Alternative Report on the Situation of the Rights of the Child in Brazil presented by the National Association of Centers for the Defense of Child Rights and partner organizations to support the review of Brazilian State by the UN Committee on the Rights of the Child Brazil, October 2014.
- Burch, P., Steinberg, M. & Donovan, J., (2007). Supplemental Educational Services and NCLB: Policy Assumptions, Market Practices, Emerging Issues, *Educational Evaluation and Policy Analysis*, Vol. 29, No.2, 115-133.
- Christoffel-Blindenmission Deutschland (CBM, Bensheim). (2018). *My Right is Our Future: The Transformative Power of Disability-Inclusive Education*, Series on Disability-Inclusive Development, Germany.
- Cullen, J. B., Jacob, B. A. & Levitt, S. D. (2005). The impact of school choice on student outcomes: an analysis of the Chicago Public Schools, *Journal of Public Economics*, Elsevier, Vol. 89, No. 5-6, 729-760.
- Cullen, J. B., Reback R. (2006). *Tinkering toward accolades: school gaming under a performance accountability system*, Working Paper 12286, National Bureau of Economic Research Cambridge.
- De Koning, M. (2018). Public-private partnerships in education assessed through the lens of human rights, in Steiner-Khamsi, G. & Draxler, A., *The State, Business and Education*,

Public-Private Partnerships Revisited, NORRAG Series on International Education and Development.

Di Gropello, E. (2006). *A Comparative Analysis of School-Based Management in Central America*. Washington D.C., World Bank Publications.

Dudley-Marling, C. & Baker, D. (2012). The Effects of Market-based School Reforms on Students with Disabilities, *Disability Studies Quarterly*, Vol. 32, No 2.

Dyson, A. (2005). 'Philosophy, politics and economics? The story of Inclusive Education in England', in Mitchell, D. (ed.) *Contextualising Inclusive Education: Evaluating Old and New Perspectives*, London: Routledge/Taylor and Francis.

East African Centre for Human Rights (Kenya), Initiative for Economic and Social Rights (Uganda), and Global Initiative for Economic, Social and Cultural Rights (2016), *What do the new data on Bridge International Academies tell us about their impact on human rights? A five-point analysis*. Retrieved from <http://globalinitiative-escr.org/wp-content/uploads/2016/12/161207-What-do-the-new-data-on-Bridge-International-Academies-tell-us-on-human-rights-impact.pdf>

East African Centre for Human Rights (Kenya), Initiative for Economic and Social Rights (Uganda), and Global Initiative for Economic, Social and Cultural Rights. (2018). *Information statement on ongoing cases involving Bridge International Academies LTD*. Retrieved from <http://globalinitiative-escr.org/wp-content/uploads/2017/03/170323-Update-on-legal-cases-involving-BIA-Kenya-Uganda-Final-v5.pdf>

Economic and Social Rights Centre (Hakijamii), GI-ESCR (2015). *Kenya's support to privatisation in education and its impact on discrimination and segregation*. Retrieved from <http://globalinitiative-escr.org/wp-content/uploads/2015/06/150428-Kenya-Parallel-report-CRC-privatisation-right-to-education.pdf>

Education International & Kenya National Union of Teachers. (2016). *Bridge vs. Reality: A study of Bridge International Academies' for-profit schooling in Kenya*. Retrieved from http://download.ei-ie.org/Docs/WebDepot/Bridge%20vs%20Reality_GR%20Report.pdf

Elacqua, G., Alves, F., Koslinki, M., Martinez, M., Santos, H., & Urbina, D. (2014). Winners and losers of school choice: Evidence from Rio de Janeiro, Brazil and Santiago, Chile, *International Journal of Educational Development*, Vol. 41, 25-34.

Elacqua, G. & Santos H. (2013). Los efectos de la elección escolar en la segregación socioeconómica en Chile: Un análisis georreferenciado, *Espacio público*, Documento de referencia No. 1. Retrieved from:

https://mba.americaeconomia.com/sites/mba.americaeconomia.com/files/los_efectos_de_la_eleccion_escolar_en_la_segregacion_socioeconomica_en_chile_un_analisis_georeferenciado.pdf

- Epple, D., Romano, R. & Zimmer, R. (2015). *Charter Schools: A survey of research on their characteristics and effectiveness*, National Bureau of Economic Research, Cambridge.
- European Agency for Development in Special Needs Education. (2013). *Organisation of Provision to Support Inclusive Education – Literature Review*, Odense, Denmark.
- European Agency for Development in Special Needs Education. (2003). *Special Needs Education in Europe Thematic Publication*, January 2003.
- Fitch, E. F. & Hulgín, K. M. (2018). Privatizing Benefit and Socializing Cost: Market Education as Rent Seeking, *The Urban Review*, Vol. 50, 773-794.
- Frankenberg, E., Siegel-Hawley, G. & Wang, J. (2011). Choice without equity: Charter school segregation, *Educational Policy Analysis Archives*, Vol. 19, No. 1.
- Garda, R. A. (2012). Culture clash: special education in charter schools, *North Carolina Law Review*, Vol. 90, No. 3, 655-718.
- Gill, B., Timpane, P. M., Ross, K. E., Brewer, D. J. & Booker, K.. (2007). *Rhetoric versus Reality. What We Know and What We Need to Know About Vouchers and Charter Schools*, RAND Corporation, United States of America, 2007.
- Global Campaign for education. (2016). *Private Profit Public Loss. Why the push for low-fee private schools is throwing quality education off track*, South Africa.
- Graham, L. J., Proctor, H. & Dixon, R. M. (2016). How schools avoid enrolling children with disabilities, *The Conversation*, Melbourne University Press, 28 January 1-3.
- High Level Political Forum. (2016). *Ensuring that no one is left behind*. Position paper by Persons with Disabilities. Retrieved from <https://sustainabledevelopment.un.org/content/documents/10114Position%20paper%20by%20Persons%20with%20Disabilities%20.pdf>
- Howe K. & Welner K. (2002). School Choice and the Pressure to Perform: Déjà Vu for Children with Disabilities, *Journal of Remedial and Special Education*, Vol. 23, No. 4, 212-221.
- Hoxby, C. M. (2003). *The Economics of School Choice*. Chicago: University of Chicago Press.
- Hsieh, C. & Urquiola, M. (2002). *When schools compete, how do they compete? An assessment of Chile's nationwide school voucher program*, Occasional Paper No. 43 National Center for the Study of Privatization in Education, Columbia University.

- Hsieh, C. & Urquiola, M. (2006). The effects of generalized school choice on achievement and stratification: evidence from Chile's voucher program, *Journal of Public Economics*, Vol. 90, 1477-1503.
- Inclusion International. (2009). Better Education for All: When We're Included Too. A Global Report People with an Intellectual Disability and their Families Speak out on Education for All, *Disability and Inclusive Education*. Retrieved from <http://ii.gmalik.com/pdfs/Better Education for All Global Report October 2009.pdf>
- Initiative for Social and Economic Rights (2016), A threat or opportunity? Public private partnerships in education in Uganda. Retrieved from: <https://www.iser-uganda.org/images/downloads/Threat or Opportunity Public Private Partnership in Education in Uganda.pdf>
- Instituto Nacional contra la Discriminación, la Xenofobia y el Racismo (INADI). (2018). *Report on Accesibility and non-discrimination*. Retrieved from <http://inadi.gob.ar/contenidos-digitales/wp-content/uploads/2019/05/Discapacidad-ACCES222.pdf>
- International Disability and Development Consortium. (2016). *Women and Girls with disabilities*, Fact sheet. Retrieved from <https://iddcconsortium.net/sites/default/files/news/files/iddc factsheet final version 2016 0.pdf>
- Jabbar, H. (2016). Selling Schools: Marketing and Recruitment Strategies in New Orleans. *Peabody Journal of Education*, Vol. 91, No. 1, 4-23.
- Jennings, J. L. (2010). *School choice or Schools' choice? Managing in an era of accountability*, American sociological association, Vol. 83, No. 3, 227-247.
- Kolderie, T. (1990). *Beyond choice to new public schools: withdrawing the exclusive franchise in public education*, Progressive Policy Institute, Policy Report No. 8, Washington, DC.
- Lacruz, J. L. & Bernal, J. L. (2013). *Desigualdad y privatización de la escuela pública: desafíos de la educación inclusiva frente a la ofensiva neoliberal*, Conference paper. Retrieved from: https://www.researchgate.net/publication/291346366_Desigualdad_y_privatizacion_de_la_escuela_publica_desafios_de_la_educacion_inclusiva_frente_a_la_ofensiva_neoliberal
- Liasidou, A. (2012). Inclusive education and critical pedagogy at the intersections of disability, race, gender and class, *Journal for Critical Education Policy Studies*, Vol. 10, No. 1, 168-184.

- Liasidou, A. (2013). Intersectional understanding of disability and implications for a social justice reform agenda in education policy and practice, *Disability & Society*, Vol. 28, No. 3, 299-312.
- Lubienski, C. & Weitzel, P. (2008). The Effects of Vouchers and Private Schools in Improving Academic Achievement: A Critique of Advocacy Research, *Brigham Young University Law Review*, Vol. 2, 447-486.
- Lubienski, C. & Weitzel, P. (2009). Choice, Integration, and Educational Opportunity: Evidence on Competitive Incentives for Student Sorting in Charter Schools, *Journal of Gender, Race & Justice*, Vol. 12, No. 2, 351-376.
- Magnússon, G., Göransson, K. & Lindqvist, G. (2019). Contextualizing inclusive education in educational policy: the case of Sweden, *Nordic Journal of Studies in Educational Policy*, Vol. 5, No. 2, 67-77.
- Mead, J. F. & Eckes, S. E. (2018). *How School Privatization Opens the Door for Discrimination*. Boulder, National Education Policy Center.
- Meijer, J. W. (1999). *Financing of Special Needs Education: A seventeen-country Study of the Relationship between Financing of Special Needs Education and Inclusion*, European Agency for Development in Special Needs Education.
- Monazza A., Shenila R. & Sahar S. (2017). *Public-Private Partnerships in Education in Developing Countries: A Rigorous Review of the Evidence*, Ark Education Partnerships Group.
- Moschetti, M. C. (2018). Unfair competition: exploring state-funded low-fee private schools' logics of action in Buenos Aires, in Steiner-Khamsi, G. & Draxler, A. (eds.), *The State, Business and Education: Public-Private Partnerships Revisited*, Edward Elgar Publishing Limited, United Kingdom.
- National Institute of Education Evaluation (INEEd). (2019). *Informe sobre el estado de la educación en Uruguay 2017-2018*. Montevideo: INEEd.
- OECD. (2009). Lubienski, C., *Do quasi-markets foster innovation in education? A comparative perspective*, OECD Education Working Paper No. 25.
- OECD. (2010). Waslander, S., Pater C. & van der Weide, M., *Markets in education: an analytical review of empirical research on market mechanisms in education*, OECD Education Working Paper No. 52.
- OECD. (2012). *Equity and Quality in Education. Supporting disadvantaged students and schools*. Retrieved from: <https://www.oecd.org/education/school/50293148.pdf>.

- OECD. (2016). Boeskens, L., *Regulating publicly funded private schools: a review of the literature on equity and effectiveness*, OECD Education Working Paper No. 147.
- OECD. (2017). *School choice and school vouchers: An OECD perspective*. Retrieved from: <http://www.oecd.org/education/School-choice-and-school-vouchers-an-OECD-perspective.pdf>
- OECD. (2018). *Equity in Education: Breaking Down Barriers to Social Mobility*, PISA, OECD Publishing, Paris.
- Oliver, M. (2013). The social model of disability: thirty years on, *Disability & Society*, Vol. 28, No. 7, 1024-1026.
- Oxfam. (2018). *Equity and quality in an education public-private partnership. A study of the World Bank-supported PPP in Punjab, Pakistan*, Oxfam Research Reports. Retrieved from: <https://oxfamilibrary.openrepository.com/bitstream/handle/10546/620529/rr-education-ppp-punjab-pakistan-020818-en.pdf>
- Oxfam. (2019). *False Promises. How delivering education through public-private partnerships risks fueling inequality instead of achieving quality education for all*, Oxfam briefing paper. Retrieved from: <https://oxfamilibrary.openrepository.com/bitstream/handle/10546/620720/bp-world-bank-education-ppps-090419-en.pdf>
- Patrinos, H. A., Barrera-Orsorio, F. & Guáqueta, J. (2009). *The Role and Impact of Public-Private Partnerships in Education*, World Bank.
- Peters, S. & Oliver, L. A. (2009). Achieving quality and equity through inclusive education in an era of high-stakes testing, *Prospects*, Vol. 39, 265-279.
- Queupil, J. P. & Durán del Fierro, F. (2018). El Principio de Inclusión: Similitudes y Diferencias en la Educación Escolar y Superior en Chile, *Revista Latinoamericana de Educación Inclusiva*, Vol. 12, 111-128.
- Reisner, R. (2012). *Implementing Inclusive Education A Commonwealth Guide to Implementing Article 24 of the UN Convention on the Rights of Persons with Disabilities*, 2nd ed., Commonwealth Secretariat, United Kingdom.
- Reisner, R. (2015). *Day of General Discussion regarding the right to education for persons with disabilities*. Retrieved from <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15847&LangID=E>
- Right to education Project. (2017). *Kenyan court upholds the closure of Bridge International Academies schools over failure to respect standards*. Retrieved from <https://www.right-to-education.org/es/node/893>

- Robertson, S. L., Mundy, K. E., Verger, A. & Menashy, F. (2012). *Public private partnerships in education: new actors and modes of governance in a globalizing world*. Cheltenham, Edward Elgar.
- Rouse, C. E. & Barrow, L. (2009). School Vouchers and Student Achievement: Recent Evidence and Remaining Questions, *Annual Review of Economics*, Vol. 1, 17-4.
- Rouse, M. & Florian, L. (1997). Inclusive education in the market-place, *International Journal of Inclusive Education*, Vol. 1, No. 4, 323-336.
- Singh, K. (2014). Right to Education and Equality of Educational Opportunities, *Journal of International Cooperation in Education*, Vol. 16, No. 2, 5-19.
- Slee, R. (2007). It's a Fit-Up! Inclusive Education, Higher Education, Policy and the Discordant Voice, in Armstrong F. & Barton L. (eds.), *Policy, Experience and Change: Cross-Cultural Reflections on Inclusive Education*, Springer.
- Slee, R. (2011). *The Irregular School: Exclusion, Schooling and Inclusive Education*. Abingdon: Routledge.
- Srivastava, P. (2016). Questioning the Global Scaling Up of Low-fee Private Schooling: the nexus between business, philanthropy and PPPs, in Verger A., Lubienski C., & Steiner-Khamsi G. (eds.) *The global education industry—World yearbook of education 2016*. New York: Routledge.
- Steiner-Khamsi, G. & Draxler, A. (2018). *Seeing like the State, Calculating like a Business: Public-Private Partnerships in Education*, Revisited by NORRAG. Retrieved from: <https://www.norrag.org/seeing-like-state-calculating-like-business-public-private-partnerships-education-revisited-gita-steiner-khamsi-alexandra-draxler/>
- The Global Initiative for Economic, Social and Cultural rights & Initiative for Social and Economic Rights. (2015). *Privatization, Discrimination and the Right to Education in Uganda*, Alternative report. Retrieved from: https://www.iser-uganda.org/images/downloads/privatisation_discrimination_and_right_to_education.pdf
- The Global Initiative for Economic, Social and Cultural rights. (2017). *Human rights bodies statements on private education September 2014 – November 2017*, Retrieved from: <https://www.gi-escr.org/concluding-observations-private-education>
- UNESCO. (2015). *The Right to Education for Persons with Disabilities, Monitoring of the Implementation of the Convention and Recommendation against Discrimination in Education* (8th Consultation), Overview of the Measures Supporting the Right to Education for Persons with Disabilities reported on by Member States.

- UNESCO. (2017). *Accountability in education: meeting our commitments*, Global Education Monitoring Report 2017/8.
- UNESCO. (2018). *Education and Disability: analysis of data from 49 countries*, Information paper No. 49, Unesco Institute for Statistics.
- Uwakwe, C. B. U., Falaye, A. O., Emunemu, B. O. & Adelere O. (2008). Impact of Decentralization and Privatization on the Quality of Education in Sub-Saharan Africa: The Nigerian Experience. *European Journal of Social Sciences*, Vol. 7, No. 1, 160-170.
- Van Zanten, A. (2009). Competitive arenas and schools' logics of action: A European comparison. *Compare: A Journal of Comparative and International Education*, Vol. 39, No. 1, 85-98.
- Verger, A., Fontdevila, C. & Zancajo, A. (2016). *The Privatization of Education: A Political Economy of Global Education Reform*, Education International, Teachers College Press, New York.
- Verger, A., Fontdevila, C., Rogan, R. & Gurney, T. (2017). Evidence-based policy and the education privatization debate: analyzing the politics of knowledge production and mobilization through bibliographic coupling, *International Journal of Educational Development*, Forthcoming.
- Verger, A. & Moschetti, M. (2017). *Public-Private Partnerships as an education policy approach: multiple meanings, risks and challenges*, Education research and foresight working papers, UNESCO.
- Verger, A., Moschetti, M. & Fontdevila C. (2017a). *Menos igualdad. La privatización e la educación en América Latina*. Retrieved from: https://elpais.com/elpais/2017/05/31/contrapuntos/1496241832_077401.html
- Verger, A., Moschetti, M. & Fontdevila, C. (2017b). *La privatización educativa en América Latina: una cartografía de políticas, tendencias y trayectorias*, Education International. Retrieved from: https://www.academia.edu/32477279/La_privatización_educativa_en_América_Latina_Una_cartografía_de_políticas_tendencias_y_trayectorias
- Verger, A., Moschetti, M., Fontdevila C. (2017c). *Manual para el estudio de la privatización de la educación*, Brussels Education International.
- Waitoller, F. (2017). *Black and latinx students with dis/abilities in charter schools: a summary of the research*, Midwest & Plains Equity Assistance Center, September.
- Waitoller, F. & Lubienski, C. (2019). Disability, Race and the Geography of School Choice: Toward an Intersectional Analytical Framework, *AERA Open*, Vol. 5, No. 1, 1-12.

Wolf, P. J. M., Kisida, B., Gutmann, B., Puma, M., Eissa, N. & Rizzo, L. (2013). School vouchers and student outcomes: Experimental evidence from Washington D.C, *Journal of Policy Analysis and Management*, Vol. 32, No. 2, 246-270.

World Bank. (2018). *World Development Report: Learning to Realize Education's Promise*, Washington, DC: World Bank.

World Bank, International Monetary Fund. (2017). *Forward Look – A Vision for the World Bank Group in 2030 – Progress and Challenges*, Development Committee, DC2017-0002 March 24, 2017.

World Health Organization, World Bank. (2011). *World Report on Disability*. Retrieved from: https://www.who.int/disabilities/world_report/2011/report.pdf

Zollers, N. J. & Ramanathan, A. K. (1998). For-Profit Charter Schools and Students with Disabilities. The Sordid side of the Business of Schooling, *Phi Delta Kappan*, Vol. 80, No. 4, 297-304.

Other documents:

African Commission on Human and Peoples' Rights. (2015). *Concluding observations and recommendations on the 8th–11th periodic report of the Republic of Kenya, 2008–2014*.

African Commission on Human and Peoples Rights. (2019). *Resolution on States' obligation to regulate private actors involved in the provision of health and education services*, ACHPR/Res.420 (LXIV).

Committee on Economic, Social and Cultural Rights. (2015). *Concluding observations on the fourth periodic report of Chile*, E/C.12/CHL/CO/4, 7 July 2015.

Committee on the Rights of Persons with Disabilities. (2016). *General comment No. 4 on the right to inclusive education*, CRPD/C/GC/4, 25 November 2016.

Human Rights Council. (2014). *Right to Education*, Report of the Special Rapporteur on the right to education, Kishore Singh, A/69/402, 24 September 2014.

Human Rights Council. (2015a). *Protecting the right to education against commercialization*, Report of the Special Rapporteur on the right to education, Kishore Singh, A/HRC/29/30, 10 June 2015.

Human Rights Council. (2015b). *Right to education*, Report of the Special Rapporteur on the right to education, Kishore Singh, A/70/342, 26 August 2015.

Human Rights Council. (2015c). *The right to education*, A/HRC/29/L.14/Rev.1, 1 July, 2015

Human Rights Council. (2017). *Right to education, The role of equity and inclusion in the right to education*, report of the Special Rapporteur on the right to education, Koumbou Boly Barry, A/72/496, 29 September 2017.

Human Rights Council. (2019). *Right to education: the implementation of the right to education and Sustainable Development Goal 4 in the context of the growth of private actors in education*. Report of the Special Rapporteur on the right to education, A/HRC/41/37, 10 April 2019.

Incheon Declaration and Framework for Action for the implementation of Sustainable Development Goal 4. (2015). ED-2016/WS/28.

Office of the United Nations High Commissioner for Human Rights. (2013). *Thematic study on the right of persons with disabilities to education*, A/HRC/25/29, 18 December 2013.

The Abidjan Principles on the human rights obligations of States to provide public education and to regulate private involvement in education, adopted in Côte d'Ivoire, February 2019.

UNESCO. (1994). *Salamanca Statement and Framework for Action on Special Needs Education*, Adopted by the World Conference on Special Needs Education: Access and Quality, Salamanca, Spain, 7-10 June 1994.

United Nations Special Rapporteur on the right to education. (2016). *UN rights expert urges Liberia not to hand public education over to a private company*. Retrieved from <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=18506>

Case law:

American Civil Liberties Union, ACLU of Wisconsin Foundation, Disability Rights Wisconsin, D. E. on behalf of K. S. and S.E. & D. J. on behalf of B. J, v. State of Wisconsin, Wisconsin Department of Public Instruction, Messmer Preparatory Catholic School & Concordia University School, Complaint under 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities, United States Department of Justice Civil Rights Division.

High Court of Uganda at Kampala. (2016). Civil Division, Bridge International Academies (k) v. Attorney General, Cause No. 160/2016. Retrieved from <http://globalinitiative-escr.org/wp-content/uploads/2016/11/Bridge-Court-Ruling-Uganda.pdf>

P.B. et al., v. Paul Pastorek, Louisiana State Superintendent of Education in his official capacity, Louisiana Department of Education, and Louisiana Board of Elementary & Secondary education, complaint class action, Case 2:10-cv-04049-JCZ-KWR, Filed 10/26/10

Supremo Tribunal Federal, Referendo na medida cautelar na ação direta de inconstitucionalidade 5.357 distrito federal, Ação direta de inconstitucionalidade. Medida cautelar. Lei 13.146/2015. Estatuto da pessoa com deficiência. Ensino

inclusivo. Convenção internacional sobre os direitos da pessoa com deficiência. Indeferimento da medida cautelar. Constitucionalidade da Lei 13.146/2015 (arts. 28, § 1º e 30, caput, da Lei nº 13.146/2015), 09/06/2016.

Annex I

Questionnaire for Organizations – Latin American Regional Network for Inclusive Education

1. Did your country introduce policy reforms that brought forward a market-based approach or competition logic into the educational field? For example, charter schools, voucher programs or other types of public-private partnerships.
2. Has there been an increase in private schools or semi-private education regimes in your country? For example, charter schools, voucher programs or other types of public-private partnerships.
3. Are private (or semi-private) schools in your country subject to the same regulations regarding inclusive education of persons with disabilities as public schools? In the case there are differences, which are the differences in regulation? Who should provide the support required within private schools, and who should provide them in public schools?
4. Is there an effective control by the State, assuring that private or semi-private educational institutions comply with the regulations on inclusive education? Are sanctions applied in case of non-compliance? If so, which?
5. In your experience, do you think private or semi-private schools are more likely to reject / discriminate against children with disabilities? Is the provision of necessary support and accommodation more or less simple? Is this prompted more in private or semi-private schools than in the case of public schools?
6. What differential incentives or disincentives do you identify for the provision of supports and accommodations in private and public schools?
7. Do you know if private schools receive any kind of subsidies or public funding?
8. Do you consider that the increase of private actors in the educational realm has any effect on the right to inclusive education of persons with disabilities? If so, which and why? Do you think it brings any benefit or is it harmful?