

## RIGHTS OF DISABLED PEOPLE IN INCLUSIVE EDUCATION

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*Annotation. This article analyses the rights of disabled people in inclusive education. Creating a suitable environment at the community level is essential to be able to accommodate children with special needs.*

*Key words: disabled people, organization, rights, isolation, developed countries.*

## ПРАВА ЛЮДЕЙ С ОГРАНИЧЕННЫМИ ВОЗМОЖНОСТЯМИ В ИНКЛЮЗИВНОМ ОБРАЗОВАНИИ

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*Аннотация. В данной статье анализируются права и полномочия детей с ограниченными возможностями. Создание подходящей среды на уровне сообщества имеет важное значение для размещения детей с особыми потребностями.*

*Ключевые слова. Люди с ограниченными возможностями, организация, права, изоляция, развитые страны.*

## INKLYUZIV TA'LIMDA IMKONIYATI CHEKLANGAN O'QUVCHILARNING HAQ-HUQUQLARI

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*Annotatsiya. Ushbu maqolada inklyuziv ta'limda ehtiyojmand o'quvchilarning haq-huquqlari, burch va majburiyatlari haqida tahlil qilingan. Alohida ehtiyoji bo'lgan bolalarni joylashtirish imkoniyatiga ega bo'lish uchun jamiyat darajasida munosib muhit yaratish muhim ahamiyatga egaligi ta'kidlangan.*

*Kalit so'zlar. Imkoniyati cheklangan bolalar, tashkilot, haq-huquq, izolyatsiya, rivojlangan davlatlar.*

Justice is a word that human beings have been trying to establish since the beginning of civilization. Justice means justice and equality. One of the most basic ways to achieve justice is for all people to have access to inclusive education as a change in the educational system. Inclusive education is the understanding and search for educational needs for all children.

Focusing on this system is a transformation for students who are vulnerable to rejection and deprivation or need education. In the field of education, the word exceptional refers to children who are visually different from other children of the same age physically or mentally, and exceptional education is a system of teaching and learning and, most importantly, a special educational system for the disabled.

An educational system by isolating people based on their abilities and disabilities leads to the isolation of these people and taking such education causes a gap between children with disabilities and normal children and also leads to their incorrect knowledge of each other.

This gap is not only in education but also in their daily lives.

Creating a suitable environment at the community level is essential to be able to accommodate children with special needs. At the time of integration, when one or more students with disabilities enter regular schools because the school is fully owned by normal students, it creates a spark of incompatibility between students and their parents.

“Educational management, the media, and parents need to teach their children that difference between people is a fact and has no negative consequences. Unfortunately, in order to create such a culture, the principals themselves have not reached this understanding and sometimes they are forced to change their child's school due to the education of a disabled student. This culture should start with the educational administrators themselves, for example, administrators and teachers should be familiar with visually impaired students and their limitations.”[1;26].

If someone is barred from studying for the disabled in any situation, he is a criminal and a criminal act has been committed and can be prosecuted.

In society, all citizens should study in normal conditions and a correct and healthy culture should be available. When a child with a disability who is perfectly healthy in intelligence but has problems with his legs, and uses a wheelchair, why not study in a normal environment?

Why not treat him like a superhero and add a few problems to a student with a disability? This is why it is related to culture and education – a job that is rarely done, and when the principal and teacher do not have

the culture and attitude that everyone should study under normal circumstances, what should be expected from the student who attends that class?

In developed countries, this issue has been somewhat resolved and they have somehow come to terms with it more easily. They have even provided special facilities for this group that can easily continue their normal life in society like healthy people.

#### Right to education

“I am currently studying in college and so far, I came across three more students with disabilities – two when I was at school, and one at college.

I asked myself, “Why are they so less in number? What happens to the rest of them? Why disability is a term so unfamiliar in schools and colleges?”

I am eternally grateful to my parents, and to the teachers of my school and college who are supportive enough to encourage me. I consider myself lucky. But it should not be a matter of luck. It should not be considered as a privilege. It is my right and if it is violated, I can claim my right.

I know a girl with a speech disability from a low-income family who is really smart. She needs to go to school to flourish her spark. But no one will send her to school. It is a violation of right.

The infrastructures of schools and colleges are not disability-friendly. The schools and colleges are not built keeping us in mind. Because people like us either never go to school, or go to special schools, or drop out.

#### Right to be included

If someone thinks like a person with disabilities should be confined to their place and excluded, that is a violation of right. You cannot leave your disabled offspring behind while going to a family outing. You cannot exclude the disabled student while arranging a ceremony. You cannot exclude your disabled friend while in a group. We have the right to be included.

#### Right to not to be discriminated

I am thankful to people around me, my family, my friends and my acquaintances – I never experienced actual discrimination. So when I learned it for the first time, it hurt pretty much. And it was one of the teachers of my college who did it. She probably didn’t understand the depth of what she did and later, she behaved well with me, but what she did to me that day left a scar in my heart. And I know that this is just the beginning. In life, I will come across many more people like her. But that is not how things should be.

#### Right to special care

People with disabilities are needed to be treated with care. We have the right to claim special treatment when needed. People need to be careful about treating us; people need to be careful while choosing words about us. This includes family members, too. We need to be prioritized and treated specially when needed – like the way children, women and seniors are prioritized.

#### Right to be respected

“The most crucial and also neglected right. We don’t want pity or sympathy.

We need you to be kind. And you know what that includes? Not asking too much questions, it makes the person uncomfortable. Not labelling or marking us as the disabled one. Not staring at us as if we are aliens or something like that. Respect us.

Just reach out your hand when we need help, it’s better to help only when the person asks for it, because reaching out when unasked can make them uncomfortable, even hurt. If they refuse to your help, then don’t ask twice. Treat them specially when needed. You need to keep in mind that we are different, but you also need to forget that.”[2;62]

We are just like you, we are just different. And it is our right to live a normal life without discrimination or exclusion.

#### When do I need to consider the rights of people with disability?

You will need to consider the particular rights accorded to people with disability when you are working on legislation, a policy or a program that:

relates to access to:

buildings, roads, transport and public facilities like schools, housing, hospitals, clinics and workplaces  
information, communications and other services, including electronic services like the Internet and emergency services

public services such as education and healthcare, public institutions such as the justice system and courts  
and other public activities such as voting and advocacy

employment

an adequate standard of living, including adequate food, clothing and housing

in-home, residential and other community support services, or

mobility aids, assistive devices and technologies designed for people with disabilities.

sets standards and guidelines for access to facilities and services to ensure that private businesses that provide facilities or services to the public take into account access for people with disability, and/or relates to capacity to make decisions or legal rights and recognition before the law.

#### Definition of disability

The CRPD does not contain a comprehensive definition of disability, but provides that:

Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

total or partial loss of the person's bodily or mental functions; or

total or partial loss of a part of the body; or

the presence in the body of organisms causing disease or illness; or

the presence in the body of organisms capable of causing disease or illness; or

the malfunction, malformation or disfigurement of a part of the person's body; or

a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction; or

a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour;

and includes a disability that:

presently exists; or

previously existed but no longer exists; or

may exist in the future (including because of a genetic predisposition to that disability); or

is imputed to a person.

To avoid doubt, a disability that is otherwise covered by this definition includes behaviour that is a symptom or manifestation of the disability.

Full realisation of all human rights and fundamental freedoms

The CRPD requires countries to ensure and promote the full realisation of all human rights and fundamental freedoms for all persons with disability without discrimination of any kind on the basis of their disability. In particular, countries are required to:

adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognised in the Convention

take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disability

take into account the protection and promotion of the human rights of persons with disability in all policies and programs

refrain from engaging in any act or practice that is inconsistent with the Convention and to ensure that public authorities and institutions act in conformity with the Convention

take appropriate measures to eliminate discrimination on the basis of disability by any person, organisation or private enterprise.

#### Reasonable accommodation

There is a general obligation in the CRPD to provide 'reasonable accommodation' to ensure people with disability can enjoy their rights on an equal basis with others. 'Reasonable accommodation' means providing necessary and appropriate modifications and adjustments, which do not impose a disproportionate or undue burden, where needed in a particular case.

#### Consultation and involvement

There is also an obligation to closely consult with and actively involve people with disability in the development and implementation of legislation and policies to implement the CRPD and in other decision-making processes concerning issues relating to people with disability.

#### Live independently and take part in all aspects of life

To achieve this, countries must take appropriate steps to give people with disability access, in the same way others have access, to things, places, transport, information and services that are open to the public. This requires that countries take appropriate measures to remove any obstacles and barriers that people with disability face in having access to these things. Countries should ensure that people with disability have equal access to buildings, roads, transport and public facilities like schools, housing, hospitals, clinics and workplaces, and also ensure that people with disability have equal access to information, communications and other services, including electronic services like the internet and emergency services, public services such as education and healthcare, public institutions such as the justice system and courts and other public activities such as voting and advocacy. Countries are also to take appropriate steps to set standards and guidelines for access to facilities and services that are open to the public, to make sure that private businesses that provide facilities or services to the public take into account access for people with disability, and to

provide training for people involved with access for people with disability.

Equal protection and equal benefit of the law

Similarly, article 12 commits countries to ensuring that people with disability can exercise legal capacity in all aspects of their life and receive appropriate support to do this if required.

Live, take part and be included in the community

“To ensure that people with disability have the same right as others to live, take part and be included in the community, article 19 of the CRPD requires countries to take appropriate steps to ensure that people with disability have the opportunity to choose where they live and who they live with, have access to in-home, residential and other community support services to help them be included in the community and prevent them from being isolated, and to ensure that they have equal access to community services and facilities that are available to the public.”[3;93]

Habilitation and rehabilitation

Countries are also to encourage ongoing training for staff working in habilitation (meaning the process of helping people with disability develop skills and fully take part in the community) and rehabilitation services and the use of assistive devices and technologies designed for people with disability in the context of habilitation and rehabilitation.

Women and children with disability

Countries are to take measures to ensure the full and equal enjoyment by women them of all rights and freedoms and to ensure the full development, advancement and empowerment of women. Countries are required to ensure that, in all actions concerning children with disability, the best interests of the child are a primary consideration, and to ensure that children with disability have the right to express their views freely on all matters affecting them, and to give their views due weight in accordance with their age and maturity.

Declaration on the Rights of Indigenous Peoples

The Declaration on the Rights of Indigenous Peoples contains provisions relevant to the rights of Indigenous people with disability. The Declaration does not create legally binding obligations, but informs the way governments engage with and protect the rights of Indigenous people.

Can the rights of people with disability be limited?

Appropriate measures

Some of the obligations in the CRPD require countries to take ‘appropriate’ measures, suggesting a degree of discretion in implementing the obligation. However, references to appropriate measures should not be understood as allowing limitations to the obligations. Rather, they allow countries the discretion to decide what form the measures should take. For instance, appropriate measures might involve the implementation of the obligation in legislation, but a measure falling short of legislation might be an appropriate measure, provided that the alternative measure faithfully implements the obligation.

As stated above, the obligation to provide ‘reasonable accommodation’ to allow people with disability to enjoy their rights on an equal basis with others does not extend to measures that impose disproportionate or undue burden.

Progressive realisation

In relation to economic, social and cultural rights, the CRPD provides in that ‘each State Party undertakes to take measures to the maximum of its available resources and, where needed, within the framework of international cooperation, with a view to achieving progressively the full realisation of (economic, social and cultural) rights’.

This formulation is drawn from that in the International Covenant on Economic Social and Cultural Rights (ICESCR), and allows countries to take into account available resources in determining how an obligation is to be implemented. Similarly, the reference to progressive realisation (also drawn from ICESCR) recognises the economic consequences for countries in implementing economic, social and cultural rights, and that these consequences will differ from country to country.

Which domestic laws relate to the rights of people with disability?

The Disability Discrimination Act is intended to eliminate, as far as possible, discrimination against people on the grounds of disability in a number of areas, including work, accommodation, education, access to premises and the provision of goods, facilities, services, the disposal of land, and the administration of Commonwealth laws and programs. The Act is also intended to ensure, as far as practicable, that people with disability have the same rights to equality before the law as the rest of the community.

Under the Disability Discrimination Act, the Attorney-General may make Disability Standards to specify rights and responsibilities about equal access and opportunity for people with disability, in more detail and with more certainty than the Act itself provides. The standards give more information about what needs to be done to ensure people with disability are not discriminated against. Standards may be made in relation to matters such as work, accommodation, education, access to premises and the provision of goods and



services. Standards have been made under the Act in relation to:

access to premises, which provide minimum national standards for accessibility requirements to ensure dignified access to, and use of, buildings for people with disability

transport, which establish minimum accessibility requirements to be met by providers and operators of public transport conveyances, infrastructure and premises

education, which set out the right to comparable access, services and facilities, and the right to participate in education and training without discrimination for students with disabilities.

There is also legislation in each state and territory which prohibits discrimination on the basis of disability.

The Disability Services Act is intended to assist people with disability to receive services necessary to enable them to work towards full participation as members of the community, to promote services provided to people with disability that assist them to integrate in the community and to assist people with disability to achieve positive outcomes, such as increased independence and employment opportunities.

Many of the provisions in the CRPD are drawn from other human rights instruments, notably civil and political rights from the ICCPR and economic, social and cultural rights from ICESCR. The content of these rights in those instruments would be relevant in interpreting their content under CRPD.

In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.

States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.

States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.

In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.

Specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention.

To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas.

States Parties to this Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community.

States Parties shall take effective and appropriate measures, including through peer support, to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life.

States Parties, in accordance with their system of organization, shall designate one or more focal points within government for matters relating to the implementation of the present Convention, and shall give due consideration to the establishment or designation of a coordination mechanism within government to facilitate related action in different sectors and at different levels.

States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the present Convention. When designating or establishing such a mechanism, States Parties shall take into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights.

Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process.

1. States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning directed to:

a. The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;

b. The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;

c. Enabling persons with disabilities to participate effectively in a free society.

2. In realizing this right, States Parties shall ensure that:
  - a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;
  - b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;
  - c) Reasonable accommodation of the individual's requirements is provided;
  - d) Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;
  - e) Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.
3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including:
  - a) Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;
  - b) Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;
  - c) Ensuring that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.
4. In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.
5. States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.

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