

Participation Rights in
the CRPD: education,
health, employment
and standard of living

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Overview

- ☞ Social and economic rights reframed
- ☞ Principles of participation
- ☞ Article 24: Inclusive Education
- ☞ Article 25: Right to Health
- ☞ Article 27: Work and Employment
- ☞ Article 28: Social Protection

Social and Economic Rights

- ✧ CRPD demonstrates indivisibility of socio-economic from civil and political rights
- ✧ Social model of disability requires us to address systemic inequalities
- ✧ Restating the application of existing human rights to people with disabilities

Why ‘Participation’?



- ❧ “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.”

How does it apply?



∞ Make health services
ACCESSIBLE

∞ Make education INCLUSIVE

∞ Provide REASONABLE
ACCOMMODATION in
employment

∞ Give support for
DISABILITY-RELATED
EXPENSES to eradicate
poverty

Article 24



- ☞ An inclusive education system at all levels and lifelong learning
- ☞ No exclusion from mainstream on basis of disability
- ☞ Prohibit discrimination, provide reasonable accommodation & individual support
- ☞ Include skills such as braille, sign language, communication, mobility, peer support

In practice?



- ☞ People with disabilities should have access to primary, secondary & tertiary education
- ☞ Education should be INCLUSIVE and facilitate participation in society
- ☞ PWD develop their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential (with regard for evolving capacity and identity)

- ❧ The Committee recommends that greater efforts be made to support students with disabilities in all areas of inclusive education from kindergarten to secondary school. It particularly recommends that the State party ensure that persons with disabilities, including children with disabilities and their representative organizations, are involved in the day-to-day implementation of the inclusive education models introduced in various Länder.
- ❧ The Committee further recommends that greater efforts be made to enable persons with disabilities to study at universities and other tertiary institutions. The Committee also recommends that the State party step up its efforts to provide quality teacher training to teachers with disabilities and teachers with sign language skills, so as to enhance the education of deaf and hearing-impaired girls and boys, in accordance with the formal recognition of Austrian sign language in the Constitution of Austria.

∞ The Committee reiterates that denial of reasonable accommodation constitutes discrimination and that the duty to provide reasonable accommodation is immediately applicable and not subject to progressive realization. It recommends that the State party increase its efforts to provide reasonable accommodation in education, by: allocating sufficient financial and human resources to implement the right to inclusive education; paying particular attention to assessing the availability of teachers with specialist qualifications; and ensuring that educational departments of local governments understand their obligations under the Convention and act in conformity with its provisions

(Spain)

Article 25



- ☞ Highest attainable standard of health without discrimination on the basis of disability, based on informed consent
- ☞ Same range, quality and standard of free or affordable health care and programmes, including in sexual and reproductive health
- ☞ Prevent discrimination in health and life insurance

In practice?



- ✧ Train health professionals in disability-awareness and gender-sensitivity
- ✧ Provide accessible, affordable health services close to people's local communities
- ✧ Develop ethical practice based on consent

❧ The Committee recommends that the State party develop comprehensive health-care programmes that specifically make provision for persons with disabilities ... It urges the State party to allocate budgetary resources and provide training for health personnel in order to effectively realize the right to health of persons with disabilities, while also ensuring that hospitals and health centres are accessible to persons with disabilities.

(Argentina)

Mental Health

❧ The Committee urges the State party to adopt the implementing regulations for the National Mental Health Act (Act No. 26.657) as soon as possible, to establish its review body, to strengthen the network of community mental health services and to improve coordination between these services and inclusive employment, education and housing mechanisms in order to guarantee the effective implementation of the National Mental Health Act. The Committee also recommends that the State party adopt protocols for ensuring that all persons with disabilities give their free and informed consent for any type of medical treatment before it is administered.

(Argentina)

Article 27



- ☞ Right to work, on an equal basis with others, on the open labour market
- ☞ Prohibit discrimination at all stages: recruitment, promotion, retention, etc.
- ☞ Equal pay for work of equal value
- ☞ Safe working conditions, prevent harassment
- ☞ Equal trade union rights, entrepreneurship and employment in public sector
- ☞ Reasonable accommodation and positive action

In practice?



- ✧ Remove barriers to equal access to work (including benefits traps, inaccessible public transport, access to education, etc.)
- ✧ Recognise that denial of reasonable accommodation (undue burden) constitutes discrimination – at all stages in work

∞ The Committee notes with concern that approximately 19,000 Austrians work in sheltered workshops outside of the open labour market and receive very little pay. While noting that Austria has a quota system for employing persons with disabilities, the Committee is concerned at reports that the majority of employers prefer to pay a fine rather than comply with the quota requirement. It notes that only 22 per cent of employers actually fulfil their obligations under the Disability Employment Act which governs this quota system. **The Committee recommends that the State party enhance programmes to employ persons with disabilities in the open labour market. The Committee further recommends that measures be put in place to narrow the employment and pay gender gap.**

Article 28



- ☞ Right to adequate standard of living for themselves and their families without discrimination on the basis of disability
- ☞ Right to social protection, including clean water, services for disability-related needs
- ☞ Poverty reduction programmes including for women and girls with disabilities
- ☞ Assistance with disability-related expenses, public housing, and retirement benefits

In practice?



- ✧ Social protection is broader than adequate standard of living
- ✧ Ensure people with disabilities supported to meet extra costs of disability
- ✧ Prohibit discrimination in access to social protection and poverty reduction programmes

❧ The Committee notes with concern that provisions in the State party's laws on non-contributory pensions (including the requirement set out in Regulatory Decree No. 432/97 and the eligibility requirement for a welfare pension based on the presence of a disability established in Act No. 18.910) discriminate, either directly or indirectly, against persons with disabilities. The Committee is also concerned about the unequal treatment of migrant workers with disabilities and disabled children of migrant workers in terms of access to social protection measures, such as disability pensions, health care, rehabilitation services and housing. **The Committee urges the State party to review its social security legislation and to reformulate the provisions that prevent persons with disabilities, including migrant workers and disabled children of migrant workers, from having equal access to social protection in accordance with article 28 of the Convention.**

(Argentina)

Conclusion



- ❧ Prohibit discrimination, including denials of reasonable accommodation
- ❧ Ensure equal access to opportunities available to others, increase accessibility of services
- ❧ Actively involve people with disabilities in determining how best to meet CRPD obligations