

CHAPTER 13: THE RIGHT TO EDUCATION

UN Convention on the Rights of Persons with Disabilities

Article 24, Right to Education:

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 life long 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.



OBJECTIVES

The background information and exercises contained in this chapter will enable participants to work towards the following objectives:

- Define the right to education
- Explain the importance of education for people with disabilities
- Understand the interrelation between education and other human rights
- Identify how the rights of people with disabilities to education have been promoted or denied
- Understand the provisions on education in the UN **Convention on the Rights of Persons with Disabilities** (CRPD)
- Understand different perspectives on inclusive and special education
- Seek strategies to advance the right of people with disabilities to participate in education.

GETTING STARTED: THINKING ABOUT EDUCATION

People with disabilities are often denied their right to education. According to best estimates of international agencies, 90% of children with disabilities in developing countries do not attend school.¹ If they do, all children with disabilities face barriers such as inaccessible schools, untrained staff, and the assumption or stereotype that people with disabilities are unable to learn or do not need to learn. Every human being, including people with disabilities, should be able to enjoy their right to lifelong education. States are legally bound to provide people with disabilities the opportunity and support they need to access quality, lifelong education that will maximize the full development of their mental and physical abilities. This means that people with disabilities are entitled to an equal opportunity to participate in inclusive education settings - that is the general education system - along with all other people in the community in which they live.

Barriers to Education

- Attitudes of teachers, school administrators, families, and peers about the ability of persons with disabilities to learn and actively participate in schooling.
- Lack of accessible transportation to educational facilities.
- Physical barriers to educational facilities. Lack of ramps and accessible workspace.
- Lack of materials in accessible formats such as Braille, sign language or visual representations of verbal information.
- Lack of teacher training programs, resulting in a shortage of qualified teachers and support staff.

As affirmed in the **Convention on the Rights of the Child** (CRC),² the key goal of education is to prepare all students with the skills and abilities to become effective and contributing members of society. In order to achieve this goal, all students have the right to free primary

1 "Towards Inclusion: Education for Persons with Disabilities." Jul. 2005. *World Bank Institute: Development Outreach*. <http://www1.worldbank.org/devoutreach/july05/textonly.asp?id=322>

2 See <http://www.unhcr.ch/html/menu3/b/k2crc.htm>

education and access to secondary and lifelong learning opportunities. It is not enough for people with disabilities to be allowed to attend school; the content of the curriculum should be *accessible* for meaningful learning to occur. People with disabilities are entitled to **reasonable accommodation** in order to learn the curriculum, communicate effectively, and utilize the support services they need to develop life skills that enable independent living in the community.

The Right to Qualified Teachers

Realizing the right to quality education requires that States provide and train qualified teachers. Teachers should be knowledgeable in effective practices for instructing people with disabilities including:

- Methods to communicate in different ways (e.g., Braille, Sign Language, Augmentative and Alternative Communication)
- Individualization of instruction to meet the needs of various disabilities, such as psycho-social disabilities, intellectual disabilities, visual impairments, deafness, and multiple disabilities
- Skills for promoting acceptance and awareness of disabilities with peers, teachers, families, and school administrators.

The right to education is interrelated and central to the enjoyment of all other human rights. Through education, people with disabilities learn the necessary skills to advocate for their rights and become responsible and contributing members of society. Although the understanding of “contributing members of society” depends on varying cultural norms, family values, and personal choice, the concept can be loosely defined as having the skills and abilities for **independent living** and community inclusion, gainful employment, participation in political and public life, the right to home and family, and the ability to effectively navigate the judicial system, which are all aspects of everyone’s basic human rights.

The CRPD provides the framework for guaranteeing access to quality education that builds the capacity and skills of people with disabilities. For education to be truly successful, society, including teachers, administrators, parents, and peers, needs to provide people with disabilities the *opportunity* and *respect* to use their knowledge and skills to lead independent and self-directed lives.

EXERCISE 13.1: What Rights to Education Does the Convention on the Rights of People with Disabilities Affirm?

Objective: To review and understand the right to education affirmed by the CRPD

Time: 30 minutes

Materials:

- Copies of CRPD Article 24
- Chart paper and markers or blackboard and chalk

1. Review:

Divide the participants into small groups. Give each group a copy of Article 24 and ask them to work together to paraphrase it in common language. Since the article is long, you may wish to assign different parts to different groups.



2. Paraphrase:

Read Article 24 aloud. Pause at each comma or natural section to ask different groups for their paraphrase. Discuss the meaning of the section until everyone can agree on a paraphrase. Write the final paraphrase of Article 24 on chart paper.

3. Give examples:

Encourage participants to draw from their past experiences and give some examples of how that right could be enjoyed and make a difference for people with disabilities in their community.

4. Discuss:

How can Article 24 of the CRPD be used to set national disability rights agendas and formulate platforms of action for submission to political parties or government decision-makers?

WHAT DOES HUMAN RIGHTS LAW SAY ABOUT EDUCATION?

The right to education has its foundation in provisions of international law. The **Universal Declaration of Human Rights** (UDHR) Article 26, the **Convention on the Rights of the Child** (CRC) Articles 28 and 29, and the 1993 **UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities** (Standard Rules) Rule 6, address the right to education.

These treaties affirm that everyone has a right to an equal and accessible education. CRC Article 28 encourages the development of general and vocational education, as well as educational guidance that is available and accessible to every child. It also states that measures should be taken to encourage regular attendance at schools and that discipline should be administered in a manner consistent with the child's human dignity. Article 29 of the CRC states that education of the child shall be directed to the development of a child's personality, talents, and mental and physical abilities to their fullest potential.

The Standard Rules address the right to education in Rule 6 (Education),³ which states that general education authorities are responsible for the education of people with disabilities in integrated settings and affirms that people with disabilities be considered when planning national education, curriculum, and school organization. Rule 6 encourages the active involvement of parent groups and organizations in the education process and recommends particular attention to very young children with disabilities, adults with disabilities, and populations at risk for double discrimination such as, women and ethnic minorities. Rule 6 states that educational provisions must be made to accommodate people with disabilities in integrated regular school settings and that clearly stated policies should promote acceptance of the terms of Rule 6 at the school and community level. The development of quality materials, flexible for addition and adaptation, and ongoing teacher training are encouraged. Most importantly, the Standard Rules point out that integrated education and community-based programs are often the most cost-effective way to educate people with disabilities.

The CRPD expands upon the issues addressed in earlier human rights documents, ensuring qualified teachers, reasonable accommodation and entitling people with disabilities the right to **inclusive education**, not just **integrated education** (see box on next page). The essence of CRPD Article 24 on Education is framed around the philosophy of full inclusion and the provision of tools that best support full inclusion. It stipulates that education should be

³ See <http://www.un.org/esa/socdev/enable/dissre00.htm>

Education in Action: Shudarson Subedi's Story

Shudarson Subedi has a disability. He founded Nepal Disabled Human Rights Center (DHRC-Nepal) in 2000 to pressure the government to enforce existing laws related to persons with disabilities. His precedent gives persons with disabilities the courage to fight for their rights to inclusive education, access to health care, and fair and equal employment opportunities. In one exciting victory, he fought all the way to the Supreme Court of Nepal to *guarantee free and equal education for persons with disabilities*. At the same time, Shudarson has made a concerted effort to draw attention to this victory through the media, so that all persons with disabilities may take advantage of this right. More than 2000 students with disabilities from all over Nepal who had previously been denied acceptance in schools have received free education after the Court ruling. He also sent letters to the Ministry of Education, who then circulated them to the district and regional education officers, putting everyone on notice that persons with disabilities were not to be denied their right to education.

Shudarson knows that disseminating information is the best way to ensure that rights are enforced; too many people with disabilities do not realize that they are legally entitled to have access to equal education and employment opportunities despite their disabilities, and too many government officials and employers don't realize that they have a legal obligation to accommodate persons with disabilities. Shudarson initiated a weekly radio program in 2002, broadcasting stories produced by disabled journalists on topics of interest to listeners with disabilities. Listeners are encouraged to form "Radio listener clubs," which serve as citizen watchdog groups for the rights of persons with disabilities. There are now more than 170 self-motivated radio listeners clubs throughout Nepal. Shudarson has also founded *Disability Voice*, a monthly journal dedicated to the concerns, issues, and rights of disabled people.

Shudarson supports local cross-disability networks and self-help groups, which help individuals with disabilities and their families, integrate into the wider community. He has initiated an umbrella organisation, "Rights-Based Advocacy Network, Forum for the Rights of People with Disability," bringing together over sixty national and community-based advocacy organizations. Shudarson has also built a Resource and Learning Center to train people in areas of work, such as journalism and law. The Center provides the necessary resources for persons with disabilities who want to have their rights enforced. Among the services offered, DHRC-Nepal publishes legal aid manuals, compiles state laws and policies for people with disabilities, and provides free consultations with specialized staff trained on the subtle nuances of disability and civil rights law.⁴

provided in the general education system by quality teachers who implement quality instruction reasonably accommodated to meet the needs of diverse students. The goal of the education article is to promote equal opportunities to lifelong learning to enable people with disabilities to participate actively and effectively as contributing members in society.

International human rights law strongly supports the right of people with disabilities to have access to meaningful and effective lifelong educational opportunities. This support is not only seen as a right in itself, but also as a means to ensure that people with disabilities may

4 Source: <http://www.ashoka.org/node/3651>



better enjoy their other human rights and fully assume their responsibilities as members of an inclusive society.

EXERCISE 13.2: Experiencing Education

Objective: To share personal stories of the education system and evaluate suggestions and ideas for how it ought to be.

Time: 45 minutes

Materials: Chart paper and markers or blackboard and chalk

1. Introduce:

Explain that this exercise invites everyone to remember and analyze their own educational experience. Remind participants of the terms “inclusive,” “integrated,” or “segregated” education (See text box “Inclusive versus Integrated Education” above) and encourage them to use these to describe the education that they received.

Divide participants into groups of 2-3 to discuss the following:

- Were you taught in an inclusive, integrated, or segregated setting?
- Describe the best parts of your educational experience. What made it so good?
- Describe the worst parts of your educational experience. What made it so bad?
- Did your worst experiences violate the right to education?

To the Facilitator: Because the definitions and questions are fairly complicated, you may want to give each group a copy of the text box and a list of the questions.

2. Report:

Ask a spokesperson from each group to summarize their discussion:

- What kinds of educational environment did people experience (e.g., inclusive, integrated, or segregated)?
- What factors created good or bad educational experiences? List these.

3. List:

Ask group members to list some reasonable accommodations that they had in their educational experiences or what reasonable accommodations may have enhanced their educational experiences (e.g., different types of communication systems such as Braille or Visual Supports, support services and therapies, peer mentors). List these in two columns.

4. Discuss:

- Does the current education system support people with disabilities and provide reasonable accommodations? Should it?
- Consider the roles that people with disabilities currently play in the education system: what happens when people with disabilities are excluded from these roles or excluded entirely from the education system?
- Now consider what changes or improvements you would make to prevent others from experiencing the same barriers to education.

Inclusive versus Integrated Education

What is “inclusion”?

The term “inclusion” has had a number of meanings, often relating to children with disabilities or disaffected children. Historically, it has often been used to mean either the moving of children with disabilities into the mainstream settings, or reducing the exclusion of other pupils from school.

Inclusion of disabled children

Historically, “integration” was the term used in the 1980s, but this came to be seen as involving the “placing” of disabled children in a mainstream setting, without providing the support they required and “allowing” them to be there as long as they were able to fit into the existing systems and cultures. The term “assimilation” has a similar meaning in relation to race equality. It is now acknowledged that ***the inclusion of disabled children involves going much further, and involves changing the policies, practices and attitudes within the school.***

“Once the disabled child is in a mainstream setting, there should be an expectation that the school will change as a response to the contribution and participation of the child.”

Joe Whittaker “Inclusive Education versus Integrated Education”

It has been recognized that for inclusion to be successful, the child and their parents and caregivers must play a full part in the process.

Inclusion of *all* pupils

More recently, inclusion has been seen as a process that is relevant to all children in a school, but particularly focusing on those groups who have historically been marginalized or have underachieved in our schools. It is also recognized to include the way the school involves all parents and caregivers, staff and governors in its practices and decision-making processes.

“Inclusion is integration on our own terms. You can do integration to us, but there can be no inclusion without us playing a full part in the process.”

Alliance for Inclusive Education - a partnership between adults with disabilities and the parents of children with disabilities

“Inclusion is seen to involve the identification and minimizing of barriers to learning and participation and the maximizing of resources to support learning and participation.”

Booth and Ainscow, 2000

Source: Bristol Children & Young People’s Services <http://www.bristol-cyps.org.uk/services/eit/definitions.html>



EXERCISE 13.3: Identifying the Causes of Discrimination in Education

1. Brainstorm:

Ask participants what they consider to be the principal problems of discrimination or barriers to accessing quality education. List these.

- Solicit input from other people who notice the problem and are affected by it.
- Note: A record should be kept of the session to be studied subsequently for evaluation.

2. Analyze:

Divide participants into small groups and ask each to choose a problem from the list to analyze. Explain that their task is to break the problem down into manageable parts. Give these instructions and introduce the fish-bone diagram, explaining that it pushes you to consider all possible causes of the problem. Illustrate how to use the diagram using a simple problem.

Step 1: Identify the problem. Write down the problem you face in detail.

Step 2: What are the major factors involved? Draw lines of the spine of each factor and label it. These may involve people, systems, equipment, external forces, etc.

Step 3: Identify possible causes for each factor you consider in Step 2. Show these as smaller lines coming off the “bones” of the fish. For a large or complex problem, it may be best to break it down into sub-causes. Show these as lines coming off each cause line.

Step 4: Analyze your diagram. Depending on the complexity and importance of the problem, you can investigate or create plans for taking action to address the problem.

Alternative: Create an outline with the problem as the heading and factors and sub-causes as sub-headings.

3. Report/Discuss:

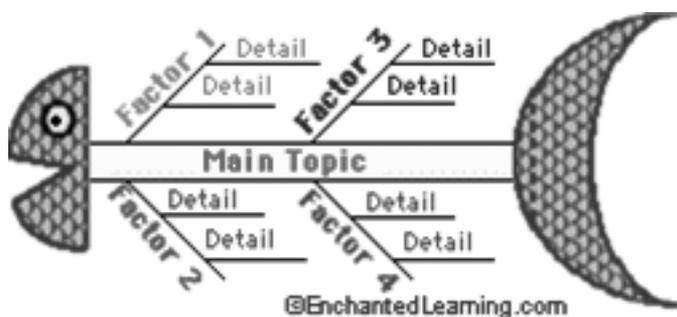
Ask a spokesperson from each group to summarize their analysis. Mount each diagram at the front of the room.

4. Summarize:

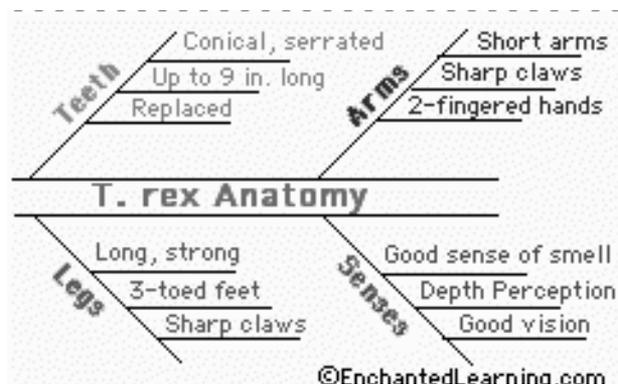
Ask participants to draw some general conclusions from these analyses, asking questions like these:

- Did you observe any similarities in these analyses?
- Were similar causes and sub-causes identified?
- Why do you think these causes were identified in so many different problems?
- What can be done to address some of these principal causes?

Sample Fish Diagram



Analyzing Tyrannosaurus rex Anatomy



EXERCISE 13.4: Speaking Up for Education

Objective: To examine discrimination in education systems and consider how to take action against it

Time: 60 minutes

Materials: Chart paper and markers or blackboard and chalk

1. Introduce:

Reintroduce the list of discrimination or barriers in accessing quality education used in Exercise 13.2. Observe that while that exercise looked at the causes of these problems, this one seeks to articulate them and look for solutions.

2. Plan:

Divide participants into small groups of 3-6 people, if possible mixing people with differing abilities. Ask each group to choose a problem from the list that they would like to focus on. Give these instructions:

- Plan a five-minute presentation to a mock “Board of Education” that includes teachers, administrators, and parents;
- Ask groups to choose a spokesperson for the presentation and someone to serve on the “board of education”;
- Were the responses of the “Board” typical of opinion in your community?
- While the groups plan presentations, each member of the “Board of Education” meets to decide on their roles. These roles should reflect the attitudes, both positive and negative, found in the community. Roles might include teacher, parent, peer, administrator, religious or community leader, or government official;
- Presentations should:
 - Describe the discrimination, including whom it affects and some of its causes;
 - Relate the discrimination to a human right in the CRPD;
 - Describe the discrimination’s affect on the lives of people with disabilities;
 - Describe how addressing the problem can improve the lives of persons with disabilities;
 - Propose next steps or specific actions that can be taken to address the problem.

3. Role Play/Discuss:

Have the spokesperson from each group make a presentation to the “Board.” Encourage members of the “Board” to respond according to their role.

4. Discuss/Draw Conclusions:

Debrief each presentation by asking for questions, comments, objections, or suggestions from the larger group. Ask questions like these:

- How did the spokesperson feel when presenting the problem?
- How did the “Board” react? What attitudes and barriers were represented?
- Were the responses of the “Board” typical of opinion in your community?
- Were the problems human rights issues?
- Was the tactic for addressing the problem feasible in your education system? Why or why not?
- What would be the next step be in real life for addressing this problem?



From Basic Education to Quality Education

Compasito, the Council of Europe manual on human rights education for children, states that free access to basic education is no longer considered sufficient to guarantee the right to education. Three other requirements should be met:

1. Equal opportunity: The state should guarantee not only equal access but also equal opportunities for success. This means that some children may need extra help and special conditions. Deaf children, for example, have a right to reasonable accommodations to help them learn, such as sign language, hearing aids, and interpreters whenever needed. Similar adjustments should be made for other children with special needs so that they can be included in the same schools with other children with equal opportunity to succeed.

Equality in opportunities for success in education also requires attention to other aspects, like use of a child's mother tongue, homework conditions and access to books or help in any learning difficulty. Learning in one's mother tongue not only favors school success, but also constitutes a cultural right. School failure is no solution for learning difficulties. These must be met by well-trained teachers capable of differentiating learning styles and with non-teaching staff like social assistants, mediators or psychologists.

2. Quality education: The state should guarantee equal access to quality education. Too often a two-tier system exists, with one kind of schooling for the elite and another for the poor. A basic education that is common to all up to a certain age and that promotes the knowledge and skills needed for the future should be guaranteed.
3. Education for full development of the human personality: The scope of education to which all human beings are entitled is not limited to literacy and mathematics. The UDHR explicitly states that education should aim at "the full development of human personality, the respect of human rights and understanding and peace among the nations of the world". The CRC elaborate further on the kind of education to which every child is entitled:

The right to education is therefore also the right to an education for human rights.⁵

⁵ Source: *Compasito – a manual on human rights education for children* (Council of Europe, 2007).

EXERCISE 13.5: Making a Commitment

Objective: To emphasize and examine that human rights involve both rights and responsibilities.

Time: 30 minutes

Materials: Chart paper and markers or blackboard and chalk

1. Action:

- Ask if after learning about the human right of people with disabilities to education, the group members are ready to think about taking concrete action;
- Acknowledge that although there is still much planning and information gathering to do, commitment to creating change is very important;
- Explain that you would like to ask each participant to name one individual action, however small, that she or he is willing and able to take in the next month to promote the right to education for people with disabilities;
- Record the commitments on chart or board to distribute a summary of actions to all participants after the training.

To plan advocacy for the human rights of people with disabilities, see Part 3, “Advocacy! Taking Action for the Human Rights of People with Disabilities,” p. 229.

USEFUL RESOURCES ON EDUCATION

The following groups also provide services to assist people with disabilities in accessing their right to education:

- **Bristol Children and Young People’s Services:** <http://www.bristol-cyps.org.uk/>
- **CAST Universal Design for Learning:** <http://www.cast.org/index.html>
- **Centre for Studies on Inclusive Education:** <http://inclusion.uwe.ac.uk/csie/index.htm>
- **Inclusion International:**
http://www.inclusion-international.org/en/ii_priority_areas/ie/index.html
- **Inclusive Education. UNESCO:** www.unesco.org/education/inclusive/

