

RIGHTS OF PERSONS WITH DISABILITIES

Conference of INGOs of
the Council of Europe

Article 15 of the European Social Charter
in the light of the United Nations Convention
on the Rights of Persons with Disabilities



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The purpose of this paper is to shed new light on states' obligations as set out in Article 15 of the European Social Charter, in other words to read this article in the light of the Convention on the Rights of Persons with Disabilities.

General considerations

Only ten years had elapsed between the adoption of the new wording of Article 15 of the European Social Charter in 1996 and the adoption, at UN level, of the Convention on the Rights of Persons with Disabilities (CRPD) in 2006. In the course of this very short period, new trends already being observed became significantly more pronounced.

It should be borne in mind that a new classification was adopted by WHO in 2001, following a long period of discussion. The aim was to promote a positive approach to disability and to foster a shift from the former medical model to a social model that took account of the individual's impairment and personal

characteristics together with his/her environment. Participation and access became the key concepts. This classification is a means of assessing people (individually and in a group), strategies and policies. However, as is often the case with tools of this type, it is not perfect. Nevertheless, as it stands, it helps policymakers take into account the diversity and degree of impairments of individuals and the barriers they face in all areas of life, and all the facilitating factors which can improve their quality of life and participation in the community.

It was necessary to incorporate these new approaches in a legally binding framework and this was achieved with the UN Convention on the Rights of Persons with Disabilities. The CRPD is a human rights document covering civil, civic, social, economic and cultural rights as well as measures that states should take to ensure that persons with disabilities have access to these rights in practice.

All Council of Europe member states have signed the CRPD and, as of September 2015 only four had not yet ratified it (Finland, Iceland, Ireland and the Netherlands). Most states have also ratified the Protocol providing for a system to monitor implementation of the Convention.

At European level, the European Social Charter, with its monitoring system and collective complaints procedure, has, since its creation, been a means of assessing the policies of states for persons with disabilities and their access to the whole indivisible range of human rights.

The question of the link between the CRPD and the already existing legislative instruments was addressed by Article 4.4 of the CRPD which reads:

Nothing in the present Convention shall affect any provisions which are more conducive to the realisation of the rights of persons with disabilities and which may be contained in the law of a State Party or in international law in force for that State.¹ There shall be no restriction upon or derogation from any of the human rights and fundamental freedoms recognised or existing in any State Party to the present Convention pursuant to law, conventions, regulation or custom on the pretext that the present Convention does not recognise such rights or freedoms or that it recognises them at a lesser extent.

With this in mind, we shall now consider the possible input of the CRPD to the interpretation and monitoring of the application of Article 15 of the European Social Charter.

Preliminary clarifications

The first clarification is to be found in Article 1 of the CRPD, which we should look at closely to ensure that we all agree on the meaning of its introductory words setting out the basic principles it contains:

¹ Underlined for the purpose of this document

Article 1 Purpose

The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms, by all persons with disabilities and to promote respect for their inherent dignity.

The wording of the purpose of the Convention indicates from the very outset that it does not relate to carefully enumerated “special rights”, but, more ambitiously, to “all” rights, in other words, the rights that all people have or at least should have.

We have also underlined the word “all” because we know from experience that an easy way out of one’s obligations is to say “but this is not possible for this person”, or “because of this person’s impairment, this particular right is meaningless”. When dealing with rights, no exception is permitted, but special measures have to be taken so as to ensure that everyone can exercise them in practice.

It will be noted that each state is required to “promote, protect and ensure” these human rights, a three-fold obligation relating to law-making, guaranteeing that everyone can exercise the rights laid down in the laws, and defending those rights before the courts.

When the UN uses the word “dignity” it is in connection with the UN Charter, which makes recognition of the dignity of persons a principle of reciprocity ensuring freedom, justice and peace for all. The first recital in the preamble of the Convention reads:

Recalling the principles proclaimed in the Charter of the United Nations which recognise the inherent dignity and worth and the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world.

The second clarification relates to the difficult issue of defining persons with disabilities. It is usually said that social policies need to have a definition of the population to which the laws and strategies that are planned refer; however, this has proved to be totally impossible as persons cannot be defined but only described. For this reason, the first article of the Convention comprises a description of the persons for whom this Convention was adopted.

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 the society on an equal basis with others.

This description makes it clear that disability is to be considered as the result of the interaction between the person's impairment and the discriminating barriers that this person may face in everyday life.

The third clarification is very important as it broadens the scope of all international and national laws, strategies and policies in that it mentions persons with a mental impairment in its description of the persons concerned. The States Parties to the Convention, upon ratification, therefore agreed that persons with psycho-social disorders are to be considered as persons with disabilities

and that all principles, rights and measures listed in the Convention shall also apply to them. This is already the case in some national laws in Europe or at least in the way they are applied. Generally speaking, there is no limit laid down on the concept of “persons with disabilities”, and individuals with psycho-social disorders tend not to be excluded from benefiting from the provisions relating to persons with disabilities, but their inclusion among that group had never before been clarified as such.

This is also the case with the European Social Charter, where the title of Article 15 does not specify who is to be included in the category of persons with disabilities, as this categorisation is given by different bodies, depending on the way in which states have organised their social policies.

The beginning of Article 15 is broad enough to include persons with psycho-social disorders in the scope of its provisions, as in the CRPD.

Article 15 The right of persons with disabilities to independence, social integration and participation in the life of the community.

With a view to ensuring to persons with disabilities, irrespective of age and the nature and origin of their disabilities,

It would be helpful if the Appendix to the European Social Charter contained an interpretative observation on this broad description

of persons with disabilities, as confirmed in the CRPD, which would also be relevant for the proper application of the other articles of the Charter.

Article 15 and the CRPD

Article 15 The right of persons with disabilities to independence, social integration and participation in the life of the community.

With a view to ensuring to persons with disabilities, irrespective of age and the nature and origin of their disabilities, the effective exercise of the right to independence , social integration and participation in the life of the community,...

Article 15 paragraph 1 Education

“... the Parties undertake, in particular:

1. To take the necessary measures to provide persons with disabilities with guidance, education and vocational training in the framework of general schemes wherever possible or, where this is not possible, through specialised bodies, public or private;”

The CRPD stipulates that inclusive education is a right, as too does the European Convention on Human Rights and Article 17.2 of the European Social Charter on compulsory and free education.

Education is an area in which the CRPD, in Article 24 (see full text in the Appendix below) has reinforced the trend towards mainstream schooling already referred to in the European Social Charter. The CRPD describes the inclusive educational system for children and adults to be promoted by states so that (article 24.2.):

(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 community 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 individualised support measures are provided in environments that maximise academic and social development, consistent with the goal of full inclusion."

These five pre-conditions should be included in the legal system of each state and these should be the focus of the system for evaluating national strategies. This will range from no exclusion on the basis of disability to full inclusion, and the prerequisites are the following: access to a school near to the individual's home,

reasonable accommodation, effective education, i.e. not only “being there” (how many hours a week?), support, and other educational facilities (special schools or special classes where needed) should seek to ensure the child’s academic and social development.

In Europe there have been many studies in the last ten years on school inclusion of “students with SEN” (Special Educational Needs). This clearly indicates efforts to ensure “academic and social development”, as set forth in CRPD Article 24 (e) cited above. The results of these studies show that a real effort is being made to accommodate children with disabilities in mainstream schools. But the studies also highlight major difficulties in assessing results.

The first difficulty relates to the figures on inclusive education provided by states:

- there is no common definition of SEN at European level, with the result that in some countries the term is applied to children already attending a school who have slight impairments and who, because of this, require a particular form of teaching, or indeed technical aids or human assistance, and special arrangements for their exams. In other countries the term also applies to children coming from difficult social backgrounds or to migrant children. This makes it very difficult to evaluate efforts to ensure the inclusion of children with disabilities and comparisons between schools becomes impossible;

- nor is there any common definition of inclusion. Does it mean being on the enrolment list, attending school a number of hours a week, or attending every day? Does it mean being in the same building, in a special classroom with other children with disabilities, or does it mean being in the same classroom with everyone else? The answers to these questions may vary from one case to another.

Laws on inclusive education should give a definition of SEN and implementation of these laws should be monitored in detail.

The studies also highlight a somewhat negative effect of this focus on SEN. Children who are already attending school but whose achievements are not very good, or those termed “hyperactive” are now considered to be pupils with SEN and, as a consequence, labelled as “pupils with a disability”.

The studies have also shown that beyond compulsory school age, in some countries, the usual support is no longer available and this means that students are unable to cope with the new demands when attending a vocational training centre or further education.

In the European Social Charter the right to vocational training is dealt with in Article 10, and account should be taken of this and of Article 15 in the evaluation of state reports. The CRPD includes the right to vocational training in both Article 24 and Article 27 on work and employment.

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.

Under the heading “work and employment” Article 27 reads:²

(d) Enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training;

It could be helpful to verify the extent to which states, in the part of their report concerning life-long learning, do actually include persons with disabilities in their legislation and consider reasonable accommodation to be a necessity for enabling them to have access to this right. The CRPD drafting group chose the word “enable” in paragraph (d) which implies more than just “ensure”.

The members of the European Committee of Social Rights should read in depth the states’ reports on education for persons with disabilities, as education is the best means for guaranteeing their right to independence, social integration and participation in the life of the community.

Article 15 paragraph 2 Employment

² See full text in the Appendix

“... the Parties undertake, in particular:

- 2. to promote their access to employment through all measures tending to encourage employers to hire and keep in employment persons with disabilities in the ordinary working environment and to adjust the working conditions to the needs of the disabled or, where this is not possible by reason of the disability, by arranging for or creating sheltered employment according to the level of disability. In certain cases, such measures may require recourse to specialised placement and support services;”*

This wording is very close to the previous Article 15, adopted in 1961. Employment is seen as a means to enjoy the right to independence, social integration and participation in the life of society. The CRPD considers employment, over and above a means of earning one’s living, as constituting the right to work, one of the principal human rights (Article 1 of the European Social Charter). In 2006 the CRPD reiterated that persons with disabilities have, on an equal basis with others, the right to work. This position is to be found in Article 27, entitled “Work and employment”

In paragraph 1 of Article 27, the CRPD specifies what is included in this right to work:

- 1. “States Parties recognise the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and*

accessible to persons with disabilities. States Parties shall safeguard and promote the realisation of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia....”

The list of measures that follows relates to the main aspects of labour legislation, such as remuneration, safe and healthy working conditions and trade union rights; all these items are to be found in the first five articles of the European Social Charter (Article 1 The right to work, Article 2 The right to just conditions of work, Article 3 The right to safe and healthy working conditions, Article 4 The right to a fair remuneration, Article 5 The right to organise).

It should be noted that the CRPD is the first internationally binding text in which career advancement is mentioned. Article 27.1 reads:

(a) Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement³ and safe and healthy working conditions;

Prior to this, the only international text relating to persons with disabilities which had mentioned progression was an ILO resolution in 1959 on the right “to find, keep and advance in employment”.

³ Our underlining

It is sub-paragraph (f) of Article 27.1 which sets out a series of possible types of employment:

(f) [in order to] promote opportunities for self-employment, entrepreneurship, the development of co-operatives and starting one's own business;

While the CRPD does not mention sheltered or supported employment, it nonetheless emphasises that for any form of work, the state should:

(i) ensure that reasonable accommodation is provided to persons with disabilities in the workplace.

In Europe today, persons with disabilities encounter enormous difficulties in finding employment. Their unemployment rate is much higher than that of other persons of working age.

In examining the states' reports on application of Article 15, the European Committee of Social Rights should bear in mind that the employment of persons with disabilities is a matter of access to the right to work and they should ensure that the legislation in states and the application of that legislation also relate to employment in the public sector.

Article 15 paragraph 3 Social integration and participation

"... the Parties undertake, in particular:

to promote their full social integration and participation in the life of the community in particular through measures,

including technical aids, aiming to overcome barriers to communication and mobility and enabling access to transport, housing, cultural activities and leisure.”

This paragraph sums up what is set out in various articles of the CRPD.⁴ A brief look at these articles will help gauge the extent to which states properly apply Article 15.3, in the broad sense given by the various articles of the CRPD.

The first of these articles is Article 19 which, in its introductory lines, focuses on the overall objective of “full social integration and participation in the life of the community”. In this way, it sheds new light on the issue by means of the concept of “choice” which is not often included in disability policies. Indeed, the CRPD stresses “choices equal to others”:

Article 19 - Living independently and being included in the community

States Parties to this Convention recognise 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

⁴ The full text of these articles is to be found in the Appendix. We refer here only to the main points

their full inclusion and participation in the community, including by ensuring that:

a) Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement;”

It would be worthwhile verifying the extent to which states include choice in their laws and strategies, or at least the possibilities of appeals against administrative decisions contrary to the choice of persons with disabilities, for example, school attendance for a child with a disability, or the necessary support for living in the community.

The second article of the CRPD to be considered relates to access as a paramount condition for participation in the life of the community. To ensure such access, “on an equal basis with others” a series of facilities and services should be made accessible.

Article 9 - Accessibility

1. 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. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:

a) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;

b) Information, communications and other services, including electronic services and emergency services.”

The third article to be considered is Article 2 on definitions, giving a broad interpretation of the word “communication”

Article 2 Définitions

For the purposes of the present convention :

“Communication” includes languages, display of texts, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology.

The fourth article is Article 26 on habilitation and rehabilitation describing in detail the measures that are necessary for community living.

Article 26 - Habilitation and rehabilitation

1. 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. To that end, States Parties shall organise, strengthen and extend comprehensive habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services, in such a way that these services and programmes:

a) Begin at the earliest possible stage, and are based on the multidisciplinary assessment of individual needs and strengths;

b) Support participation and inclusion in the community and all aspects of society, are voluntary, and are available to persons with disabilities as close as possible to their own communities, including in rural areas.

2. States Parties shall promote the development of initial and continuing training for professionals and staff working in habilitation and rehabilitation services.

3. States Parties shall promote the availability, knowledge and use of assistive devices and technologies, designed for persons with disabilities, as they relate to habilitation and rehabilitation.

This article looks at rehabilitation in a very broad sense and the measures that are mentioned go far beyond welfare and health

care. It must also be noted that these measures concern all of society from peers to employers, from professionals working in the field of rehabilitation to designers of technical devices. The aim of this article is to ensure that people work together in order to improve everyone's quality of life.

The last article that we would like to mention for a closer understanding of the European Social Charter, and more particularly, Article 15.3, is the article referring to the importance of participation in political and public life:

Article 29 - Participation in political and public life

States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake to:

a) Ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected....

Having listed the preconditions for full participation, the CRPD looks at the main areas where persons with disabilities most often encounter barriers. These areas were already mentioned in 1996 in the European Social Charter: *communication and mobility, access to transport, housing, cultural activities and leisure*. The fact that they appear in 2006 in the CRPD means that these

barriers are still there and the authors of the CRPD were at pains to indicate to states the measures to be taken to overcome them.

The CRPD devotes an article of its own to mobility, the introductory sentence of which illustrates the change that has occurred in the way the rights of persons with disabilities are considered.

Article 20 - Personal mobility

States Parties shall take effective measures to ensure personal mobility with the greatest possible independence for persons with disabilities, including by:

a) Facilitating the personal mobility of persons with disabilities in the manner and at the time of their choice, and at affordable cost;

Attention should be drawn to the words “*in the manner and at the time of their choice*”, a matter to which we would like as much attention to be paid as to the cost of human assistance and technical aids.

The CRPD then underlines the fact that participation in cultural life is a right, as it is for any other human being, and that this right is a two-fold right: the right to participate in the culture of others and the right to develop one’s own culture, including one’s language, in particular sign language. It is also a reciprocal right as it is “for the enrichment of society”.

Article 30 - Participation in cultural life, recreation, leisure and sport

1. States Parties recognise the right of persons with disabilities to take part on an equal basis with others in cultural life and shall take appropriate measures to enable persons with disabilities to.....

This is the last of the articles in the CRPD relating to human rights and the measures that states should take immediately and in the long term in their laws and strategies to enable persons with disabilities to exercise their rights “on an equal basis with others”.

The aim of this document is to show that the CRPD may offer useful guidance in interpreting the European Social Charter in a new and demanding way, ensuring stricter application.

It has been drafted by the Working Group on Disability of the Conference of INGOs of the Council of Europe.

October 2015

Appendix

The full text of the CRPD can easily be found on the Internet.

Below, we quote in full the articles of the Convention relating to the rights of persons with disabilities referred to in the paper. They are listed according to their numbering in the Convention.

Article 1

Purpose

The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.

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.

Article 2

Definitions

For the purposes of the present Convention:

“Communication” includes languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, human-reader and

augmentative and alternative modes, means and formats of communication, including accessible information and communication technology;

“Language” includes spoken and signed languages and other forms of non-spoken languages;

“Discrimination on the basis of disability” means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation;

“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;

“Universal design” means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialised design. “Universal design” shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.

Article 9

Accessibility

1. 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. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:

a) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;

b) Information, communications and other services, including electronic services and emergency services.

2. States Parties shall also take appropriate measures to:

a) Develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;

b) Ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities;

c) Provide training for stakeholders on accessibility issues facing persons with disabilities;

d) Provide in buildings and other facilities open to the public signage in Braille and in easy to read and understand forms;

e) Provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public;

f) Promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information;

g) Promote access for persons with disabilities to new information and communications technologies and systems, including the Internet;

h) Promote the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost.

Article 19

Living independently and being included in the community

States Parties to this Convention recognise 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, including by ensuring that:

a) Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement;

b) Persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community;

c) Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.

Article 20

Personal mobility

States Parties shall take effective measures to ensure personal mobility with the greatest possible independence for persons with disabilities, including by:

a) Facilitating the personal mobility of persons with disabilities in the manner and at the time of their choice, and at affordable cost;

b) Facilitating access by persons with disabilities to quality mobility aids, devices, assistive technologies and forms of live assistance and intermediaries, including by making them available at affordable cost;

c) Providing training in mobility skills to persons with disabilities and to specialist staff working with persons with disabilities;

d) Encouraging entities that produce mobility aids, devices and assistive technologies to take into account all aspects of mobility for persons with disabilities.

Article 24

Education

1. States Parties recognise the right of persons with disabilities to education. With a view to realising 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 realising 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 individualised support measures are provided in environments that maximise 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 deaf-blind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximise academic and social development.

4. In order to help ensure the realisation 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.

Article 26

Habilitation and rehabilitation

1. 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. To that end, States Parties shall organise, strengthen and extend comprehensive habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services, in such a way that these services and programmes:

a) Begin at the earliest possible stage, and are based on the multidisciplinary assessment of individual needs and strengths;

b) Support participation and inclusion in the community and all aspects of society, are voluntary, and are available to persons with disabilities as close as possible to their own communities, including in rural areas.

2. States Parties shall promote the development of initial and continuing training for professionals and staff working in habilitation and rehabilitation services.

3. States Parties shall promote the availability, knowledge and use of assistive devices and technologies, designed for persons with disabilities, as they relate to habilitation and rehabilitation.

Article 27

Work and employment

1. States Parties recognise the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realisation of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:

a) Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;

b) Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances;

c) Ensure that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others;

d) Enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training;

e) Promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment;

f) Promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business;

g) Employ persons with disabilities in the public sector;

h) Promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures;

i) Ensure that reasonable accommodation is provided to persons with disabilities in the workplace;

j) Promote the acquisition by persons with disabilities of work experience in the open labour market;

k) Promote vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities.

2. States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.

Article 29

Participation in political and public life

States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake to:

a) Ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by:

i) Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;

ii) Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;

iii) Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice;

b) Promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:

i) Participation in non-governmental organisations and associations concerned with the public and political life of the country, and in the activities and administration of political parties;

ii) Forming and joining organisations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.

Article 30

Participation in cultural life, recreation, leisure and sport

1. States Parties recognise the right of persons with disabilities to take part on an equal basis with others in cultural life, and shall take all appropriate measures to ensure that persons with disabilities:

- a) Enjoy access to cultural materials in accessible formats;
 - b) Enjoy access to television programmes, films, theatre and other cultural activities, in accessible formats;
 - c) Enjoy access to places for cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, and, as far as possible, enjoy access to monuments and sites of national cultural importance.
2. States Parties shall take appropriate measures to enable persons with disabilities to have the opportunity to develop and utilise their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of society.
3. States Parties shall take all appropriate steps, in accordance with international law, to ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials.
4. Persons with disabilities shall be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including sign languages and deaf culture.
5. With a view to enabling persons with disabilities to participate on an equal basis with others in recreational, leisure and sporting activities, States Parties shall take appropriate measures:

a) To encourage and promote the participation, to the fullest extent possible, of persons with disabilities in mainstream sporting activities at all levels;

b) To ensure that persons with disabilities have an opportunity to organise, develop and participate in disability-specific sporting and recreational activities and, to this end, encourage the provision, on an equal basis with others, of appropriate instruction, training and resources;

c) To ensure that persons with disabilities have access to sporting, recreational and tourism venues;

d) To ensure that children with disabilities have equal access with other children to participation in play, recreation and leisure and sporting activities, including those activities in the school system;

e) To ensure that persons with disabilities have access to services from those involved in the organisation of recreational, tourism, leisure and sporting activities.