An analysis of Article 24 of the UNCRPD from a Deaf perspective

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Deaf Academics 2015

http://www.ohioschoolforthedeaf.org/resources/3/images/TerpStory.jpg
Research methods

• Discourse analysis of official documents of:
  – The World Federation of the Deaf (WFD)
  – The Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities (Ad Hoc Committee
  – The Committee on the Rights of Persons with Disabilities (CRPD)
  – The Human Rights Committee (HRC)

• Literature review
• Participant observation

Results will be presented in a paper now under development
Interpreting Article 24 of the CRPD

Legislative History of the CRPD (Ad Hoc Committee) and legislative intent arising from the debates

Interpretations advanced by civil society (academics, NGOs, etc) through Publications, Statements, Panels, Days of General Discussion

CRPD Committee List of Issues and Concluding Observations

From a Deaf academic perspective based on our professional/personal experiences
United Nations Convention on the Rights of Persons with Disabilities

Sign language and Deaf culture mentioned 8 times in 5 different articles:

- Article 2: Definition
- Article 9: Accessibility
- Article 21: Freedom of expression and opinion, and access to information
- Article 24: Education
- Article 30: Participation in cultural life, recreation leisure and sport

The CRPD is a legally-binding treaty which entered into force in 2006 and has been ratified by 151 countries
**Art. 24§1 General principles** in the realisation of the right to education
- Full development of human potential and strengthening of human rights
- Personality, talents, creativity and abilities
- Participate effectively in a free society

**Art. 24§2 Obligations of the States Parties** to realise the right to education
- No exclusion from general education
- Access to inclusive education
- Reasonable accommodation
- Provision of support in general education system
- Effective individualised support measures in environments
Art. 24§3 Measures to undertake re. learning of life and social development skills
Facilitate Learning of Braille, ..., modes, means and formats of communication
  Learning of sign language
  Promotion of the linguistic identity of the deaf community
Ensure Education specif. for blind, deaf and deafblind children is delivered
  in the most appropriate languages and modes and means of communication
  and in environments which maximize academic and social development

Art. 24§4 Measures
  To employ teachers, incl. with disabilities, who are qualified in sign language
  To train professionals and staff who work at all levels of education
Training must include:
  - Disability awareness
  - Use of modes, means and formats of communication
  - Educational techniques and materials

Art. 24§5 Ensure access to tertiary education, vocational training, adult education and
lifelong learning with reasonable accommodation.
Drafting Article 24: Education

- One of the most disputed articles in the convention
- This was caused by different opinions and views on education arrangements, in particular inclusion.

- 8 Ad Hoc Sessions (2002-2006)
- Ad Hoc Committee meeting representatives:
  - State delegates, UN special agencies (UNESCO, WHO, ILO) NGOs, including wide representation from the disability movement (International Disability Caucus, IDC)

- World Federation of the Deaf (WFD) participated in all Ad Hoc meetings, expert meetings and drafting committee meetings

Kauppinen 2007
Drafting history: three major phases

3rd Ad Hoc Session: “Choice” or “Inclusion” and Twin Track Approach.

“Sensory exception” to the debate over full inclusion.

WFD attempted a separate paragraph on Deaf people’s linguistic rights:

“Deaf children have the right to receive education in their own groups and to become bilingual in sign language and their national spoken and written language... “
Drafting history: three major phases

Sixth Ad Hoc Session: Push for full Inclusion and removal of all mention of special education (end of “twin track”)

WFD worked with World Federation of the Deaf Blind and the World Blind Union, via the International Disability Caucus, to preserve an exception for their groups.

Session closed with a clear push to full inclusion, but with ‘general support’ for learning environments for these groups.
Inclusive education

No definition but four fundamental principles:

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<th>FOUR PRINCIPLES</th>
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<tr>
<td>IMMEDIATE OBLIGATION</td>
<td>Non-discrimination legislation (Art. 4§1(b))</td>
<td>Reasonable accommodation (Art. 2§5)</td>
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<tr>
<td>PROGRESSIVE REALISATION</td>
<td>Accessibility (Art. 9) AND Universal Design (Art. 2§6)</td>
<td>Individualised support measures</td>
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Opportunities for interpretation?

(1) “Environment” versus place.
(2) The fate of deaf schools under the CRPD (breach of the stand still principle?).
(3) Defining ” inclusion”
(4) Life and social development skills
(5) “Most appropriate languages and modes and means of communication”
References (1)

- de Beco, G. 2013 "Het recht op onderwijs voor personen met een handicap volgens artikel 24 van het VN-verdrag inzake de rechten van personen met een handicap: juridische analyse en toepassing in Vlaanderen" (2013) TJK (2).
References (2)

- Committee on the Rights of Persons with Disabilities, *General Comment N°2 on the article 9 on accessibility*, CRPD/C/GC/2 (advance unedited version of 11 April 2014).
- Committee on the Rights of Persons with Disabilities, *Concluding Observations on the initial report of Costa Rica*, CRPD/C/CRI/CO/1
- Committee on the Rights of Persons with Disabilities, *Concluding Observations on the initial report of Belgium*, CRPD/C/BEL/CO/1
- Committee on the Rights of Persons with Disabilities, *Concluding Observations on the initial report of Denmark*, CRPD/C/DNK/CO/1
- Committee on the Rights of Persons with Disabilities, *Concluding Observations on the initial report of New Zealand*, CRPD/C/NZL/CO/1