

## 07\_The Nature and Purpose of inclusive Education

### #### Slide 1

This module explores the nature and purpose of inclusive education.

### #### Slide 2

In the first part, we discuss the aim of inclusion in the preamble of the Convention.

### #### Slide 3

In the second part, we consider the aim of inclusive education in the first paragraph of Article 24 of the Convention.

### #### Slide 4

In the third and last part, we proceed with the analysis of the nature of inclusive education in the second paragraph of Article 24 of the Convention.

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The aim of inclusion in the preamble of the Convention.

### #### Slide 6

General comment Number 6 refers to a substantial disadvantages that the members of one group experience relative to the members of the other group in society.

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Paragraph k of the preamble acknowledges the persistence of barriers faced by persons with disabilities and violation of their human rights.

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Paragraph p of the preamble acknowledges multiple and aggravated forms of discrimination. Students with disabilities are more likely to suffer disadvantages in education than non-disabled students.

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The aim of inclusive education in the first paragraph of Article 24 of the Convention.

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The first paragraph of Article 24 clarifies that this non-discriminatory right of access to mainstream education on the basis of equal opportunity is directed

- At the full development of persons with disabilities,
- At promoting their well-being.
- And at their effective participation in society,

The right to inclusive education seeks not only to 'combat discrimination, including harmful stereotypes' based on disability, it also identifies how the individual well-being of students with special needs can be achieved.

A lack of well-being may lead to individual disadvantages, which may further impair the well-being of a student with special needs.

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1. A. Article twenty four point one a. Aims a promoting, protecting and fulfilling the 'full development of human potential and sense of dignity and self-worth' of persons with disabilities;

The purpose of a norm of discrimination law and a norm of inclusive education, is to protect individuals with disabilities from disadvantages based on personal characteristics so as to promote and secure their individual well-being.

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1. B. Article twenty four point one b aims a promoting, protecting and fulfilling the development 'of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential.

The wellness of a student with special needs is not only linked to the guarantee of essential functionings such as being educated on the basis of equal opportunity but it is also linked to the promotion of more complex functionings such as the nurture of the individual talents of students with disabilities.

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1.c. Article twenty four point one C aims a promoting, protecting and fulfilling their full participation in society.

Regulate conduct that is discriminatory and that prevents students with disabilities from accessing and participating in education in the local school community relates to the well-being of persons with disabilities.

The right to inclusive education seeks to promote participation of persons with disabilities by adopting proactive measures that focus on their well-being.

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We will now proceed with the analysis of the nature of inclusive education in the second paragraph of Article 24 of the Convention.

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Article twenty four point two A is a typical discriminatory prohibition that applies to every person with disability and is, a fortiori, universal and aims at protecting all students from discrimination based on their disability.

Article twenty four point one in light of Article twenty four point two A of the Convention imposes a duty on States parties to ensure that 'persons with disabilities are not excluded from the general education system on the basis of disability.

However, Article twenty four point one does not impose the duty to ensure that every person with disability is educated in the general schooling system.

Persons with disabilities are entitled to the right to learn in a mainstream school.

The aim of inclusive education is to promote learner-friendly general education system that enhance the effective education of persons with disabilities in the general education system and to promote their well-being.

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Article seven point two of the Convention provides that 'in all actions concerning children with disabilities, the best interests of the child shall be a primary consideration.

Historically, persons with disabilities have suffered substantive barriers to access a number of goods and services on the ground of their personal characteristics.

The Convention combats discrimination and prohibit schools from discriminating on the basis of disability.

Within the general education system, schools have a duty to provide reasonable accommodation, adapted according to the individual needs of the student.

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Article twenty four point two B applies to some members of the group, as opposed to the entire group of persons with disabilities. It includes the PRINCIPLE OF CHOICE.

Persons with disabilities 'can' access educational provision in the local mainstream schooling system. It imposes a duty on States parties to remove barriers that prevent a student with disability from accessing and participating in their local mainstream school.

Article twenty four point two B suggests that persons with disabilities may choose to attend their local mainstream school or not.

Within the general education system, schools have a duty to provide reasonable accommodation, adapted according to the individual needs of the student.

The principle of inclusive education is prima facie concerned with the best interests of the student and the ideal of individual well-being of persons with disabilities.

When this accommodation may not prove effective for reasons outside financial constraints, alternative forms of education should be provided to the individual student on a temporary basis and with regular reviews of his/her situation

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Article twenty four point two C provides for 'individualized support measures' in 'environments that maximize academic and social development, consistent with the goal of full inclusion'.

It contains the obligation to provide for reasonable accommodation, the denial of which is a form of discrimination.

This instrument to achieve the right to inclusive education consists of '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.

It is an individualised obligation, relative to the needs of the student concerned.

The duty to make reasonable accommodation is not absolute, its limitation relates to the 'disproportionate' or 'undue burden' that would result from making the accommodation, wherever that line is drawn.

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Paragraph D refers to instruments to achieve the right to inclusive education consisting of providing support in the general education system.

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The introduction of the provision in paragraph E, which is distinct from reasonable accommodation in paragraph C and from support in the general education system in paragraph D, suggests that individual support may be also provided in settings that are different from settings provided in the general education system.

The alternative educational provisions become complementary instruments, designed to promote students' well-being in educational settings.

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To conclude:

When interpreting inclusive education, the state has the choice: it can focus on commonality or on differentiation.

Policies focussing on the communality, aim at establishing a common curriculum for all within a mainstream educational setting and the placement of a student with special needs into a mainstream setting.

Policies focussing on differentiation, give priority to the individual needs of a student with special needs, justifying at times alternative educational setting.

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