

# *Just Equality*

Bringing Rights Home:

Article 19 of the UN Convention on the Rights of Persons with Disabilities  
*Living Independently and Being Included in the Community*

Camilla Parker, PhD Law  
Mental Health Law, Policy & Human Rights Consultant

Online-Vortragsreihe zum Behindertengleichstellungsrecht 2020  
(Universität Basel, EBGB, Inclusion Handicap)

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## **Overview**

- 1) Introduction: importance of CRPD
- 2) Article 19 and states' obligations
- 3) Realising Article 19
- 4) Food for thought: suggested questions
- 5) Useful resources

## **Importance of the Convention on the Rights of People with Disabilities (CRPD)**

- ‘to ensure that those with disabilities enjoy the same human rights as everyone else -- in education, employment, access to buildings and other facilities, and access to justice’  
*UN Secretary-General Kofi Annan on the adoption of the CRPD, 2006*
- Ratified by 181 countries
- CRPD Committee’s role:
  - concluding observations on States’ implementation of CRPD
  - General comments e.g. GC No 5 (article 19)
- Influence on European Court of Human Rights
  - *Glor versus Switzerland 2009*: ‘there is a European and worldwide consensus on the need to protect people with disabilities from discriminatory treatment (see, for example...United Nations Convention on the Rights of Persons with Disabilities, which entered into force on 3 May 2008’

## **Article 19 Convention on the Rights of Persons with Disabilities (CRPD): Community Living**

- Equal right of people with disabilities to **live in the community** with choices equal to others
- States to take “effective and appropriate measures to facilitate” full enjoyment of this right and full inclusion & participation in the community; including by ensuring that people with disabilities have:
  - 1) Choice:** equal right to choose where and with whom they live  
(not obliged to live in a particular living arrangement; (MUST be implemented now))
  - 2) Individualised supports that promote inclusion:** (access to a range of services, including personal assistance  
(to support living and inclusion in the community, prevent isolation or segregation))
  - 3) Equal access to mainstream services:** (community services and facilities for the general population are available  
on an equal basis to persons with disabilities and are responsive to their needs)

“Progressive realisation” (applies to **2 and 3**)

(‘achieving progressively the full realisation of these rights’) **BUT NO EXCUSE FOR INACTION**

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## **Article 19: Obligations on States and “Progressive realisation”**

- Lack of resources **no excuse for inaction**: Use “maximum available resources”
- Move as expeditiously & effectively as possible to realisation of rights
- Duty to ensure that rights can be exercised without discrimination **takes immediate effect**
- CRPD General Comment on Article 19: immediate obligation for concrete strategies, plans of action & resources to develop support services and inclusive general services.

## **CRPD General Comment 5 (Article 19): Detailed guidance on implementation of Article 19; for example:**

- (1) Repeal laws that prevent **equal choice on where and with whom to live**
- (2) Allocate resources for access to a range of individualised supports:  
(such as personal assistance and affordable and accessible housing)
- (3) Take measures to ensure equal access to mainstream services  
(make local communities, the environment, information and communication accessible to all persons with disabilities)
- (4) Move forward with deinstitutionalisation:  
adopt strategies, “with specific time frames and adequate budgets...special attention should be paid to persons with psychosocial and/or intellectual disabilities and children with disabilities currently in institutions”

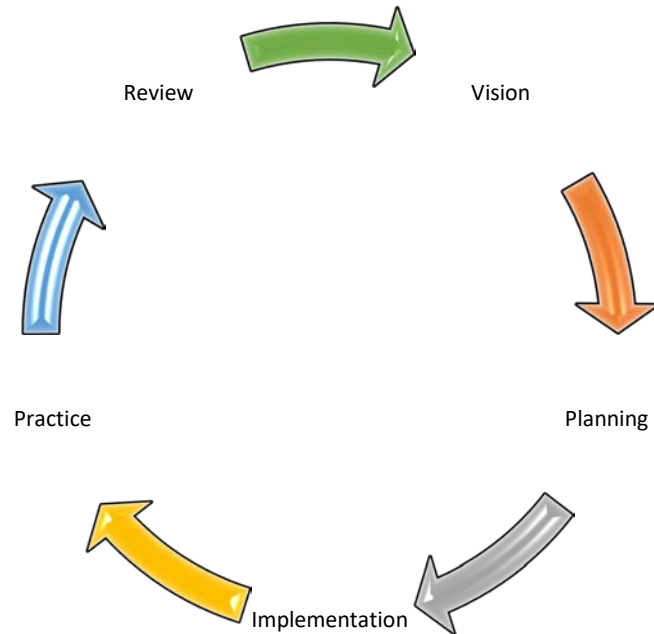
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## **Centrality of Article 19**

- Recognizing the right to live in the community is about enabling people to live their lives to their fullest within society and access the public sphere, including “small places, close to home.”
- Platform for all other rights: a precondition for anyone to enjoy all their human rights is that they are within and among the community.
- Closely linked with fundamental rights such as personal liberty, private and family life and freedom from ill-treatment or punishment
- Overarching objective: full inclusion and participation in society.
- [See Council of Europe Commissioner for Human Rights, 2012]

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## Realising CRPD Article 19 (Participation is key at all stages)



- Vision: clarity on goals of Article 19
- Planning: e.g.
  - Country-wide assessment of needs (institutional care versus models of good practice)
  - Comprehensive review of laws, policies, financing
  - Strategy and action plan
- Implementation: eg closure of institutions & development of community services workforce development;
- Practice: monitoring and evaluation
- Review: regularly to check on progress



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## **Article 19: The right to community living - Why It Matters**

- Where we live: having a home
- What we do: work, leisure
- Who we spend time with: personal relationships, social networks
- Civic engagement: voting, standing for election, etc
- Values each of us as individuals but recognises our connection with others: we all need support to realise our aspirations and fulfil our potential
- Central to how we live, integrated with other many other rights
- **Deinstitutionalisation only a factor**
- Three key areas: **environment, support, attitudes**



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## Article 19: to be realised must work at community AND individual levels

### Community (examples)

- **Environment** (housing)
- **Support** (personal assistance, direct payments)
- **Attitude** (awareness-raising, anti-discrimination laws)
- **Participation** (services support inclusion of people with disabilities, accessibility of mainstream services)

### Individuals

- **Environment** (home not a mini-institution, caters for eg sensory needs, physical access)
- **Support** (geared towards the person's individual needs and aspirations)
- **Attitude** (goal is to support people to exercise their right to live independently and participate in community life)
- **Participation** (individuals are engaged in (and if needed supported to do so) in making day-to-day decisions)

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## **Suggested Questions for Consideration**

- What is the vision for realising CRPD Article 19?
- What are the challenges and how might they be addressed?
- Who needs to be involved?
- How will progress be measured?
  - e.g. are individuals enabled to live the life that they choose and to be included in their local community?

Additional Information

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## **Useful Resources**

- Committee on the Rights of Persons with Disabilities, General Comment No 5: Article 19 (2017) on living independently and being included in the community, CRPD/C/GC/5 (27 October 2017).
- Council of Europe Commissioner for Human Rights, “The Right of People with Disabilities to Live Independently and Be Included in the Community”, Comm DH/Issue Paper (2012) [3], Strasbourg, 13 March 2012.
- European Agency for Fundamental Rights Human rights indicators **on Article 19** of the CRPD, 2015
- European Expert Group on the Transition from Institutional to Community-based Care, Common European Guidelines on the Transition from Institutional to Community-based Care, November 2012

## **Article 19 – Living independently and being included in the community**

States Parties to the present Convention recognize 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.

## **Moving from Institutional Care to Community-base Services: Key Elements**

- Making the case for change
- Assessing the situation
- Developing a strategy and action plan
- Establishing the legal framework
- Developing a range of services in the community
- Allocating financial, material and human resources
- Developing individual plans
- Supporting individuals and communities during transition
- Defining, monitoring & evaluating the quality of services
- Developing the workforce

**(Common European Guidelines...European Commission 2012)**