

Committee on the Rights of Persons with Disabilities

**What it means when everyone
must be equal under the law.**

Plain English version of:

General Comment No.1 (2014)

Article 12: Equal recognition before the law.

Note: Please note this is not a United Nations official document.

What is in this paper	Page
1.About this paper	3
2.Everyone must be equal under the law	4
3.What should be happening	5
4.What countries must do	9
5.How this links with other parts of the Convention	10
6.How countries can make this happen	11
7.Word bank	12

1. About this paper

The **United Nations** (UN) is a place where all the countries of the world come together. They meet to agree how to make the world a better and safer place for everyone.

Many countries sign the UN Disability Convention. This is an agreement that says people with disabilities should have the same support and treatment as everyone else.

We are the UN Committee on the rights of people with disabilities. Our job is to check that people with disabilities all over the world get their rights. We help countries understand what to do to make sure people with disabilities get their rights.

This paper tells you more about the Convention. Especially the part about how everyone must be equal under the law.

The law is the same for everyone. But sometimes people with disabilities face discrimination and do not have this right. Discrimination is when you are treated worse than other people because of who you are.

This paper does not give people with disabilities new rights. But it says what the right means and what should happen for them.

2. Everyone must be equal under the law

This is a very important right. It gives people with disabilities:

- Control over their lives
- Support to make their own decisions
- The same chances in life as other people
- Support to be as independent as possible
- The chance to be part of their community and use the same services as other people.

Before we wrote this paper we talked with lots of people including:

- People with disabilities, their groups and organisations
- Government organisations
- Volunteer groups and organisations
- **Human rights** groups
- People who work for the UN.

They said many people do not understand how to support people with disabilities to make their own decisions.

In many countries a court says a person cannot make decisions because of their disability. The court then chooses someone to do this for them.

Having a disability is not a reason to take away a person's right to make their own decisions.

This paper is about legal capacity and how to protect this right.

3. What should be happening

Legal capacity

Legal capacity means the law protects your rights. You have rights and you can use them. It means anyone over 18 years old can make legal agreements or decisions.

Mental capacity means being able to make your own decisions, with support if you need it.

No-one can take away a person's legal capacity because they think they do not have the mental capacity to make a decision.

The person should have as much support as they need to use their right to legal capacity.

The Convention says people with disabilities have the same right as other people to legal capacity in all parts of their lives. Countries must do everything they can to make sure people with disabilities can:

- Inherit property
- Control their own money
- Borrow money from a bank or other financial organisation.

Countries must also make sure people with a disability do not have their property taken away from them just because they have a disability.

Many people lose their right to **legal capacity** when other people think they cannot make decisions.

The Convention says this is wrong.

People with disabilities have the legal capacity to have

rights and use them. This must never be taken away.

Countries must provide support

If they need it, people with disabilities should have support to understand what the law says they can do.

This support will be different for everyone but must never mean that someone else makes decisions for them.

This support can be from:

- Family or friends that you trust
- Another disabled person.

They can support you with things like:

- Help to communicate
- Information in a way that you understand.

For example, you have **legal capacity** to open a bank account but might need information in **Braille** or EasyRead to do this.

This support must be given in a way that:

- Gives the person the right to choose what support they need and who gives it
- Thinks about the person as an individual and what is right for them
- Thinks about what they like and what is important to them
- Is based on what the person needs and not what people think about their mental capacity
- Communicates in the right way for them.

People also have the right to plan for the future. This includes writing a **will** about your property or **advance planning** what treatment or care you want if you become very sick or disabled.

Sometimes it can be very difficult to find out what the person might choose. When other people have done everything they should, they must still keep thinking about what is important to the person. They should never make a decision about what is best for them. They must not put pressure on the person to make a decision.

Safeguards

Safeguards stop someone supporting a person with a disability putting pressure on them to make a decision. This includes things like suggesting ideas, bullying or making them afraid.

Safeguards mean you must find out and respect the person's choices.

You must think about these things when you support someone to use **legal capacity**:

- Rights
- What is important to the person
- What they like or might choose.

If you cannot find out what the person might choose, you must think what this might be. You cannot decide what you think is best for them.

Rights and money

Countries must have rules, laws and plans to make sure people with disabilities have the same right as everyone else to do things like:

- Own property
- Make decisions about money.

4. What countries must do

Governments that sign the Convention must not do anything that takes away a person's right to **legal capacity**.

They should:

- Do everything they can to make sure people have the confidence and skills to use this right
- Get rid of laws or rules that let other people make decisions for someone with a disability
- Train other people to support people with disabilities to make their own decisions instead of choosing someone to make decisions for them
- Make sure everyone can get support to make their own decisions that thinks about what is important to the person, not what is best for them
- Make sure people have free support or support they can afford to make decisions
- Governments must start planning how to make these things happen as soon as they sign the Convention.

5. How this links with other parts of the Convention

The right to **legal capacity** means people with disabilities have the right to:

- Make their own choices
- Marry and have a family
- Move around freely
- Say what they think.

It also links with other rights to:

- Be treated equally and not discriminated against
- Use public services and buildings
- Get help from police, courts and justice system
- Stay healthy
- Agree to treatment or hospital care
- Be **registered** when they are born
- Live independently as part of their community.
- Keep their personal information safe
- **Vote**, be on a **jury** or stand for **election**.

Other people need to learn how to support people with disabilities to make decisions and be included.

This includes listening to them and thinking about their rights, even when someone else is supporting them to make a decision.

6. How countries can make this happen

Governments that sign the Convention can make this happen for people with disabilities if they:

- Make it clear that the law should treat people with disabilities in the same way as other people. This means getting rid of laws that say other people can make decisions for them
- Make sure people with disabilities have good, safe support to make their own decisions. This support should follow the rights in the Convention
- Involve organisations of adults and children with disabilities when they work on laws or plans about making decisions and legal capacity
- **Research** and learn about the best ways to support people to make their own decisions
- Make sure people with disabilities have lots of chances to make their own decisions and to live in the community with other people.

7. Word bank

Advance planning – a way of saying what treatment or care you want if you become too sick or disabled to tell people for yourself.

Braille – a way of writing things so blind people can feel the words with their fingers.

Election – an organised way to choose members of local or national government

Human Rights – basic rights and freedoms that should happen for every person in the world.

Jury – a group of people in court who decide if a person is guilty or innocent

Legal – allowed or recognised by the law

Legal capacity – means that anyone over 18 years old can make legal agreements or decisions.

Mental capacity - being able to make your own decisions, with support if you need it.

Registered – to go on a list. When babies are born they should be registered so they have a legal name and all the rights that other people have

Research – a planned and organised way to find out about something

Vote – an organised way to choose between one or more people

Will – a paper that says what you want to happen with your money or property after you die.