



The *Centre for Inclusive Education (C4IE)* is founded on an understanding that Inclusive Education is a fundamental human right that enables all other rights. The Centre exists to produce research that will reduce exclusion and increase inclusion to provide all children and young people with equitable opportunities to learn and develop as independent and valued human beings. Researchers from C4IE put forward this position paper in response to the Disability Royal Commission call for responses regarding Rights and Attitudes.

Education is a human right^{1,2,3}. This right must be afforded to all, without discrimination of any kind. More recently, *inclusive* education was clarified as a fundamental human right of students with disability⁴. Inclusion is defined as,

“involv[ing] a process of systemic reform embodying changes and modifications in content, teaching methods, approaches, structures and strategies in education to overcome barriers with a vision serving to provide all students of the relevant age range with an equitable and participatory learning experience and environment that best corresponds to their requirements and preferences. Placing students with disabilities within mainstream classes without accompanying structural changes to, for example, organisation, curriculum and teaching and learning strategies, does not constitute inclusion. Furthermore, integration does not automatically guarantee the transition from segregation to inclusion.”⁴

This position paper focuses on the importance and role of schools as sites for rights. Schools are critical in the transmission of community expectations, beliefs and attitudes, and as such, are places where individuals learn about rights and develop their attitudes towards people with disability. To know more about where and how rights regarding people with disability are learned and attitudes developed, schools must be a key point of investigation.

We argue that schools are a critical vehicle through which rights are both realised and taught. **We observe** that many schools, as they currently exist, enact education practices that do not uphold the human right to inclusive education (with ongoing impact on the recognition of other rights) or model positive attitudes towards individuals with disability. **We propose** that reimagined *inclusive* schools can both teach and model rights and positive attitudes towards all children, and more readily embrace each individual's uniqueness and diversity.

1. Schools as sites for rights

Schools are not only an important site for the realisation of inclusive education rights through provision and access, but also as an avenue through which knowledge and education about rights are transferred. Schools operate as vehicles to learn about rights. There are misconceptions about what rights do and do not involve, and varied understandings about the rights that children and young people have. It is the right of people with disability that all people foster an attitude of respect for the rights of persons with disabilities, throughout the education system⁴. Therefore, learning about the rights of all people, including people with disability, should begin in schools.



Human rights and responsibilities are included in the “Ethical Understanding” component of the Australian Curriculum General Capabilities. By the end of Year 2, all students should have undertaken a unit where they explore the rights of their classmates. This extends, by the end of Year 4, into an examination of children’s rights at school and within the community. By the end of Year 6, children should have examined how rights are enacted for various communities. By the end of Year 8 students are expected to have developed their analytical skills regarding rights and responsibilities as responsible citizens. The General Capabilities are one current mechanism through which rights can be taught in schools. Currently, there is no *specific* opportunity for children from Early Childhood to Secondary School to learn about the rights of people with a disability. This is at odds with Article 8 of the CRPD, which requires States Parties to foster an attitude of respect for the rights of persons with disabilities at all levels of the education system⁴.

Rights are also learnt less formally in schools; for example, through the imagery and written communication used to describe students with disability, through witnessing how students with disability are treated and also through the responses of leadership and teachers when the rights of individuals are not upheld. These informal opportunities involve more than just teaching that “rights” exist. Students also learn about whether rights—particularly rights for certain individuals or groups—are taken seriously. Teachers model the enablement (or otherwise) of rights on a regular and often unconscious basis. In the same way, attitudes and beliefs about disability are often unconsciously transferred from one generation to the next by the way children with disability are treated, represented (for example in media and *literary texts*), or spoken about. We argue that the right to an inclusive education is not consistently upheld in schools and that negative attitudes and beliefs about students with disability—for example, a belief that students with disability do not belong in the same classrooms as students who do not have disability—are modelled on a regular basis. These beliefs and practices go against each child’s right to education and non-discrimination².

2. The current ‘state of play’ in schools

Our position is that practices occurring in many schools, practices that are endorsed by Education Departments and government, currently do not consistently uphold, teach or model the rights of *all* children, including the rights of children with disability, to inclusive education⁴. For example, QLD Department of Education’s *Inclusive Education Policy* places the CRPD GC4 definition for inclusive education at the centre. However, an apparent contradiction in the rhetoric of the policy and its implementation appears through ongoing resourcing for the building of special schools. Special schools are segregated settings that, by the Department’s own definition are *not inclusive*. Furthermore, in response to Australia’s most recent monitoring report⁵ on the fulfillment of rights obligations under the United Nations Convention on the Rights of the Child (UNCRC), the Committee on the Rights of the Child (‘the Committee’) raised numerous concerns⁶ regarding education, and the extent to which diverse children and young people are respected and protected.

The Committee expressed concern about the sufficiency and quality of education provided for children in Australia, generally, including the need to “invest more in improving education at the early childhood, primary and secondary levels, paying particular attention to



children living in remote areas, Aboriginal and Torres Strait Islander children, children with disabilities, children in marginalized and disadvantaged situations, children in alternative care and children from refugee and migrant backgrounds” (para 43b). The Committee emphasised the necessity of “ensur[ing] that *all children with disabilities have access to inclusive education* in mainstream schools and are provided with the support they need and to *address the use of restraints and seclusion*” (para 43c, emphasis added).

The issue of restraint, seclusion, and other restrictive practices in education for children with disabilities has also been in the spotlight in recent years with increasing incidents of violence against children and young people in schools being exposed in the media and Royal Commission inquiries (e.g. [Institutional Responses to Child Sexual Abuse](#); [Disability Royal Commission](#)). This suggests that this issue of violence towards children may be occurring in some schools. We address the issue of restrictive practices in education in a separate submission in response to the Disability Royal Commission [Restrictive Practices](#) Issues Paper.

These observations were made by the Committee less than 12 months ago. Since then, the effects of COVID-19 have been noted as compounding additional negative effects for children who may have already been at risk of vulnerability given the failure of educational systems to meet the needs of *all* children, and an overreliance on children needing to fit the system⁷. We highlight in particular the intersectionality of disability with other disadvantages and their potential compounding effect for negative, discriminatory, and/or rights-restricting practices, increasing the risks for those children and young people whose rights are already constrained in current practices.

We reiterate the Committee’s concern about the extent to which Australian schools are *genuinely* inclusive and note that schools problematise approaches marketed as inclusion, but which are arguably integration^a, not inclusion⁸. Teachers and parents who report negative experiences in ‘inclusive’ settings are not describing education that is genuinely inclusive⁸. Current educational systems perpetuate a deficit view of children whose diversity and individuality may require a substantial change to existing structures and composition to ensure provision of the adjustments to which they are entitled under legislation.

There is substantial research evidence demonstrating educational restrictions for children with disability that often constitute rights-breaches, where the right to inclusive education is not upheld^{9,10,11}. These breaches teach students that rights for certain people, such as persons with disability are less ‘real’ than for others. When children, young people, parents, teachers, governments, and the general public see that rights-breaches occur with little to no remedy or recourse, it suggests there is futility in pursuing and claiming rights for oneself. It may also diminish the value of rights if they are not afforded, respected or enforced.

Problems with enacting the right to inclusive education

For the teaching of rights to be effective, teachers must be knowledgeable of the rights of all persons^{12,13} including persons with disability. Rights knowledge may be limited in

^a Integration is defined by the Committee on the Rights of Persons with Disability in General Comment 4 as, “a process of placing persons with disabilities in existing mainstream educational institutions, as long as the former can adjust to the standardized requirements of such institutions” (para 11).



schools^{13,14} which, in turn, may influence the confidence with which those in the school environment feel equipped to teach and model the full range of rights. Additionally, many teachers struggle with teaching the general capabilities given they are not directly aligned with subject areas¹⁵. However, promising evidence on the impact of children's rights education on rights-knowledge and rights-based attitudes supports that children's rights education is a pathway to citizenship and social justice.

Similarly, many parents of children with disability are unaware of the Disability Standards for Education (DSE) 2005¹⁶, the UNCRPD³ or their child's right to an inclusive education. As a result, the inappropriate actions of some education providers are left unchecked. These include a wide range of gatekeeping practices that reflect negative attitudes of leadership and staff towards inclusion and people with disability, for example, directing parents to the local special school, offering a part-time enrolment, excluding a child from school events and activities¹¹. Additionally, parents engaged in Early Childhood Development Programs are guided towards special schools, particularly when judgments are made about "school readiness". These gatekeeping practices impact enrolment, attendance, and participation, as well as the provision of adjustments and support services¹¹. Gatekeeping perpetuates the continued exclusion of students with disability from schools and classrooms and normalise exclusion or segregation as the better option. This brings us back to the issue of knowledge and awareness of teachers of children's rights and the impact this has on policy implementation. While teachers may feel they are acting in the best interests of the child in endorsing segregated education options, they may not realise that this guidance goes against a child with disability's right to inclusive education. Furthermore, the extent that children themselves are involved in these decisions is limited.

Involving children and young people

Children and young people are often not consulted or involved in matters affecting them at school. Within education, the rights of children with disability are often overlooked as they are not consulted with regard to their education¹⁷. Additionally, the rights of children with disability, particularly when behaviours of concern are involved, can be outweighed by the voices of the parents of other students who may cite safety concerns or argue that the inclusion of a student with disability impedes their child's learning or access to teacher time. The default position tends to be the removal of the child from the classroom and/or the school and is positioned as the rights of one child being in potential tension with the rights of other children¹⁸. There are many examples of this occurring in education contexts, including ones that end up in court¹⁹. There needs to be a more sophisticated approach to responding to possible rights conflicts in education to ensure the rights of all children are respected, protected and fulfilled. Key to this process is seeking the views and involvement of all children to better understand their educational experiences from their perspective.

When consultation with children does occur, there is a tendency to seek only certain views or views from children who may be able to articulate their perspectives in ways preferred by adults. For all children, but particularly for children with disability, there needs to be greater awareness and acknowledgement of expectations around what constitutes 'acceptable' voice expression, recognising that verbal voice is not the only way to express a view²⁰. Expecting all students to communicate their insights orally or through formal written texts means that some



children will be excluded from enacting their communication rights. Up to 13% of students in Australian schools experience communication difficulties²¹. These students are often “hiding in plain sight”²², are largely under-identified, and are at heightened risk of being excluded from expressing their views on issues that concern them^{22,23}.

A lack of student input into the design and appropriateness of education adjustments, for example, does not uphold children’s communication rights under Article 12 and 13 of the UNCRC², or educators’ obligations under the DSE¹⁶. Students with disability are often excluded from these conversations because of enduring attitudes that they are not reliable sources of information given they: (a) are not adults, (b) have a disability, and (c) have communication difficulties²³. This might also mean that students are not seen as being credible when they report incidents. For students with complex communication profiles who may not use oral language as their primary means of communication, student’s communication rights² may be violated if they are not provided with support to enable them to communicate their message (e.g., multi-modal communication systems). When educators do not consult students and provide appropriate adjustments to facilitate consultative conversation, children’s rights are not being upheld.

3. *Reimagining schools*

We propose an alternative to the status quo in Australian schools. If children’s rights are to be modelled, upheld, and taught, a reimagining of schools is required. There are a number of signposts to lead the way. The first are our international treaties. The Convention on the Rights of the Child², for example, outlines the obligations of States parties and their representatives when it comes to the enactment of children’s rights. It presents a useful starting point when considering the role of schools as sites for rights as the Convention outlines the rights afforded to *all* children. It specifies obligations relating to educational access, provision and substance that need to be recognised and incorporated by member nations. Australia ratified the Convention in 1990 and has made gradual steps towards its full incorporation over the past 30 years, with more work remaining.

Each child’s right *to* education is provided through article 28 of the Convention on the Rights of the Child. Discussed alongside this are each child’s rights *in* and *through* education including those associated with Article 29 and the purpose of education. This includes education *for* and *about* rights. Through considering education rights for children and young people as consisting of more than just provision and access, but also involving content, quality and substance, access becomes a necessary precondition to the enabling of other education related rights.

A second signpost is the direction provided by The Committee on the Rights of Persons with Disability through General Comment No. 4 on the Right to Inclusive Education⁴ and defined at the start of this position paper. We reiterate that “Placing students with disabilities within mainstream classes without accompanying structural changes to, for example, organisation, curriculum and teaching and learning strategies, does not constitute inclusion. Furthermore, integration does not automatically guarantee the transition from segregation to inclusion.”



Furthermore, “the right to inclusive education encompasses a transformation in culture, policy and practice in all formal and informal educational environments to accommodate the differing requirements and identities of individual students, together with a commitment to remove the barriers that impede that possibility” to do so, “requires an *in-depth transformation of education systems in legislation, policy, and the mechanisms for financing, administration, design, delivery and monitoring of education*” (emphasis added). Ultimately, current educational systems require a fundamental structural, attitudinal, and procedural shift in order for this transformation to *genuine inclusion* to occur.

True inclusion is also a way of promoting positive attitudes and cultivating a respectful society. Inclusive education models the right of people with disability to be included alongside their peers in all aspects of their schooling and life. Students who do not experience disability develop greater understanding and acceptance of diversity²⁴.

Increasing Awareness of Rights and Obligations

Evidence from systematic reviews²⁵ and meta-analyses²⁶ have shown that direct, extended and guided imagined interactions can improve children’s attitudes towards students with disability. These findings support the value of inclusion as a vehicle for enhancing knowledge about disabilities and shaping positive attitudes towards peers with disability.

We propose there also needs to be improvement in teacher training with more explicit inclusion of rights specific education, additional opportunities for in-service training on rights education for those already working in schools, rights awareness and training programs for parents and children, and inclusion of policies and practices that relate directly to the experiences of people with disability within the education system.

In summary, we propose the need to;

- 1) **Teach about and model rights** – there needs to be (i) a better understanding of where, when, and how rights are learnt by children, teachers, and parents, and (ii) support provided to educating all adults and all children about rights. This needs to occur at all levels of education within and outside of school.
- 2) **Remove exclusion as an ‘easy option’** for schools unwilling or unable to change and/or cater for the diverse needs of all children wanting to attend their school. To do this, it is necessary to push for **closing special schools**²⁷. While mainstream schools still have the option of ‘offloading’ children into special schools and segregated settings, the transformation required in mainstream settings will be hindered. Alongside this, there needs to be careful support and consideration for how to minimise potential trauma that may occur for families who have previously been let down by inadequate practices in mainstream settings that have been marketed as ‘inclusion’.
- 3) **Change the system to fit the students**, not making students fit the system.
- 4) **Additional research and multi-stakeholder collaboration and partnerships** into how to transition from a dual to single system, multi-stakeholder perspectives, partnerships and collaboration, where and how rights knowledge is obtained, how rights are/aren’t afforded in schools in different ways and how to work together to remedy this.



An education that is truly inclusive is incompatible with a dual educational system. Education systems that are *genuinely inclusive* benefit all children and young people and embrace the diversity and uniqueness of each individual. In particular, education systems that are *genuinely inclusive*, provide particular benefit to children and young people who may currently be disadvantaged or marginalised in the current system. Re-envisioning schools and the ways that they work will enable greater flexibility and ability for schools to respond to students effectively. Approaches that attempt to retrofit inclusion on top of an already flawed system limit opportunities for imagining the ways that inclusive schools can (and should) be.

Conclusion

There is often a disconnect between knowledge and action when it comes to rights. If people do not know the rights of themselves and others, then they may not know when their rights are being breached, or when they are impacting the rights of others. Knowledge about rights by adults and children is part of the Convention on the Rights of the Child² (Article 42) and the Convention on the Rights of Persons with Disabilities³ (Article 8). This reiterates the insufficiency of a claim that lack of awareness of rights knowledge is sufficient justification for limits on rights affordances provided for children in education. Schools are a critical vehicle through which rights are both realised and taught. However, many schools, as they currently exist, demonstrate a lack of understanding and awareness of the human right to genuine inclusive education (with ongoing impact on the recognition of other rights) and perpetuate negative attitudes towards individuals with disability. We propose that reimagined *inclusive* schools can both teach and model rights and positive attitudes towards all children, and more readily embrace each individual's uniqueness and diversity.

References

- ¹ United Nations (1948). Universal Declaration of Human Rights. Paris, France.
- ² United Nations (1989). Convention on the Rights of the Child. Geneva, Switzerland.
- ³ United Nations (2008). Convention on the Rights of Persons with Disabilities. New York, NY.
- ⁴ United Nations (2016). General Comment no. 4 the right to inclusive education. CRPD/C/GC/4. Geneva, Switzerland.
- ⁵ United Nations (2018). Combined fifth and sixth periodic reports submitted by Australia under article 44 of the Convention, due in 2018. CRC/C/AUS/5-6. Geneva, Switzerland. Retrieved from https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fAUS%2f5-6&Lang=en
- ⁶ United Nations (2019). Concluding observations on the combined fifth and sixth periodic reports of Australia, CRC/C/AUS/CO/5-6. Geneva, Switzerland. Retrieved from https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fAUS%2fCO%2f5-6&Lang=en
- ⁷ Department of Education, Skills and Employment. (2020). Impact of learning from home on educational outcomes for disadvantaged children. https://www.dese.gov.au/system/files/doc/other/lamb_-_impact_of_learning_from_home.pdf
- ⁸ Graham, L. J. (2020). Inclusive education in the 21st century. In L. J. Graham (Ed.). *Inclusive Education for the 21st Century* (pp. 2-26). Allen & Unwin.
- ⁹ McCathy, T. (2018). Regulating Restraint and Seclusion in Australian Government Schools: A Comparative Human Rights Analysis. *QUT Law Review*, 18, 194. DOI:10.5204/qutlr.v18i2.746
- ¹⁰ Cukalevski, E., & Malaquias, C. (2019). A CRPD analysis of NSW's policy on the education of students with disabilities – A retrogressive measure that must be halted. *Australian Journal of Human Rights*, 25(2), 232-247. <http://doi.org/10.1080/1323238X.2019.1609720>



- ¹¹ Poed, S., Cologon, K., & Jackson, R. (2020). Gatekeeping and restrictive practices by Australian mainstream schools: results of a national survey, *International Journal of Inclusive Education*, doi: [10.1080/13603116.2020.1726512](https://doi.org/10.1080/13603116.2020.1726512)
- ¹² Brantefors, L. & Quennerstedt, A. (2016). Teaching and learning children's human rights: a research synthesis, *Curriculum and Teaching Studies: Cogent Education*, 3(1), 1247610. <https://doi.org/10.1080/2331186X.2016.1247610>
- ¹³ Todres, J. (2020). Making children's rights widely known, *Minnesota Journal of International Law*, 29(1), 109-149.
- ¹⁴ Butlin, M., & Trimmer, K. (2019). The need for an understanding of education law principles by school principals. In K. Trimmer, R. Dixon, and Y. S. Findlay (Eds.). *The Palgrave Handbook of Education Law for Schools* (pp. 3-21). Cham, Switzerland: Palgrave MacMillan
- ¹⁵ Gilbert, R. (2019). General capabilities in the Australian curriculum: promise, problems and prospects, *Curriculum Perspectives*, 39, 169-177.
- ¹⁶ Australian Government. (2005). Disability Standards for Education 2005. Retrieved from <https://docs.education.gov.au/node/16354>
- ¹⁷ Poed, S. (2016). Adjustments to curriculum for Australian school-aged children with Disabilities: What's reasonable? <http://hdl.handle.net/10072/365259>
- ¹⁸ Gillett-Swan, J. (2019). No child should be sacrificed for the 'greater good' of a school or 'best interests' of majority. *EduResearch Matters* <https://www.aare.edu.au/blog/?p=3757>
- ¹⁹ *Connor v State of Queensland (Department of Education and Training) (No 3) [2020]*
- ²⁰ Gillett-Swan J. & Sargeant, J. (2018) Assuring children's human right to freedom of opinion and expression in education, *International Journal of Speech-Language Pathology*, 20(1), 120-127. <https://doi.org/10.1080/17549507.2018.1385852>
- ²¹ McLeod, S., & McKinnon, D. H. (2007). Prevalence of communication disorders compared with other learning needs in 14 500 primary and secondary school students. *International journal of language & communication disorders*, 42(S1), 37-59.
- ²² Tancredi, H. (2020). Meeting obligations to consult students with disability: methodological considerations and successful elements for consultation. *The Australian Educational Researcher*, 47(2), 201-217.
- ²³ McLeod, S. (2011). Listening to children and young people with speech, language and communication needs. Who, why and how? In S. Roulstone & S. McLeod (Eds.), *Listening to children and young people with speech, language and communication needs* (pp. 23-40). J&R Press.
- ²⁴ Cologon, K. (2019). Towards inclusive education: A necessary process of transformation. Children and Young People with Disability Australia (CYDA). https://apo.org.au/sites/default/files/resource-files/2019-10/apo-nid265286_1.pdf
- ²⁵ Lindsay, S. & Edwards, A. (2013) A systematic review of disability awareness interventions for children and youth, *Disability and Rehabilitation*, 35(8), 623-646, doi: [10.3109/09638288.2012.702850](https://doi.org/10.3109/09638288.2012.702850)
- ²⁶ Armstrong, M., Morris, C., Abraham, C., & Tarrant, M. (2016). Interventions utilising contact with people with disabilities to improve children's attitudes towards disability: A systematic review and meta-analysis, *Disability and Health Journal*, 10(1), 11-22.
- ²⁷ Mann, G. (2020, June 29). Why are special schools still on the menu? The C4IE Blog. <https://research.qut.edu.au/c4ie/2020/06/29/why-are-special-schools-still-on-the-menu/>

The Centre for Inclusive Education (C4IE) is a Faculty Research Centre at the Queensland University of Technology (QUT). The purpose of C4IE is to reduce exclusion and increase inclusion to provide all children and young people with equitable opportunities to learn and develop as independent and valued human beings. C4IE contributes to this important goal by conducting high-quality research across four interlocking programs: (i) Engagement and Learning, (ii), Inclusion and Exclusion, (iii) Indigenous Education Research, and (iv) Safety and Wellbeing. For more information about C4IE, its members and research outputs, please contact Ms Haley Tancredi, C4IE Coordinator h.tancredi@qut.edu.au or visit www.research.qut.edu.au/c4ie/

This submission was prepared by members of the Centre for Inclusive Education with contributions from: Dr Jenna Gillett-Swan, Dr Glenys Mann, Ms Haley Tancredi, Professor Linda Graham, Associate Professor Shiralee Poed, Dr Carly Lassig, Dr Sofia Mavropoulou, and Dr Grace O'Brien.