

A New Era for Persons with Disabilities:

AN INTERVIEW WITH DR. PAUL HARPUR

Less than 10% of all published works in developed countries are made into accessible formats. In developing countries, the situation is even worse: less than 1% of books are accessible.³ Because of this, millions of people are being denied access to books and other printed materials. How does this affect their education?

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IN HIS MOST RECENT BOOK, “DISCRIMINATION, Copyright and Equality: Opening the E-Book for the Print Disabled,” Dr. Paul Harpur, senior lecturer at TC Beirne School of Law at the University of Queensland, analyses the interaction between anti-discrimination and copyright laws and its effect on people with disabilities in their capacity to access print content.

Harpur has published extensively in the areas of employment, disability rights, anti-discrimination



Paul Harpur
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PHOTO: Image courtesy of The University of Queensland

GLOBAL ACCESSIBILITY AWARENESS DAY

To Dr. Paul Harpur, there are several reasons, beyond legal requirements, for universities to make accessibility a priority. One of them is the economic argument:

“Accessible universities help people move from welfare to being economic actors in the community.”

and human rights laws. He has a PhD in workplace relations and employment law and has been appointed an International Distinguished Fellow with the Burton Blatt Institute, from Syracuse University, in New York. He is also a former elite athlete who competed in several international competitions, including the 2000 and 2004 Paralympics Games.

In Harpur’s opinion, the United Nations Convention on the Rights of Persons with Disabilities (see box) has started a new disability politics which is essentially a new era in how society views and includes people with disabilities. **“Moving forward, I think we are experiencing a paradigm shift which will have far reaching consequences for inclusion, and technology providers have the opportunity to be at the forefront of enabling society for all uses.”**

In this interview, he shares his thoughts on accessibility and education.



E-LEARN: Dr. Harpur, could you share with us a little about your personal history with accessibility and how did that influence your work?

DR. PAUL HARPUR: I was hit by a train when I was 14 years old and I lost my eyesight. So, I went from being able to read standard books and use the computer using eyesight, to suddenly waking up and having to try and get used to using adaptive technology and other alternative means to access the written word. This was a significant challenge because, back in 1993, technology was significantly less advanced. We did not have, for example, e-books (I don’t think they even existed), the Internet was non-existent, at least where I lived, and that was really hard. So, throughout my studies, the advances in technology have made a difference and for me, now working, some of the

things I use with Blackboard Learn go so far that I would say are exceptionally enabling. Exceptionally enabling is the capacity to have students submit material electronically, so I get my students to upload the assignments in Word into Blackboard Learn and I can click on a “download all” function, download them all to my computer, mark them all and upload and read comments. We have only abolished paper handing and paper assignments relatively recently and, for me, when I started teaching, that was always one of my concerns: how would I mark term papers? But the capacity to upload papers has made a huge difference because I do not have to ask for significant adjustments in my workplace. The students upload their papers and I just mark them and they get the marks, which is very, as I said, exceptionally enabling.



E.L: Reflecting on your own teaching and learning experiences, how do you think inclusive technology has evolved in the past few decades and how have online learning and new technologies contributed to this scenario?

DR.P.H: New technologies can be enabling and disabling depending on how they are designed. I always think there are two components to any technological advance or change. With any technology change, you have the way of treating the design itself but also the user. So, if there’s a change in, say, Blackboard Learn, and if it’s going to take me a week to learn it, my general approach will be to do my best not to have to learn it, because I don’t have the time. Any change, when you talk about it being disabling or enabling, if users are really advanced with their adaptive technology and it is going to take a long time [to learn how to use a new one], do they have someone who will train them on the change? Or, do they have the time to attend the training? If it is to be used for their workplace, will their employer give reduced workloads to enable participating in such training?

But, one of the things that work well is online teaching. It’s really good for academics that have mobility impairments. I was talking to an academic earlier this week who has an substantial mobility and fatigue impairment, which results in them being unable to attend campus regularly, but because a lot of what they do is online they can work on their material while at home, in bed, and even



in one example while at the hospital. Everyone in Australia has 10 days of sick leave paid per year and once that's gone you can use unpaid leave, but if you take a lot of leave you will not keep your job; even though it is a right to take personal leave. That person, if it wasn't for online teaching, would be unemployed. So, they have gone from unemployment to employment just because of technology advances.



E.L.: Awareness is the first step towards offering students a truly inclusive and accessible learning experience. Why should educational institutions consider accessibility a strategic priority?

DR.P.H.: There are obviously big moral and legal reasons. Australia, United States, Canada, New Zealand, United Kingdom, Ireland, and most of Europe, all have reasonably robust anti-discrimination laws. And in countries where that is not a requirement, then you can advertise accessibility as an above compliance—a measure which does not cost the purchaser any more. In terms of the university, I think it is important, particularly for the state funded or state supported universities, if you can train someone, get someone into a job, rather than being at welfare, then this individual goes from being an economic cost on society to becoming an economic contributor and tax payer. From my example, I am totally blind; my brain is fine, but

Persons with print disabilities depend on accessible e-books to be able to read print content. Dr. Paul Harpur, senior lecturer at University of Queensland, talks about that and more.

I can't do a lot of jobs. So, I am a lawyer. I go from having to rely on government support, to being out and contributing to society financially. I think a university has, as a state funded body, an obligation to help students, and that is beyond legal requirements, beyond the Convention on the Rights of Persons with Disabilities, which does impose standards. There's an obligation added on article 24 to universities that are recipients of state funding. I talked about that in a paper I wrote with a colleague of mine from Harvard, Michael Stein, which is under submission acceptance with Northeastern University Law Review, about universities as change agents under the Convention on the Rights of Persons with Disabilities. And then there's also the economic argument that if the state is getting the universities to be accessible, it helps people move from welfare to being economic actors in the community.



E.L.: When it comes to accessibility, institutions historically have been reactive to laws, avoiding penalties, or to student complaints. Would you say there is an opportunity for institutions to start considering accessibility from the start when designing their courses and systems?

DR.P.H.: If you consider a university and who purchases any product, for example, there are many different people who make the purchase – from a centralized procurement team to faculty members – and everyone uses the equipment in different ways, which can also create problems. Having accessibility filtered through every stage is challenging and it is something that we are trying to fix, but when the United Nations Convention looks at Universal Design, it recognizes that there will be a lot of situations where a design does not include everyone and you'll have to make a reasonable accommodation. We try to become more proactive, but there's always going to be a large reacting component to it. **There will always be some issues, but the idea is to try to minimize them so, at every stage of that process, someone does not have to negotiate their access and their impairment.** If every day you have to take time away from studying and work, if you have an impairment, you usually might have to work harder already, so anything added on top of that is a significant burden. Not to mention the daily emotional labor of negotiating a disabling world with all its prejudices.



E.L.: How can professors and instructors create an inclusive learning experience for their students even when they are dealing with limitations such as a lack of resources?

DR.P.H.: It is exceptionally challenging for a professor to be inclusive if the university and the school don't support that. If you are a professor from a university with a thousand students, you are already busy. And if there are five or 10 students that need extra help, if you do not have support from someone in the university, it is very hard. All universities in Australia, and most around the world, have a disability office to help students with disabilities and to provide some support to academics. The level of support, however, is substantially restrained by resource limitations.

The best way to introduce universal design into university and teaching, I think, is having the system set up so academics and others do not need to think to make it inclusive. So, documents like PowerPoint presentations have templates which are already inclusive and features, for example, like Blackboard Ally are activated on all sites, with the result being automatically sent to a disability advisor. So, if there are problems, the disability advisor says, "there's going to be barriers here", so as the PowerPoint goes up there, it is immediately notified and they can take action really quickly. Another thing is, the system should be designed so the professor doesn't create problems: the room is accessible when they book it, the space is accessible. Basically, the person teaching does not have to think about being inclusive because the system makes it as inclusive as possible.



E.L.: Your most recent book analyzes the interaction between discrimination and copyright laws and how these laws affect people with disabilities in their

Marrakesh Treaty

The main goal of the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (adopted in 2013 and in force since 2016) is to create a set of mandatory limitations and exceptions for the benefit of people with such disabilities.¹ The global "book famine" is addressed in the Treaty in two ways:

- The Treaty enables authorized entities, such as blind persons' organizations and libraries, to more easily reproduce works into accessible formats for non-profit distribution.²
- It also permits authorized entities to share accessible books and other printed materials with other authorized entities from different countries.³

capacity to read print content. Could you explain this issue to us and what kind of barriers does it create?

DR.P.H.: Standard books can't be read by people who have print disabilities. If you have a mobility impairment and you can't hold a book, if you have a vision impairment and you can't read the screen, or if you have a cognitive impairment where you can't read because you have dyslexia... Now, you have e-books, there are tens of millions of them, and it's no longer necessary to do anything to these books because they are born digital. But copyright holders don't want to lose their financial investment and there are some key texts that make millions a year, so they do not want their books to be out and downloaded for free. So, there's a tension there between people who want to read it, because they can't read any other format, and people wanting to exercise copyright to make profits. Some of the issues are around digital rights management systems, which reduce the capacity to copy and the capacity of the user to engage with the book in certain ways. Unfortunately, the outcome is that it stops people's screen readers adaptive technology to be able to use that technology over that book, so if you can't read the screen and you need to listen to the screen with a screen reader, you can't access that book as the system blocks it, and that is one of the main tensions. There's a strong pressure to keep copyright and not to give access. It's changing now, the Marrakesh Treaty (see box) has shifted the International Law towards access. Most of the e-book publishers are now realizing that if they don't provide access, then people



will just strip the protections off anyway. Hopefully this issue will slowly go away, or at least the barriers to access. It is a big issue especially in poor countries, like India, because the people who are most in need of access can't afford the databases.

E.L. Is it possible to protect copyright and facilitate access to content at the same time? How?

DR.P.H. The publishing houses themselves are finding ways to distribute their materials in ways that are profitable but usable by everyone, so that's helping. A lot of the publishing houses work with charities, like Bookshare in the United States, for example, and give access and use the existing framework. We used to get Braille books and books on cassette tape to enable them to get access to digital versions. Those charities have been exceptionally robust in protecting copyright because they have a very strong interest in the continual flow [of books], so, they want to try to avoid people distributing. That is one way it is working very well. Essentially, the publishers give access to the charities and the charities do their policing, and they do a

very good job because they want to keep the flow coming and everyone is winning. **More and more e-books are being born and published in accessible formats now so it is becoming an amazing environment for learning, research and teaching.** Realistically, if someone wants to breach copyright it is very easy as it is not hard to get an e-book for anyone. Most digital rights management you can strip all the protections off it in a very short order anyway, so putting them there seems a waste of time.

E.L. What do you think is the role of universities in providing equal access to books and other learning materials?

DR.P.H. Universities are in an exceptionally powerful position and they can use their market share to tell the publishers that if they do not provide access, the institutions won't be using their products.

Indeed, that is some of the litigation in the United States: there was one settlement about a software package that wasn't accessible and the student sued, and they had a settlement which was made public, and the software provider was required to either make it accessible within the time frame or the university would no longer use products by that company. You might think, "well, that's got to mean students miss out," but most books are published on several platforms, so the platform that isn't accessible will lose business. There have also been a few examples where people have stopped using technology. The Kindle, for example, was fully accessible and then they got pressured by corporate holders to limit access and became inaccessible, so Arizona University no longer used the Kindle. The Kindle quickly realized that they were losing market share and made an accessible version for the education sector. If they didn't, they were going to lose a lot of money very quickly.

E.L. How do you think higher education institutions can contribute to helping persons with disabilities transition from university into the workforce?

DR.P.H. I think this is exceptionally vital to students who have impairments, because, if you have come from K-12, you have a lot of support from the educational system, and then you get to university and there's a bit less, but when you get to the workforce there's not less, there's basically none. In Australia, we have a full court and a federal court that say you have a right to access education, but there's no equivalent of that in the workforce, so you don't have a right to *access work*, you have a right to *work*, but it's not the same thing, there's a significant difference. So, you are on your own. Here, at the university, as an employee and as a blind person, I can access some of the support if I need it, but I have to act on my own behalf—I have to know how I can operate, I have to know what supports I need and how to get them. So, all the things that a disability advisor would do for a student, professionals need to do for themselves after graduation. They need to know who to ask for help and how to ask for it, because most employers don't have those resources. If you are at a job interview, you need to be able to convince the perspective employer how you will operate and get up to full speed quickly and cheaply. For example, when I went for a job with the government, I found out what was the system they were using and what were the databases, I would try to find a bit of information out before I went to the job interview, so I could say, "well, I know how to use your system already, no troubles at all." So, it's difficult and challenging, and students are not helped or trained to do that. We are essentially giving them a degree that they are not going to be able to use because they will not get a job. **Universities can help students with disabilities by retaining professionals with disabilities to mentor them and creating spaces where students with disabilities can network and share experiences.** Universities are also sites of research and development, and they can accordingly research into how persons with disabilities are operating through education and work and find strategies to help realize the dream of ability equality.

E.L. What trends do you see developing now that should define inclusive education in the upcoming decades?

DR.P.H. In terms of developments in technology, I would say instructional materials for education, because everything is going into tablets and computers, which means that the providers of those computers and their systems are making them accessible and usable—usable for everyone—and that could be easier for us. I suppose the bottom challenge will be, if those systems are expensive, it might create a financial barrier for people, but for people with disabilities, if they are able to use the same technology as everyone, then it will be cheaper than disability-inclusive specialized material. When I was in high school, I had to buy a "talking laptop" essentially, and that was maybe about AUS \$4,000. This was back in the 1990s. But these days I can get a laptop for a quarter of that price, or probably even less than that.

I think the Convention on the Rights of Persons with Disabilities has started a new disability politics, which is essentially a new era in how society views us and includes people with disabilities. So, moving forward, I think we are in this shift where we will have far-reaching consequences for inclusion, and technology providers have the opportunity to be at the forefront of enabling society for all uses.

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Convention on the Rights of Persons with Disabilities

Adopted in 2016 and in force since 2008, the United Nations Convention on the Rights of Persons with Disabilities has the purpose to "promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity." The Convention was ratified by 177 countries and has 8 guiding principles:

1. Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons
2. Non-discrimination
3. Full and effective participation and inclusion in society
4. Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity
5. Equality of opportunity
6. Accessibility
7. Equality between men and women
8. Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities