

Human Rights. YES!

Action and Advocacy on the
Rights of Persons with Disabilities

SECOND EDITION



Janet E. Lord, Katherine N. Guernsey, Joelle M. Balfe,
Valerie L. Karr, and Allison S. deFranco
Nancy Flowers, Editor

HUMAN RIGHTS EDUCATION SERIES: Topic Book 6

A Publication of the University of Minnesota Human Rights Center
Developed by BlueLaw International, LLP on behalf of One Billion Strong

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Box Set

ISBN-13: 978-0-9675334-6-9

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ABOUT THE HUMAN RIGHTS EDUCATION SERIES

The Human Rights Education Series is published by the University of Minnesota Human Rights Center. Edited by Nancy Flowers, the series provides resources for the ever-growing body of educators and activists working to build a culture of human rights in the United States and throughout the world. Other publications in the series include:

Human Rights Here and Now:

Celebrating the Universal Declaration of Human Rights edited by Nancy Flowers

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Human Rights. YES! – 1st ed.:

Action and Advocacy on the Rights of Persons with Disabilities by Janet E. Lord, Katherine N. Guernsey, Joelle M. Balfe & Valerie Karr

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ABOUT ONE BILLION STRONG

One Billion Strong (OBS) is an international, non-governmental organization working to advance the rights of persons with disabilities and to facilitate participation, equality and inclusion in society. The mission of OBS, so named to indicate the substantial world population of persons with disabilities, is to ensure that the obligations set forth in the United Nations Convention on the Rights of Persons with Disabilities are made accessible to all through participatory education and implemented through innovative advocacy and example. OBS is managed by an international Board of Directors, an Advisory Board, and an Honorary Board of First Ladies.

One Billion Strong is committed to participatory human rights education that promotes the rights of persons with disabilities. *Human Rights. YES! Action and Advocacy on the Rights of Persons with Disabilities*, 2nd ed., is a premiere reference manual for training in human rights based on the CRPD. Using this manual as our guide, One Billion Strong supports various projects to advance human rights education for persons with disabilities throughout the world.

PARTNERS TO: *HUMAN RIGHTS. YES!* SECOND EDITION

BlueLaw International, LLP is a veteran-owned law firm specializing in international law and development programming. BlueLaw's Human Rights and Inclusive Development practice works with disabled people's organizations, international human rights institutions, and governments to advance disability inclusion in international development programming worldwide.

The University of Minnesota Human Rights Center, through its Human Rights Education programme works to create and distribute human rights education via electronic and print media; to train activists, professionals, and students as human rights educators; and to build advocacy networks to encourage effective practices in human rights education.

PARTNERS TO: *HUMAN RIGHTS. YES!* FIRST EDITION

Advocating Change Together (ACT) is a grassroots disability rights organization run by and for people with developmental and other disabilities.

Disabled Peoples' International (DPI) is the only global, grassroots, cross-disability network of national organizations and assemblies of persons with disabilities.

The Harvard Law School Project on Disability (HPOD) supports the development of disability civil society, informs innovative legislative and policy development and provides legal advice and human rights training to persons with disabilities, their representative organizations, non-governmental organizations, National Human Rights Institutions, and governments.

The Shafallah Center for Children with Special Needs, located in Doha, Qatar, is a Center of Excellence designed to provide comprehensive services to children with developmental disabilities, their families, and the community.

SECOND EDITION FOREWORD



The global population of persons with disabilities is estimated to be over one billion, according to the World Report on Disability. Persons with disabilities are more likely than others to live in poverty, experience discrimination, and face exclusion from education, employment, and sport, among other aspects of community life. The adoption of the Convention on the Rights of Persons with Disabilities (CRPD) in 2006 by the UN General Assembly signaled the international community's acknowledgement that much work is needed to ensure that persons with disabilities have equal access to all human rights and fundamental freedoms.

One Billion Strong is pleased to be associated with and present the Second Edition of *Human Rights. Yes! Action and Advocacy on the Rights of Persons with Disabilities* as it furthers our organization's commitment to human rights education and training as an essential tool to promote, protect, and realize the rights set forth in the CRPD. This edition reflects numerous developments that have occurred since the release of the First Edition in 2007.

Significantly, the CRPD has entered into force and now has more than 114 ratifications. The monitoring body of the Convention, the Committee on the Rights of Persons with Disabilities, is fully operational and has attained its maximum number of members. Its work in reviewing State reports, engaging in dialogue with States Parties, issuing concluding observations and recommendations, and contributing to the greater understanding of CRPD obligations is steering treaty implementation around the globe. Many countries are reforming legal frameworks and courts are actively interpreting and applying the CRPD at regional and domestic levels.

Using the CRPD as its centerpiece, One Billion Strong's disability rights education and awareness initiative responds to the United Nations Declaration on Human Rights Education and Training. In keeping with the spirit of the Declaration, our human rights education programming consists of three components:

- **Education for human rights**, which includes empowering persons with disabilities and their allies to enjoy and exercise their rights and to respect and uphold the rights of all;
- **Education through human rights**, which includes learning and teaching in keeping with the participatory principles of the CRPD; and
- **Education about human rights**, which includes providing knowledge and understanding of the CRPD, including its principles and its mechanisms for implementation.

The Second Edition has updated, user-friendly formats and is now divided into four parts to facilitate the needs of a diverse audience of readers and trainers. Part 1 provides an overview of human rights and disability; Part 2 reviews each right laid out in the CRPD; Part 3 provides information about different advocacy strategies

to promote CRPD implementation; and Part 4 provides active learning exercises to help facilitate CRPD human rights education programming.

I urge disabled people's organizations, disability advocates, civil society organizations, national human rights commissions, governments, development organizations, and all other allies to benefit from and build upon this resource in advancing the human rights of persons with disabilities.



Hassan Ali Bin Ali

July 2012

One Billion Strong - Chairman

FIRST EDITION FOREWORD BY THE HIGH COMMISSIONER FOR HUMAN RIGHTS



On current estimates, one in ten people lives with a disability. Of these, a high proportion live in poverty, on the margins of society, and their rights are all too often breached. In many cases, people are simply unaware that they have rights and unaware of the opportunities that exist to combat inequality and bring about positive change. The adoption of the Convention on the Rights of Persons with Disabilities and its Optional Protocol has provided us with the means to shift disabling attitudes and environments in society and empower persons with disabilities to realize their rights. Now is the time to bring this new Convention home, to people, and I believe that “Human Rights. YES!” offers a much-needed tool to achieve this.

The curriculum is an accessible and easy-to-use training manual and provides a major resource for human rights advocates and practitioners to strengthen advocacy and human rights education. The division of the training material into three chapters – elaborating upon the human rights context of disability, a right-by-right explanation of the Convention and plans for future advocacy and action – comprehensively covers the human rights of persons, focusing in particular on the new Convention but drawing also from the body of law and experience of the broader human rights system. Importantly, each unit encourages participants in the course to make commitments to promote respect for the rights of persons with disabilities beyond the classroom. The chapter format offers practitioners the option of providing a full training package over an extended period, or shorter training sessions on specific human rights issues.

Human rights education through curricula such as “Human Rights. YES!” is an essential step in empowering people and communities. For persons with disabilities and their representative organizations, learning about human rights can help combat discrimination when it occurs and strengthen advocacy efforts to avoid it in the future. Significantly, through informed advocacy, we can help build the capacity and will of governments to undertake the law and policy reform needed to bring about change on the ground. For the broader community, the curriculum raises awareness of human rights and the ways that persons with disabilities can and do contribute to society – an important step in building more inclusive societies.

“Human Rights. YES!” is an indispensable addition to the human rights education tool-kit and I take pleasure in being associated with it. I congratulate the authors and sponsors for this initiative and I hope that it is widely used.

A handwritten signature in blue ink, appearing to read "Louise Arbour".

Louise Arbour
Former United Nations High Commissioner
for Human Rights (2004-2008)

ABOUT THE EDITOR

Nancy Flowers is a writer, editor, and human rights activist. She has worked to develop Amnesty International USA's education program and was a co-founder of Human Rights USA. Recent publications include *Compassito, a Manual for Children's Human Rights Education* (Council of Europe, 2007) and *Local Action/Global Change: Learning about the Human Rights of Women and Girls* (with Julie Mertus) (Paradigm Press, 2007). She has served as consultant to governments, NGOs, and UN agencies.

ABOUT THE SECOND EDITION AUTHORS

Janet Lord, lead author of the first and second editions of *Human Rights. YES!* is a Senior Partner in the international law and development firm BlueLaw International, LLP, where she directs the Human Rights and Inclusive Development Practice. She is also a Senior Research Associate at the Harvard Law School Project on Disability and an Adjunct Professor of Law at the University of Maryland, Francis King Carey School of Law. A human rights educator with more than 15 years of experience, Ms. Lord has designed and delivered human rights education programmes in all regions of the world. She participated in all sessions of the negotiation of the UN Convention on the Rights of Persons with Disabilities, drafting proposed treaty text and advising civil society and governments alike on complex legal and technical matters. A leading expert on international human rights law and disability, Ms. Lord has implemented human rights programming for a number of national and international organizations, including the UN Office of the High Commissioner for Human Rights, the United Nations Development Programme, the Secretariat of the CRPD, the World Bank, the US National Council on Disability, Disabled Peoples International, and IFES.

Allison deFranco is a disability rights lawyer who directs projects in BlueLaw's Human Rights and Inclusive Development practice. She has served as an inclusive education and disability access specialist on various education, democracy and governance programs funded by the US Government, AusAID, the World Bank and private foundations. Ms. deFranco is a skilled trainer and facilitator and has designed and implemented a variety of advocacy-oriented human rights evaluations, assessments, and trainings both domestically and internationally.

ABOUT THE FIRST EDITION AUTHORS

Katherine Guernsey is an attorney with a practice focusing on public international law, human rights, disability, and international development. Her clients include the World Bank Group and Disabled Peoples' International. She is also an adjunct professor at the American University School of International Service, where she teaches human rights. Ms. Guernsey served as legal counsel to a variety of disabled people's organizations and governmental delegations throughout the drafting of the UN Convention on the Rights of Persons with Disabilities, and continues

to work on issues related to ratification and implementation of the Convention. She has designed and implemented human rights education and awareness-raising initiatives for people with disabilities in Central and South America, Africa, Europe, Asia, and the Middle East.

Joelle Balfe is an independent consultant with an extensive practice area that includes disability issues, international public health, and human rights law and policy. She has developed human rights education curricula and materials for a range of non-governmental organizations, as well as spearheaded national and international advocacy campaign initiatives. Ms. Balfe provided core analytical and advocacy support to both governments and civil society participants in the development of the UN Convention on the Rights of Persons with Disabilities. Her diverse consulting practice provides analytical, communications, advocacy, and writing services to individuals, organizations, and institutions in the public and private sectors.

Valerie Karr is an expert in the field of child education with a strong clinical background in special education and extensive experience in international education programming, including consultancies for UNESCO's inclusive education sector. Currently a Ph.D. candidate at Teachers College, Columbia University, Ms. Karr is a specialist in qualitative and quantitative program analysis, including assessment, evaluation, and the development of measurement tools and strategies.

ACKNOWLEDGEMENTS – SECOND EDITION

We would like to recognize the talented BlueLaw team who worked tirelessly on the second edition of *Human Rights. YES!*. The authors of the second edition, Janet Lord and Allison deFranco, were able to integrate their passion, commitment, and expertise into this new training tool. Without Janet's leadership, vision, and sense of purpose, no edition of this manual would ever have been possible. Allison provided new ideas and determination to ensure that this publication was an effective, user-friendly resource for both advocates and practitioners. Both Mathew Burns and Sarah Fowkes from the BlueLaw team provided research, fact-checking, and editing support under tight deadlines.

With the publication of the second edition of *Human Rights Yes!*, Nancy Flowers has now edited eight publications in the Human Rights Center's Human Rights Education Series. Nancy provided guidance and encouragement every step of the way and has been an amazing role model to this publication team and to human rights educators across the globe for decades. We would also like to acknowledge additional Human Rights Center team members, Natela Jordan, Vicky Nguyen, and Patrick Finnegan for their contributions.

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AN INTRODUCTION TO *HUMAN RIGHTS. YES!*

THE PURPOSE OF HUMAN RIGHTS. YES!

The adoption of the **UN Convention on the Rights of Persons with Disabilities (CRPD)** by the UN General Assembly in 2006 presents both a challenge and an opportunity for the international disability rights movement. The human rights of persons with disabilities are now set forth in a legally binding treaty and provide a common language for engaged advocacy on a wide range of issues of importance to persons with disabilities. The challenge is to undertake broad-based education around the CRPD to ensure that persons with disabilities worldwide know and claim their rights to live self-determined lives in their communities with dignity.

WHAT IS NEW IN HUMAN RIGHTS. YES! SECOND EDITION?

The first edition of *Human Rights. YES!* appeared in 2007, just a year after the General Assembly adopted the CRPD and opened it for ratification. This new edition reflects the significant developments in the field of disability rights that have evolved in the following five years. Not only has the Convention received enough ratifications to enter into force in 2008, but as a result of the reporting process required by the treaty, the **CRPD Committee**, which monitors the treaty, has begun to issue **General Comments, Concluding Observations, and Recommendations** that encourage **States Parties** to take action to implement the treaty fully. Furthermore, disabled people's organizations around the world have begun to use the CRPD to advocate for the full realization of the human rights of persons with disabilities.

To capture these important developments, this new edition offers:

- Updated statistics on disability rights around the world;
- Case studies of advocacy for the rights of persons with disabilities;
- Examples of legal cases that illustrate how national laws are being changed to meet the requirements of the CRPD;
- A new section that explains how the CRPD is monitored and how its monitoring mechanism can be used for advocacy;
- A CD-ROM containing *Human Rights. YES!* in both PDF and an accessible word document. The CD-ROM contains a file of all the photos and images used in the manual for facilitators to use during trainings; and
- A passport-sized booklet containing both full-text and abbreviated versions of the CRPD.

USING HUMAN RIGHTS. YES!

This manual is intended to help all those who care about the human rights of persons with disabilities to become effective educators and advocates on human rights and disability, able to share both their passion and their knowledge. *Human Rights. YES!* draws on the experience of many educators and organizations, illustrating effective advocacy practices and distilling their accumulated insights in the development of participatory exercises.

Like most human rights education manuals, *Human Rights. YES!* is designed to be used as both a reference and tool: easy to read, easy to use, easy to photocopy, easy to relate to people's real lives. Each part and chapter stands alone and may be read and used independently, depending on the needs of the reader. Throughout the manual, technical terms are printed in boldface type and defined in Annex 3, Glossary.

The second edition of *Human Rights. YES!* is also distributed with a CD-ROM and a passport-sized booklet. The CD-ROM contains electronic copies of the manual in PDF and an accessible word document version. The CD-ROM also contains a file of all the photos and images used in the manual for facilitators to use during trainings as appropriate. Please note that to ensure accessibility facilitators must describe any photo or image that they show during trainings. The passport-sized booklet contains both full-text and abbreviated versions of the CRPD for easy reference.

THE STRUCTURE OF HUMAN RIGHTS. YES!

Human Rights. YES! is unique in that it is written and designed for use by a diverse audience, taking into account the accessibility needs of persons with disabilities. However, adaptation for specific learners is recommended throughout the text. Facilitators should be aware of the needs of any particular audience and adapt the physical environment, activities, and all means of communication to make everyone's full participation possible. For more information on facilitation, see Part 4, Facilitating Human Rights Learning.

Part 1, Understanding the Human Rights of Persons with Disabilities, sets out some basic principles for thinking about human rights and disability. It provides a review of who is responsible for human rights and introduces the content of the CRPD. It also summarizes common attitudes and perceptions about disability that may create barriers to the realization of human rights and explores the way in which disability issues have been defined and researched. It concludes by setting forth a rights-based approach to disability and making the links between disability, human rights, and effective advocacy.

Part 2, The Convention on the Rights of Persons with Disabilities, provides a comprehensive overview of the human rights set forth in the CRPD in seventeen chapters. Each chapter considers human rights set forth in the CRPD, providing an accessible explanation of each right. Illustrative examples of advocacy strategies, helpful facts, and other topical information are also provided. Each chapter concludes with a short list of useful additional resources on the topics covered.

Part 3, Advocacy! Taking Action for the Human Rights of Persons with Disabilities, approaches advocacy at both the grassroots and the international levels. Section 1 explains the essentials of effective human rights advocacy and offers step-by-step advice for developing, articulating, and implementing an advocacy action plan. It provides advocacy planning templates as well as inspiring examples of how persons with disabilities are taking action for their human rights.

Section 2 explains in detail how human rights **treaty bodies** monitor the implementation of treaties. It describes the functions of the **CRPD Committee** and the ways in which advocates can interact with this process, especially through the **Optional Protocol** to the CRPD.

Part 4, Learning about Human Rights, offers participatory exercises to complement the content of Parts 1, 2, and 3. These exercises help people consolidate their understanding, articulate the issues in their own words and contexts, and think constructively about how to take action. This section also sets out principles for interactive learning, facilitation, and planning workshops.

The **Annexes** contain a variety of useful resources:

- **Annex 1, Human Rights Documents:** Full text, plain-language text, and summaries of the Universal Declaration of Human Rights and the Convention on the Rights of Persons with Disabilities and a list of other key human rights instruments.
- **Annex 2, General Resources:** A list of significant printed, electronic, and other materials.
- **Annex 3, Glossary:** Definitions of human rights terms used in the text.
- **Annex 4, Topic Index:** A list of the principal subjects covered in the book.

ABBREVIATIONS USED IN *HUMAN RIGHTS. YES!*

ADA	Americans with Disabilities Act
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CERD	International Convention on the Elimination of Racial Discrimination
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
DPO	Disabled people's organization
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labour Organization
NGO	Non-governmental organization
OHCHR	Office of the High Commissioner for Human Rights
UDHR	Universal Declaration of Human Rights
WHO	World Health Organization

PART I:
UNDERSTANDING THE HUMAN RIGHTS OF
PERSONS WITH DISABILITIES

OBJECTIVES

The information contained in Part I will prepare participants to use this manual effectively by developing a fundamental understanding of the following:

- Basic human rights concepts;
- The international human rights framework, including basic information about principal human rights documents;
- The **Convention on the Rights of Persons with Disabilities (CRPD)**, including its purpose, structure, and key concepts;
- The challenges and barriers persons with disabilities commonly face in claiming their human rights; and
- How and why to express issues and frame advocacy strategies in human rights terms.

INTRODUCTION TO THE HUMAN RIGHTS OF PERSONS WITH DISABILITIES

According to the latest statistics provided by the **World Health Organization (WHO)** and the World Bank, one billion individuals in the world today live with disabilities. All persons with disabilities have the same human rights as all other persons. However, for a number of reasons, they often face social, legal, and practical barriers in claiming their human rights on an equal basis with others. These reasons commonly stem from misperceptions, negative attitudes, myths, and stereotypes about disability.

The adoption of the CRPD provides new entry points into human rights advocacy and the broader human rights movement for advocates with disabilities and their representative organizations. A human rights-based approach to disability challenges outmoded understandings of disability as belonging to medical or charitable spheres of action. The CRPD offers opportunities not only for disability rights advocates to press their claims in human rights terms in respect of civil, political, economic, social, and cultural rights, but potentially carves out new space for advocacy in other parts of the human rights movement. In strengthening human rights protections for persons with disabilities, the human rights of all persons is made stronger.

NEGATIVE MYTHS AND STEREOTYPES ABOUT PERSONS WITH DISABILITIES

Persons with disabilities:

- Cannot be self-sufficient/are excessively dependent;
- Are to be pitied;
- Are helpless;
- Are cursed/disability is a punishment for evil;
- Are bitter because of their fate;
- Resent the non-disabled world;
- Have lives not worth living;
- Are better off at home;
- Cannot work;
- Cannot have a family/cannot be good parents;
- Are asexual;
- Need to be cured and/or helped by medical professionals;
- Cannot be educated or need special, separate educational programmes;
- Cannot be involved in cultural/recreational activities; and
- Are unable to learn.

GETTING STARTED: THINKING ABOUT HUMAN RIGHTS

To provide a foundation for examining the human rights of persons with disabilities, this section begins by examining fundamental human rights principles and the general human rights framework. The sections that follow examine human rights in the context of disability.

WHAT ARE HUMAN RIGHTS?

Human rights are based on human needs. They assert that every person is equally entitled not only to life, but to a life of dignity. Human rights also recognize that certain basic conditions and resources are necessary to live a dignified life.

Human rights have essential qualities that make them different from other ideas or principles. Human Rights are:

Universal: Human rights apply to every person in the world, regardless of their race, colour, sex, ethnic or social origin, religion, language, nationality, age, sexual orientation, disability, or other status. They apply equally and without discrimination to each and every person. The only requirement for having human rights is to be human.

Inherent: Human rights are a natural part of who you are. The text of Article 1 of the **Universal Declaration of Human Rights** (UDHR) begins: “All human beings are born free and equal in dignity and rights.”

Inalienable: Human rights automatically belong to each human being. They do not need to be given to persons by their government or any other authority, nor can they be taken away. Nobody can tell you that you do not have these rights. Even if your rights are violated or you are prevented from claiming your human rights, you are still entitled to these rights.

Human rights relate to one another in important ways. They are:

Indivisible: Human rights cannot be separated from each other;

Interdependent: Human rights cannot be fully realized without each other; and

Interrelated: Human rights affect each other.

In simple terms, human rights all work together and we need them all. For example, a person's ability to exercise the right to vote can be affected by the rights to education, freedom of opinion and information, or even an adequate standard of living. A government cannot pick and choose which rights it will uphold for the persons who live in that country. Each right is necessary and affects the others.

HUMAN RIGHTS INSTRUMENTS

Human rights are outlined in a variety of international human rights documents, (sometimes called **instruments**) some of which are legally binding and others that provide important guidelines but are not considered international law. This section looks at the overall **human rights framework**.



THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

The **Universal Declaration of Human Rights** (UDHR) was adopted by the United Nations in 1948. Many other documents have since been developed to provide more specific details about human rights; however, they are all based on the fundamental human rights principles laid out in the UDHR. The full text of the UDHR, as well as a plain-language version, may be found in Annex 1. The following page contains the official abbreviated version of the UDHR, which lists the key concept of each **article** in the Declaration.

THE UNIVERSAL DECLARATION OF HUMAN RIGHTS (UDHR) (Official Abbreviated Version)

Article 1	Right to Equality
Article 2	Freedom from Discrimination
Article 3	Right to Life, Liberty, and Personal Security
Article 4	Freedom from Slavery
Article 5	Freedom from Torture and Degrading Treatment
Article 6	Right to Recognition as a Person before the Law
Article 7	Right to Equality before the Law
Article 8	Right to Remedy by Competent Tribunal
Article 9	Freedom from Arbitrary Arrest and Exile
Article 10	Right to Fair Public Hearing
Article 11	Right to be Considered Innocent until Proven Guilty
Article 12	Freedom from Interference with Privacy, Family, Home and Correspondence
Article 13	Right to Free Movement in and out of the Country, Home and Correspondence
Article 14	Right to Asylum in other Countries from Persecution
Article 15	Right to a Nationality and the Freedom to Change It
Article 16	Right to Marriage and Family
Article 17	Right to Own Property
Article 18	Freedom of Belief and Religion
Article 19	Freedom of Opinion and Information
Article 20	Right of Peaceful Assembly and Association
Article 21	Right to Participate in Government and in Free Elections
Article 22	Right to Social Security
Article 23	Right to Desirable Work and to Join Trade Unions
Article 24	Right to Rest and Leisure
Article 25	Right to Adequate Living Standard
Article 26	Right to Education
Article 27	Right to Participate in the Cultural Life of Community
Article 28	Right to a Social Order that Articulates this Document
Article 29	Community Duties Essential to Free and Full Development
Article 30	Freedom from State or Personal Interference in the above Rights

INTERNATIONAL HUMAN RIGHTS CONVENTIONS

A **convention** (also known as a **treaty**) is a written agreement between States. Conventions are often drafted by a working group appointed by the UN General Assembly. Once the convention is drafted, it goes to the UN General Assembly for adoption. The next step is for countries to **sign** and **ratify** it. By signing a convention, a country is making a commitment to follow the principles in the convention and to begin the ratification process, but the convention is not legally binding on a country until it is ratified. Ratification is a process that takes place in each country, whereby the legislative body of the government takes the necessary steps to officially accept the convention as part of its national legal framework. Once a country signs and ratifies a convention, it becomes a **State Party** to that convention, meaning it has a legal obligation to uphold the rights the convention defines. Each convention must be ratified by a particular number of countries before it **enters into force** and becomes part of international law.

In the last sixty years, many human rights conventions have been developed that elaborate on the human rights contained in the UDHR. Of these, nine instruments are considered “core” human rights conventions: they cover a major human rights issue and have a treaty-monitoring body that assesses and enforces how a State meets its obligations to that treaty.

Two of these conventions are called **covenants** and address broad human rights issues:

- The **International Covenant on Civil and Political Rights** (ICCPR, adopted 1966, entered into force 1976). It is monitored by the **Human Rights Committee**.
- The **International Covenant on Economic, Social and Cultural Rights** (ICESCR, adopted 1966, entered into force 1976). It is monitored by the Committee on Economic, Social and Cultural Rights (CESCR).

The two Covenants and the UDHR combine to create a trio of documents known as the **International Bill of Rights**.

An additional seven UN human rights conventions address either thematic issues or particular populations.¹ Each of these conventions is monitored by a **treaty body**, a committee of appointed experts who receive reports on how States Parties are implementing the convention and investigate violations of rights guaranteed by the convention.

¹ See Annex 1 for internet addresses for these documents.

THE HUMAN RIGHTS FRAMEWORK

INSTRUMENT	ENTERED INTO FORCE
Universal Declaration of Human Rights (UDHR)	Not Applicable
International Covenant on Civil and Political Rights (ICCPR)	1976
International Covenant on Economic Social and Cultural Rights (ICESCR)	1976
Convention on the Elimination of All Forms of Racial Discrimination (CERD)	1965
Convention on the Elimination of all forms of Discrimination against Women (CEDAW)	1979
Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)	1984
Convention on the Rights of the Child (CRC)	1989
Convention on Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW)	1990
Convention on the Rights of Persons with Disabilities (CRPD)	2008
International Convention for the Protection of All Persons from Enforced Disappearance (CPED)	2010

The core human rights conventions form an interdependent **human rights framework**. It is useful to be familiar with them and to know which of these your country has ratified and is therefore legally obligated to enforce and implement.

REGIONAL HUMAN RIGHTS CONVENTIONS

In addition to the UN human rights framework, which applies globally, some regional institutions have developed human rights instruments specifically for the countries in their region. These include:

- The African Charter on Human and Peoples' Rights, developed by the Organization of African Unity (now the African Union), 1986;
- The European Convention for the Protection of Human Rights and Fundamental Freedoms, developed by the Council of Europe, 1953; and
- The Inter-American Convention on Human Rights, developed by the Inter-American Commission on Human Rights, 1978.

While the Asia-Pacific region does not have a regional human rights system, the Association of Southeast Asian Nations (ASEAN) adopted in 2007 the ASEAN Charter, which sets forth the legal and institutional framework for ASEAN and calls on ASEAN Member States to adhere to “the principles of democracy, the

rule of law and good governance, respect for and protection of human rights and fundamental freedoms.”² Although the ASEAN Charter is not a human rights convention, it is noteworthy as it calls for the creation of the ASEAN Intergovernmental Commission on Human Rights (AICHR). Under Article 4⁽²⁾ of AICHR’s Terms of Reference, the Commission is required “to develop an ASEAN Human Rights Declaration (AHRD) with a view to establishing a framework for human rights cooperation through various ASEAN conventions and other instruments dealing with human rights.” The forthcoming ASEAN Human Rights Declaration will be adopted in the summer of 2012. Similarly, while the Arab region does not have a human rights system, the League of Arab States has addressed human rights within the context of its work, for example, adopting the Arab Charter on Human Rights in 1994.

WHO IS RESPONSIBLE FOR HUMAN RIGHTS?

Governments: Governments are the primary actors with responsibility for respecting, protecting, and fulfilling human rights. Governments must ensure that political and legal systems are structured to uphold human rights through laws, policies, and programs, and that they operate effectively. In some cases, international conventions and treaties are the main source of a State’s legal obligations with respect to human rights. However, in many countries, national constitutions, bills of rights, and legal frameworks have been developed or amended specifically to reflect universal human rights principles and standards in international law, providing a double layer of protection and reinforcement of these principles on the national level.

Governments have a legal obligation to **respect, protect, and fulfil** human rights.

RESPECTING, PROTECTING, AND FULFILLING HUMAN RIGHTS

Respect: The obligation to “respect” human rights means that States must not interfere with the exercise and enjoyment of the rights of persons with disabilities. They must refrain from any action that violates human rights. They must also eliminate laws, policies, and practices that are contrary to human rights.

Protect: The obligation to “protect” human rights means that the State is required to protect everyone, including persons with disabilities, against abuses by non-State actors, such as individuals, businesses, institutions, or other private organizations.

Fulfil: The obligation to “fulfil” human rights means that States must take positive action to ensure that everyone, including persons with disabilities, can exercise their human rights. They must adopt laws and policies that promote human rights. They must develop programs and take other measures to implement these rights. They must allocate the necessary resources to enforce laws and fund programmatic efforts.

² Association of Southeast Asian Nations [ASEAN], Charter (preamble), November 2007: <http://www.aseansec.org/21069.pdf>

Although only governments have the official legal responsibility for respecting, protecting, and fulfilling human rights under international human rights law, human rights are not their exclusive responsibility. Human rights represent more than legal requirements; they signify a moral code of conduct designed to promote human dignity, understanding, equality, fairness, and many other values and principles essential to just and peaceful societies. In addition to governments, a wide range of other actors have important roles to play in the promotion and implementation of human rights, including individuals, civil society organizations such as **disabled people's organizations** (DPOs), inter-governmental organizations, such as the United Nations, and the private sector, such as small businesses or multinational corporations.

Individuals: Each person must know and understand their human rights in order to be able to claim them, defend them, and hold themselves, as well as other persons, their governments, and societies, accountable for the actions that affect them. Because human rights are common to all persons, even an effort by a single individual to assert his or her human rights represents an important initiative on behalf of every person. Likewise, the actions of an individual that violate somebody else's human rights represent a threat to everyone's human rights.

Civil Society Organizations: Civil society organizations, including women's rights organizations, disabled people's organizations, and human rights organizations, have a crucial role to play in promoting, assisting in implementation, and monitoring human rights obligations. In many instances civil society organizations are given informal as well as formal roles in monitoring human rights conventions. They may participate in meetings of States Parties, undertake independent monitoring of State conduct, or make formal complaints alleging violations of treaty obligations to treaty monitoring committees.

The Private Sector: Members of society interact with the private sector every day, especially in countries with free-market economies. Private sector actors include: employers large and small, providers of goods and services, entertainers, and builders of houses, banks, and even government buildings. Individuals depend on the private sector for many things. While private sector actors are often required to adhere to certain laws and standards that uphold human rights, it is impossible for governments to oversee every aspect of how the private sector operates. Businesses, organizations, and other private sector players must make their own commitment to ensuring that their practices do not violate human rights but, in fact, support and promote them.

UNDERSTANDING DISABILITY

Although persons with disabilities are entitled to the human rights described above, they very often face serious discrimination based on attitudes, perceptions, misunderstandings, and lack of awareness. For example, the misconception that persons with disabilities cannot be productive members of the workforce may lead employers to discriminate against job applicants who have disabilities, even if they are highly qualified to perform the work. Or it might mean that buildings or facilities where jobs are located are not constructed in a way that persons with physical disabilities can access them.

Such limitations can affect other population groups as well. For example, in some societies, attitudes toward women prohibit them from owning property or participating in public life. Members of racial or ethnic minorities are often forbidden to speak their own language or practice their religion. A person with a disability who also belongs to another group that experiences discrimination may face multiple layers of discrimination and barriers to realizing her human rights (for example, a woman with a disability who belongs to an ethnic minority).

In addition to attitudes and perception coming from external sources, each individual's attitude directly affects how he or she exercises human rights. A person who believes a disability makes her or him somehow different in respect to human rights will claim – or not claim – those rights very differently.



WAYS OF APPROACHING DISABILITY ISSUES

Disability has traditionally been conceptualized as a medical, welfare, or charity issue. These perspectives have in many ways contributed to stigmatization and discrimination against persons with disabilities. They have also served as the basis for the adoption of often highly discriminatory and paternalistic policy and legal frameworks that have excluded persons with disabilities from participation in decision-making and separated them from others in segregated schools, long-term care institutions, and sheltered workshops for employment. Where persons with disabilities are unable to participate fully in the life of the community, the result is social isolation and human rights infringement.

Advocates for the rights of persons with disabilities need to be aware of both traditional and contemporary understandings of disability.

The Medical Model of Disability: The “medical model of disability” refers to an understanding of disability as a narrow, medical problem that needs to be “fixed” or an illness that needs to be “cured.” This perspective implies that a person with a disability is somehow “broken” or “sick” and requires fixing or healing. While persons with disabilities require medical care like other persons, defining disability simply as a medical problem that needs a medical solution ignores the many barriers that prevent persons with disabilities from full participation in society. Many of these barriers are created by society and cannot be “fixed” or “cured” by doctors. It is problematic to view disability only through the medical model because it allows individuals, societies, and governments to avoid the responsibility of addressing the human rights obstacles that exist in the social and physical environment.

The Charity Model of Disability: This conception of disability regards persons with disabilities as objects of pity and charity, helpless dependents who are unable to live independently. As passive recipients of social welfare, they are viewed as a burden on family and society instead of contributing members in their community. Such approaches have long dominated legislative frameworks and policy and continue to foster negative attitudes towards persons with disabilities.

The medical and charity models are narrow perspectives that do not reflect a comprehensive understanding of persons with disabilities as holders of rights and as active participants in their communities. It is for this reason that disability advocates, disability rights scholars, and others have worked to develop other models and approaches to disability issues.

The Social Model of Disability: An alternative way of understanding disability is through a social and contextual perspective, often referred to as the “social model of disability.” This model focuses on eliminating the barriers created by the social and physical environment that inhibit the ability of persons with disabilities to exercise their human rights. This includes, for instance, promoting positive attitudes and perceptions, modifying the built environment, providing information in accessible formats, interacting with individuals with disabilities in appropriate ways, and making sure that laws and policies support the exercise of full participation and non-discrimination.

The social model recognizes the various ways in which the social environment creates barriers for persons with disabilities and impacts their enjoyment of their human rights. For example, where a person who uses a wheelchair is confronted by a staircase, the result is a disability: it is the interaction between the fact that the person is using a wheelchair and the inaccessibility of the staircase. When a building has a ramp, persons who use wheelchairs and others can enter the building without any distinction between persons with or without disabilities. In the same way, if a child with autism is confronted by negative attitudes among teachers that the child cannot learn or is not intelligent, these attitudes operate as a barrier to the child receiving an education: the interaction between the cognitive functioning of the child and the negative attitudes of teachers is the disability. Another example to consider is persons who are blind accessing information on

the internet. When society ensures that websites are fully accessible to screen-reading technology, a person who is blind can access all the information on the website, but when a website is not accessible to that technology, then that person experiences the social impact of disability.

A social model perspective understands that there is a need to break down these barriers in society and to address not only the medical and rehabilitation needs of persons with disabilities, but all of their needs and the fulfilment of all of their human rights. The social model approach to disability creates a broad awareness of the many types of barriers that exclude persons with disabilities from participating in society. Once there is awareness and appreciation of these barriers, identifying and correcting human rights problems that impact persons with disabilities becomes much easier.



Disability as a natural part of human diversity: Everyone is different, whether that difference relates to colour, gender, ethnicity, size, shape, or other characteristics. A disability is no different. It may limit a person's mobility or their ability to hear, see, taste, or smell. A psychosocial disability or intellectual disability may affect the way persons think, feel, or process information. Regardless of its characteristics, disability neither subtracts from nor adds to a person's humanity, value, or rights. It is simply a feature of a person.

THE IMPLICATIONS OF THE SOCIAL MODEL FOR LANGUAGE AND TERMINOLOGY

Under the social model, disability is not inherent in the person, but rather is part of an individual's interaction with society, and therefore society should not define someone by their disability. As part of the shift to the social model, it is important to avoid defining people by any single characteristic such as a disability. Disability advocates often emphasize the importance of referring to persons with disabilities first as a person. Using "person-first language" ensures that we refer first to the person, not their disability, when speaking about persons with disabilities.

Other advocates stress that person-first language is important because it avoids placing a label on a person with a disability and does not emphasize someone's disability instead of their ability. For example, the term "disabled person" is often thought to label a person and makes their defining characteristic their disability. When it is converted to "person with a disability" the message is that someone is a person before pointing out they have a disability. Additionally, terms like "blind person," "deaf person," or "intellectually disabled person" label people and focus on the fact that someone may or may not have a disability rather than the fact that they are equal members of society.

The CRPD utilizes person-first language throughout (for example, the full title of the CRPD, the Convention on the Rights of *Persons with Disabilities*; Article 6, *Women with disabilities*; Article 7, *Children with disabilities*; and Article 34, Committee on the Rights of *persons with disabilities*). Thus it is important for disability advocates to understand this concept and consistently utilize it in their work.

Many people think it is difficult to use person-first language systemically, but the following list provides a few examples of how person-first language can be applied in all situations:

- Children with disabilities
- Women with disabilities
- Voters with disabilities
- Employees with disabilities
- Prisoners with disabilities
- Members of Parliament with disabilities
- Persons who are blind
- Persons who are deaf
- Persons with intellectual disabilities
- Persons with mobility impairments
- Persons with psychosocial disabilities
- Persons with learning disabilities

NEW YORK STATE'S PERSON FIRST BILL

Many domestic laws have incorporated person-first language. In 2007, New York State adopted the Person First bill, which among other things, requires the use of person-first language when describing or referring to persons with disabilities in all new and revised statutes, local laws, ordinances, charters or regulations, legal documents, and any publication released by the state. Language such as “the mentally ill,” “the epileptics,” “confined to a wheel chair,” or “suffering from multiple sclerosis,” must be replaced with person-first language such as “individuals with mental illness,” “individuals with epilepsy,” and “individuals with disabilities.”

Source: Sheila M. Carrey, “Governor Spitzer Signs Person First Legislation,” New York State E-Bulletin, Developmental Disabilities Planning Council (August 2007): http://ebulletin.us/archive/2007/september/09_07_spitzer_signs_per_first_leg.php

Although it is important for advocates to understand the concept of person-first language, it is also important to note that some persons with disabilities prefer to identify their disability first. For example, many persons with autism refer to themselves as “autistic persons” because they believe autism is an important and inherent part of who they are, and they want to make that clear to society. Of course, persons with disabilities have the right to identify as they wish, but in thinking about person-first language, the point is to prevent society from labelling or putting persons with disabilities in certain categories based on their disability.

DISABILITY AS A HUMAN RIGHTS ISSUE

The social model of disability, which focuses on the responsibility of governments and society to ensure access, inclusion, and participation, sets the stage for the adoption of a human rights-based approach to disability and empowered disability rights advocacy. While the **social model of disability** and the human rights approach are often assumed to be one and the same, this is not the case. Rather, a social model perspective shifts the focus away from individual deficit and brings into focus the many barriers in society that inhibit the participation of persons with disabilities. Once reconfigured in this way through the social model understanding, a rights-based approach to disability becomes possible. The rights-based approach:

- **Identifies** persons with disabilities as rights holders and subjects of human rights law on an equal basis with all persons;
- **Recognizes** and respects a person’s disability as an element of natural human diversity, on the same basis as race or gender, and addresses the disability-specific prejudices, attitudes, and other barriers to the enjoyment of human rights; and
- **Places** the responsibility on society and governments for ensuring that the political, legal, social, and physical environments support the human rights and full inclusion and participation of persons with disabilities.

The UN **Office of the High Commissioner for Human Rights** (OHCHR) has provided a helpful analysis of the rights-based approach, stressing the following elements:

First, a human rights approach asks what are the long-term or underlying reasons why a particular group within society is vulnerable, marginalized, or experiences discrimination.

Second, a human rights approach provides strategies based on international human rights law to address these root causes of discrimination.

Drawing on the OHCHR framework, the following ideas capture a rights-based approach to disability:

Empowerment: A human rights approach to disability aims to empower persons with disabilities to make their own choices, to advocate for themselves, and to exercise control over their lives.

Enforceability and Remedies: A human rights approach to disability means that persons with disabilities should be able to enforce their rights at the national and international levels.

Indivisibility: A rights-based approach to disability must protect the civil and political rights, as well as the economic, social, and cultural rights of persons with disabilities.

Participation: A human rights approach to disabilities says that persons with disabilities must be consulted and participate in the process of making decisions that affect their lives.³

Barriers to exercising human rights can stem from attitudes, prejudice, a practical issue, a legal obstacle, or a combination of factors, but a disability itself does not affect or limit a person's entitlement to human rights in any way. Defining persons with disabilities first and foremost as rights holders and subjects of human rights law on an equal basis with others is a powerful approach to changing perceptions and attitudes, as well as providing a system for ensuring the human rights of persons with disabilities. A human rights approach identifies minimum legal standards necessary for persons with disabilities to participate freely in society. It holds certain actors, such as government and the private sector, responsible for respecting those standards and requires that individuals have access to justice in cases where those standards are not respected.

³ Office of the High Commissioner for Human Rights, "Human Rights and Poverty Reduction: A Conceptual Framework," (2004): <http://www2.ohchr.org/english/issues/poverty/docs/povertyE.pdf>

CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

Persons with disabilities have long fought to have their human rights formally recognized in human rights law. In 2006, the United Nations General Assembly **adopted** the Convention on the Rights of Persons with Disabilities (CRPD), the first international convention that specifically addresses the human rights of persons with disabilities.

From the first meeting to draft this Convention, members of the global disability rights movement insisted that persons with disabilities be included in deciding what it should say. The disability community was able to exercise a greater level of participation and influence in the drafting of the CRPD than any other specific group has ever been able to achieve in a UN human rights treaty process. As a result, the CRPD covers the full spectrum of human rights of persons with disabilities and takes much stronger positions than it would have if governments alone had drafted it. In addition, disability organizations, individuals with disabilities, governments, and the United Nations forged important relationships during this drafting process.

Now that the human rights of persons with disabilities have been recognized in international law through the CRPD, the next step is for persons with disabilities in all countries to continue to advocate and work with their governments to ensure that the Convention is ratified and/or implemented. Every person who advocates for their rights under this Convention becomes an important member of the global disability rights movement!

CROSS-CUTTING ARTICLES IN THE CRPD

All human rights are **indivisible**, **interdependent**, and **interrelated**, and all of the articles in the CRPD are important and relate closely to one another. However, certain articles are fundamentally cross-cutting and have a broad impact on all other articles. Sometimes referred to as *articles of general application*, these articles are therefore placed at the beginning of the Convention to reinforce their importance. Article 3, General principles, and Article 4, General obligations, which are discussed above, clearly fall into this category. The other CRPD articles of general application are:

- Article 5, Equality and non-discrimination
- Article 6, Women with disabilities
- Article 7, Children with disabilities
- Article 8, Awareness-raising
- Article 9, Accessibility

Developing a familiarity with all of the rights included in the CRPD will help develop an understanding of how Articles 3-9, the cross-cutting articles, interrelate and help inform obligations throughout the Convention.

SPECIFIC RIGHTS IN THE CRPD	
Articles 10-30 address specific rights, such as the right to work, the right to political participation, and many others. In most cases, these topical articles correspond closely to articles found in other human rights conventions, except that they explain the particular right in the context of disability.	
Article 10	Right to life
Article 11	Situations of risk and humanitarian emergencies
Article 12	Equal recognition before the law
Article 13	Access to justice
Article 14	Liberty and security of the person
Article 15	Freedom from torture or cruel, inhuman or degrading treatment or punishment
Article 16	Freedom from exploitation, violence and abuse
Article 17	Protecting the integrity of the person
Article 18	Liberty of movement and nationality
Article 21	Freedom of expression and opinion, and access to information
Article 22	Respect for privacy
Article 23	Respect for home and the family
Article 24	Education
Article 25	Health
Article 27	Work and employment
Article 28	Adequate standard of living and social protection
Article 29	Participation in political and public life
Article 30	Participation in cultural life, recreation, leisure, and sports
A few articles, however, address subjects unique to the CRPD, such as:	
Article 19	Living independently and being included in the community
Article 20	Personal mobility
Article 26	Habilitation and Rehabilitation.

The CRPD addresses areas of human rights in which persons with disabilities either have specific requirements that may not apply in other contexts, or in which persons with disabilities have traditionally experienced unique types of discrimination and human rights violations. While these articles do not create any new rights, they explain rights in the level of detail required for States to understand their responsibilities and in many cases do articulate new specific obligations or measures not previously included in international law.

PURPOSE OF THE CRPD

The purpose of the CRPD is set out in Article 1, Purpose. It states that the purpose of the Convention is 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.

Article 1 therefore makes clear that persons with disabilities are entitled to the same human rights as all other persons.

GENERAL PRINCIPLES IN THE CRPD

One important feature of the CRPD is the inclusion of a provision that sets forth its general principles. Set out in Article 3, General principles, they are intended to provide guidance for understanding and interpreting the CRPD.

CRPD ARTICLE 3, GENERAL PRINCIPLES

The principles of the present Convention shall be:

- a. Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
- b. Non-discrimination;
- c. Full and effective participation and inclusion in society;
- d. Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- e. Equality of opportunity;
- f. Accessibility;
- g. Equality between men and women;
- h. Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

All of the general principles in Article 3 of the CRPD are important and should serve as the foundation for development of laws, policies, and practices that have an impact on the lives of persons with disabilities. In addition, the interpretation of all of the rights in the CRPD, as well as its monitoring and implementation measures, must take into account the principles set forth in Article 3. The following examples demonstrate the important connection between the general principles of the CRPD and the rest of its provisions:

Dignity, Autonomy, and Choice: The implementation of CRPD Article 25, Health, on the highest attainable standard of health, must reflect principles of dignity, respect, choice of medical services, and facilitate the autonomy of persons with disabilities.

Non-discrimination: In implementing the right to an adequate standard of living in CRPD Article 28, Adequate standard of living and social protection, persons with disabilities may not be barred from public housing on the basis of disability.

Participation and Inclusion: In implementing the right to linguistic identity of persons with disability in CRPD Article 30, Participation in cultural life, recreation, leisure and sport, it is essential to include persons with disabilities, for example, in formulating policies regarding sign language.

Respect for Difference: In implementing CRPD Article 8, Awareness-raising, disability awareness campaigns may emphasize pride in and respect for difference as a natural part of human diversity.

Equality of Opportunity: In developing employment legislation to implement CRPD Article 27, Work and employment, measures to ensure equality of opportunity must be provided, for example, provisions to ensure that recruitment processes are truly open to applicants with disabilities.

Accessibility: In planning for an election process under CRPD Article 29, Participation in political and public life, measures must be undertaken to ensure accessibility to voting materials for persons with disabilities.

Equality Between Men and Women: In monitoring the right of women with disabilities to access justice under CRPD Article 13, Access to justice, it is important to appreciate that women experience barriers to justice that are often different from those of men.

Respect for the Evolving Capacities of Children: In implementing CRPD Article 26, Habilitation and rehabilitation, respect for the evolving capacities of children with disabilities will require, among other things, opportunities for children with disabilities to articulate their own rehabilitation needs.

Many of the principles articulated in CRPD Article 3 are only implicit in the substance of other core human rights conventions. In this sense, the CRPD makes an important contribution to the development of human rights principles, for example, in relation to the principles of accessibility, respect for difference, and inclusion in society. It also expresses for the first time in a human rights convention provisions on rehabilitation and the right to live independently in the community.



DEFINING DISABILITY

Disability is a complex concept, and as yet there is no definition of disability that has achieved international consensus. Nevertheless, each person involved in advocating for disability rights must be able to explain to others what group of persons they are talking about when they refer to persons with disabilities. How disability is defined and how the concept of disability is expressed strongly impacts the understanding, attitude, and approach of others toward the human rights of persons with disabilities.

The CRPD explains the concept of disability as follows in Article 1, Purpose:

Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

WORLD REPORT ON DISABILITY

The World Report on Disability estimates that more than one billion persons live with a disability, or about 15% of the global population. The World Report emphasizes that:

- The number of persons with disabilities is growing, due to the ageing global population and the increase in chronic health conditions that are associated with disability (such as diabetes and mental illness);
- Disability is diverse and the disability experience likewise varies;
- Disability disproportionately affects vulnerable populations or persons in situations of risk.

Source: World Health Organization & World Bank, "World Report on Disability" (2011): http://whqlibdoc.who.int/publications/2011/9789240685215_eng.pdf

GENERAL OBLIGATIONS IN THE CRPD

Following Article 3, General principles, Article 4, General obligations, clearly defines the specific actions governments must take to ensure that the rights of persons with disabilities are respected, protected, and fulfilled. Many of the general obligations in the CRPD are common to other human rights conventions. However, the general obligations of States with respect to the rights of persons with disabilities include certain unique requirements that are not mentioned in other human rights instruments. These include such things as promoting **universal design** for goods and services and undertaking research on accessible technologies and assistive technologies. It is crucial to understand these principles as foundational, overarching obligations that are applicable to every other subject within the CRPD.

One objective of this comprehensive article on general obligations is to counteract the historic failure of States to truly understand their obligations to persons with disabilities as fundamental human rights obligations. States have tended to view these responsibilities as representing exceptional treatment or special social measures, not as essential requirements under human rights law. Clearly expressing them as general obligations in the Convention is an important step toward reversing this flawed perspective.

NON-DISCRIMINATION AND EQUALITY IN THE CRPD

The prohibition against disability discrimination is cross-cutting and applies across all of the CRPD. Thus, each article concerns both protection from discrimination and the promotion of conditions required to achieve equality for persons with disabilities.

Equality and non-discrimination in the CRPD consist of two fundamental and related components. First, the CRPD requires the protection of equality through the prohibition of discrimination in law and in fact. In other words, States must take action to prohibit both direct and indirect discrimination, meaning acts of discrimination that have either the purpose or the effect of denying persons with disabilities the exercise of their human rights. This includes denying **reasonable accommodation** to persons with disabilities where it is needed. Second, the CRPD requires the promotion of equality through measures aimed at addressing inherent disadvantages and discrimination within society. This includes the introduction of specific measures to support persons with disabilities in order to achieve equality, but also measures that address the conditions within society that can lead to discrimination, such as training of health care professionals or teacher training on accommodating students with disabilities.

THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

- Recognizes non-discrimination as a core principle in Article 3, General principles;
- Requires the protection of all persons from discrimination and provides for equal and effective legal protection against discrimination on all grounds, including the denial of reasonable accommodation, in all fields of public and private life, in Article 5, Equality and non-discrimination;
- Recognizes the need for specific measures to promote equality for persons with disabilities; and
- Defines discrimination on the basis of disability in Article 2, Definitions.

PROGRESSIVE REALIZATION IN RELATION TO ECONOMIC, SOCIAL, AND CULTURAL RIGHTS

While some aspects of implementing the CRPD, such as prohibiting disability discrimination, are relatively cost-free, other obligations do carry cost implications. Like other human rights conventions, the CRPD recognizes this fact and uses the principle of “**progressive realization**” for the implementation of economic, social, and cultural rights set out in CRPD Article 4, General obligations. The concept of progressive realization recognizes that States have different economic capacities. It also acknowledges that full enjoyment of human rights cannot occur over night and that some things take time to achieve. Progressive realization therefore allows States to take steps to the maximum extent possible with regard to their available resources. This does not mean that implementation can be delayed, however; it means that implementation can occur over time based on available resources. In implementing economic, social, and cultural rights, such as the right to education, the right to health or the right to work, the following must be taken into consideration:

- States must take immediate action to advance the realization of economic, social, and cultural rights over time. Thus, they may not ignore their obligations or do nothing by claiming that they have no resources.
- Many obligations in the CRPD may be implemented at little to no cost and thus should be respected immediately (for example, repealing discriminatory law is cost free).
- Where obligations do have cost implications, States must develop a plan that sets out what can be achieved immediately and what can be achieved gradually over time.
- There should be no retrogressive steps: in other words, once improvements in disability rights have been achieved, the State should maintain funding at that level and should not allow it to diminish.

MONITORING AND IMPLEMENTING THE CRPD

The CRPD sets out international human rights standards for persons with disabilities that, like other core human rights conventions, require both national and international monitoring, as well as implementation measures. Article 33, National implementation and monitoring, addresses national monitoring and requires States to set up focal points in government in order to monitor implementation of the CRPD and also requires some type of independent monitoring mechanism, which usually takes the form of an independent national human rights institution. Article 33 also recognizes the important role of civil society, in particular persons with disabilities and their representative organizations, in the national monitoring and implementation process.

International monitoring is achieved through both the **Committee on the Rights of Persons with Disabilities** (CRPD Committee) and a periodic meeting at the **Conference of States Parties** to the CRPD (COSP). The CRPD Committee is responsible for reviewing mandatory reports that all States Parties must submit on how they are implementing the CRPD. In addition, the **Optional Protocol** to the CRPD provides a means for individuals to complain when their rights are not respected and for an independent international committee of experts, the CRPD Committee, to undertake inquiries into serious rights abuses. Monitoring and implementing the CRPD is discussed more fully in Part 3, Section 2.

REGIONAL DISABILITY RIGHTS CONVENTIONS

The only regional institution with a disability-specific convention is the Inter-American Commission on Human Rights, which developed the **Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities** in 1999. In some instances, regional institutions have adopted optional protocols, treaties that modify another treaty, to existing conventions or have developed non-binding resolutions, recommendations, and/or plans that address disability rights. In some cases, persons with disabilities are specifically mentioned in the general regional human rights instruments, such as the Revised European Social Charter. Discussions are currently underway regarding the development of a disability rights convention for Africa.

KEY NON-BINDING INSTRUMENTS ON DISABILITY

While the CRPD is the first global legally binding international convention addressing the rights of persons with disabilities, there are important **non-binding** documents that lay out important principles and guidelines and that helped to inspire some of the provisions of the CRPD. Such documents are described as “non-binding” because they are not documents agreed upon by States to create international law. Rather, they are principles or guidelines that may provide helpful direction for States, but they do not create obligations under international law.

World Programme of Action Concerning Disabled Persons: The UN declared 1981 as the “International Year of Disabled Persons” (IYDP) with the theme of full equality and participation of persons with disabilities, as well as a call for plans of action at the national, regional, and international levels. One important outcome of the IYDP was the development by the UN of the World Programme of Action Concerning Disabled Persons with the stated purpose “to promote effective measures for prevention of disability, rehabilitation and the realization of the goals of ‘full participation’ of disabled persons in social life and development and of equality.” To provide a timeframe for governments to implement the World Programme of Action, the UN declared 1983-1992 the United Nations Decade of Disabled Persons.

UN Standard Rules on the Equalization of Opportunity for Persons with Disabilities: Many persons believed that the World Programme of Action, although valuable, would not achieve the results needed to ensure that the rights of persons with disabilities were respected. In 1987, the UN convened a meeting to consider drafting a convention on disability rights; however, at that time there was not enough support to move ahead. In 1990, the UN decided to develop another kind of instrument that was not a legally binding treaty, but a statement of principles signifying a political and moral commitment to equalizing opportunities for persons with disabilities. The resulting **UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities (Standard Rules)**, adopted in 1993, was the first international instrument to recognize that the rights of persons with disabilities are greatly affected by the legal, political, social, and physical environment. The Standard Rules are still an important advocacy tool for the disability community, and many of its principles served as a basis for drafting the CRPD.

The UN Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care (The MI Principles): These principles were developed in 1991 to establish minimum standards for practice in the mental health field. The MI Principles have been used as a blueprint for the development of mental health legislation in many countries. They include some important concepts, such as the right to live in the community. At the same time, the terminology used in the MI Principles is outdated and offensive from the perspective of disability rights advocacy, for instance it refers to “patients,” and some of its provisions appear to limit the human rights of persons with mental disabilities, such as its provisions on informed consent. For that reason, many advocates focus exclusively on the CRPD, or where they do refer to the MI Principles, they are careful to note their limitations. In any case, it is clear that the MI Principles should now be interpreted in the light of and in a manner consistent with the CRPD.

USEFUL HUMAN RIGHTS TERMS

Adoption: Usually refers to the initial diplomatic stage at which the official text of a treaty is accepted (in the case of a UN treaty, by the General Assembly). After adoption a treaty must usually be ratified by individual governments.

Article: A numbered section of a legal document, such as a treaty or declaration.

Committee on the Rights of Persons with Disabilities: The treaty body that monitors implementation of the Convention on the Rights of Persons with Disabilities (CRPD Committee).

Convention: Binding agreement between governments; used synonymously with treaty and covenant. Conventions are stronger than declarations because they are legally binding for States that have ratified them.

Covenant: Binding agreement between states; used synonymously with convention and treaty. In international human rights law there are only two covenants: The International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

Declaration: Document stating agreed-upon standards but that is not legally binding. The UN General Assembly often issues influential but legally non-binding declarations.

Entry into force: The process through which a treaty becomes fully binding on the states that have ratified it. This happens when the minimum number of ratifications called for by the treaty has been achieved.

Instrument: A formal, written official document, such as a treaty or declaration.

Non-binding: Describes a document, like a declaration, that carries no formal legal obligations.

Optional protocol: Separate treaty that provides States Parties to the parent treaty with the opportunity to participate or “opt in” with regard to procedures set forth in the optional protocol or additional obligations not found in the parent treaty.

Ratify: Process by which the legislative body of a State confirms a government’s action in signing a treaty; formal procedure by which a government becomes a State Party to a treaty.

Sign: In human rights, the first step in ratification of a treaty; to sign a declaration, convention, or one of the two Covenants constitutes a promise to adhere to the principles in the document and to honour its spirit.

State Party: (Plural: States Parties): A country that has ratified a treaty and is therefore bound to conform to its provisions.

Treaty: Formal agreement between States that defines and modifies their mutual duties and obligations; used synonymously with convention.

Treaty body: A group established in a treaty to supervise and monitor how States Parties comply with their treaty obligations. The treaty body for the CRPD is the Committee on the Rights of Persons with Disabilities.

HUMAN RIGHTS ADVOCACY

Every person is entitled to claim her or his human rights and to demand that they be protected, respected, and fulfilled. When you advocate in human rights terms and use the human rights framework to support your advocacy, no one can challenge that you are asking for special treatment or something undeserved. All stakeholders have a role to play to see that the CRPD is fully implemented.

Human Rights. YES! was designed to support you in this effort. Part 1, Understanding Disability as a Human Right, has provided a comprehensive introduction to human rights principles, legal documents, and social attitudes related to disability. Part 4, Facilitating Human Rights Learning, contains activities to facilitate assimilating this information and applying it to your own life and community.

Each of the 17 chapters of Part 2 examines in detail a specific topic related to disability rights contained in the CRPD. They seek to equip disability advocates with the knowledge they need to effect change in both national laws and policies, as well as in the social and cultural environments. Learning activities to accompany each chapter are available in Part 4.

The first section of Part 3 offers specific training on advocacy strategies and techniques, including defining advocacy objectives, developing advocacy action plans, and measuring your advocacy success. Section 2 of Part 3 explains in detail how the CRPD Committee monitors implementation of the Convention and the ways in which advocates can interact with this process, especially through the Optional Protocol to the CRPD.

The existence of human rights law does not make human rights a reality in people's lives. Positive attitudes and good intentions are not enough either. Without individual efforts, a firm social and cultural commitment reinforced by group action, and strong implementation and enforcement by governments, human rights cannot be guaranteed.

USEFUL RESOURCES ON HUMAN RIGHTS AND THE CRPD

HUMAN RIGHTS RESOURCES

- Office of the High Commissioner for Human Rights: <http://www.ohchr.org/EN/Pages/WelcomePage.aspx>
 - Official website of the Office of the High Commissioner for Human Rights.
- United Nations: <http://www.un.org/en/rights/>
 - Official United Nations website for human rights.
- University of Minnesota Human Rights Library: <http://www1.umn.edu/humanrts/>

Extensive online collection of international human rights treaties, instruments, general comments, recommendations, decisions, views of treaty bodies and general and thematic human rights resources.

CRPD RESOURCES

- Committee on the Rights of Persons with Disabilities: <http://www.ohchr.org/en/hrbodies/crpd/pages/crpdindex.aspx>
 - › Official website for the CRPD Committee.
- Conference of States Parties to the CRPD: <http://www.un.org/disabilities/default.asp?id=1433>
 - › Official website for the Conference of States Parties.
- Rosemary Kayess & Phillip French, “Out of darkness into light? Introducing the Convention on the Rights of Persons with Disabilities,” 8 *Human Rights Law*, 2008.
 - › Excellent scholarly overview of the CRPD.
- Oliver Lewis, “The Expressive, Educational and Proactive Role of Human Rights: An Analysis of the UN Convention on the Rights of Persons with Disabilities in Rethinking Rights Based Mental Health Laws” (Bernadette McSherry and Penelope Weller, eds., 2010).
 - › Analysis of the CRPD in the context of mental health laws.
- Janet E. Lord & Michael Ashley Stein, “The Domestic Incorporation of Human Rights Law and the United Nations Convention on the Rights of Persons with Disabilities,” 83 *University of Washington Law Review* 449, 2008.
 - › Detailed consideration of the CRPD and its implications for domestic law.
- Gerard Quinn & Oddný Mjöll Arnardóttir eds., *The UN Convention on the Rights of Person with Disabilities: European and Scandinavian Perspectives* (2009).
 - › Collection of scholarly essays on the CRPD by leading commentators.
- United Nations Enable: <http://www.un.org/disabilities/>
 - › Official UN website on persons with disabilities.
- UN-DESA, OHCHR, IPU, “Handbook for Parliamentarians on the Convention on the Rights of Persons with Disabilities and its Optional Protocol”: <http://www.un.org/disabilities/default.asp?id=248>
 - › Introductory overview of the CRPD for legislators and others.

PART 2:

THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

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CHAPTER 1: EQUALITY AND NON-DISCRIMINATION

CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

Article 5, Equality and non-discrimination

1. States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.
2. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.
3. In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided. Specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention.

Article 2, Definitions (excerpts)

“Discrimination on the basis of disability” means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation.

Article 3, General principles

The principles of the present Convention shall be:

- a. Respect for inherent dignity, individual autonomy including the freedom to make one’s own choices, and independence of persons;
- b. Non-discrimination;
- c. Full and effective participation and inclusion in society;
- d. Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- e. Equality of opportunity;
- f. Accessibility;
- g. Equality between men and women;
- h. Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

OBJECTIVES

The information contained in this chapter will enable participants to work towards the following objectives:

- Define the right to equality and non-discrimination;
- Explain the importance of the right to equality and non-discrimination for persons with disabilities;
- Understand the interrelationship between equality and non-discrimination and other human rights;
- Identify ways in which the right to equality and non-discrimination of persons with disabilities has been promoted or denied; and
- Understand the provisions related to equality and non-discrimination in the **Convention on the Rights of Persons with Disabilities (CRPD)**.

GETTING STARTED: THINKING ABOUT EQUALITY AND NON-DISCRIMINATION

The terms *equality* and *non-discrimination* address some of the most fundamental concepts in human rights, yet many persons use them without thinking about what they really mean. Understanding equality and non-discrimination is essential if these concepts are to be used effectively in human rights advocacy. Moreover, it is important to understand how equality and non-discrimination operate within the context of disability.

EQUALITY

In its simplest sense, the word *equality* may be defined as meaning “the same as,” “equivalent,” “matching,” or “identical.” When applied to persons, however, the term is not intended to mean that all persons are identical or exact copies of each other, for that is clearly not the case! In a human rights context, *equality* is used to mean that we are all the same in one fundamental way: regardless of our differences, we all possess inherent worth. We are all equally entitled to human rights simply because we are human and the qualities that make us unique and different do not make us superior or inferior in regard to rights. When put into practice, the principle of equality therefore requires every individual and the societies in which they live to value and accommodate human difference, including difference based on disability.

A number of different approaches can be taken when thinking about and applying the principle of equality. The first is often referred to as **formal equality**, and can occur when laws or policies call for different groups of persons to be treated the same, perhaps by prohibiting discrimination against a group. Although such an approach seems logical and certainly has an important role to play, it is not enough by itself to ensure that persons with disabilities or other groups can enjoy true equality. Additional steps may need to be taken in order to account for the

different circumstances that persons with disabilities face and to address the artificial barriers to their inclusion that have been created by society. For example, calling for persons with disabilities to be treated in the same way as other persons will not be effective in removing physical, informational, communication, and attitudinal barriers, nor will it help individuals who need differential treatment in the form of specific disability accommodations.

Another approach to equality is what is often referred to as **equality of opportunity**. This approach recognizes that persons may face limitations in their lives resulting from factors and circumstances entirely outside of their control, such as their race, gender, disability, or social status. These factors alone, and in combination with attitudinal and other barriers, can make it impossible for persons with disabilities to live as they wish and contribute to society as they might want. Ensuring equality of opportunity therefore requires specific actions to be taken to move beyond formal equality and ensure that persons with disabilities can enjoy the same opportunities as other persons. Such actions might include ensuring accessibility of transportation, combating stereotypes and attitudes that lead to discrimination against persons with disabilities, and providing reasonable accommodations in educational, employment, and other contexts.

The third approach can be referred to as “**de facto equality**,” “substantive equality,” or “equality in fact.” This approach seeks to ensure equality of results and not simply equality of opportunity, because declaring that persons are “equal” is not usually enough to make them so. In other words, de facto equality sees each person as equally entitled to full enjoyment of their human rights regardless of their actual contributions or capacity to contribute to society.

Although a properly implemented “equality of opportunity approach” is typically sufficient to ensure that most persons with disabilities are able to enjoy their human rights as they wish, an additional commitment by the State to de facto equality can be of great assistance in ensuring enjoyment of human rights by persons with disabilities. For example, ensuring that persons with disabilities are not discriminated against by employers may not be enough to ensure that persons with disabilities enjoy the right to work if at the same time they are not otherwise qualified for the jobs for which they apply. Thus, to ensure de facto equality in employment settings, it may be necessary for States to provide specific measures such as training opportunities for persons with disabilities so that they can more readily compete against other job applicants.

NON-DISCRIMINATION

It is perhaps easier to start thinking about what *non-discrimination* means by first considering the meaning of discrimination. In its most basic sense *to discriminate* means “to distinguish,” “to differentiate,” or “to treat differently,” and is neither positive nor negative in tone. However, the term takes on a more negative meaning when used to describe how persons treat each other. To say that somebody has been “discriminated against” typically means that they have not only been treated differently but also unfairly. This unfair treatment could be blatant, such as a

law expressly discriminating against persons with disabilities, or it could occur in a more subtle manner, such as where a rule is neutral but acts to adversely affect persons with disabilities. Such subtle forms of discrimination can be particularly insidious because persons may believe that the lack of blatant or overt discrimination makes rules or laws fair, even though their effects are damaging.

These two types of discrimination are sometimes referred to as “direct discrimination” and “indirect discrimination,” though the labels are less important than the damage caused by such discrimination and the actions needed to counter it. As will be discussed later, international human rights law prohibits all such discrimination when it is on specific grounds, such as disability, race, sex, national origin, and other specified bases. The principle of non-discrimination therefore encompasses the commitment not to engage in such forms of discrimination and to take steps to counter more subtle and indirect forms of discrimination. States must also ensure that they address issues of discrimination regardless of whether the discrimination occurs just between individuals or in a more systemic way, such as through legislation, policies, and regulations.

DIRECT AND INDIRECT FORMS OF DISABILITY DISCRIMINATION

Direct Discrimination

Direct discrimination happens when someone is treated less favourably than someone else because of that individual’s disability. For example, it would be direct discrimination if persons with disabilities were excluded from voting on the basis of their disability. It would also be direct discrimination if persons who are wheelchair users are excluded from attending a sporting event on the basis that they would put others at risk during an emergency evacuation.

Indirect Discrimination

Indirect discrimination happens when a working condition or rule disadvantages one group of persons more than another. For example, holding a job interview in the second floor of a building with no elevator puts wheelchair users at a disadvantage and holding telephone job interviews puts persons who are deaf at a disadvantage unless accommodations are made. Providing voting information on an inaccessible website puts persons with visual impairments at a disadvantage. Indirect discrimination is unlawful, whether or not it is done intentionally.

Source: Adapted from United Kingdom Government webpage, “Direct Gov, Discrimination in the Workplace”: http://www.direct.gov.uk/en/Employment/ResolvingWorkplaceDisputes/DiscriminationAtWork/DG_10026557

Perhaps one of the most potentially confusing aspects of non-discrimination is that it does not always prohibit States from treating persons differently. The historic and long-term discrimination against persons with disabilities as a group has led to severe inequality and disadvantage. In order for this situation to be reversed, States may need to undertake positive measures in order to redress long-standing inequality. Such actions are known in different countries and contexts as specific measures, **affirmative action**, fair discrimination, reverse discrimination, or positive discrimination. The objective of these actions is to achieve equality,

and they often do so by treating persons with disabilities in a way that accords them some comparative advantage. For example, allocating a certain number of parliamentary seats to persons with disabilities is an illustration of positive discrimination. Requirements that a certain percentage of jobs be allocated to persons with disabilities is another example, as is setting aside a certain amount of government contracting to service-disabled, veteran-owned small businesses. The need for workplace disability accommodations may also lead to employees with disabilities receiving specific treatment that differs from that of other employees. Although such actions effectively treat persons differently, they are not considered “discrimination,” because the goal is to overcome disadvantages, achieve equality, and promote rather than violate enjoyment of human rights. As noted previously, the failure to provide for reasonable accommodation is considered a form of disability-based discrimination prohibited under the CRPD and numerous national disability anti-discrimination laws.

THE INTERRELATIONSHIP OF RIGHTS

The principles of equality and non-discrimination not only interact with each other, they are also fundamentally **indivisible**, **interdependent**, and **interrelated** with all other human rights. For example, if a State passed a law denying persons with disabilities the right to work, this would not only constitute a violation of the right to work, but it would also represent an explicit form of discrimination and a violation of equality. Indeed, it is not truly possible to say that any human right has been fully enjoyed if equality or non-discrimination have been denied. For this reason, some persons would say that full enjoyment of human rights by persons with disabilities necessarily occurs through implementation of the principles of equality and non-discrimination, together with access to specific rights. For example, it is not enough to say that persons with disabilities should not be discriminated against in enjoying the right to education if no educational services are provided. Similarly, it is not enough for the State to provide educational services if persons with disabilities face discrimination when using them. Thus, States are required to address both equality and non-discrimination and also access to human rights, in order for persons with disabilities to truly enjoy their human rights in a manner that is inclusive and respectful of human dignity.

APPROACHES TO EQUALITY, NON-DISCRIMINATION, AND DISABILITY IN NATIONAL CONSTITUTIONS

Recognizing and respecting the importance of these fundamental principles, many national constitutions contain specific references to the obligation of the State to respect and uphold the principles of equality and non-discrimination. Increasingly, constitutional documents also contain references to disability as a prohibited ground of discrimination. The following represent some examples of such provisions from different countries (Bold typeface has been added to references to “disability”):

Constitution of Fiji, Section 38, Equality

1. Every person has the right to equality before the law.
2. A person must not be unfairly discriminated against, directly or indirectly, on the ground of his or her:
 - a. actual or supposed personal characteristics of circumstances, including race, ethnic origin, colour, place of origin, gender, sexual orientation, birth, primary language, economic status, age or **disability**; or
 - b. opinions or beliefs, except to the extent that those opinions or beliefs involve harm to others or the diminution of the rights or freedoms of others; or on any other ground prohibited by this Constitution.

Constitution of South Africa, Chapter 2, Bill of Rights, 9. Equality

1. Right to equal protection and benefit of the law.
2. Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.
3. The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, **disability**, religion, conscience, belief, culture, language and birth.
4. No person may unfairly discriminate directly or indirectly against anyone on one or more grounds in terms of subsection (3). National legislation must be enacted to prevent or prohibit unfair discrimination.
5. Discrimination on one or more of the grounds listed in subsection (3) is unfair unless it is established that the discrimination is fair.

Constitution of Uganda, Equality and Freedom from Discrimination.

21. (1) All persons are equal before and under the law in all spheres of political, economic, social and cultural life and in every other respect and shall enjoy equal protection of the law.

(2) Without prejudice to clause (1) of this article, a person shall not be discriminated against on the ground of sex, race, colour, ethnic origin, tribe, birth, creed or religion, or social or economic standing, political opinion or **disability**.

(3) For the purposes of this article, “discriminate” means to give different treatment to different persons attributable only or mainly to their respective descriptions by sex, race, colour, ethnic origin, tribe, birth, creed or religion, or social or economic standing, political opinion or **disability**.

(4) Nothing in this article shall prevent Parliament from enacting laws that are necessary for implementing policies and programmes aimed at redressing social, economic or educational or other imbalance in society; or making such provision as is required or authorised to be made under this Constitution; or providing for any matter acceptable and demonstrably justified in a free and democratic society.

(5) Nothing shall be taken to be inconsistent with this article which is allowed to be done under any provision of this Constitution.

REASONABLE ACCOMMODATION AND NON-DISCRIMINATION

The CRPD provides that the failure to provide reasonable accommodation constitutes discrimination. The duty to provide reasonable accommodation requires duty-bearers (for example, employers, educators, providers of goods and services, and public authorities) to take reasonable steps to adjust their policies, practices, and facilities or premises in order to remove disabling barriers. National disability legislation should specify that the denial of reasonable accommodation amounts to discrimination. In other words, there is an express duty to provide reasonable accommodation in order to realize equality.

The only limitation on the obligation to provide “reasonable accommodation” is that no such change or modification is required if it would cause a “disproportionate burden” or “undue hardship.” Disproportionate burden and undue hardships should be based on a case-by-case assessment of current circumstances that demonstrate that a specific reasonable accommodation would cause significant difficulty or expense. Various factors are relevant, including, but not limited to, the nature and cost of the accommodation needed, the overall financial resources of the facility making the reasonable accommodation, and the effect on expenses and resources of the facility.

The CRPD sets forth a definition of **reasonable accommodation** comprised of the following key duties:

- Identifying barriers that impact the enjoyment of human rights for persons with disabilities;
- Removing barriers;
- Making modifications or adjustments that are necessary and appropriate;
- Making modifications or adjustments that do not impose a disproportionate or undue burden;
- Responding to the specific, individual circumstances of the person with a disability;
- Finding solutions to address barriers that are appropriate to the individual with a disability;
- Recognizing that some accommodations may entail cost-free changes to standard practices while others may require resources to be spent on supports, equipment, or modifications; and
- Understanding that such accommodations apply to ensuring the enjoyment of all human rights.

REASONABLE ACCOMMODATION IN LAW AND PRACTICE

Americans with Disabilities Act (ADA)

Title I of the ADA defines “reasonable accommodation” as follows in relation to employment:

- a. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and
- b. Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

Title 3 of the ADA defines “reasonable modification” as follows in relation to the obligation to ensure that persons are not discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation:

... a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations[.]

European Union (EU) Framework Employment Directive

Article 5 of the EU Framework Directive imposes a duty on Member States of the European Union to require employers to provide reasonable accommodations to persons with disabilities. In particular, Article 5 requires employers to take reasonable steps to provide “appropriate measures, where needed in a particular case, to enable a person with a disability to have access to, participate in, or advance in employment, or to undergo training, unless such measures would impose a disproportionate burden on an employer.”

Philippines, Magna Carta for Disabled Persons

Reasonable accommodation in the context of employment under the legislation includes: “(1) improvement of existing facilities used by employees in order to render these readily accessible to and usable by disabled persons; and (2) modification of work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustments or modifications of examinations, training materials or company policies, rules and regulations, the provision of auxiliary aids and services, and other similar accommodations for disabled persons.”

WHAT DOES HUMAN RIGHTS LAW SAY ABOUT EQUALITY AND NON-DISCRIMINATION?

Numerous provisions addressing equality and non-discrimination are found throughout international human rights law instruments, reflecting the importance of these principles to the enjoyment of human rights. Indeed, the Preamble of the **Universal Declaration of Human Rights (UDHR)** refers to the “equal rights of men and women,” and Article 1 begins by saying that: “All human beings are born free and equal in dignity and rights.” Article 2 of the UDHR then goes on to list the grounds upon which no “distinction” or discrimination is permitted, including “race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” Article 7 addresses equality before the law and equal protection of the law: in other words, the right of everyone to have the law fairly applied without discrimination. Further references to equality are found throughout the rest of the UDHR in the context of specific rights, such as the equal rights of men and women regarding marriage.

The basic provisions found in the UDHR are reflected again in the **International Covenant on Economic, Social and Cultural Rights (ICESCR)** and the **International Covenant on Civil and Political Rights (ICCPR)**. Both the ICESCR and ICCPR contain articles ensuring the equal rights of men and women (Article 3 in each Covenant) and prohibitions of discrimination (Article 2 in each Covenant) on the same grounds as those listed in the UDHR. Article 26 of the ICCPR addresses the issue of equality before the law and equal protection of the law.

Similar provisions are reflected in other international human rights treaties. For example, Article 2 of the **Convention on the Rights of the Child (CRC)** expressly prohibits discrimination on a number of bases, including disability, regardless of whether it is the child or parent who is disabled. In some cases, the overall purpose of the treaties is to combat specific types of discrimination. For example, the express intent of the **International Convention on the Elimination of All Forms of Racial Discrimination (CERD)**, and the **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)** is to combat discrimination on the basis of race and against women respectively.

EQUALITY AND NON-DISCRIMINATION IN THE CRPD

The CRPD contains three articles of particular relevance to the principles of equality and non-discrimination: Articles 2, 3, and 5. Although it does not elaborate on the concepts, Article 3, General principles, clearly establishes equality and non-discrimination as two of the most important principles of the Convention. Along with other principles, such as respect for difference and autonomy, equality and non-discrimination should be applied to the interpretation and implementation of all other substantive articles in the CRPD.

Article 5 addresses equality and non-discrimination in more detail, specifying that States must recognize the equality of persons with disabilities before the law and their equal protection by and benefit from the law. Article 5 also bans discrimination on the basis of disability and obligates States to guarantee “equal and effective legal protection against discrimination on all grounds.” Although the additional grounds on which persons with disabilities should not be discriminated against are not itemized in Article 5, they appear in paragraph (p) of the Preamble of the CRPD, which lists them as:

... race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age or other status.

Though the list of prohibited grounds is similar to that included in the ICESCR, ICCPR, and other international human rights instruments, it is broader than some in that it also references “ethnic origin,” “indigenous origin,” and “age” as grounds upon which persons with disabilities should not be discriminated.



Article 5 represents the first time that an international human rights convention expressly bars discrimination on the basis of disability. That is not to say that disability-based discrimination is permitted under the prior human rights conventions simply because disability is not specifically included in their lists of prohibited grounds. Arguably, the references in the ICESCR, ICCPR, and other treaties to “other status” preclude discrimination on the basis of disability. However, Article 5 of the CRPD leaves no question that discrimination on the basis of disability is prohibited, though Article 5 does not define this term.

Instead, this definition is provided in Article 2, where other definitions (including “reasonable accommodation”) are also elaborated. Article 2 indicates that “discrimination on the basis of disability” means any “distinction, exclusion or restriction on the basis of disability” that has the “purpose or effect of” damaging or denying the enjoyment or exercise of human rights by persons with disabilities. It also specifies that the failure to provide reasonable accommodation is itself a form of discrimination.

EQUALITY AND NON-DISCRIMINATION AS A CROSS-CUTTING ISSUE

The CRPD prohibits disability discrimination against someone with a disability in a wide range of life activities, including, but not limited to:

- Employment. For example, when someone is trying to get a job, equal pay, or promotion.
- Education. For example, when enrolling in a school, college, or university.
- Access to premises used by the public. For example, using libraries, places of worship, government offices and courts, hospitals, restaurants, shops, cinemas, community centres, or other premises used by the public.
- Provision of goods, services, and facilities. For example, when a person wants goods or services from shops, cafes, places of entertainment, banks, law offices, government offices, and medical clinics, among others.
- Accommodation. For example, when renting or trying to rent a room in an apartment, boarding house, condominium unit, or house.
- Buying land. For example, buying a house, a place for a group of people, or drop-in centre.
- Activities of clubs and associations. For example, wanting to enter or join a registered club, or when a person is already a member.
- Sport and recreation. For example, when wanting to play or watch a sport or participate in recreational activities.
- Administration of government laws and programs. For example, when seeking information on government entitlements, trying to access government programs, or wanting to use voting facilities.

Source: Adapted from Australian Human Rights Commission, Disability Discrimination Act Guide: What Areas of Life Does the DDA Cover? (2000): http://www.hreoc.gov.au/disability_rights/dda_guide/areas/areas.html

As noted above, Article 5 also requires States to ensure provision of reasonable accommodation, in order to “promote equality and eliminate discrimination.” It also specifies that any measures undertaken to ensure or speed up the de facto equality of persons with disabilities should not be considered discrimination under the CRPD. Unlike similar provisions in other treaties (such as Article 4 of CEDAW), Article 5 does not set a time limit on the use of such measures or refer to them as “temporary” measures because for many persons with disabilities to enjoy de facto equality, the reality is that such measures will need to continue indefinitely.

THE CRPD COMMITTEE AND REASONABLE ACCOMMODATION

The CRPD Committee, in its first concluding observations on equality and non-discrimination in relation to the Tunisia report, expressed its regret for “the lack of clarity on the application of the concept of reasonable accommodation” in Tunisia’s disability legislation and instructed the State Party to “incorporate the definition of reasonable accommodation in national law and to apply it in accordance with article 2 of the Convention, in particular by ensuring that the law explicitly recognizes the denial of reasonable accommodation as a disability based discrimination.” The Committee also called on the State party to “act with urgency to include an explicit prohibition of disability-based discrimination in an anti-discrimination law, particularly those governing elections, labour, education and health, among others.” The Committee’s concluding observation makes clear that the implementation of reasonable accommodation is a core component of disability anti-discrimination legislation and central to the successful implementation of the CRPD as a whole.

Source: Committee on the Rights of Persons with Disabilities, “Consideration of Reports submitted by States under Article 35, Concluding Observations – Tunisia” (13 May 2011): <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/Session5.aspx>

THE DUTY TO RESPECT, PROTECT, AND FULFIL OBLIGATIONS OF EQUALITY AND NON-DISCRIMINATION

Taken as a whole, States’ obligations with regard to equality and non-discrimination include:

1. **Obligation to respect:** States must refrain from engaging in any act, custom, or practice that is inconsistent with the principles of equality and non-discrimination.

Example: The State amends its electoral code containing a voting exclusion based on mental disability.

2. **Obligation to protect:** States must take all appropriate measures to eliminate discrimination and violations of equality by any non-State actors, such as persons, organizations, or private enterprises.

Example: The State takes measures to enforce a non-discrimination law against employers who discriminate against persons with disabilities in hiring and employment settings.

Example: The State fines a bank that has a practice of restricting persons who are blind from opening bank accounts.

Example: The State investigates reports of discriminatory treatment of passengers with disabilities on public transportation.

3. **Obligation to fulfil:** States must be proactive in their adoption and implementation of measures to give effect to the principles of equality and non-discrimination.

Example: The State provides incentives for employers to hire persons with disabilities by funding building modifications.

Example: The State adopts training programs on disability awareness for public officials.

KEY ELEMENTS OF EQUALITY AND NON-DISCRIMINATION IN THE CRPD

- Equality and non-discrimination are central to the enjoyment of all rights and are principles and rights in the CRPD;
- States may not discriminate on the basis of disability and they must act to stop non-State actors discriminating on the basis of disability;
- Effective access to human rights is central to the enjoyment of equality and non-discrimination;
- Equality means that all human beings have the same inherent worth, regardless of differences between people;
- Non-discrimination concerns avoiding and correcting unfair treatment on the basis of disability, regardless of whether the unfair treatment is blatant or subtle;
- States must provide reasonable accommodation where needed;
- Failure to provide reasonable accommodation is a form of discrimination on the basis of disability; and
- States must take positive action to promote and ensure de facto equality of persons with disabilities.

In sum, human rights law strongly supports the right of persons with disabilities to be free from discrimination and to enjoy equality on an equal basis with other. The enjoyment of the right to non-discrimination and equality facilitates the enjoyment of all other human rights.

USEFUL RESOURCES ON EQUALITY AND NON-DISCRIMINATION

- Committee on Economic, Social and Cultural Rights, General Comment No. 5, Persons with Disabilities (1994): <http://www2.ohchr.org/english/bodies/cescr/comments.htm>
 - › General Comment providing detailed analysis of the implications of the ICESCR on persons with disabilities.
- Committee on Economic, Social and Cultural Rights, General Comment No. 20, Non-discrimination in economic, social and cultural rights (2009): <http://www2.ohchr.org/english/bodies/cescr/comments.htm>
 - › General Comment providing detailed analysis of non-discrimination within the context of the ICESCR and the CRPD.

- Committee on the Rights of the Child, General Comment No. 9, The rights of children with disabilities (2006): <http://www2.ohchr.org/english/bodies/crc/comments.htm>
 - › General Comment providing detailed analysis of the rights of children with disabilities under the CRC.
- Committee on the Rights of Persons with Disabilities, “Reporting Guidelines of the Committee on the Rights of Persons with Disabilities” (2009): <http://www.ohchr.org/Documents/HRBodies/CRPD/CRPD-C-2-3.pdf>
 - › Reporting Guidelines of the CRPD guiding States on report submissions.
- UN-DESA, OHCHR, IPU, *Handbook for Parliamentarians on the Convention on the Rights of Persons with Disabilities and its Optional Protocol*: <http://www.un.org/disabilities/default.asp?id=248>
 - › Introductory overview of the CRPD for legislators and others.

CHAPTER 2: ACCESSIBILITY

CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

Article 9, Accessibility

1. To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:
 - a. Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;
 - b. Information, communications and other services, including electronic services and emergency services.
2. States Parties shall also take appropriate measures to:
 - a. Develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;
 - b. Ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities;
 - c. Provide training for stakeholders on accessibility issues facing persons with disabilities;
 - d. Provide in buildings and other facilities open to the public signage in Braille and in easy to read and understand forms;
 - e. Provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public;
 - f. Promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information;
 - g. Promote access for persons with disabilities to new information and communications technologies and systems, including the Internet;
 - h. Promote the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost.

Article 2 - Definitions (excerpts)

“Reasonable accommodation” means 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;

“Universal design” means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. “Universal design” shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.

OBJECTIVES

The information contained in this chapter will enable participants to work towards the following objectives:

- Define accessibility and the related concepts of **reasonable accommodation** and **universal design**;
- Explain the importance of accessibility for persons with disabilities;
- Understand the interrelationship between accessibility and other human rights;
- Identify ways in which the accessibility of persons with disabilities has been promoted or denied; and
- Understand the provisions related to accessibility in the **Convention on the Rights of Persons with Disabilities (CRPD)**.

GETTING STARTED: THINKING ABOUT ACCESSIBILITY

The issue of accessibility is a natural starting point for any discussion about the human rights of persons with disabilities. No one can enjoy a human right to which they do not have access, and the barriers that currently prevent persons with disabilities from accessing their human rights are abundant. Indeed, it is these barriers that are part of the concept of “disability” itself. As noted in the Preamble of the CRPD:

(e) Recognizing that disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others.

There are various types of barriers to accessibility for persons with disabilities, including:

- **Physical:** Physical barriers prevent access for persons with disabilities to the physical environment, such as buildings, roads, transportation, and other indoor and outdoor facilities, such as schools, housing, medical facilities, sporting venues, and workplaces. They are some of the first barriers that people think of when considering access for persons with disabilities as they are often the most obvious. For example, many people are now aware of the importance of ramps for wheelchair access to buildings or the need for curbs-cuts in side-walks to facilitate street-level access. Other physical barriers may be less obvious, however. For example, people may not be aware of the need for tactile or high colour-contrast surfaces to assist persons with visual impairments as they navigate streets and buildings.

- **Informational:** Both the form and content of information can constitute barriers to access for persons with disabilities. For example, television programs that do not include captioning, subtitles, or in-set sign language interpretation are inaccessible to persons who are deaf. Similarly, television programming may also be inaccessible to persons who are blind unless audio-description is available. Information that is not provided in audio format, Braille, or other appropriate tactile forms may be inaccessible to persons who are blind. In addition to form, the content of information is also of critical importance. For example, information that is not provided in plain language may not be accessible to persons with intellectual disabilities.



Although technology has the potential to enhance access for persons with disabilities, technological advances that occur without incorporating accessibility features for persons with disabilities can create new barriers. For instance, at a time when people increasingly rely upon mobile phones and the internet as sources of information and means of communication, many of the devices and software programmes available are not accessible “out of the box” to persons who are deaf, blind, or deafblind. In some cases, persons with disabilities can buy programs for their phones or computers that facilitate access, but this is an additional expense and requires an understanding of how to use those programmes.

- **Institutional:** Institutional barriers include legislation, practices, or processes that actively prohibit or fail to facilitate access for persons with disabilities. For example, in some countries persons with psychosocial or intellectual disabilities are expressly prohibited by law from voting. In other countries, persons with disabilities may not be able to vote because of the absence of legislation or practice that ensures that they can both gain physical access to polling venues or voting booths and have access to the ballot and other voting information once they are there. In the educational context, children with certain disabilities may be expressly prohibited by law from attending “general” schools and instead may be required to attend “special” schools for children with that type of disability.

- **Attitudinal:** Perhaps the most pervasive barriers that persons with disabilities encounter are the negative attitudes and lack of understanding about disability issues of people in society. In some countries persons with disabilities are the most stigmatized and marginalized group in society, while in other countries the rights of persons with disabilities are not considered a high priority. Such attitudes are problematic because if members of society do not think that disability access is an important issue, then buildings, programmes, and educational and employment opportunities, among many other things, will not be fully accessible to persons with disabilities. In many cases, barriers are created or maintained simply because people are unaware of their existence and the detrimental effect they have on the lives of persons with disabilities. For example, a restaurant owner may mistakenly believe that their restaurant is accessible to wheelchair users because there are “only a couple of steps” at the entrance and fail to appreciate the need for people to be able to enter and exit safely and independently.

THE WORLD REPORT ON DISABILITY: BARRIERS

The World Report highlights the following as “disabling barriers” that persons with disabilities face:

- Inadequate Policies and Standards
- Negative Attitudes
- Lack of Provision of Services
- Problems with Service Delivery
- Inadequate Funding
- Lack of Accessibility
- Lack of Consultation and Involvement
- Lack of data and evidence

Source: World Health Organization & World Bank, “World Report on Disability” (2011): http://whqlibdoc.who.int/publications/2011/9789240685215_eng.pdf

THE INTERRELATIONSHIP OF RIGHTS

Ensuring accessibility is of critical importance because it directly affects the enjoyment of the full range of human rights by persons with disabilities. In other words, lack of access can prevent persons with disabilities from fully enjoying all of their human rights. For example, persons with disabilities have the right to education, but if a school or the school’s transportation system is not physically accessible, a student who uses a wheelchair may not be able to enjoy the right to education. If the school does not provide an accessible bus, then the student must find alternative transportation to get to school. Further, if the school has steps at the front entrance and there is no ramp or other way for the student to access the building, then the student may not even be able to enter the building. Even if the student can enter the building, he or she may still encounter inaccessible bathrooms or classrooms.

To further consider the interrelationship between accessibility and other human rights, lack of accessibility may prevent persons with disabilities from enjoying their right to participation in political and public life. For instance, persons who are blind may not be able to access voter information materials if they are not provided in alternative formats such as Braille or audio. If persons who are blind do not have access to voter information, they may not know when or where to register to vote, and even if they do show up, in many cases voter registration procedures may not be accessible. Additionally, many polling stations may not provide accessibility provisions, such as Tactile Ballot Guides or audio format, for persons who are blind to vote in secret.

CASE STUDY

THE BBC: TAKING A HOLISTIC APPROACH TO ACCESSIBILITY

The BBC is perhaps best known internationally for its television and radio news and entertainment programmes. However, when the BBC undertook a review of its commitment to accessibility for persons with disabilities, it looked beyond subtitles and audio description in its programming. Recognizing the diversity of services that it provides, as well as its role as an employer, the BBC committed itself to a comprehensive review of accessibility for persons with disabilities of all of its activities. Through surveys and focus groups, the BBC gathered information on the accessibility of its current activities, where people felt there were problems, and ways in which it could improve its performance in the future. For example, most people surveyed indicated that they did not face barriers in purchasing their television licenses, but they did face problems accessing customer service departments and felt that the organization did not always understand the issues facing persons with disabilities.

Source: British Broadcasting Corporation, “The BBC’s Disability Equality Scheme” (30 April 2007): <http://www.bbc.co.uk/info/policies/diversity.shtml#DESr>

WHAT DOES HUMAN RIGHTS LAW SAY ABOUT ACCESSIBILITY?

General references to “access” and related concepts can be found in instruments adopted prior to the **CRPD**. For example, Article 21 of the **Universal Declaration of Human Rights** (UDHR) refers to the right of everyone to “equal access to public service in his country.” Article 26 of the UDHR also refers to the need for tertiary, professional, and higher education to be “equally accessible to all on the basis of merit.”

The **International Covenant on Civil and Political Rights** (ICCPR) contains one express reference to “access” in Article 25, which addresses the right of people to “have access, on general terms of equality, to public service in his country.” The **International Covenant on Economic, Social and Cultural Rights** (ICESCR) references accessibility in the context of equal access to education in Article 13. Notably, General Comment No. 5, Persons with Disabilities, of the **Committee on Economic, Social and Cultural Rights**, the **treaty body** that monitors implementation of the ICESCR, specifically highlights the need for States Parties to the ICESCR to ensure that persons with disabilities enjoy full access to transportation, health care services, places of work, housing, health care, education, cultural and recreational venues, as well as other programmes, services, and places relevant to the enjoyment of economic, social, and cultural rights.

The **Convention on the Rights of the Child** (CRC) contains various references to the concept of “access.” Article 17 provides for children to have access to information:

States Parties recognize the important function performed by the mass media and shall ensure that the child has **access** to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health.

In relation to the right to health, Article 24 provides:

States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of **access** to such health care services.

Article 28 discusses the right to education and mentions accessibility in the following sections:

(b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and **accessible** to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;

(c) Make higher education **accessible** to all on the basis of capacity by every appropriate means;

(d) Make educational and vocational information and guidance available and **accessible** to all children;

Article 37 provides children prompt “access” to legal assistance:

(d) Every child deprived of his or her liberty shall have the right to prompt **access** to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

In addition, Article 23 specifically addresses the rights of children with disabilities, and notes the need for States Parties to ensure “effective access” for children with disabilities to receive:

...education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child’s achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development. (Art. 23 (3)).

Further, Article 23 (4) refers to access of information in the context of international cooperation:

States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

The **CRPD** is the first legally binding international instrument to provide in-depth articulation of the concept of accessibility for persons with disabilities. Although the concept of access is reflected in previous human rights **treaties**, it was never clearly applied to persons with disabilities. Prior to the adoption of the CRPD, a person with a disability had the right to “equal access” under other international human rights treaties. The significance of the CRPD is that it applies accessibility specifically to the achievement of all civil, political, economic, social and cultural rights for persons with disabilities.



CRPD Article 9, Accessibility, addresses the responsibility of States to ensure accessibility for persons with disabilities so they can “live independently and participate fully in all aspects of life.” Article 9 specifically requires States to ensure that persons with disabilities are able to access a comprehensive range of venues, facilities, and services “on an equal basis with others.” In providing examples, Article 9 references a variety of places and services that must be accessible to persons with disabilities, such as “buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces,” as well as “information and communications” and emergency services, all of which have the potential to impact a wide variety of human rights. Furthermore, Article 9 includes “other facilities and services open or provided to the public, both in urban and in rural areas,” ensuring that accessibility is not only addressed in cities, but also for persons with disabilities living in rural communities.

In order to achieve accessibility, Article 9 requires States to identify and eliminate obstacles and barriers to accessibility. The provisions that elaborate the specific measures to be undertaken are quite detailed and attempt to capture the wide range of access needs of different persons with disabilities in different contexts. They include:

- Developing and monitoring implementation of minimum accessibility standards and guidelines;
- Providing training on accessibility for stakeholders;
- Promoting design, development, production, and distribution of information and communications technologies that address accessibility early in their development and that are provided at minimum cost;
- Promoting access to new information and communications technologies and systems, “including the internet”;
- Providing signage for the public in Braille and other easy to read and understand forms;
- Providing live assistance (such as guides, readers, and sign language interpreters); and
- Promoting other “appropriate forms of assistance and support” to ensure access to information.

The scope of Article 9 is not limited to State actors, such as local and national governments or government agencies. Article 9 also implicates private actors, requiring States to “ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities.” In other words, although the Convention is not directly legally binding upon private actors (as only States can be bound by international treaties), it obligates States to require that private entities that are open to the general public comply with Article 9. These private entities include restaurants, taxi companies, supermarkets, private universities, professional associations, sports stadiums, and other private entities offering facilities and services to the

public. For example, States are required to ensure that restaurants, such as Fast Food chains, are accessible to persons with disabilities. In this example, States must ensure that Fast Food providers have an accessible entrance and also must ensure that the menu is accessible to persons with disabilities (for example, persons who are blind who cannot read the menu). There are many other accessibility issues that can be drawn from restaurants from every country in the world.



It should be noted that Article 9 is placed in the articles of general application in the CRPD. As with Articles 1-8, Article 9 is intended to inform and assist in the interpretation and implementation of all the human rights elaborated in the CRPD. For example, if someone were seeking to implement Article 13, Access to justice, an important starting place would be Article 9 when considering how to improve the accessibility of, for example, courthouses or the criminal justice system. This approach also explains why accessibility concepts are often not addressed in great detail or sometimes not at all in specific articles of the CRPD: the drafters of the CRPD intended Article 9 to be the common reference point for all issues of accessibility.

UNDERSTANDING UNIVERSAL DESIGN

As indicated in CRPD Article 2, Definitions, the use of universal design is intended to ensure access “by all people, to the greatest extent possible, without the need for adaptation or specialized design.” According to the United States Agency for International Development (USAID), “[u]niversal design means products and buildings that are accessible and usable by everyone, including people with disabilities.”⁴ The goal of universal design is to create an environment that is accessible to everyone from the design stage forward. The **World Report on Disability** describes the benefits of an accessible environment and states:

An accessible environment, while particularly relevant for people with disabilities, has benefits for a broader range of people. For example, curb cuts (ramps) assist parents pushing baby strollers. Information in plain language helps those with less education or speakers of a second language. Announcements of each stop on public transit may aid travellers unfamiliar with the route as well as those with visual impairments.⁵

UNIVERSAL DESIGN PRINCIPLES

When creating a new product, service, or programme or when constructing a building, sports arena, or park, the following universal design principles can ensure access by as many potential users as possible:

- **Equitable use:** The design is useful and marketable to people with diverse abilities;
- **Flexibility in use:** The design accommodates a wide range of individual preferences and abilities;
- **Simple and intuitive:** The use of the design is easy to understand, regardless of the user’s experience, knowledge, language skills, or current concentration level;
- **Perceptible information:** The design communicates necessary information effectively to the user, regardless of ambient conditions or the user’s sensory abilities;
- **Tolerance for error:** The design minimizes hazards and the adverse consequences of accidental or unintended actions;
- **Low physical effort:** The design can be used efficiently and comfortably with a minimum of fatigue; and
- **Size and space for approach and use:** The appropriate size and space is provided for approach, reach, manipulation, and use regardless of user’s body size, posture, or mobility.

Source: The Center for Universal Design, “Principles of Universal Design,” (2007): http://www.ncsu.edu/ncsu/design/cud/about_ud/udprinciplestext.htm

⁴ USAID/West Bank/Gaza, RFA 294-2010-116, “Enhancing Palestine Independent Media,” Issuance Date: May 7, 2010.

⁵ World Health Organization & World Bank, “World Report on Disability” (2011): http://whqlibdoc.who.int/publications/2011/9789240685215_eng.pdf

UNDERSTANDING REASONABLE ACCOMMODATION AND ACCESSIBILITY

In addition to universal design, Article 2 of the CRPD also defines the concept of **reasonable accommodation**, a process through which necessary and appropriate modifications, adjustments, or provisions are made, in order to accommodate the accessibility needs in a particular case. In other words it is often a specific response to the unique accessibility needs of an individual. It should be noted, however, that reasonable accommodations are also utilized to modify existing structures or programmes that were not originally developed in an accessible manner. For example, an old building that did not have a ramp requires the addition of a ramp as a reasonable accommodation if it is now open to the public as a doctor's office. In this example, the reasonable accommodation is not tailored for one individual, but rather is an accessibility provision that will help ensure access for many persons. The definition of reasonable accommodation in the CRPD therefore captures individualised accommodation but also anticipatory accommodations – those that are needed in order to achieve accessibility.

In many instances, reasonable accommodations are based on the individual accessibility needs of persons with disabilities in specific settings, such as employment or education. To this end, reasonable accommodation requires discussions between the provider and the person with a disability in order to ensure that the accommodation meets the access needs of the person with a disability and can be implemented by the provider. There is no “one size fits all” formula to reasonable accommodation, and it is important to note that different individuals with the same disability may request very different accommodations. For example, some persons with low vision may use screen-reading technology and therefore request that all information is provided to them in electronic format, while other persons with the same disability may prefer materials in large print.

Reasonable accommodations are often provided in educational and employment settings, where long-term accessibility solutions for specific individuals may be necessary to facilitate their enjoyment of the rights to education or work. For example, in an educational setting, a person who is deaf may have a sign language interpreter in class as a reasonable accommodation to facilitate accessible communication. A student with a learning disability might be accommodated through the provision of a dedicated note-taker or perhaps the allowance of extra time on exams. In an employment setting, a reasonable accommodation might include ensuring that the workspace is navigable for a wheelchair user or providing specialised software or other assistive technologies to facilitate computer use by persons who are blind or deaf. Reasonable accommodations must also be provided on an individual basis to facilitate access to justice, the right to health, the right to participation in political and public life, and the right to live independently, among other rights outlined in the CRPD.

The provision of reasonable accommodation is not required where doing so would impose a “disproportionate or undue burden” on the person or organization providing the accommodation. What is considered “reasonable” varies upon the size and resources of the person or organization providing the accommodation.

For example, it is “reasonable” for a corporate law firm that brings in millions of dollars in revenue per year to provide a sign language interpreter for a client who is deaf. It may be less “reasonable” for a small legal aid organization that receives little funding to retrofit its entire building as an accommodation for a client with a disability. That may be seen as an “undue burden,” and other accommodation options may be considered, such as meeting clients with disabilities in alternative, accessible spaces. These are two extreme examples that are intended to demonstrate the complexity of this issue and to help clarify the importance of considering “disproportionate or undue burden” on a case-by-case basis.

THE DUTY TO RESPECT, PROTECT, AND FULFIL OBLIGATIONS RELATING TO ACCESSIBILITY

Taken as a whole, States’ obligations with regard to accessibility include:

1. **Obligation to respect:** States must refrain from engaging in any act, custom, or practice that creates barriers to accessibility;

Example: The State adopts legislation requiring that new buildings are accessible for persons with disabilities.

2. **Obligation to protect:** States must ensure that non-State or “private” actors (such as businesses that offer services and facilities to the public) do not create or fail to remove barriers to access for persons with disabilities.

Example: The State enforces laws and policies requiring public accommodations, such as restaurants, community centres and libraries, to be accessible to persons with disabilities and fines facilities that are non-compliant.

Example: The State provides a hotline or website for private employers to seek advice and assistance on job accommodations for persons with disabilities.

3. **Obligation to fulfil:** States must take proactive action (such as measures indicated in the provisions outlined in Article 9) to ensure accessibility for persons with disabilities.

Example: The State creates a Task Force on Court Accessibility, undertakes access audits, and implements modifications designed to improve the accessibility of court services and facilities.

Example: The State provides sign language interpretation and videophones for travellers who are deaf in airports.

In sum, international human rights law strongly supports accessibility for persons with disabilities, so that persons with disabilities may live independently and fully participate in all aspects of life.

CASE STUDY

THE MALAYSIAN PERSONS WITH DISABILITIES ACT OF 2008

In 2008, Malaysia enacted a national disability law that provides detailed provisions on accessibility.

- The Preamble of the Act recognizes “the importance of accessibility to the physical, social, economic and cultural environment, to health and education and to information and communication, in enabling persons with disabilities to fully and effectively participate in society”
- The Act includes a Chapter on accessibility that states in Article 26 that “Persons with disabilities shall have the right to access to and use of, public facilities, amenities, services and buildings open or provided to the public on equal basis with persons without disabilities, but subject to the existence or emergence of such situations that may endanger the safety of persons with disabilities.”
- The Act specifies obligations in relation to access in the following realms:
 - › Access to public transport facilities
 - › Access to education
 - › Access to employment
 - › Access to information, communication and technology
 - › Access to cultural life
 - › Access to recreation, leisure and sport
 - › The Act covers access to health for persons with disabilities
 - › The Act covers access to assistance in situations of risk and humanitarian emergencies

Source: The Malaysian Persons with Disabilities Act of 2008, Law 685.

USEFUL RESOURCES ON ACCESSIBILITY

- American Council of the Blind: <http://www.acb.org/resources/index.html>
 - › Helpful resources for blind and visually impaired persons.
- Canadian Human Rights Commission, International Best Practices in Universal Design: A Global Review: http://www.chrc-ccdp.ca/whats_new/default-en.asp?id=376
 - › Worldwide report on best practices in universal design.
- The Center for Universal Design: http://www.design.ncsu.edu/cud/about_ud/udprinciples.htm
 - › An initiative of the College of Design at North Carolina State University providing information, technical assistance, and research on accessible and universal design in housing, commercial and public facilities, outdoor environments, and products.

- Committee on Economic, Social and Cultural Rights, General Comment No. 5: Persons with Disabilities (1994): [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/4b0c449a9ab4ff72c12563ed0054f17d?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/4b0c449a9ab4ff72c12563ed0054f17d?Opendocument)
 - › General Comment of the ICESCR Committee on persons with disabilities.
- Manila Declaration on Accessible Information and Communication Technologies (ICT), adopted by the Interregional Seminar and Regional Demonstration Workshop on Accessible ICT and Persons with Disabilities, Manila, Philippines (March 3-7, 2003): <http://www.un.org/esa/socdev/enable/maniladecl.htm>
 - › Declaration on accessible ICT.
- National Assembly of State Arts Agencies, *Design for Accessibility: A Cultural Administrator's Handbook* (2003): <http://www.nea.gov/resources/Accessibility/pubs/DesignAccessibility.html>
 - › Helpful overview of accessibility issues in the context of cultural administration.
- Tom Rickert, “Accessible Transportation Around the World,” Access Exchange International: <http://www.independentliving.org/mobility/mobility.pdf>
 - › Tips and guidelines on achieving accessibility in all countries)
- UN Global Audit of Web Accessibility: <http://www.un.org/esa/socdev/enable/gawanomensa.htm>
 - › Report on the investigation of the accessibility of 100 leading websites from 20 countries from around the world.
- US Department of Justice, *Americans with Disabilities Act Standards for Accessible Design* (2010): http://www.ada.gov/2010ADAstandards_index.htm
 - › Standards of accessibility pertaining to the Americans with Disabilities Act.
- W3C Web Accessibility Initiative: <http://www.w3.org/WAI/Policy/>
 - › Policies addressing web accessibility.

CHAPTER 3: THE RIGHT TO PARTICIPATION IN POLITICAL AND PUBLIC LIFE

CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

Article 29, Participation in political and public life

States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and undertake to:

- a. Ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, *inter alia*, by:
 - i. Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;
 - ii. Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums, without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;
 - iii. Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice;
- b. Promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:
 - i. Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties;
 - ii. Forming and joining organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.

OBJECTIVES

The information contained in this chapter will enable participants to work towards the following objectives:

- Define the right to participation in political and public life;
- Explain the importance of participation for achieving disability rights;
- Understand the interrelationship between the right to participation and other human rights;
- Identify ways in which the rights of persons with disabilities to participate in political and public life and decision-making generally has been promoted or denied;

- Describe the provisions regarding participation in the **Convention on the Rights of Persons with Disabilities (CRPD)**; and
- Highlight possible advocacy strategies to advance the right of persons with disabilities to participate in decision-making, including in political and public life.

GETTING STARTED: THINKING ABOUT PARTICIPATION IN POLITICAL AND PUBLIC LIFE

Persons with disabilities have too often been excluded from participating in the decisions that affect their lives. Their absence from decision-making processes reinforces barriers to full participation in society.



The enjoyment of the right of persons with disabilities to participate in decision-making, including participation in political and public life, is interrelated to their enjoyment of other human rights. For example, if a person with a disability is denied her or his right to education, the right to participate in political processes is also compromised because education provides the basis for active citizenship. Access to information is another precondition to the right to vote and to participate in decision-making in society. Similarly, if a person with a disability has no access to transportation, the person may not be able to register to vote, to cast a ballot at a polling station, or to participate in a public hearing on an important community issue that affects that person. Discriminatory laws may permanently deny persons with disabilities their legal rights and thus deny them their legal capacity, as in the

case of processes that strip the rights of persons with psychosocial disabilities to make decisions about medical interventions. These examples demonstrate how human rights are **indivisible, interdependent, and interrelated**.

VIOLATIONS AND BARRIERS TO PARTICIPATION IN POLITICAL AND PUBLIC LIFE

The right to political participation has been denied to persons with disabilities throughout the world for a variety of reasons. Discriminatory laws rooted in stigma and prejudice may restrict or even prohibit altogether the right to vote, particularly for persons with psychosocial or intellectual disabilities. Stereotypes associated with disability may also serve to exclude persons with disabilities from inclusion in public outreach by political parties or for consideration as candidates for public office. Lack of access to information, such as the timing of public meetings or election campaign material, can also be a barrier to participation. Communication barriers frequently exclude persons who are deaf or hard of hearing from decision-making processes, such as medical decision-making. In the context of international development, donor organizations or service providers may wrongly assume that persons with disabilities are unable or uninterested in taking part in the planning and implementation of development projects. These and numerous other barriers serve to reinforce the exclusion and isolation of persons with disabilities in political and public life and, more generally, preclude their participation in decision-making in all areas where their interests are affected, whether in the public or private realm.

EXAMPLES OF BARRIERS TO PARTICIPATION IN DECISION-MAKING

- Attitudes about the value of inclusion of persons with disabilities in decision-making processes;
- Lack of accessible information about public meetings and consultations, political parties, and voting and registration;
- Lack of transportation to public meetings, registration, and polling stations;
- Physical barriers to public buildings, including courts, voting registration centres, and polling stations;
- Polling stations in rooms too small to accommodate persons using wheelchairs and voting boxes placed on high tables;
- Lack of accessible information on voting procedures for voters with sensory disabilities;
- Poorly trained election workers;
- Hostility towards and/or exclusion of persons with psychosocial disabilities and intellectual disabilities in decision-making processes;
- Lack of alternative voting devices or accessible voting methods for persons with sensory disabilities; and
- Lack of mobile voting mechanisms for persons who cannot leave their homes or who are currently residing in hospitals/institutions.

WHAT DOES HUMAN RIGHTS LAW SAY ABOUT THE RIGHT TO PARTICIPATE IN POLITICAL AND PUBLIC LIFE?

The right to participate in political processes is a well-established principle of human rights law and is expressed in Article 21 of the **Universal Declaration of Human Rights** (UDHR). Furthermore, Article 25 of the **International Covenant on Civil and Political Rights** (ICCPR) provides that:

[E]very citizen shall have the right and the opportunity... without reasonable restrictions...to vote and to be elected at genuine periodic elections which shall be universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.

Specialized human rights conventions, including the **Convention on the Elimination of All Forms of Racial Discrimination** (CERD), the **Convention on the Elimination of All Forms of Discrimination against Women** (CEDAW) and the **Convention on the Rights of the Child** (CRC) all recognize the right to participate in decision-making for racial minorities, women, and children respectively.

The **Convention on the Rights of Persons with Disabilities** (CRPD) elaborates on the right of persons with disabilities to participate in the political life of their societies and provides specific guidance to States on implementing this right. Participation in the context of the CRPD extends beyond voting and encompasses the right of persons with disabilities to participate in decision-making processes on an equal basis with others where their interests are affected. Specifically, Article 29, Participation in political and public life, guarantees the right of persons with disabilities:

- To vote in elections on a non-discriminatory basis;
- To access an effective, impartial, and non-discriminatory procedure for the registration of voters;
- To have equal and effective access to voting procedures and facilities in order to exercise their right to vote, including the provision of **reasonable accommodation**;
- To cast their ballot in secret;
- To have assistance in order to exercise their right to vote or to stand for election as a candidate for public office;
- To participate in the conduct of public administration, including the administration of political parties and civil society;
- To participate in the work of international organizations, including serving as a representative of government in international organizations; and
- To form and join disabled people's organizations (DPOs) at all levels.

States Parties to the CRPD are required to ensure the right to participate in political processes, including voting. Importantly, States must also take positive actions to

assure that citizens with disabilities actually have the opportunity to exercise their political rights. In Article 3, General principles, the CRPD makes participation a fundamental principle and calls for “[f]ull and effective participation and inclusion in society.” Article 4, General obligations, requires States to “closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations,” in the “development and implementation of legislation and policies.” Through Article 29, Participation in political and public life; Article 3, General principles; and Article 4, General obligations, the CRPD sets forth the clearest expression in international human rights law of the right to participation in decision-making when one’s interests are affected.

THE CRPD COMMITTEE AND POLITICAL PARTICIPATION

The **CRPD Committee** in its **concluding observations** in relation to its review of the report of Spain expressed its concern regarding the permissibility of restrictions on the right to vote of persons with intellectual or psychosocial disabilities in situations where such persons have been deprived of legal capacity or placed in an institution. It also expressed regret at the number of persons denied their right to vote and the fact that such disenfranchisement appeared to be the rule and not the exception.

The CRPD Committee recommended that:

- A comprehensive review of legislation be undertaken to ensure that persons with disabilities have the right to vote and participate in political and public life on an equal basis with others, whatever their legal status or living arrangement;
- Amendments be made to legislation to secure the right to vote and the provision of assistance to facilitate political participation rights; and
- All persons with disabilities who are elected to a public position are provided with all required support, including personal assistants.

The Committee’s concluding observations make clear that the political rights of persons with disabilities must be legislatively protected and that voting restrictions on the basis of disability are impermissible.

Source: Committee on the Rights of Persons with Disabilities, “Consideration of Reports submitted by States under Article 35, Concluding Observations – Spain” (19 May 2011): <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/Session6.aspx>

THE DUTY TO RESPECT, PROTECT, AND FULFIL OBLIGATIONS RELATING TO PARTICIPATION IN POLITICAL AND PUBLIC LIFE

Taken as a whole, States' obligations with regard to the right to participation in political and public life include:

1. **Obligation to respect:** States must refrain from engaging in any act, custom, or practice that creates barriers to enjoyment of the right to participate in political and public life for persons with disabilities.

Example: The State does not limit the right of persons with disabilities to vote on the basis of disability in its electoral code and acts to repeal a law that excludes persons under guardianship from voting.

Example: The State amends its electoral procedures to ensure that persons with disabilities are allowed to be accompanied by a person of their choice to exercise their right to vote, including in the voting booth when casting their vote.

2. **Obligation to protect:** States must ensure that non-State or private actors do not violate the right of persons with disabilities to participate in political and public life.

Example: The State takes measures to ensure that election access is included in the programming of domestic and international election monitors.

Example: The State ensures that election equipment, such as voting booths and electronic voting machines procured for an election, are accessible to persons with disabilities.

3. **Obligation to fulfil:** States must take proactive steps to ensure enjoyment of the right to participate in political and public life by persons with disabilities.

Example: The State provides appropriate training of election officials and supports information campaigns that are accessible to persons with disabilities.

Example: The State undertakes a comprehensive audit of polling centres to ensure that they are accessible to persons with physical disabilities, such as wheelchair users.

In sum, international human rights law makes clear that States have the obligation to respect, protect, and fulfil the rights of persons with disabilities to participate in political and public life and decision-making more generally where their interests are affected. The enjoyment of the right to participate facilitates the enjoyment of all other human rights.

MEASURES TO ENHANCE PARTICIPATION IN POLITICAL LIFE AND DECISION-MAKING BY PERSONS WITH DISABILITIES

- Training of elected representatives on disability issues (for example, parliamentarians, local council members);
- Capacity building among disabled people's organizations to enhance their role in public decision-making processes of all types;
- Disability awareness campaigns;
- Outreach campaigns highlighting the right of persons with disabilities to vote and be elected;
- Public forums with political parties to present a unified disability platform;
- Development of an election access task force to work with election officials and national election commissions on access issues;
- Inclusion of the voice and image of persons with disabilities in civic and voter education materials;
- Development of Tactile Ballot Guides for voters who are blind, allowing their votes to be cast independently and in secret;
- Training of election officials on accessibility;
- Inclusion of persons with disabilities in election observation and inclusion of access issues on all election observation forms;
- Participation in the planning of development programmes and lobbying development organizations for inclusion; and
- Encouragement of government ratification of the CRPD.

INCLUSIVE CIVIC AND VOTER EDUCATION

Ensuring that civic and voter education processes are inclusive of persons with disabilities and their families is one way of facilitating active citizenship. Participation in voting is empowering and sets the stage for participating in community life in other spheres, such as economic opportunity. Disabled people's organizations (DPOs) should actively promote the participation of persons with disabilities and can serve as essential resources on disability inclusion to election commissions, civic and voter education organizations, and political parties. Moreover, persons with disabilities should be included in voter education initiatives as educators and voting materials should reflect the positive image of persons with disabilities. Such inclusion has the added benefit of helping to raise the visibility of persons with disabilities in society and confronting harmful stereotypes that reinforce exclusion and marginalization.



There are numerous examples of successful strategies for enhancing the participation of persons with disabilities in civic and voter education campaigns. Some of these include:

- Ensuring that persons with disabilities and their representative organizations are included in voter education campaigns as participants and as educators;
- Planning voter education activities in accessible venues and holding voter education sessions at DPOs;
- Inclusion of the voice and image of persons with disabilities in civic and voter education materials (for example, designing posters with images of voters with disabilities exercising their right to vote);
- Providing closed captions and sign language interpreters on televised voter information announcements;
- Ensuring that voters with disabilities have information on their right to have assistance in casting their vote, including by a person of their own choosing;
- Providing voter education and information in accessible formats (for example, large print, electronic format for voters that use screen-reading technology, written material, and easy-to-understand language for persons with intellectual disabilities); and
- Capacity building among DPOs to enhance their role in civic and voter education.

Civic and voter education initiatives present opportunities for DPOs to enhance disability awareness and increase the participation of persons with disabilities in political decision-making. They also provide opportunities for disability advocates to work with other civil society groups on voter awareness and education. In this

way, DPOs can share information and advocacy goals with other civil society groups and learn their advocacy strategies and priorities.

PARTICIPATION IN ELECTORAL PROCESSES

The CRPD provides that persons with disabilities have the right to vote, which means they have the right to register to vote, to receive voting information, and to cast their ballot in elections. States are required to provide procedures and facilities for voter registration and polling that are accessible to persons with disabilities. States are also required to ensure that all voters have the right to vote in secret. Although the right to register to vote and to vote on polling day extends to all persons, it is subject to the usual eligibility requirements, such as age and nationality. Certain disqualifications may apply to otherwise eligible voters, including sentencing by a competent court in criminal proceedings. In the absence of such disqualifications, no person can be barred from exercising his or her right to vote, provided she or he meets the other eligibility requirements.

Too often discriminatory disqualifications on the basis of disability disenfranchise persons with disabilities, such as exclusions from voting based on a declaration of legal incompetence or incapacity by a court. The CRPD prohibits voting exclusions on the basis of disability, restrictions that very often impact persons with intellectual and psychosocial disabilities. Exclusions and disqualifications relating to mental capacity must be regarded as discriminatory; and, even assuming that they were permitted, they are often applied arbitrarily and without court declarations. In this context, therefore, education of voters, registration and polling officials, and persons with disabilities themselves is particularly important.

CASE STUDY

EUROPEAN COURT OF HUMAN RIGHTS RULES ON DISENFRANCHISEMENT OF VOTER WITH A DISABILITY

In *Alajos Kiss v. Hungary*, the applicant contested his exclusion from the electoral register on the basis that he was under partial guardianship following a diagnosis of bipolar disorder. Because the Hungarian Constitution contained an absolute voting ban for people put under guardianship, the applicant was not permitted to vote in the 2006 parliamentary elections.

The European Court of Human Rights held unanimously that an automatic ban on voting for a person under guardianship violated the right to free elections of Article 3 of Protocol 1 of the European Convention on Human Rights. The Court also held that the State had to provide weighty reasons when applying a restriction on fundamental rights to a particularly vulnerable group, such as persons with mental disabilities. The Court did, however, accept the Hungarian government's contention "that only citizens capable of assessing the consequences of their decisions and making conscious and judicious decisions should participate in public affairs." On the other hand, the Court did not accept the permissibility of an automatic exclusion from the right to vote. The Court noted the relevance of the standards set forth in the CRPD in its ruling.

Source: *Alajos Kiss v. Hungary*, Eur. Ct. H.R. Application No. 38832/06 (20 May 2010): <http://cmiskp.echr.coe.int/tkpr197/view.asp?action=html&documentId=868178&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Voting procedures and facilities must be accessible to persons with disabilities. Polling stations must be free of physical barriers that might prevent a person with a physical disability from registering or voting. For example, stairs are barriers for persons who use wheelchairs or have mobility impairments and can also present dangers to voters who are blind or visually impaired. Communication barriers can prevent voters with hearing impairments from exercising their right to register and to vote. Sign language interpreters or written material highlighted with clear illustrations may provide accommodations for such voters. Plain language materials may assist voters with intellectual disabilities in exercising their right to vote. The training of election officials is essential to enable voters with disabilities to be appropriately accommodated and treated in a non-discriminatory manner.

All people have the right to vote in secret, an absolute right that may not be restricted. In many countries, however, voting and registration procedures are not made accessible to persons with disabilities to allow for their secret voting, especially for voters who are blind. Voters who are blind may exercise their right to vote in secret with a tactile ballot guide or with a voting machine that has audible instructions. Many countries have introduced accessible procedures that provide voters who are blind with the right to vote in secret.

TACTILE BALLOT GUIDES FOR VOTERS WHO ARE BLIND

In the 2005 Liberian elections, the National Elections Commission, together with the International Foundation for Election Systems (IFES), printed Tactile Ballot Guides to enable voters who are blind to mark their ballot independently, thereby preserving their rights to vote in secret. Election officials were trained on the use of this guide so that they could assist voters wishing to use them. A coalition of DPOs held voter education sessions throughout Liberia in which they explained to voters how to use the guides. Tactile Ballot Guides have been used in many countries, including Armenia, Ghana, and Yemen.

Persons with disabilities also have the right to assistance in the exercise of their registration and voting rights. For example, they may select a friend or family member to accompany them to the polls. The right to assistance is particularly important where registration and polling stations are not fully accessible. Service animals may also facilitate political participation rights.

In many countries around the world, DPOs have played important advocacy roles to enhance the accessibility of electoral processes for all and also to raise awareness about disability issues more generally. Electoral processes present opportunities for disability advocates to raise the visibility of disability issues, to engage with political parties, and to assess the extent to which national elections commissions are working to ensure access and realization of the right to vote for persons with disabilities.

RIGHT TO STAND FOR ELECTION AND HAVE EQUAL ACCESS TO PUBLIC SERVICE

Persons with disabilities have the right to stand for election to public office. While States may limit that right to those who have reached a minimum age, restrictions must be justifiable and reasonable. Disability should never apply as a restrictive condition.

Persons with disabilities likewise enjoy equal access to public service and government jobs at all levels, including working at local government offices, as well as serving as government representatives at international levels, such as the United Nations. Indeed, a number of elected representatives with disabilities and governmental public servants participated in the UN negotiations that resulted in the adoption of the CRPD. Such inclusion helps to ensure that government at all levels takes into account the needs of persons with disabilities.

In some countries DPOs have advocated for positive measures in order to ensure that their interests are effectively represented in their legislatures. In Uganda, for example, the Constitution requires that a certain percentage of seats in Parliament be accorded to representatives with disabilities. In other countries, the executive may appoint a certain number of parliamentary seats. In Namibia, for example, this policy has resulted in the presidential appointment of representatives with disabilities to parliament. In other cases, persons with disabilities may have representation through a Disability Advisor linked to the executive branch, as in the case of the Swedish Disability Ombudsman or Namibian Disability Advisor, or through a Council on Disability, as in the case of the United States National Council on Disability.

CASE STUDY

PARLIAMENTARY PARTICIPATION AND PERSONS WITH DISABILITIES

Canada: Following the election of a person with a disability to the House of Commons, modifications were made to Standing Orders of the House to “permit the full participation in the proceedings of the House of any Member with a disability.” This allows the Speaker to exempt such a member from the requirement to stand for debate and voting. Members of Parliament with disabilities are now allowed to be accompanied by an assistant on the floor of the House.

New Zealand: In November 2011, New Zealand voters elected the first deaf Member of Parliament, Mojo Mathers, a member of New Zealand’s Green Party.

Uganda: Uganda’s new constitution, written in 1995, requires that five of the national members of Parliament have personal experience with disability. The Local Government Act of 1997 provides for the election of one woman with a disability and one man with a disability to every village, parish, sub-county, and district council. Incredibly, there are some 47,000 representatives sitting on directly elected bodies, easily the largest group of politicians with disabilities anywhere in the world. Members of Parliament with disabilities have served on a variety of Parliamentary committees, including Presidential Appointments, Rules and Privileges, Legal and Parliamentary Affairs, Commissions, Statutory Authorities, State Enterprises, Social Services, Public Service, Gender, and Local Government. Serving in the Parliament is more accessible now that rules have been changed to permit guide dogs and sign language interpreters in meeting and parliamentary sessions.

South Africa: Eleven members of the South African Parliament are disabled. Prior to the 1994 elections, activists with disabilities looked for the political base to advance their cause. They used the Disability Rights Charter they had produced as a bargaining chip to pressure the ruling African National Congress (ANC) to establish a disability unit. Within three years a national disability strategy was adopted, and the unit was moved to the Office of the Deputy President.

RIGHT TO FORM AND JOIN ORGANIZATIONS

The CRPD recognizes the right of persons with disabilities to form and join DPOs for the purpose of representation at all levels. This right reflects the human right of anyone to found an association with others around a particular issue or to join an existing association. Forming an association and joining as a member must be voluntary: no one can be forced to join any association. States must provide a legal framework for establishing association and must protect this right against interference.

DPOs are explicitly referenced in the CRPD because they refer to organizations established by and for persons with disabilities themselves. Associations established and run by persons with lived experience of disability are best placed to ensure that the voice of persons with disabilities is heard in decision-making processes. DPOs played an important role in the process of drafting the CRPD and will continue to play critical roles in the implementation of the treaty.

USEFUL RESOURCES ON PARTICIPATION IN POLITICAL AND PUBLIC AFFAIRS

- Council of Europe, Committee of Ministers, “Recommendation CM/Rec 14 on the participation of persons with disabilities in political and public life” (2011): [https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Rec\(2011\)14&Language=lanEnglish&Ver=original&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383](https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Rec(2011)14&Language=lanEnglish&Ver=original&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383)
 - › Recommendations to Member States on facilitating the rights of persons with disabilities in politics and public life.
- European Union Agency for Fundamental Rights, “The Right to Political Participation of Persons with Mental Health Problems and Persons with Intellectual Disabilities,” (2010): http://fra.europa.eu/fraWebsite/research/publications/publications_per_year/pub-disability-overview_en.htm
 - › Details results of study to assess the enjoyment of the right to political participation for persons with mental and intellectual disabilities in the European Union.

- Guy S. Goodwin-Gill, *Free and Fair Elections*, Inter-Parliamentary Union (2006):
 - › Detailed coverage of international standards for free and fair elections.
- Inclusion Europe, *Recommendations for Accessible Elections in Europe* (2011):
 - › Details, among other things, the disproportionately low percentage of voting among persons with intellectual disabilities in various European countries.
- International Foundation For Electoral Systems (IFES), “Global Initiative to Enfranchise People with Disabilities”: <http://www.electionaccess.org>
 - › Resources on election access.
- U.S. Department of Justice, Civil Rights Division, Disability Rights Section, “Americans with Disabilities Act Checklist for Polling Places,” (February 2004): <http://www.ada.gov/votingck.htm>
 - › Providing very detailed accessibility guidance specifically for polling centres.

CHAPTER 4: FREEDOM OF EXPRESSION AND OPINION

CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

Article 21, Freedom of expression and opinion and access to information

States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice, as defined in article 2 of the present Convention, including by:

- a. Providing information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost;
- b. Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions;
- c. Urging private entities that provide services to the general public, including through the Internet, to provide information and services in accessible and usable formats for persons with disabilities;
- d. Encouraging the mass media, including providers of information through the Internet, to make their services accessible to persons with disabilities;
- e. Recognizing and promoting the use of sign languages.

Article 2, Definitions (excerpts)

For the purposes of the present Convention:

“Communication” includes languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology;

“Language” includes spoken and signed languages and other forms of non-spoken languages.

OBJECTIVES

The information contained in this chapter will enable participants to work towards the following objectives:

- Define the right to freedom of expression and opinion;
- Explain the importance of the right to freedom of expression and opinion for persons with disabilities;
- Understand the interrelationship between the right to freedom of expression and opinion and other human rights;

- Identify ways in which the right to freedom of expression and opinion of persons with disabilities has been promoted or denied; and
- Understand the provisions related to freedom of expression and opinion in the **Convention on the Rights of Persons with Disabilities (CRPD)**.

GETTING STARTED: THINKING ABOUT FREEDOM OF EXPRESSION AND OPINION

The human right to freedom of expression and opinion addresses a number of specific but interrelated concepts, each of which can be subjected to differing degrees of restriction by States:

FREEDOM OF OPINION

Everyone has the right to hold any opinion or view, regardless of how popular, unpleasant, or controversial others might find that opinion. This is a right that is absolutely protected and cannot be subjected to any form of restriction by States, as to do so would be to permit State interference into people's very minds and thoughts. Essentially we all have the right to think as we please and not to be told what or how to think.

FREEDOM OF EXPRESSION

The right to freedom of expression has two distinct parts:

- The right to impart or share information and ideas of all kinds; and
- The right to seek and receive information.

The right to freedom of expression includes the right to exchange information and articulate ideas and opinions, as well as to obtain information so that ideas and opinions can be developed. Unlike the right to freedom of opinion, the right to freedom of expression carries with it certain responsibilities and can be subjected to restrictions by the State. The expression of ideas or exchange of information can sometimes be harmful to others, such as when people incite hatred against others or say untrue things that could harm the reputation of another person. For this reason the State is permitted to impose some restrictions on the right to expression in the interests of public safety, order, health, morals, or protection of the fundamental rights and freedoms of others. However, such restrictions must be provided by law and actually necessary to protect those interests. In addition, any restrictions imposed by the State should not be so great as to effectively eliminate the right.

The right to freedom of expression and opinion is critical to the enjoyment of other human rights by persons with disabilities. For example, it would be hard to imagine the forming and effective functioning of disabled people's organizations (DPOs) without the ability of members to participate in the sharing and exchange of information and ideas. Similarly the ability of persons with disabilities to participate in political and public life, such as through voting and public service,

would be severely hampered if candidates could not express their views and voters could not access information about the issues. The formation and exchange of ideas is also essential to the right to education, where research and debate are critical components of many academic environments. In the same way, the development and exchange of ideas is critical to the development of culture and can provide an important means of expression.



VIOLATIONS AND BARRIERS TO FREEDOM OF EXPRESSION AND OPINION

Despite the importance of the right to freedom of expression and opinion, persons with disabilities face numerous barriers to full enjoyment of this right. For instance, many persons with disabilities lack access to information in accessible formats. This is certainly true for mainstream media, where not all television programmes are broadcast with subtitles, captioning, or inset sign language interpretation for viewers who are deaf, or audio description for viewers who are blind or have visual impairments. Few newspapers are available in Braille or audio format in a timely manner for readers who are blind, and fewer still offer content in plain language suitable for people with intellectual disabilities. Despite the growing use of the Internet as a source of news and a means of research, many websites remain inaccessible to persons with disabilities. Emerging technologies, such as digital broadcasting and broadband, have the potential to enhance the accessibility features available to persons with disabilities. However, this potential will only be realized if decision-makers responsible for how information is distributed are aware of the need to address accessibility and are willing to listen to the views of product users who have disabilities.

As with other human rights, one of the greatest barriers to enjoyment of the right to freedom of expression and opinion can be the attitudes of others. Prevailing social attitudes and stereotypes often create an environment in which the opinions of persons with disabilities are not welcome. Even when they do express themselves, their ideas and opinions may not be accepted as worthy of consideration on an equal basis with those of others. Persons with intellectual and psychosocial disabilities

commonly face pressure from others to conform not only in their way of thinking, but also in their methods of expressing themselves, to a manner considered “more acceptable.” Some people with psychosocial disabilities have noted that forced treatment involving psychotropic medications can interfere substantially with a person’s thought processes, making it difficult to think clearly and formulate opinions. In some cases the actual objective of using these therapies is to alter the way people with psychosocial disabilities think and express themselves so that their behaviour and beliefs do not offend or upset other people. This treatment is often defended by the argument that it is in the person’s best interests to avoid thoughts, ideas, and opinions that are “not rational.”

THE INTERRELATIONSHIP OF RIGHTS

Violations of other human rights can also negatively impact the enjoyment of the right to freedom of expression and opinion by persons with disabilities. For example, lack of access to education can hamper the opportunities for persons with disabilities to acquire knowledge and learn skills that contribute to developing ideas and sharing those ideas with other people. Violations of the right to privacy may discourage persons with disabilities from expressing their ideas in letters or other forms that they feel may be subject to search or confiscation. Such concerns may be heightened for people who do not enjoy the right to live independently and in the community. These people often live in institutional settings where staff or others living there may not be sufficiently respecting their right to privacy.

In summary, the right to freedom of expression and opinion is essential to the ability of persons with disabilities to develop as individuals and to participate in societies on an equal basis with others. However, full enjoyment will remain elusive for persons with disabilities as long as access, attitudinal, and other barriers exist.

UNITED NATIONS GLOBAL AUDIT OF WEB ACCESSIBILITY

The United Nations commissioned Nomensa, a company specializing in technology accessibility, to conduct a survey of websites from around the world in order to obtain an indication of the “accessibility of websites that persons with disabilities might access as part of their daily lives.” The survey examined 100 websites from 20 countries, focusing on five sectors: travel, finance, media, politics, and retail. It found that the vast majority of those websites did not currently meet internationally established accessibility standards and that many would need considerable work to upgrade them. Indeed, only 3 of the 100 websites met the basic accessibility rating. The following excerpts from the report represent some of the survey’s findings, and indicate barriers to access experienced by a variety of persons with disabilities:

- 93% did not provide adequate text descriptions for graphical content, causing problems for persons who are visually impaired;
- 78% used foreground and background colour combinations with poor contrast, making it difficult for people with mild visual conditions such as colour blindness to read information; and
- 97% used link text that did not clearly indicate the destination of the link, causing confusion for people with learning difficulties.

Source: Nomensa, United Nations Global Audit of Web Accessibility (2006): <http://www.un.org/esa/socdev/enable/documents/execsumnomensa.doc>

WHAT DOES HUMAN RIGHTS LAW SAY ABOUT FREEDOM OF EXPRESSION AND OPINION?

Article 19 of the **Universal Declaration of Human Rights** (UDHR) provides a concise description of the right to freedom of expression and opinion that captures the essential elements, including the right to hold opinions “without interference,” as well as the right to receive and impart information and ideas “through any media and regardless of frontiers.” Thus, there are no geographic restrictions on the right, and the right can be enjoyed regardless of the methods or media used.

The **International Covenant on Civil and Political Rights** (ICCPR) further elaborates this right, addressing in more detail when and how States may place restrictions on its enjoyment. Article 19 of the ICCPR does not permit restrictions on the freedom of people to hold opinions. However, it does permit restrictions on the right to freedom of expression in order to respect the “rights or reputations of others,” national security, public order, public health, or morals. As noted by the **Human Rights Committee** in **General Comment** No. 10 on freedom of expression, any such restrictions must be provided by law and necessary to protect the interests permitted by the article. They “may not put in jeopardy the right itself” or be imposed arbitrarily.

Other international human rights conventions do not provide the same level of detail about the freedom of expression and opinion as that given in the ICCPR. For example, Article 5 of the **International Convention on the Elimination of All Forms of Racial Discrimination** (CERD) merely notes that States must prohibit and eliminate racial discrimination and guarantee equality in enjoyment of the “right to freedom of opinion and expression.” Article 13 of the **Convention on the Rights of the Child** (CRC) largely repeats the ICCPR provisions, though Article 12 states that children should be able to express their views on matters concerning them and that those views should increasingly be taken into account as the child grows in maturity and competence.

CRPD Article 21, Freedom of expression and opinion, does not address the parameters of the right to freedom of expression and opinion in the same detail as the ICCPR. Instead, it examines specific issues impacting the ability of persons with disabilities to enjoy the right on an equal basis with others. The article places great emphasis on the need for information to be available in accessible formats and technologies, whether distributed by the mass media or by public or private actors. It also calls for States to accept sign language, Braille, and other means and modes of communication that persons with disabilities choose to use whenever they have “official interactions.” In recognition of the importance of sign language, Article 21 also calls for States to recognize and promote the use of sign language. It should be noted that the terms **language** and **communication** used in Article 21 are defined further in Article 2.

CRPD COMMITTEE ON THE RIGHT TO FREEDOM OF EXPRESSION AND OPINION

The CRPD Committee, in its first concluding observations on education in relation to the Tunisia report, recommended that the State Party:

Take measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion on an equal basis with others and, in this regard, provide information intended for the general public in accessible formats and – especially with respect to the deaf, hard-of-hearing, and deafblind – recognize and promote the use of sign language.

Source: Committee on the Rights of Persons with Disabilities, “Consideration of Reports submitted by States under Article 35, Concluding Observations – Tunisia,” (13 May 2011): <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/Session5.aspx>

THE DUTY TO RESPECT, PROTECT, AND FULFIL OBLIGATIONS RELATING TO FREEDOM OF EXPRESSION AND OPINION

Taken as a whole, States’ obligations with regard to the right to freedom of expression and opinion include:

1. **Obligation to respect:** States must refrain from engaging in any act, custom, or practice that creates barriers to the enjoyment of freedom of expression and opinion for persons with disabilities.

Example: The State does not enact laws or policies that prohibit persons who are deaf from communicating in sign language.

Example: The State provides legal protections to ensure that persons with disabilities enjoy equal access to communications in a non-discrimination law.

2. **Obligation to protect:** The State ensures that non-State or “private” actors, such as businesses that distribute information to the general public, do not create barriers to the enjoyment of the right of persons with disabilities to freedom of expression and opinion.

Example: The State takes action to ensure that banks provide equal access to checking accounts for persons who are blind.

Example: The State enacts and enforces a law that requires private businesses with websites to develop and maintain websites that are accessible to persons with all types of disabilities.

Example: The State takes measures to monitor the implementation of accessibility guidelines.

3. **Obligation to fulfil:** States must take proactive action to ensure enjoyment of the right to freedom of expression and opinion by persons with disabilities.

Example: The State takes steps to provide signs in Braille in public buildings, such as courthouses.

Example: The State provides information on access to entitlement programmes in plain language/easy-to-read formats.

Example: The State takes action to promote access to new information technologies and systems for persons with disabilities.

In sum, international human rights law strongly supports the right to freedom of expression and opinion for persons with disabilities, so that they may participate fully in all aspects of life on an equal basis with others.

MAKING INFORMATION AVAILABLE IN PLAIN LANGUAGE

In 2002, Jean Ross and Janet Pringle of the Vocational and Rehabilitation Research Institute (VRRRI) gave a speech to the Plain Language Association International (PLAIN) entitled: “Hey, I can read that! Perspectives on plain language and people with developmental disabilities.” Jean Ross, who self-identifies as someone with a developmental disability, spoke of some of the reasons why it is important for information to be available in plain language:

“It’s not fair when things we need to know are not written so we can read them. We feel left out. We have to wait for our support workers, or our family to tell us things. Sometimes they don’t have time or they forget. We should be able to read them for ourselves.”

Ross and other people with developmental disabilities work with people like Janet Pringle in order to “translate” information into plain language. This helps to make the content of the information accessible to as many people as possible. (The information might still need to be available in alternative formats, such as Braille, in order to make it fully accessible to all people with other disabilities.) After the information has initially been translated, the group works together to figure out what the information is trying to say and whether it does so in a way that can be understood by everyone.

Source: Jean Ross and Janet Pringle, “Hey, I can read that! Perspectives on plain language and people with development disabilities,” Plain Language Association International (PLAIN) Fourth Biennial Conference Proceedings (27 Sept. 2002): <http://www.plainlanguagenetwork.org/conferences/2002/perspect/perspect.pdf>

USEFUL RESOURCES ON FREEDOM OF EXPRESSION AND OPINION

- Human Rights Committee, General Comment No. 10, Freedom of Expression (Article 19 of the International Covenant on Civil and Political Rights) (1983): <http://www.unhcr.ch/tbs/doc.nsf/%28Symbol%29/2bb2f14bf558182ac12563ed0048df17?Opendocument>
 - Discusses the equal importance of the freedom to impart information and ideas and the freedom to seek out information and ideas.
- International Norms and Standards Relating to Disability, IV. Towards a Rights Based Perspective on Disability, 1. Civil and Political Rights, 1.5 Right to Freedom of Expression, UN Enable, <http://www.un.org/esa/socdev/enable/comp401.htm#1.5>

- U.S. Department of Health and Human Services, “Testing Documents for Section 508 Compliance”: <http://www.hhs.gov/web/508/testdocuments.html>
 - Reviews Internet accessibility for persons with disabilities.
- United Nations Enable, “Manila Declaration on Accessible Information and Communication Technologies (ICT),” (2003): <http://www.un.org/esa/socdev/enable/maniladecl.htm>
 - Reviews how accessible the internet is for persons with disabilities.
- Nomensa, *United Nations Global Audit of Web Accessibility* (2006): <http://www.un.org/esa/socdev/enable/documents/execsumnomensa.doc>
 - Reviews how accessible the internet is for persons with disabilities.
- W3C Web Accessibility Initiative, “Policies Relating to Web Accessibility”: <http://www.w3.org/WAI/Policy>
 - Provides information about national laws and policies that relate to web accessibility for persons with disabilities.

CHAPTER 5: THE RIGHT TO LIFE AND PROTECTION IN SITUATIONS OF RISK

CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

Article 10, Right to life

States Parties reaffirm that every human being has the inherent right to life and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others.

Article 11, Situations of risk and humanitarian emergencies

States Parties shall take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.

OBJECTIVES

The information contained in this chapter will enable participants to work towards the following objectives:

- Define the right to life;
- Define the right to protection in situations of risk and humanitarian emergencies;
- Understand the interrelationship between the right to life and protection in situations of risk and other human rights;
- Identify ways in which the right to life of persons with disabilities and protection in situations of risk have been promoted or denied; and
- Describe the provisions regarding the right to life and protection in situations of risk and humanitarian emergencies in the **Convention on the Rights of Persons with Disabilities (CRPD)**.

GETTING STARTED: THINKING ABOUT THE RIGHT TO LIFE AND PROTECTION IN SITUATIONS OF RISK

Disability is profoundly linked to the right to life. Persons with disabilities are frequently denied their right to life, as well as their right to protection in situations of risk in many contexts, such as natural disaster, armed conflict, and other humanitarian emergencies.

Harmful cultural practices may directly violate the right to life of persons with disabilities. Where resources are limited, preferential treatment of boys in the provision of food and medical attention directly impacts girls with disabilities and their right to life. In some cultures and societies, women and girls with disabilities are, like other women, subjected to practices such as widow burning and dowry killings. The practice of female genital mutilation often results in death from haemorrhaging and can create life-threatening conditions later for women during childbirth.

Other practices likewise implicate the right to life of persons with disabilities. The practice of euthanasia in many countries takes the form of withholding life-saving treatment to a newborn child with a disability. Health care providers frequently underestimate the quality of life enjoyed by persons with disabilities. Consequently, persons with disabilities are sometimes not given life saving interventions that would otherwise be provided to patients. Disability rights organizations have exposed cases where adults or children with disabilities have died at the hands of medical personnel who unilaterally decided that their life was “not worth living.” These cases have included the imposition of a “do not resuscitate order” (DNR order) on the medical chart of patients with non-life threatening health care conditions. A DNR order is intended to prevent attempts at Cardiopulmonary Resuscitation (CPR) if a patient goes into cardiac or respiratory arrest.

Disability advocates have invoked the right to life in order to oppose physician-assisted suicide. Other practices of concern include disability-selective screening directed not at treatment but toward termination on the basis of disability. In developing countries, the mortality rate of children with disabilities is frequently disproportionately high because such children may not receive adequate health care, including immunization from childhood diseases.

The enjoyment of the right to life by persons with disabilities is inextricably linked to the enjoyment of other human rights. For example, if a person with a disability has no access to health care or rehabilitation services, their right to life may well come under threat. Subjecting persons with disabilities to dangerous working environments or to conditions that amount to forced labour is likewise potentially life threatening.

Access to information is another precondition to the enjoyment of human rights and, in some instances, is directly related to the enjoyment of the right to life. Thus, the failure of officials to provide important information in accessible formats (for example, HIV/AIDS prevention programmes or emergency evacuation procedures in times of natural disaster) may infringe upon the right to life of persons with disabilities. These illustrations demonstrate that human rights are **indivisible**, **interdependent**, and **interrelated**. What is clear is that without respect for the right to life, all other human rights are without meaning.

BARRIERS TO ENJOYMENT OF THE RIGHT TO LIFE

- Negative attitudes in society that life with a disability is “not worth living”;
- Life-threatening conditions in institutions and orphanages;
- Harmful cultural practices such as female genital mutilation, dowry killing, and widow burning;
- Selective abortion based on disability;
- Infanticide and neglect of newborn infants with disabilities;
- Imposition of “do not resuscitate” (DNR) orders;
- Withholding of life-sustaining treatment for persons with disabilities in hospital settings;
- Sexual and domestic violence, particularly against women and girls with disabilities;
- Failure to be inclusive of persons with disabilities in disaster management, programmes for refugees and internally displaced persons, and other humanitarian programmes; and
- Lack of access to adequate food, clean water, shelter, and other basic survival needs.

WHAT DOES HUMAN RIGHTS LAW SAY ABOUT THE RIGHT TO LIFE AND PROTECTION IN SITUATIONS OF RISK?

The right to life is the most fundamental of all human rights. Article 3 of the **Universal Declaration of Human Rights** (UDHR) provides that “[e]veryone has the right to life, liberty and security of person.” Article 6(1) of the **International Covenant on Civil and Political Rights** (ICCPR) states:

Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

The right to life is not absolute, however. For example, the death of a combatant during a lawful act of war under international humanitarian law does not violate the right to life. In certain limited circumstances, such as self-defence, a law enforcement official may take the life of someone. Some jurisdictions permit capital punishment for serious crimes, a practice that Article 6 of the ICCPR acknowledges but also narrowly limits in those countries where the practice exists.

When a state recognizes the right to life in international law, it assumes various duties. The **UN Charter** prohibits the threat or use of force by any State against another State, except in exercise of the inherent right of self-defence. The **Human Rights Committee**, which monitors the ICCPR, has stated in **General Comment 6** on the right to life that “States have the supreme duty to prevent wars, acts of genocide and other acts of mass violence causing arbitrary loss of life.” The State’s obligations include making every effort to avert the danger of war and to strengthen international peace and security. These obligations constitute the most important condition for the safeguarding of the right to life. States may

not limit the right to life during times of war or emergency and are required to provide protection and safety to persons who are non-combatants as a matter of **international humanitarian law**.

States must also refrain from action that may intentionally take away life. The **Human Rights Committee** has condemned the practice of infanticide for infants with disabilities and noted that it “is gravely concerned at reports that new-born handicapped infants have had their lives ended by medical personnel.”⁶ The **Committee on the Rights of the Child** urged States to:

... review and amend laws affecting disabled children which are not compatible with ... the Convention, for example legislation which denies disabled children an equal right to life, survival and development (including, in those countries which allow abortion, discriminatory laws on abortion affecting disabled children, and discriminatory access to health services...).”⁷

The Human Rights Committee has stressed that the protection of the right to life requires that States adopt positive measures designed to protect life. These may include measures to increase life expectancy, decrease infant and child mortality, combat disease, and provide rehabilitation, adequate food, clean water, shelter, and other basic survival needs. Rule 2.3 of the **UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities** requires that “States should ensure that persons with disabilities, particularly infants and children, are provided with the same level of medical care within the same system as other members of society.”

The CRPD reflects these concerns about the right to life of persons with disabilities. In Article 10, Right to life, the CRPD recognizes the inherent right to life for persons with disabilities and, in addition, requires States to “take all necessary measures” to ensure the enjoyment of that right by persons with disabilities, on an equal basis with others. CRPD Article 11, Situations of risk and humanitarian emergencies, requires positive measures of protection and safety for persons with disabilities affected by situations of humanitarian emergencies and risk. This provision was regarded as essential by the drafters of the CRPD to ensure that the specific needs of persons with disabilities are taken into account when providing assistance to persons affected or displaced by natural disaster, armed conflict, or other emergency. Article 11 is closely connected to Article 10 insofar as natural disaster, war, and other acts of mass violence continue to take the lives of thousands of innocent human beings every year.

⁶ See Concluding Observations of the Human Rights Committee for The Netherlands, UN Doc. CCPR/CO/72/NL (2001): <http://www1.umn.edu/humanrts/hrcommittee/netherlands2001.html>

⁷ See Committee on the Rights of the Child, “General Day of Discussion, Recommendations,” CRC/C/66, Annex V, 16th Session (6 October 1997): <http://www.ohchr.org/EN/HRBodies/CRC/Documents/Recommendations/disabled.pdf>

THE CRPD COMMITTEE ON STATE REPORTING ON ARTICLES 10 & 11

The CRPD Committee issues Reporting Guidelines, which instruct States that have ratified the CRPD on how to inform the Committee of their progress in implementing the treaty. Regarding the right to life, the CRPD Committee asks **States Parties** to report:

- Whether the legislation recognizes and protects the right to life and survival of persons with disabilities on an equal basis with others;
- Whether persons with disabilities are being subject to arbitrary deprivation of life;
- Measures taken to ensure their protection and safety, including measures taken to include persons with disabilities in national emergency protocols; and
- Measures taken to ensure that humanitarian aid relief is distributed in an accessible way to persons with disabilities caught in a humanitarian emergency, in particular measures taken to ensure that sanitation and latrine facilities in emergency shelters and refugee camps are available and accessible for persons with disabilities.

Source: Committee on the Rights of Persons with Disabilities, "Reporting Guidelines of the Committee on the Rights of Persons with Disabilities," (2009): <http://www.ohchr.org/Documents/HRBodies/CRPD/CRPD-C-2-3.pdf>

THE DUTY TO RESPECT, PROTECT, AND FULFIL OBLIGATIONS RELATING TO THE RIGHT TO LIFE AND PROTECTION IN SITUATIONS OF RISK

Taken as a whole, States' obligations with regard to the right to life of persons with disabilities and their right to protection and safety in situations of risk and humanitarian emergency include:

1. **Obligation to respect:** States must refrain from engaging in any act, custom, or practice that creates barriers to enjoyment of the right to life and protection in situations of risk.

Example: The State does not restrict access to medical care for persons with disabilities.

Example: The State does not restrict access to food aid for persons with disabilities, but must ensure access on the same basis as others.

2. **Obligation to protect:** States must ensure that non-State or private actors do not violate these rights.

Example: The State takes measures to ensure careful monitoring of all settings where persons with disabilities live or receive services, whether publicly or privately operated, and takes measures to move persons with disabilities out of institutions and into community living situations with appropriate supports.

Example: The State includes persons with disabilities in disaster preparedness planning and provides services that are inclusive of persons with disabilities, such as appropriate evacuation procedures.

3. **Obligation to fulfil:** States must take proactive steps to ensure enjoyment of the right to life and protection in situations of risk by persons with disabilities.

Example: The State undertakes information campaigns that seek to dispel the myth that persons with disabilities have lives “not worth living.”

Example: The State initiates training programs for disaster preparedness and relief workers that include the care of persons with disabilities in the general population.

In sum, States have the obligation to **respect, protect, and fulfil** the right to life of persons with disabilities and their right to protection and safety in situations of risk and humanitarian emergency.

THREATS TO LIFE IN INSTITUTIONS



Persons with disabilities living in institutions are at high risk for human rights abuse, including infringements on the right to life. Placing persons in large-scale institutions, instead of providing for living arrangements within the community, is isolating and makes close monitoring of conditions nearly impossible. Disability Rights International (DRI) has documented egregious violations of the right to life for children and adults with diverse disabilities detained in dismal and dangerous institutions.⁸ DRI’s human rights reports document at length highly unhygienic conditions of detention; excessive use of physical restraints; lack of

⁸ For the webpage of the US-based organization, Disability Rights International, see www.dri.org

adequate food, water, clothing, and medical care; and other dangerous and life-threatening conditions, such as freezing conditions where patients have froze to death. DRI and many other disability rights organizations advocate for the closure of such facilities and call for enjoyment of the right to live independently and in the community, with appropriate supports. (See also Part 2, Chapter 6, Freedom from Torture and Other Forms of Abuse).

CASE STUDY

DOCUMENTING AND REPORTING ON HUMAN RIGHTS ABUSES IN INSTITUTIONAL SETTINGS

Findings by Disability Rights International (DRI) on conditions of institutionalized children

- Mexico: DRI documented the near absence of any official oversight of children in private institutions, and reports that children have “disappeared” from public record. Evidence further that children with disabilities have been “trafficked” into forced labour or sex slavery.
- United States: DRI reported that children with autism and other mental disabilities living at a residential school in Massachusetts are administered given electric shocks as a form of “behaviour modification” or bogus “aversive” therapy.
- Paraguay & Uruguay: DRI tracked children with disabilities experiencing inhuman and degrading treatment, including being locked up in cages within institutions.
- Turkey: DRI documented children as young as 9 years old being given electro-shock treatments without anaesthesia until exposed by human rights reporting efforts.
- Romania: DRI found that teenagers with both mental and physical disabilities were isolated in an adult psychiatric institution and were in near-death condition on account of from intentional starvation. Some of the teens weighed less than 30 pounds.
- Russia: DRI documented thousands of neglected infants and babies subjected to isolation in so-called “lying down rooms,” where row after row of babies with disabilities are confined to live and die in their filthy cribs.

Worldwide Campaign to End the Institutionalization of Children

DRI is currently calling for an end to institutionalization of children based on its years of documenting and reporting on human rights abuses inside institutional settings around the world. DRI is currently developing a comprehensive report that shows the unfortunate role that international funders play in perpetuating the segregation of children with disabilities and explains the link between institutionalization – particularly in developing countries – and the misuse of foreign assistance funding to build new institutions or rebuild old crumbling facilities, instead of providing assistance and access to services for families who want to keep their children at home and in the community.

For more on the extensive documenting and reporting undertaken by DRI in this context and its campaign, see <http://www.disabilityrightsintl.org/learn-about-the-worldwide-campaign-to-end-the-institutionalization-of-children/>

EUGENICS AND NAZI-ERA MASS KILLING

While persons with disabilities throughout the ages and in most societies have faced stigma and discrimination on account of their difference, the rise of the eugenics movement in America and Europe during the late nineteenth century led to the specific targeting of persons with disabilities for widespread abuses, and ultimately, mass murder in Nazi Germany. Eugenicists warned that the birth rate of the “fit” and “talented” members of society had declined to an alarming extent, while less desirable members of society continued to multiply. In the most egregious cases, persons with disabilities were singled out for mass murder, as in the Nazi genocidal programmes targeting persons with disabilities living in institutions.

Children with disabilities were targeted for systematic killing under a separate Nazi programme that preceded the mass murder of adults with disabilities. A decree mandated the reporting of all newborns and infants under three years of age with suspected “hereditary diseases” including, among others, Down Syndrome, deafness, blindness, paralysis, and congenital physical disabilities. A variety of particularly horrific killing methods were used, including massive lethal injection to the heart, poison administered over an extended period of time, gassing with cyanide or chemical warfare agents, starvation, and exposure. The latter two methods were sometimes selected so that doctors could attribute the death to “natural causes” or routine illness such as pneumonia. Estimates suggest that at least 5,000 children with disabilities were killed under the euthanasia program during World War II.

During the 1994 genocide in Rwanda, persons with disabilities were killed at hospitals and residential institutions. More recently, human rights reports have exposed eugenics-like programs in North Korea, where persons with disabilities are sent to dismal internment camps and are categorized and separated according to their disability. For example, camps exist for persons of especially short stature, who are rounded up, relocated, and prohibited from marrying or having children. Persons with mental disabilities are detained in camps known as “Ward 49,” where they endure particularly harsh and life threatening conditions.⁹

⁹ United Nations Department of Public Information, “North Korea Puts Disabled in Camps” (6 November 2006): <http://www.dpi.org/lang-en/resources/details.php?page=753>

CASE STUDY

EUGENICS: OPERATION T4

In 1933, the German Ministry of Justice proposed legislation authorizing physicians to grant “mercy deaths” in order to “end the tortures of incurable patients, upon request, in the interests of true humanity.” The legislation was never formally enacted, yet its objectives – not euthanasia but the mass killing of persons with disabilities – were implemented in the form of a programme known as Operation T-4.

Under the top secret T-4 programme, patients in all government- and church-run sanatoria or nursing homes with a wide range of physical, sensory, and mental disabilities perceived to be hereditary in nature were targeted for extermination. Included were those with blindness, deafness, epilepsy, intellectual disabilities, autism, depression, bipolar disorder, mobility impairments, or congenital disabilities. The pool of victims later expanded to include sick residents of poorhouses and old age homes.

The T-4 programme served as a testing ground for the Nazi killing machine. At the outset, T-4 victims were killed by lethal injection, but they soon became the first victims of an experimental gas chamber at Brandenburg Prison. In a test run in January 1940, patients diagnosed with mental disabilities were gassed to death in an experiment intended to show the effectiveness of poison gas over other methods of killing. Nazi techniques of outfitting killing chambers with false showerheads and bathroom tiling developed under the T-4 programme and were later used extensively in the notorious death camps like Auschwitz and Birkenau.

Source: Janet E. Lord, “The Application of the Laws Concerning Genocide and Crimes against Humanity to People with Disabilities” in *Encyclopedia of Genocide and Crimes against Humanity* (Dinah L. Shelton, ed., 2004).

SITUATIONS OF RISK: NATURAL DISASTER AND ARMED CONFLICT

Recent humanitarian emergencies – both natural disasters, such as the Asian Tsunami of 2007, and various crises resulting from armed conflict, such as Afghanistan, Iraq, and Northern Uganda – disclose the failure of large humanitarian operations to respond appropriately to the needs of beneficiaries with disabilities. Humanitarian organizations are all too often unprepared and lacking the technical expertise to ensure even the most basic needs of persons with disabilities, including adequate shelter, food, water, and health care services.

Hurricanes Katrina and Rita in the United States disclosed the failure of US federal-level disaster preparedness for meeting the needs of persons with disabilities. Persons with disabilities were left trapped in their homes for days and provided with completely inadequate medical care in shelters, and many died as a result. Later, persons with disabilities were often unable to access assistance programs because of numerous barriers, including, for example, the inaccessibility of shelters provided to survivors for persons who use wheelchairs.

Armed conflict of any kind represents a major threat to human life and security. Conflict is both a source of disabling conditions and can also aggravate or create

secondary disabilities for persons with disabilities. There are many adverse effects of conflict on persons with disabilities, including the break-up of support networks of family and community; displacement or abandonment; and destruction of health, rehabilitation, and transportation infrastructure. The devastating impact of armed conflict on the mental and psychosocial well-being of the affected population is also a major risk factor.

Although many international documents recognize that persons with disabilities are a particularly at-risk population in times of humanitarian crisis, few specific policies and practices have resulted in inclusive humanitarian action. In many instances, international humanitarian assistance organizations will claim to be operating in accordance with human rights and protection-oriented principles. It remains the case, however that few of these groups have disability-specific policies, and staff members are ill-equipped to accommodate persons with disabilities. Advocacy by disabled people's organizations (DPOs) is an essential tool in ensuring that humanitarian assistance programmes take into account the specific needs of persons with disabilities in their preparation for and response to humanitarian crises. Persons with disabilities and their representative organizations must participate in all programmes designed to reach affected populations in times of crisis.



CHECKLIST FOR COMMUNITY DISASTER PREPAREDNESS FOR PERSONS WITH DISABILITIES

- ✓ Do get involved in public disaster planning in your community.
- ✓ Don't wait until a disaster, and persons with disabilities are left behind.
- ✓ Do get prepared at home and then expand preparedness to public settings.
- ✓ Don't assume evacuation plans exist for persons with disabilities.
- ✓ Do form an "Accessibility Committee" at work and other public places
- ✓ Don't assume you will be evacuated with everyone else.
- ✓ Do explore evacuation options with emergency managers and others.
- ✓ Don't overlook alternatives, such as evacuation chairs.
- ✓ Do share the plan with all those in the building/area and then run practice evacuation drills.
- ✓ Don't wait until the disaster to raise awareness on disability issues.
- ✓ Do learn about disasters and share that knowledge.
- ✓ Don't forget to check shelter accessibility and service animal provisions.
- ✓ Do talk to local emergency managers about disability rights.
- ✓ Don't wait to train and educate others about the plan procedures.
- ✓ Do initiate talking to managers, responders and Red Cross/Red Crescent.
- ✓ Don't forget to develop a network of supporters who can assist you.
- ✓ Do remember to participate so that "Nobody is Left Behind"!

Source: University of Kansas, Research and Training Center on Independent Living, "Nobody Left Behind: Disaster Preparedness for Persons with Mobility Impairments, Disaster Do's and Don'ts Checklists": <http://www.nobodyleftbehind2.org>

DISABILITY ADVOCACY ON THE RIGHT TO LIFE

Disability advocacy has, in recent years, begun to address how a growing "right to die" or "assisted suicide" movement may impact the right to life of persons with disabilities. These movements claim to provide persons with significant and/or terminal illnesses or disabilities the right to choose death according to their own timing and place. The major question of concern for disability advocates is whether death in such cases is really a free and informed choice or merely a response to external pressure and negative messages about the "burden" of disability or assumptions about quality of life. Some disability organizations, such as the US-based group Not Dead Yet are confronting the "right to die" movement and challenging the movement's positions on the basis that it is disregarding and essentially devaluing the lives of persons with disabilities. Such organizations oppose attempts to legalize physician-assisted suicide and also work to address other medical and bioethics issues. Other disability advocates are addressing the right to life in other contexts, such as working to ensure that persons with disabilities have access to quality health care, including immunization programs and health education. Still others are working on ensuring that emergency preparedness plans address the needs of persons with disabilities in a variety of situations of risk. In these and many other contexts, persons with disabilities must work in cooperation with other stakeholders to advocate on right-to-life issues.

USEFUL RESOURCES ON THE RIGHT TO LIFE AND PROTECTION IN SITUATIONS OF RISK:

- Disability Rights International: <http://www.mdri.org>.
 - › Website of leading disability rights organization (formerly named Mental Disability Rights International) focused on documenting and reporting abuses, particularly in institutional settings.
- International Disability Rights Monitor, *Disability and Tsunami Relief Efforts in India, Indonesia and Thailand*, Center for International Rehabilitation (September 2005): http://www.handicap-international.fr/bibliographie-handicap/7Donnees/RapportEtude/IDRM_Tsunami.pdf.
 - › Assessment of Asian tsunami relief efforts and their inclusion of persons with disabilities.
- Janet E. Lord & Michael A. Stein, “Ensuring Respect for the Rights of People with Disabilities,” in *The Human Impact of Natural Disasters: Issues for the Inquiry-Based Classroom* (Valerie Ooka Pang, William R. Fernekes & Jack L. Nelson eds. 2010).
 - › Overview of disability inclusion barriers in natural disaster planning and response and classroom exercise.
- Mental Disability Advocacy Center: <http://www.mdac.info>
 - › Website for leading European organization addressing the rights of persons with mental disabilities through documentation, reporting, and strategic litigation.
- M.H. Fox et al., “Final Report of the Nobody Left Behind: Preparedness for Persons with Mobility Impairments Research Project,” Research and Training Center on Independent Living University of Kansas (2007): <http://www.nobodyleftbehind2.org/findings/Final%20Report%20NLB%20July%202007.pdf>
 - › Detailed study of disaster planning and response following Hurricanes Rita and Katrina in the US.
- Not Dead Yet: <http://www.notdeadyet.org>
 - › Website for disability rights organization focused on issues surrounding valuing the lives of persons with disabilities and advocating against practices like physician-assisted suicide.
- UN Human Rights Committee, General Comment No. 6, the Right to Life (Article 6), 16th Session (1982): <http://www.unhchr.ch/tbs/doc.nsf/0/84ab9690ccd81fc7c12563ed0046fae3?Opendocument>
 - › Commentary by the treaty body that monitors the ICCPR on the interpretation of Article 6 on the right to life.
- US Department of Justice, *An ADA Guide for Local Governments: Making Community Emergency Preparedness and Response Programs Accessible to People with Disabilities*: <http://www.ada.gov/publicat.htm#Anchor-Emergency>
 - › Helpful online resource providing guidance on accommodating persons with disabilities in disaster planning and response.

CHAPTER 6: FREEDOM FROM TORTURE AND OTHER FORMS OF ABUSE

CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

Article 15, Freedom from torture or cruel, inhuman or degrading treatment or punishment

1. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his or her free consent to medical or scientific experimentation.
2. States Parties shall take all effective legislative, administrative, judicial or other measures to prevent persons with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman or degrading treatment or punishment.

Article 16, Freedom from exploitation, violence and abuse

1. States Parties shall take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects.
2. States Parties shall also take all appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring, inter alia, appropriate forms of gender- and age-sensitive assistance and support for persons with disabilities and their families and caregivers, including through the provision of information and education on how to avoid, recognize and report instances of exploitation, violence and abuse. States Parties shall ensure that protection services are age-, gender- and disability-sensitive.
3. In order to prevent the occurrence of all forms of exploitation, violence and abuse, States Parties shall ensure that all facilities and programmes designed to serve persons with disabilities are effectively monitored by independent authorities.
4. States Parties shall take all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disabilities who become victims of any form of exploitation, violence or abuse, including through the provision of protection services. Such recovery and reintegration shall take place in an environment that fosters the health, welfare, self-respect, dignity and autonomy of the person and takes into account gender- and age-specific needs.
5. States Parties shall put in place effective legislation and policies, including women- and child-focused legislation and policies, to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted.

OBJECTIVES

The information contained in this chapter will enable participants to work towards the following objectives:

- Define the right to be free from torture or cruel, inhuman, or degrading treatment or punishment;
- Define the right to be free from exploitation, violence, and abuse;
- Explain the importance for persons with disabilities of the rights relating to freedom from torture and other forms of violence;
- Understand the interrelationship between the right to be free from torture and other forms of violence, and other human rights;
- Identify ways in which the prohibitions against torture and other forms of violence have been violated and efforts to prevent such violations; and
- Describe the provisions regarding the right to be free from torture or other cruel, inhuman, or degrading treatment or punishment and the right to be free from exploitation, violence, and abuse outlined in the **Convention on the Rights of Persons with Disabilities (CRPD)**.

GETTING STARTED: THINKING ABOUT THE RIGHT TO BE FREE FROM TORTURE AND OTHER FORMS OF VIOLENCE

Persons with disabilities are particularly at risk for exposure to torture and other forms of cruel, inhuman, or degrading treatment or punishment. Likewise, persons with disabilities are vulnerable to exploitation, violence, and abuse. Many violations against persons with disabilities go unnoticed because they frequently are forced into institutionalized settings or other places that are isolated and hidden from public scrutiny, such as private and group homes, psychiatric hospitals, detention centres, and prisons. Like all human beings, persons with disabilities have the right under human rights law to be free from all forms of violence and abuse.

WORLD REPORT ON DISABILITY: PERSONS WITH DISABILITIES ARE AT GREATER RISK OF BEING EXPOSED TO VIOLENCE

- Persons with disabilities are at greater risk of violence than persons without disabilities.
- Research in the United States discloses that violence against persons with disabilities is 4–10 times greater than violence against persons without disabilities.
- The prevalence of sexual abuse against persons with disabilities is reported to be higher than such abuse against persons without disabilities.
- Sexual violence is particularly prevalent for persons who are institutionalized and for persons with intellectual disabilities.

Source: World Health Organization & World Bank, “World Report on Disability” (2011): http://whqlibdoc.who.int/publications/2011/9789240685215_eng.pdf

The enjoyment of the right of persons with disabilities to be free from torture and other forms of violence is related to their enjoyment of other human rights. For example, if a person with a disability is subjected to torture, his or her right to life may well be compromised and also his or her right to health – both physical and mental – is surely at risk. Where children with disabilities are subjected to violence and abuse in educational settings, their right to health, as well as their right to an education is violated. (For more on the rights of children with disabilities, see Part 2, Chapter 15, *The Human Rights of Children with Disabilities*). Persons with disabilities in institutional settings are often subject to degrading conditions where they receive little or no care, have no means to fulfil basic necessities of personal hygiene, or have no access to meaningful activities of interest. Such conditions violate a number of additional human rights beyond the right to be free from inhuman and degrading treatment, including the right to an adequate standard of living, the right to recreation, and the right to health. These examples demonstrate how human rights are **indivisible**, **interdependent**, and **interrelated**.

FACTORS CONTRIBUTING TO VIOLENCE AGAINST PERSONS WITH DISABILITIES

- Negative myths and stereotypes about disability that relegate persons with disabilities to powerless positions and the perception of being an “easy target” for perpetrators;
- Power imbalances between persons with disabilities and their caregivers;
- Isolation in homes or institutions away from public and governmental scrutiny;
- Lack of education and training that helps to identify and address violence, especially for women and girls with disabilities;
- Lack of training by family members, caregivers, and health professionals on appropriate care for persons with disabilities;
- Armed conflict and certain environmental hazards, such as landmines;
- Poverty; and
- Cultural practices, such as female genital mutilation, “virgin rape” of women with disabilities (based on the false assumption that they are asexual and often connected to notions of cure for HIV), and withholding food from infants with disabilities.

Human rights law draws some distinctions between torture on the one hand and cruel, inhuman, or degrading treatment or punishment on the other. Where an action does not meet the precise definition of torture, it may be considered cruel, inhuman, or degrading treatment or punishment, depending on the form, severity, and purpose of the conduct. Advocates need to understand the legal differences when they are making claims and reporting on violations. It is also important to understand, however, that the lines between torture and cruel, inhuman, and degrading treatment or punishment may be difficult to draw in any given case. In part, it requires assessing the intensity and duration of pain and the particular circumstances of the individual. Abuse that some courts may recognize as torture may be characterized differently by other courts.

DEFINING TORTURE

Torture is one of the most serious violations of human rights. The right to be free from torture and other forms of physical and mental ill-treatment is absolute and may not be suspended or restricted under any circumstances. Because of the risk of torture and other ill-treatment occurring during police custody, a number of procedural safeguards have been put in place in international human rights law documents that aim to substantially reduce the risk of torture occurring.

Torture is a frequent cause of disability, and when torture is inflicted on a person with a disability, it may lead to secondary disabilities or the onset of a serious medical condition. Interrogation techniques amounting to torture, which are damaging to anyone, may be compounded for a person with certain disabilities or for those with medical conditions. In addition, if an interrogator fails to recognize a person's disability, the person under questioning could mistakenly be considered non-cooperative, as in the case of a prisoner who is unable to hear or process a question or communicate an answer as a result of a disability.

Subjecting persons with disabilities to harmful forms of treatment in the name of “fixing” or “curing” their disability has a long history. The practices of displaying and photographing children with visible disabilities in hospital amphitheatres or subjecting persons with disabilities to display in circuses in forced-labour conditions are degrading as well as psychologically harmful.



The treatment of psychosocial illnesses especially illustrates abusive practices that may amount to torture or cruel, inhuman, or degrading treatment or punishment. In many cultures, persons with psychosocial illness are considered to be possessed by demons that must be driven out, often by violent means, such as physical abuse or even drilling into the skull to “release the demon.” In the European middle ages, a standard approach to “cure madness” was isolation in darkness or

public whipping. In the 18th century “Enlightenment,” persons with psychosocial disability were often segregated and held in public “madhouses,” such as the notorious Bedlam Hospital in London, to which citizens could purchase tickets for the amusement of looking at the detainees.¹⁰

The abusive treatment of persons with psychosocial disabilities is not confined to the distant past. Disability organizations have documented contemporary examples of abusive treatment, which constitute some of the most extreme forms of torture or inhuman and degrading treatment against persons with disabilities. This includes the long-term use of restraints, especially under painful conditions; involuntary use of electroshock therapy (ECT) and without anaesthesia; and detention in dangerous facilities without any protection from violence or access to medical care or rehabilitation for victims of violence. The use of brain-damaging surgeries, such as lobotomy (brain surgery designed to numb the emotions), without consent is still practiced, often performed on women deemed to be “too emotional.” The use of harmful medications designed to “subdue” persons with psychosocial disabilities is another example of coercive treatment that violates human rights. Disability Rights International (DRI) has exposed instances of abuse where a particular psychiatric “treatment” is, in fact, being used as a punishment and has argued persuasively that such conduct violates the torture prohibition.¹¹

Physical and mental abuse and gross neglect endangering the lives of persons with disabilities housed in institutional facilities are widespread. Reports issued by DRI on conditions for persons with mental disabilities warehoused in dismal institutions detail unhygienic conditions, lack of adequate food, water, clothing, and medical care; and other life-threatening conditions. DRI has also documented instances of complete sensory deprivation in barren, long-term isolation cells in institutions.¹² These conditions are clear examples of prohibited conduct that falls under the definition of torture or cruel, inhuman, or degrading treatment or punishment.

¹⁰ James C. Harris, *Intellectual Disability: Understanding its Causes, Classification, Evaluation and Treatment* (Oxford: 2005): pp. 14-16; Gary L. Albrecht et al., eds., *Handbook of Disability Studies* (Sage Publications, 2001): pp. 15-18.

¹¹ Disability Rights International, “Behind Closed Doors: Human Rights Abuses in the Psychiatric Facilities, Orphanages, and Rehabilitation Centers of Turkey,” (Washington, DC, 2005): <http://www.mdri.org/projects/turkey/turkey%20%final%2009-26-05.pdf>

¹² Disability Rights International, “Ruined Lives: Segregated from Society in Argentina’s Psychiatric Asylums,” (Washington, DC, 2007): <http://www.leeds.ac.uk/disability-studies/archiveuk/mdri/MDRI.ARG.ENG.NEW.pdf>

ADDRESSING HUMAN RIGHTS ABUSE IN INSTITUTIONAL SETTINGS

In 2006, the Inter-American Court on Human Rights held that Brazil violated the Inter-American Convention on Human Rights in its first case concerning a person with a psychosocial disability. The case concerned the death of a man in a private psychiatric clinic who was subjected to beatings by clinic personnel and who died three days after his admission. The Inter-American Court held that Brazil violated his right to life and the right to be free from cruel, inhuman, and degrading treatment. *Ximenes-Lopes v. Brazil*, 2006 Inter-Am. Ct. H.R. (ser. C) No. 149 (July 4, 2006).

In 1999, the Supreme Court of the United States ruled that requiring persons with disabilities to live in institutions in order to access services constitutes illegal discrimination under the Americans with Disabilities Act. The *Olmstead* decision requires public entities to provide services and conduct activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities. *Olmstead v. L.C.*, 527 U.S. 581, 119 S.Ct. 2176 (1999).

In 1997, the European Court of Human Rights held that the removal of an alien drug courier dying of AIDS to his country of origin (St. Kitts) where he had no accommodation, family, moral or financial support and no access to adequate medical treatment would constitute a violation of Article 3 of the European Convention. *D. v. United Kingdom*, 1997-III Eur. Ct. H.R. (1997).

MEDICAL AND SCIENTIFIC EXPERIMENTATION

Medical and scientific experimentation without free and informed consent is a human rights violation to which persons with disabilities continue to be subjected. It is part of the torture prohibition but is specifically referenced in international human rights documents, including the CRPD, because some of the worst known examples of such abuse occurred during the Holocaust, when persons with disabilities, among others, were subjected to horrific medical experiments. At the Nuremberg Tribunal, Nazi doctors were ultimately tried and convicted of war crimes and crimes against humanity for their participation in such experiments.¹³

The prohibition of medical and scientific experimentation without informed consent is especially relevant in the context of certain diseases that cause disabling conditions and for which medical science offers no cure. For these reasons, they are the subject of intense medical research and experimentation. A situation often faced by persons with psychosocial disabilities is the provision of an untested regimen of various drugs or therapies that in combination are unproven. Such a practice must surely constitute “experimentation” as opposed to “treatment” and would therefore violate human rights law unless free and fully informed consent is given.¹⁴

¹³ See Janet E. Lord, “Shared Understanding or Consensus-Masked Disagreement? The Anti-Torture Framework in the Convention on the Rights of Persons with Disabilities,” 33 *Loyola J. Int’l & Comp. L.* 101 (2011).

¹⁴ *Id.*

WHAT DOES HUMAN RIGHTS LAW SAY ABOUT FREEDOM FROM TORTURE AND OTHER FORMS OF VIOLENCE?

The prohibition against torture is a core principle in human rights law; the right to be free from torture may not be suspended or limited under any circumstances. Reflected in the **Universal Declaration of Human Rights** (UDHR) and the **International Covenant on Civil and Political Rights** (ICCPR), the right to be free from torture and cruel, inhuman or degrading treatment or punishment also finds expression in many other international documents, including a specialized treaty on the subject, the **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment** (CAT).

Other specialized international human rights conventions have also sought to address forms of violence beyond torture and cruel, inhuman and degrading treatment or punishment. For example, the **Convention on the Rights of the Child** (CRC) protects the right of the child to be free from torture and also specifically protects the right of the child to be free from “all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse” and further recognizes State obligations regarding sexual exploitation and abuse, economic exploitation, and promoting recovery of child victims.

Defining various categories of violence and abuse can be challenging and the lines between different forms of conduct are often not easily drawn. CAT provides detailed standards for the effective prohibition of torture and other ill treatment, including guarantees of survivor assistance and legal redress for those who have experienced torture or other forms of prohibited treatment or punishment. Article 1 of CAT defines torture as:

... any act committed by a public official or other person acting in an official capacity or at the instigation of or with the consent of such a person – by which severe physical or mental pain or suffering is intentionally inflicted on a person for a specific purpose, such as extortion of information or confession, punishment, intimidation or discrimination.

Actions that do not meet this definition in all its elements may fall under the category of cruel, inhuman or degrading treatment or punishment, depending on the type of conduct in question. Unfortunately human rights tribunals have not offered clear standards by which to make this judgment.

The CRPD addresses violence and abuse in two specific provisions: Article 15, Freedom from torture or cruel, inhuman or degrading treatment or punishment, and Article 16, Freedom from exploitation, violence and abuse. Together, these provisions recognize:

- The right of persons with disabilities to be free from torture, as well as cruel, inhuman or degrading treatment or punishment;
- The right of persons with disabilities to be free from medical or scientific experimentation unless they have provided informed consent;
- The right of persons with disabilities to be free from all forms of exploitation and abuse;
- The obligation of States to take measures to prevent persons with disabilities from being subjected to torture and other types of prohibited abuse;
- The obligation of States to take measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence, and abuse, including gender-related abuse;
- The obligation of States to take measures to prevent all forms of exploitation, violence, and abuse. Such preventive measures must ensure, among other things, the availability of appropriate forms of gender- and age-sensitive assistance and support for persons with disabilities and their families and caregivers, including information and education on how to avoid, recognize, and report instances of exploitation, violence, and abuse;
- The obligation of States to ensure that protection services are age-, gender- and disability-sensitive;
- The obligation of States to ensure the effective monitoring of all facilities and programs designed to serve persons with disabilities;
- The obligation of States to take measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disabilities who become victims of any form of exploitation, violence, or abuse in an environment that respects the rights and dignity of victims, their age and gender; and
- The obligation of States to adopt laws and policies to ensure that exploitation, violence, and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted.

THE DUTY TO RESPECT, PROTECT, AND FULFIL OBLIGATIONS PROHIBITING TORTURE AND OTHER FORMS OF ABUSE

Taken as a whole, States' obligations with regard to the right to be free from torture and other forms of abuse include:

1. **Obligation to respect:** States must refrain from engaging in any act, custom, or practice that creates barriers to enjoyment of the right of persons with disabilities to be free from torture and other forms of abuse.

Example: The State refrains from using torture in questioning prisoners with disabilities and refrains from subjecting persons with disabilities in prison or otherwise detained or living in an institutional setting to any form of abuse.

Example: The State enacts legislation that prohibits the subjection of persons with disabilities to medical or scientific experimentation unless they are in a position to provide full and informed consent without any coercion or undue influence whatsoever.

2. **Obligation to protect:** States must ensure that non-State or private actors do not violate the right of persons with disabilities to be free from torture or other abuse.

Example: The State takes measures to protect persons with disabilities from inhuman or degrading conditions in both public and private institutional settings.

Example: The State ensures that persons with disabilities held in privately run detention centres receive disability accommodations and that accessibility measures are undertaken.

3. **Obligation to fulfil:** States must take proactive steps to ensure enjoyment of the right to be free from torture and other abuse by persons with disabilities.

Example: The State provides appropriate training of educators to ensure that children with disabilities are not subjected to forms of punishment that constitute violence and that they are protected against bullying and abuse by classmates.

Example: The State undertakes an effective investigation where an individual raises a claim of abuse, such as ill-treatment at the hands of providers in a social care home or psychiatric facility.

In sum, international human rights law strongly supports the right of persons with disabilities to be free from torture as well as cruel, inhuman or degrading treatment or punishment and other forms of exploitation and abuse.

PHYSICAL AND MENTAL INTEGRITY IN PRISON SETTINGS

Human rights law guarantees the right of all people deprived of their liberty to be treated with humanity and with respect for their inherent dignity. Article 10 of the ICCPR states that: “All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.” The **UN Human Rights Committee**, which monitors implementation of the ICCPR, has stressed in **General Comment 21** that prisoners should not be “subjected to any hardship or constraint other than that resulting from the deprivation of their liberty.” More attention should be given by the human rights community to the right of prisoners with disabilities to be provided with accommodations to ensure respect for their human rights and dignity while in prison.

The prohibition against torture and abusive treatment applies to prison authorities and requires protection from violence by other prisoners. It also requires protection from prison conditions that amount to cruel, inhuman, or degrading treatment or punishment. International human rights instruments developed within the UN provide guidance as to how governments can comply with their international legal obligations in relation to prisoner rights, including, in some instances, specific guidance on the rights of prisoners and detained persons with disabilities. These documents include the United Nations Standard Minimum Rules for the Treatment of Prisoners (Standard Minimum Rules) adopted by the Economic and Social Council in 1957; the **Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment**, adopted by the General Assembly in 1988; and the **Basic Principles for the Treatment of Prisoners**, adopted by the General Assembly in 1990. While these instruments are not treaties, they provide authoritative guidance on the interpretation of binding human rights law.



INTERNATIONAL STANDARDS FOR PERSONS IN PRISON OR DETENTION

Standard Minimum Rules

- Provide that appropriate medical and mental health services are integral to a properly run prison and to the goal of rehabilitation: “The medical services...shall seek to detect and shall treat any...mental illnesses or defects which may hamper a prisoner’s rehabilitation. All necessary...psychiatric services shall be provided to that end.”
- Recognize the need to vary the housing, supervision, and care of offenders with mental disorders according to the degree of their disability. Prison mental health staff should provide for the psychiatric treatment of all other prisoners who need it.
- Recognize that prisons must have sufficient numbers of appropriately qualified competent health care staff to meet their human rights obligations. To the extent possible, prison staff should also include specialists in addition to psychiatrists, including psychologists, and social workers. Standards of care should not be lowered because those needing medical treatment are prisoners. “Health personnel, particularly physicians, charged with the medical care of prisoners and detainees have a duty to provide them with protection of their physical and mental health and treatment of disease of the same quality and standards as is afforded to those who are not imprisoned or detained.”
- Provide that clinical medical decisions should be governed by medical criteria. International principles of medical ethics require prison medical staff to provide “the best possible health care for those who are incarcerated,” with decisions regarding their care and treatment based on the prisoners’ health needs, which should take priority over any non-medical matters.
- Recommend that proper psychiatric treatment in prison, as in the community, should be based on a treatment plan drawn up for each patient. The plan should consist of more than just medication. It should involve a wide range of rehabilitative and therapeutic activities, including access to occupational therapy, group therapy, individual psychotherapy, art, drama, music, and sports.
- Recognize that patients should have regular access to suitably equipped recreation rooms and have the possibility to take outdoor exercise on a daily basis; it is also desirable for them to be offered education and suitable work.

Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment

Establishes the obligation of authorities to ensure prisoners are given medical screening upon admission and provided appropriate medical care and treatment as necessary and free of charge.

Basic Principles for the Treatment of Prisoners

- Establishes prisoners’ entitlement to a quality of health care comparable to that available in the outside community.

Human rights advocates have been successful in exposing and, in many instances, correcting human rights violations in prisons. The international human rights organization Human Rights Watch has documented serious abuses against prisoners with psychosocial disabilities in US prisons.¹⁵ More recently, advocates have focused more specifically on accommodating the needs of prisoners with disabilities and some prison authorities have responded with their own initiatives. For example, the Northern Ireland Prison Service, in addition to appointing a human rights advisor, has adopted a disability action plan and has taken action to improve cell accessibility, modify educational programmes to accommodate prisoners with intellectual and learning disabilities, and address communication needs for prisoners who are deaf and hard of hearing.¹⁶

EUROPEAN COURT OF HUMAN RIGHTS FINDS VIOLATIONS OF THE RIGHTS OF PRISONERS WITH DISABILITIES

In *Keenan v. the United Kingdom* (2001), the European Court of Human Rights held, among other things, that the treatment of a prisoner with a psychosocial disability was inhuman and degrading treatment and punishment in violation of Article 3 of the European Convention on Human Rights. The prisoner was found dead in his cell after he hung himself while in solitary confinement. The Court found deficiencies in his medical care and monitoring of his condition. The Court also found that his placement in segregation and the addition of 28 days to his sentence just nine days before his expected release may have threatened his physical and moral resistance, and in these circumstances, was “not compatible with the standard of treatment required in respect of a mentally ill person.” *Keenan v. United Kingdom*, App. No. 27229/95, Eur. Ct. H.R. (2001).

In *Price v. United Kingdom*, the European Court of Human Rights found that the United Kingdom violated the rights of a woman with a disability who had been held in detention. The applicant was a wheelchair user who did not have the use of her limbs. She was sent to prison for one week and alleged that while in custody she was forced to sleep in her wheelchair, could not reach emergency buttons and light switches, and was unable to use the toilet. She was lifted onto a toilet by a female prison officer but was left there for over three hours until she agreed to allow a male nursing officer to assist her. The Court held that these conditions amounted to “degrading treatment contrary to Article 3.” *Price v. United Kingdom*, App. No. 5493/72 Eur. Ct. H.R. (2001).

In *Farbtubs v. Latvia*, the European Court of Human Rights held that the continued imprisonment of an elderly prisoner with a disability and intensive support needs and several serious health conditions was inappropriate because his continued detention would cause him permanent anxiety and a sense of inferiority and humiliation so acute as to constitute degrading treatment contrary to Article 3. *Farbtubs v. Latvia*, App. No. 4672/02, Eur. Ct. H.R. (2004).

In *Huseyin Yildirim v. Turkey*, the European Court of Human Rights held that a prisoner with a disability who required extensive support had been subject to “degrading treatment” within the meaning of Article 3. While in a cell, he had been left to the supervision of his cellmates and, while in the prison hospital wing, to the supervision of his brother and two sisters over a period of three years during which he relied on them to feed, wash, dress, and perform other essential functions of everyday life. *Huseyin Yildirim v. Turkey*, App. No. 2778/02 Eur. Ct. H.R. (2007).

¹⁵ Human Rights Watch, “Ill Equipped: U.S. Prisons and Offenders with Mental Illness,” (2003): <http://www.hrw.org/reports/2003/usa1003/>.

¹⁶ Northern Ireland Prison Service Disability Action Plan (July 2007–March 2010): http://www.nio.gov.uk/nio_disability_action_plan_july_2007_-_march_2010.pdf

It should also be noted that a separate but related body of law applies during times of armed conflict and is intended to provide protection to civilians. This body of law, referred to as **International Humanitarian Law**, is set forth in the **Geneva Conventions**. For example, the Third Geneva Convention Relative to the Treatment of Prisoners of War addresses the protection of prisoners held in detention, including providing for the needs of prisoners with disabilities. The Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War specifies the rights of civilians and those who are not combatants, and makes some reference to persons with disabilities.

SEXUAL VIOLENCE, EXPLOITATION, AND ABUSE

Sexual exploitation and abuse is a widespread phenomenon among persons with disabilities, particularly women and girls, although men and boys with disabilities also experience sexual violence, exploitation, and abuse. Studies indicate that persons with disabilities are disproportionately at risk for violence and that sexual abuse among women with disabilities is significantly higher than the rest of the population.¹⁷ Most instances of abuse go unreported and therefore remain unaddressed. Very often, abuse takes place in a private home dwelling or in an institution, where it is sometimes imagined that persons with disabilities will be free from abuse.

Sexual violence, exploitation, and abuse have long-lasting harmful effects on persons with disabilities, and when such abuses occur in isolated settings, the chances of accessing the assistance needed for recovery may be slim. Moreover, such traumatic experiences may increase disability-related functional limitations or create secondary disabilities. Programmes and services that address sexual violence and abuse in the community, particularly those targeting women and girls, very often do not reach out to persons with disabilities. Disability advocates are working to address these gaps and to ensure that programmes and services are inclusive and accommodating to all. Violence prevention advocacy is an important component of ensuring the right of persons with disabilities to be free from violence and to lead self-determined lives.

¹⁷ See European Disability Forum, *Report on Violence and Discrimination against Disabled People* (1999): <http://cms.horus.be/files/99909/MediaArchive/EDF%2009-5-violence%20and%20discr-EN.pdf>

THE CRPD COMMITTEE ON FREEDOM FROM EXPLOITATION, VIOLENCE, AND ABUSE

In the CRPD Committee's Concluding Observations on the Report of Tunisia, the Committee stated the following:

The Committee expresses concern at the situation of violence that women and children with disabilities might face.

The Committee encourages the State party to include women and girls with disabilities in the National Strategy for the Prevention of Violence in the Family and Society, and to adopt comprehensive measures for them to have access to immediate protection, shelter and legal aid. It requests the State party to conduct awareness campaigns and develop educational programmes on the greater vulnerability of women and girls with disabilities with respect to violence and abuse.

Source: Committee on the Rights of Persons with Disabilities, Fifth Session, April 2011, "Concluding Observations Consideration of the Report of the Government of Tunisia" (June 2011), at paras. 26 & 27: <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/Session5.aspx>

USEFUL RESOURCES ON TORTURE AND OTHER FORMS OF ABUSE AGAINST PERSONS WITH DISABILITIES

- Disability Rights International: <http://www.mdri.org/>
 - › Contains wide range of reporting on violence and abuses against persons with mental disabilities and other writing on international law in this area.
- European Disability Forum, Report on Violence and Discrimination against *Disabled People* (1999): <http://cms.horus.be/files/99909/MediaArchive/EDF%2099-5-violence%20and%20discr-EN.pdf>
- Human Rights Watch, "Ill Equipped: U.S. Prisons and Offenders with Mental Illness" (2003): <http://www.hrw.org/reports/2003/usar1003/>
 - › Detailed report on the human rights of persons with mental disabilities in the US prison system.
- Janet E. Lord, "Shared Understanding or Consensus-Masked Disagreement? The Anti-Torture Framework in the Convention on the Rights of Persons with Disabilities," 33 *Loyola J. Int'l & Comp. L.* 101 (2011).
 - › Comprehensive overview of Article 15 of the CRPD.
- Mental Disability Advocacy Center: <http://www.mdac.info>
 - › Leading disability rights organization focused on the rights of persons with mental disabilities in Europe

- Office of the High Commissioner for Human Rights, “Thematic Study by the Office of the United Nations High Commissioner for Human Rights on enhancing awareness and understanding of the Convention on the Rights of Persons with Disabilities,” paras. 50 & 51 (26 January 2009): <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/DayGeneralDiscussion21102009.aspx>
 - › Study outlining legal measures required for the ratification and effective implementation of the Convention on the Rights of Persons with Disabilities
- Marsha Saxton, *The Impact of Violence on People with Disabilities*, World Institute on Disability (2006): <http://www.wid.org/>
 - › Detailed report on violence in US context.

CHAPTER 7: PRIVACY, INTEGRITY, HOME, AND THE FAMILY

CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

Article 17, Protecting the integrity of the person

Every person with disabilities has a right to respect for his or her physical and mental integrity on an equal basis with others.

Article 22, Respect for privacy

1. No person with disabilities, regardless of place of residence or living arrangements, shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence or other types of communication or to unlawful attacks on his or her honour and reputation. Persons with disabilities have the right to the protection of the law against such interference or attacks.
2. States Parties shall protect the privacy of personal, health and rehabilitation information of persons with disabilities on an equal basis with others.

Article 23, Respect for home and the family

1. States Parties shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others, so as to ensure that:
 - a. The right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognized;
 - b. The rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children and to have access to age-appropriate information, reproductive and family planning education are recognized, and the means necessary to enable them to exercise these rights are provided;
 - c. Persons with disabilities, including children, retain their fertility on an equal basis with others.
2. States Parties shall ensure the rights and responsibilities of persons with disabilities, with regard to guardianship, wardship, trusteeship, adoption of children or similar institutions, where these concepts exist in national legislation; in all cases the best interests of the child shall be paramount. States Parties shall render appropriate assistance to persons with disabilities in the performance of their child-rearing responsibilities.
3. States Parties shall ensure that children with disabilities have equal rights with respect to family life. With a view to realizing these rights, and to prevent concealment, abandonment, neglect and segregation of children with disabilities, States Parties shall undertake to provide early and comprehensive information, services and support to children with disabilities and their families.
4. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. In no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents.
5. States Parties shall, where the immediate family is unable to care for a child with disabilities, undertake every effort to provide alternative care within the wider family, and failing that, within the community in a family setting.

OBJECTIVES

The information contained in this chapter will enable participants to work towards the following objectives:

- Define the rights to respect for privacy, integrity, home, and the family;
- Explain the importance of these rights for persons with disabilities;
- Understand the interrelationship between these rights and other human rights;
- Identify ways in which these rights have been promoted or denied to persons with disabilities; and
- Understand the provisions related to the rights to respect for privacy, integrity, home, and the family in the **Convention on the Rights of Persons with Disabilities** (CRPD).

GETTING STARTED: THINKING ABOUT RESPECT FOR PRIVACY, INTEGRITY, HOME, AND THE FAMILY

Societies have long debated where divisions lie between the public sphere, such as the political domain and community activities, and the private sphere, such as a person's body, home, or family. They have likewise struggled to establish the degree to which the State and individuals should have control in these different spheres. This chapter addresses the private sphere, examining specifically the rights to respect for privacy, personal integrity, the home, and family.

RIGHT TO PRIVACY

The right to privacy encompasses various elements, including:

- **Privacy of information:** The right of individuals to decide for themselves what information about them should be communicated to others and who those others may be. This information includes thoughts, opinions, actions taken when a person should reasonably expect to be acting in private, and personal information such as that related to a person's health or finances.
- **Privacy of communication:** Related to privacy of information, privacy of communication refers to the security of people's private interactions with others, including letters, telephone conversations, private face-to-face conversations, e-mails, and other forms of communication. In other words, neither the State nor private actors have a right to read your correspondence or listen to your private discussions. There are some exceptions, such as when somebody is suspected of having committed a crime, but even then there are laws that govern these exceptions to ensure that such interference is both necessary and properly handled.

- **Personal environment:** The right to privacy applies to one’s personal environment, primarily meaning where he or she lives, such as their home, and their family or others with whom they live. It can also apply to other personal spaces, such as a person’s car or other personal property.
- **Freedom from attacks on a person’s honour or reputation:** The right to privacy protects people from personal attacks on their honour or reputation. For example, unless it is true, people do not have the right to claim to others that you have engaged in some socially unacceptable or other behaviour that might be damaging to your reputation.

RESPECT FOR PERSONAL INTEGRITY

Although they are separate rights that address distinct concepts, the right to personal integrity is connected to the right to privacy in that actions and circumstances that lead to the violation of personal integrity are often preceded or joined by violations of the right to privacy. Essentially, the right to personal integrity may be described as the right to be treated in a humane manner and in such a way that preserves a person’s mental and physical “wholeness.” In other words, we all have the right not to be physically or mentally harmed by the State or private actors.



VIOLATIONS OF THE RIGHT TO PRIVACY AND RESPECT FOR PERSONAL INTEGRITY

Persons with disabilities frequently experience violations of their rights to privacy and personal integrity. For example, many persons with disabilities need an assistant or caregiver to help with personal care or to accomplish certain tasks. As a result caregivers often have easy access to a wide variety of personal information such as identification numbers and financial information. It may also be necessary for the caregiver to be in close physical contact with the person, such as when assisting someone to use the bathroom or take a bath. Although persons with disabilities have the right to be treated by their caregivers in a manner that respects their privacy and personal integrity, and although many professional caregivers comply with a code of professional ethics, stories of violations are all too common. These can include misuse and manipulation of personal information, such as using financial information to steal money, as well as incidents of verbal, physical, or mental abuse. Such actions not only violate the rights to respect for privacy and personal integrity, they also violate basic respect for the inherent human dignity of persons with disabilities.

Among the many causes of violations of the rights to respect for privacy and personal integrity are the attitudes and beliefs of other people, especially with regard to persons with intellectual, learning, or psychosocial disabilities. The belief by some that such persons with disabilities are “not capable” of taking care of their own private information may lead to people withholding that information or giving it to people with whom the person with disabilities would not choose to share that information. Additionally some people believe that it is permissible to violate the privacy or the physical or mental integrity of a person with a disability if they are not aware that it is happening. Furthermore, the belief that persons with disabilities should conform their thinking and/or behaviour to what is considered by others as “normal,” can lead to persons with disabilities being forced or coerced into using medications or undergoing “treatments” that can cause both short and long-term mental and physical harm.

RESPECT FOR THE HOME AND FAMILY

Other issues traditionally placed in the private sphere involve those relating to a person’s home and family. Although there is no internationally agreed-upon definition of *family*, the family has been considered the “natural and fundamental group unit of society,” and as such, is protected by a number of different rights. Relevant rights in this area include:

- The right to marry on the basis of the full and free consent of both intended spouses, assuming partners are of “full age”;
- The right to have equal rights with their spouses during their marriage, during legal separation, or if the marriage is dissolved;
- The right to “found a family,” meaning the right of people to live together, to have children, and not to be subjected to discriminatory or compulsory State family planning policies;

- The right to be reunited with their family if they are separated because of political, economic, or other reasons; and
- The right to have the family protected by society and the State.

VIOLATIONS TO THE RIGHT TO RESPECT FOR HOME AND THE FAMILY

As with the rights to respect for privacy and personal integrity, persons with disabilities experience many violations of the right to respect for home and the family. For example, although all people of “full age” have the right to marry, many persons with disabilities, especially persons with intellectual or psychosocial disabilities, are denied this right by State legislation, policy, and/or practice. Where they do not wish to marry, persons with disabilities are also often denied the equal opportunity to experience their sexuality and have sexual or other intimate relationships. Even when official State policies do not restrict such relationships, family members, health care professionals, or staff in institutional settings may act to prevent persons with disabilities making and acting upon their own decisions with respect to intimate relationships.

Such violations often stem from assumptions and stereotypes that persons with disabilities “cannot handle” their marriage or relationship responsibilities or that they could “get hurt.” Violations also arise from the belief that persons with disabilities should not have children because they may pass on their disability or be unable to care for their children. Such attitudes have also led to States sponsoring or endorsing practices to forcibly sterilize both adults and children with disabilities, counselling persons with disabilities against having children, or denying women with disabilities access to adequate pre- and post-natal care.

Additionally, persons with disabilities may find they are denied the opportunity to be adoptive parents, guardians, or trustees of children because of their disability. Where persons with disabilities do have children, States or family members often insist that the children be removed and cared for by others because of prevailing assumptions that being raised by parents with disabilities is “not in the best interests of the child.” Even where children are not forcibly removed, many parents with disabilities do not have adequate access to the supports or assistance they may need to help them care for their child. Parents of children with disabilities often experience similar violations of their and their child’s rights to remain together as a family as supports may not be available to them to assist them in their parenting or government officials may insist that the child would be “better off” elsewhere, typically in an institutional setting.

THE INTERRELATIONSHIP OF RIGHTS

Violations of the right to respect for home and the family can lead to violations of other human rights. For example, preventing persons with disabilities from living with their families constitutes a violation of the right to live independently and be included in the community, which recognizes that persons with disabilities have the same choices as others regarding where and with whom they live. Similarly,

forcible sterilization not only denies persons with disabilities the right to have children, but is also a violation of the right to respect for personal integrity and arguably constitutes a form of violence and abuse.

Violations of other human rights also lead to violations of the right to respect for home and the family. For example, lack of access to an adequate standard of living, health care, and rehabilitation services can lead to malnutrition or general ill-health and can compromise the fertility of persons with disabilities. Violations of the rights to equal recognition before the law and also freedom of expression and opinion may deprive persons with disabilities of the opportunity to make, communicate, and act upon their own decisions related to their personal relationships. Similarly, lack of accessible information may deny persons with disabilities the opportunity to learn about sexual relations, family planning, availability of support services, or other information that they need to make informed personal decisions.



Together, the rights to respect for privacy and personal integrity and respect for home and the family address some of the issues of greatest importance to the equality and inherent dignity of persons with disabilities. These examples demonstrate how the rights to privacy and personal integrity and respect for home and the family are **indivisible**, **interdependent**, and **interrelated** with other human rights. As noted by Eleanor Roosevelt, one of the drafters of the **Universal Declaration of Human Rights** (UDHR), human rights begin “in small places, close to home,” and “unless these rights have meaning there, they have little meaning anywhere.”

CASE STUDY

ENSURING PRIVACY AND PERSONAL INTEGRITY OF TRAVELLERS WITH DISABILITIES

Although security restrictions and checkpoints have been a part of air travel for many years, their use and rigor has increased in recent years, largely in response to terrorism and other related concerns. The result is that security checks at airports have become more invasive, with many airports around the world requiring travellers to partially undress and/or submit to searches of their luggage. In the USA, such security checks have led to concerns from the disability community that the rights to privacy and personal integrity of travellers with disabilities were being violated, either as a result of the security measures themselves or as a consequence of security staff being unaware of the specific needs of travellers with disabilities.

To address these concerns, the National Council on Disability, the Federal Aviation Administration, the Transportation Security Administration (TSA), and the disability community worked together to develop guidelines and training programs that would address security considerations in conjunction with the rights of travellers with disabilities. The trainings are intended to raise awareness of security staff of the rights and needs of travellers with disabilities, as well as ensure that they know what the guidelines are and how to implement them. To ensure that travellers with disabilities are aware of their rights, the TSA has provided information on its website so that travellers can prepare themselves before they travel. Should travellers feel that their rights have been violated, they can contact the TSA's Office of Civil Rights.

Source: Transportation Security Administration, "Tips for the Screening Process: Travelers with disabilities and medical conditions": http://www.tsa.gov/travelers/airtravel/specialneeds/editorial_1567.shtm

WHAT DOES HUMAN RIGHTS LAW SAY ABOUT RESPECT FOR PRIVACY, INTEGRITY, HOME, AND THE FAMILY?

Article 12 of the **Universal Declaration of Human Rights (UDHR)** addresses the right to privacy, setting forth protections against interference and attacks upon honour or reputation. Issues related to the right to marry and found a family, as well as protection of the family by society and the State, are addressed in UDHR Article 16. Similar provisions appear in Articles 17 and 23 of the **International Covenant on Civil and Political Rights (ICCPR)**, as well as Articles 14 and 44 of the **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW)**. The **International Covenant on Economic, Social and Cultural Rights (ICESCR)** does not address issues of privacy or integrity, which are civil and political rights. However, Article 10 does address the need for the State to provide protection and assistance to the family as the "natural and fundamental group unit of society." Similarly, the **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)** does not address issues of privacy, but in Article 16 does address the need for equality between men and women in marriage, including in decisions regarding the number and spacing of children.

Article 16 of the **Convention on the Rights of the Child** (CRC) mirrors the previously referenced provisions in its treatment of the right of a child to be free of interference with his or her “privacy, family, home or correspondence,” and to be free from “unlawful attacks on his or her honour or reputation.” The CRC contains numerous references to the family, though Article 9 is perhaps the most relevant as it addresses the right of children not to be separated from their parents unless it is in the best interests of the child to do so. In addition, Article 23, which specifically addresses the rights of children with disabilities, references the need to provide appropriate assistance to the parents or other caregivers of children with disabilities.

None of these human rights instruments specifically reference “personal integrity.” They do, however, address the related concepts of “privacy,” “security of the person,” or “safety of the person,” often in the context of deprivation of liberty, as well as the concept of “inherent human dignity.”

The CRPD draws from the full range of approaches taken in prior human rights instruments and places the issues in the context of disability. CRPD Article 17, Protecting the integrity of the person, clearly indicates that persons with disabilities have the right to have their physical and mental integrity respected on an equal basis with others. The language contained in Article 17 closely mirrors that found in some regional human rights instruments, such as Article 5(i) of the **Inter-American Convention on Human Rights**, which appears in that Convention’s section on the “right to humane treatment.”

Issues of privacy in the CRPD are dealt with almost exclusively in Article 22, Respect for privacy, which protects persons with disabilities from “arbitrary or unlawful interference with his or her privacy, family, home or correspondence or other types of communication,” as well as from unlawful attacks on “honour or reputation.” The Article does not, for example, prevent the police from carrying out a valid search of the belongings of a person with a disability, but it would prevent other types of searches or surveillance that are arbitrary or unlawful. In order to emphasize the importance of the right even in places such as institutions, where persons with disabilities have historically experienced many violations of privacy, Article 22 expressly states that these protections extend regardless of “place of residence or living arrangements.”

Also noteworthy is Article 22’s reference to “other types of communication,” which was intended by drafters to update the more traditional reference to “correspondence.” Some drafters felt that “correspondence” was too strongly connected to letters, and that there was a need to ensure that e-mail, text messaging, and other more modern and future forms of communication would be covered by the Convention. Lastly, Article 22 emphasizes the right of persons with disabilities to have their personal, health, and rehabilitation information protected on an equal basis with others. This concept is reflected again in Article 31(i)(a), Statistics and data collection, which requires States to “ensure confidentiality and respect for the privacy of persons with disabilities” when collecting and maintaining statistics and data.

The right to respect for home and the family is addressed at some length in CRPD Article 23, Respect for home and family. Because of the historic discrimination against persons with disabilities in the areas of marriage, family, parenthood, and relationships, Article 23 addresses each of these in some detail. Specifically:

- **Article 23(1)(a)** protects the right of persons with disabilities to marry with the free and full consent of each person and to found a family.
- **Article 23(1)(b)** protects the rights of persons with disabilities to make their own decisions regarding when and how many children to have. It also ensures access to “age appropriate” information and “reproductive and family planning education,” so that persons with disabilities can make informed decisions in these matters.
- **Article 23(1)(c)** addresses the right of persons with disabilities, including children, to “retain their fertility on an equal basis with others.” This provision not only protects against forced sterilization of children and adults with disabilities, but also implicates the right of persons with disabilities to have access to health care, nutrition, and other factors that are pre-conditions to retaining fertility.
- **Article 23(2)** ensures that persons with disabilities have the right to be guardians, trustees, adoptive parents, or the like, wherever such rights also exist for other people. In other words, persons with disabilities should not be prevented from assuming child-rearing responsibilities because they are persons with disabilities. Furthermore, should parents with disabilities need assistance to perform their child-rearing responsibilities, the States must provide them “appropriate assistance.”
- **Article 23(3)** addresses some of the rights of children with disabilities, specifically the rights not to be concealed, abandoned, neglected, or segregated. It also requires States to provide information, services, and support to children with disabilities and their families.
- **Article 23(4)** requires that children should not be separated from their parents unless it is in the “best interests of the child” and the decision has been made by “competent authorities” and “in accordance with applicable law and procedures.” Furthermore, Article 23(4) does not permit a child to be separated from its parents on the basis of disability, regardless of whether it is the child and/or one or both of the parents who are disabled.
- **Article 23(5)** addresses the situation of children with disabilities who may not be in a position to be cared for by their immediate family. The State should “undertake every effort to provide alternative care within the wider family,” and if that is not possible, then “within the community in a family setting.” This is to prevent the practice, common in many countries, of automatically sending children with disabilities to live in institutional settings where their immediate families cannot care for them.

THE DUTY TO RESPECT, PROTECT, AND FULFIL OBLIGATIONS RELATING TO THE RIGHT TO PRIVACY, INTEGRITY, HOME, AND THE FAMILY

Taken as a whole, States' obligations with regard to the right to respect for privacy, integrity, the home, and family, include:

1. **Obligation to respect:** States must refrain from engaging in any act, custom, or practice that creates barriers to enjoyment of the right to privacy, integrity, home and the family.

Example: The State repeals a law that prohibits persons with disabilities from marrying or being parents.

Example: The State ensures that all persons with disabilities have equal access to sex education, including persons with intellectual disabilities.

2. **Obligation to protect:** States must ensure that non-State or private actors do not violate the rights to privacy, integrity, home, and the family.

Example: The State monitors and regulates health care and rehabilitation providers to ensure that private information of persons with disabilities remains private.

Example: The State monitors conditions in private institutional living arrangements such as hospitals, group homes, and orphanages, as well as enforces rights of personal integrity and privacy.

3. **Obligation to fulfil:** States must take proactive action to ensure enjoyment of the rights to privacy, integrity, home, and the family by persons with disabilities.

Example: The State provides support to families of parents and or children with disabilities so that they can remain together.

Example: The State adopts an action plan to transition persons with disabilities living in institutions to community-based living arrangements.

In sum, international human rights law strongly supports the rights of persons with disabilities to privacy, respect for personal integrity, the home, and family so that they may fully enjoy these rights on an equal basis with others. The enjoyment of these rights facilitates the enjoyment of other human rights.

PERSONAL INTEGRITY FOR PERSONS WITH DISABILITIES

- Women and girls with disabilities are particularly vulnerable to abuse. A small 2004 survey in Orissa, India, found that virtually all of the women and girls with disabilities were beaten at home, 25 percent of women with intellectual disabilities had been raped, and 6 percent of women with disabilities had been forcibly sterilized.
- According to UNICEF, 30 percent of street youths have disabilities;

- The United Kingdom’s Department for International Development reports that mortality for children with disabilities may be as high as 80 percent in countries where under-five mortality as a whole has decreased below 20 percent, adding that in some cases it seems as if children are being “weeded out”.
- In the United States, reports of violence against persons with disabilities have been shown to be 4-10 times greater than that reported against persons without disabilities. The prevalence of sexual violence against persons with disabilities has been shown to be even higher.
- Violence against students with disabilities in educational settings by teachers, other staff, and fellow students is common.
- Persons with disabilities are more likely to be victims of violence or rape, according to a 2004 British study, and less likely to obtain police intervention, legal protection, or preventive care.
- Research indicates that violence against children with disabilities occurs at annual rates at least 1.7 times greater than for their peers without disabilities.

Source: UNICEF, “Be in the Know: Fact Sheet on children with disabilities,” Voices of Youth: http://www.unicef.org/explore_3893.html

USEFUL RESOURCES ON RESPECT FOR PRIVACY, INTEGRITY, HOME, AND THE FAMILY

- American Medical Association, “Patient Confidentiality”; <http://www.ama-assn.org/ama/pub/physician-resources/legal-topics/patient-physician-relationship-topics/patient-confidentiality.page>
 - › Discussing legal aspects of patient rights to privacy.
- Committee on Economic, Social and Cultural Rights, General Comment No. 5, Persons with Disabilities (1994): <http://www2.ohchr.org/english/bodies/cescr/comments.htm>
 - › Discusses the obligations in the ICESCR in the context of disability.
- Human Rights Committee, General Comment No. 16, The right to respect of privacy, family, home and correspondence, and protection of honour and reputation (1988): [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/23378a8724595410c12563ed004aeecd?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/23378a8724595410c12563ed004aeecd?Opendocument)
 - › Human Rights Committee interpretation of the ICCPR in respect of privacy rights..
- Human Rights Committee, General Comment No. 19, Protection of the family, the right to marriage and equality of the spouses (1990): [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/6f97648603f69bcd12563ed004c3881?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/6f97648603f69bcd12563ed004c3881?Opendocument)
 - › Human Rights Committee interpretation of the ICCPR in respect of family and marriage rights.
- World Health Organization, “Patients’ rights”: <http://www.who.int/genomics/public/patientrights/en/>
 - › WHO resource discussing patient rights, such as privacy.

CHAPTER 8: THE RIGHT TO HEALTH

CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

Article 25, Health

States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation. In particular, States Parties shall:

- a. Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health and population-based public health programmes;
- b. Provide those health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimize and prevent further disabilities, including among children and older persons;
- c. Provide these health services as close as possible to people's own communities, including in rural areas;
- d. Require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, inter alia, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care;
- e. Prohibit discrimination against persons with disabilities in the provision of health insurance, and life insurance where such insurance is permitted by national law, which shall be provided in a fair and reasonable manner;
- f. Prevent discriminatory denial of health care or health services or food and fluids on the basis of disability.

OBJECTIVES

The information contained in this chapter will enable participants to work towards the following objectives:

- Understand what is meant by the right to the “highest attainable standard of health”;
- Define the relationship between health and disability;
- Define the distinction between health care and habilitation/rehabilitation services;
- Understand and explain to others the importance of equal access to health care resources for persons with disabilities;
- Understand the interrelationship between the right to health and other human rights;

- Identify ways in which the right of persons with disabilities to the highest attainable standard of health have been promoted, denied, or misunderstood; and
- Understand the provisions on health in the **Convention on the Rights of Persons with Disabilities (CRPD)**.

GETTING STARTED: THINKING ABOUT HEALTH AS A HUMAN RIGHT

What does the right to health include? Is it a right to be healthy? Is it a right to have health care services? Is it something else? We know that with every human right comes a corresponding responsibility for governments and society to ensure that this right is respected, protected, and fulfilled. But no one can guarantee the right to be free from all disease.



However, societies and governments do have great control over many underlying determinants of health, including physical conditions in the environment that affect people's health, such as public sanitation, the availability of clean water, and environmental pollution levels. In addition, societies have laws, policies, and programmes aimed at promoting and protecting human health. Every country has a health system to provide medical care and public health programmes designed to provide information about health risks, disease prevention, and healthy living. Governments are responsible for the quality and equity of national health systems. Furthermore, health for all people is also directly affected by other human rights, such as access to education, employment, and an adequate standard of living. Poor or uneducated people are far more likely to suffer ill-health than those with economic security and decent living conditions. These examples demonstrate how the right to health is **indivisible, interdependent, and interrelated** with other human rights.

VIOLATIONS AND BARRIERS TO THE RIGHT TO HEALTH

Poverty, lack of education, poor living conditions, and other human rights issues that impact human health disproportionately affect persons with disabilities. For instance, in many countries clean water may be publicly available but not accessible to persons with disabilities. Likewise, health care is often not accessible or available to persons with disabilities on an equal basis with others because of factors like inaccessible buildings, lack of communications accommodations in the health care setting, and even denial of treatment based on a disability. Health services and important information about health are often inaccessible to persons with disabilities. For example, some countries broadcast information about HIV/AIDS education over the radio but do not provide that information in a manner that is accessible to persons who are deaf. In addition, many health clinics located in rural areas are not physically accessible to persons who use wheelchairs. Health care providers often do not provide important materials, such as consent forms or information about prescription drugs, in a manner that is accessible to persons who are blind or visually impaired. Persons with psychosocial or intellectual disabilities may be stripped of their right to make decisions related to their own health or may only receive limited information about treatment options.

While governments are not responsible for ensuring good health, they are responsible for addressing factors in the social, economic, legal, and physical environment that impact health. Thus, health as a human rights issue is framed in terms of the “highest attainable standard of health.” In other words, people have a right to the conditions and resources that promote and facilitate a healthy life.

DEFINING HEALTH

In addition to understanding what is meant by the right to health, it is also important to understand what is meant by *health*. In the Preamble to its Constitution, the **World Health Organization** (WHO) defines health in the following broad terms:

Health is a state of complete physical, mental, and social well-being and not merely the absence of disease or infirmity.

The WHO also affirms the definition and importance of the right to health in the Preamble to its Constitution with the following statement:

The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, political belief, economic or social condition . . .

Governments have a responsibility for the health of their peoples which can be fulfilled only by the provision of adequate health and social measures.

DISABILITY AND HEALTH

While it is commonly accepted that there are many issues, such as literacy and poverty level that can adversely affect human health, disability has traditionally been viewed as inherently being a health issue. In reality, persons with disabilities experience disease and illness in the same way that other people do. They can be in good health or poor health, just like anyone else. Some persons with disabilities may be more vulnerable to communicable illnesses, such as influenza, and it is certainly true that some disabilities have the potential to create health problems, known as “secondary conditions.” Common examples of secondary conditions include, for example, pressure sores and respiratory distress in persons with mobility impairments. It is also true that some health problems can cause permanent disabilities and/or create temporary disabling conditions. In other words, a disability can be both a cause and an effect of a health problem, or a disability can be present in a completely healthy person.

When disability is classified as a “health problem,” people think of a disability as being the same thing as an illness or disease. Therefore, the medical community is regarded as responsible for “curing” or “treating” disability, rather than it being the responsibility of governments and societies to address disability as part of the social or human rights agenda. The “medical model of disability” focuses on prevention, cure, and symptom management of the disability by the health profession. Unfortunately, this approach does nothing to help eliminate the fundamental problems of discrimination, lack of access, and other social and political issues that create barriers to the right to health for persons with disabilities.

HEALTH AND HABILITATION/REHABILITATION

Closely related to the perception of disability in narrow terms as a health issue and reinforced by the medical model of disability is the notion that **habilitation** and **rehabilitation** are also medical subjects and therefore part of the health context. Habilitation and rehabilitation include a range of measures – physical, vocational, educational, training-related, and others – necessary to empower persons with disabilities to maximize independence and the ability to participate in society, not simply to achieve physical or mental health. For this reason, the right to health and the right to habilitation and rehabilitation are addressed separately in the CRPD. The exception, of course, is that health-related rehabilitation is recognized as part of the right to health. This would include, for example, physical therapy to strengthen muscles that are affected by an injury, illness, or disability.

THE MEDICAL MODEL VS. THE SOCIAL MODEL

The Medical Model of Disability

Perhaps the most significant and widespread myth affecting human rights and disability is the idea that disability is simply a medical problem that needs to be solved or an illness that needs to be “cured.” This notion implies that a person with a disability is somehow “broken” or “sick” and requires fixing or healing. By defining disability as the problem and medical intervention as the solution, individuals, societies, and governments avoid the responsibility of addressing the barriers that exist in the social and physical environment. Instead they place the burden on the health profession to address the “problem” in the person with the disability. Many governments throughout the world have fuelled the medical model by funding extensive medical research that aims to find the “cure” for certain disabilities, while not providing any funding to remove the barriers that create disability in society.

The Social Model of Disability

The social model envisions disability as something that is created by the barriers and attitudes in society, not a trait or characteristic that is inherent in the person. Under the social model, society creates many of the social and physical barriers we consider “disabling,” and this model focuses on eliminating those barriers, not on “fixing” or “curing” disabilities. This includes modifying the built environment, providing information in accessible formats, and making sure that laws and policies support the exercise of full participation and non-discrimination.

WHAT DOES HUMAN RIGHTS LAW SAY ABOUT THE RIGHT TO HEALTH?

The human right to health was first recognized, although indirectly, in Article 25(1) of the **Universal Declaration of Human Rights (UDHR)**:

Everyone has the right to a standard of living adequate for the health and wellbeing of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

The UDHR focuses on the human rights associated with an adequate standard of living, but it clearly states that the ultimate objective of those rights is to achieve the “health and well-being” of the individual. Thus, the right to health is inextricably linked to other human rights, such as housing, social security, and, of course, medical care itself.

In 1966, the human right to health was defined in Article 12 of the **International Covenant on Economic, Social and Cultural Rights (ICESCR)**:

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

This language remains the fundamental expression of the right to health in the context of human rights. However, given the complexity of the subject, the **Committee on Economic, Social and Cultural Rights**, which monitors implementation of the ICESCR, issued **General Comment 14** to articulate more fully the freedoms, entitlements, and substantive obligations associated with the right to the highest attainable standard of health guaranteed by the ICESCR:

The right to health is not to be understood as a right to be healthy. The right to health contains both freedoms and entitlements. The freedoms include the right to control one's health and body, including sexual and reproductive freedom, and the right to be free from interference, such as the right to be free from torture, non-consensual medical treatment, and experimentation. By contrast, the entitlements include the right to a system of health protection that provides equality of opportunity for people to enjoy the highest attainable level of health.

An important analytical framework used to deepen understanding of the content of the right to health is that health services, goods, and facilities, including the underlying determinants of health, shall be *available, accessible, acceptable, and of good quality*. This framework applies to mental and physical health care and related support services provided to persons with disabilities.



THE AAAQ FRAMEWORK APPLIED TO PERSONS WITH DISABILITIES

Availability: Health care facilities, goods, and services must be available in adequate numbers through a State, including adequate numbers of health care providers trained to provide disability-specific support and mental health-related services.

Accessibility: Includes four overlapping dimensions:

- **Non-discrimination:** Mental and physical health care services must be available without discrimination on the basis of disability or any other prohibited ground. States must take positive measures to ensure equality of access to persons with disabilities. States must also ensure that persons with disabilities get the same level of medical care within the same systems as others.
- **Physical accessibility:** Health facilities, goods, and services must be within safe physical reach for persons with disabilities and other vulnerable or marginalized groups, such as ethnic minorities and indigenous populations, women, children, adolescents, older persons, and persons with HIV/AIDS. Accessibility also implies that medical services and underlying determinants of health, such as safe and potable water and adequate sanitation facilities, are accessible, within safe physical reach, including in rural areas. Accessibility further includes adequate access to buildings for persons with disabilities.
- **Economic accessibility:** Health facilities, goods, and services, including medicines and assistive devices, must be economically accessible (affordable) to consumers with disabilities.
- **Information accessibility:** Accessibility includes the right to seek, receive, and impart information and ideas concerning health issues. Information relating to health and other matters, including diagnosis and treatment, must be accessible to persons with disabilities. This entitlement is often denied to persons with disabilities because they are wrongly judged to lack the capacity to make or participate in decisions about their treatment and care. However, accessibility of information should not impair the right to have personal health data treated with confidentiality.

Acceptability: Health care facilities, goods, and services provided to persons with disabilities must be culturally acceptable and respectful of medical ethics.

Quality: Health care facilities, goods, and services provided to persons with disabilities must be of good quality, as well as scientifically and medically appropriate. Among other things, this quality requirement mandates skilled medical and other personnel who are provided with disability training, evidence-based interventions, scientifically approved and unexpired drugs, appropriate hospital equipment, safe and potable water, and adequate sanitation.

Source: Adapted from Committee on Economic, Social and Cultural Rights, General Comment 14, The right to the highest attainable standard of health (22nd session, 2000), U.N. Doc. E/C.12/2000/4 (11 August 2000): <http://www1.umn.edu/humanrts/gencomm/escgencom14.htm>

General Comment 5 of the ICESCR was developed by the **Committee on Economic, Social and Cultural Rights** to address disability in the context of the Covenant, including the subject of health. Together, ICESCR General Comments 5 and 14 make it clear that persons with disabilities have the right not only to accessible health care services, but also to equality and non-discrimination in relation to all aspects of the right to health. This includes equal access to available healthcare services and to equality with respect to the resources, conditions, and underlying determinants required for the highest attainable standard of health.

CRPD Article 25, Health, reinforces these previous standards of general equality, non-discrimination, and access issues and expands upon States' obligations in specific areas, in particular:

- The right to sexual and reproductive health services;
- Access to population-based public health programmes;
- Services provided as close as possible to people's communities;
- Provision of disability-specific health services, including prevention of further disabilities;
- Autonomy and independence in healthcare decisions, on the basis of free and informed consent;
- Non-discrimination in access to health insurance and life insurance; and
- Prohibition against the denial of care, including food and fluids, on the basis of disability.

Article 25 must be read in conjunction with CRPD Article 9, Accessibility, among other cross-cutting provisions. Article 9 addresses the general topic of access, requiring that States Parties take appropriate measures to ensure equal access to facilities and services open or provided to the public, including physical premises, and communications and information systems.

THE DUTY TO RESPECT, PROTECT, AND FULFIL OBLIGATIONS RELATING TO THE RIGHT TO HEALTH

Taken as a whole, States' obligations with regard to health include:

1. **Obligation to respect:** States must refrain from denying or limiting equal access to health care services, as well as to the underlying determinants of health for persons with disabilities.

Example: The State repeals a law that discriminates against persons with disabilities in their access to health care and adopts a law that recognizes that persons with disabilities in public or private institutions, such as hospitals or prisons, may not be denied access to health care and related support services, or water and sanitation.

2. **Obligation to protect:** States must take all appropriate measures to ensure that third parties, such as health clinic professionals, service provider organizations, or others do not harm the right to health of persons with disabilities.

Example: The State takes measures to ensure that health care providers do not discriminate against persons with disabilities in the provision of health care.

Example: The State adopts specific measures to ensure that persons with disabilities are effectively reached in public health programmes, such as infectious disease prevention education.

Example: The State provides reasonable accommodations to ensure equal access to health services for persons who are deaf in the form of on-call sign language interpreter services at medical facilities.

Example: The State investigates reports of discriminatory treatment of patients with disabilities.

3. **Obligation to fulfil:** States must be proactive in their adoption and implementation of measures to give effect to the principles of equal access and non-discrimination in health care provisions.

Example: The State provides disability training to health care providers to help them understand how to effectively accommodate consumers with disabilities.

Example: The State provides information on dental services in accessible formats for persons with disabilities, such as plain language for persons with intellectual disabilities.

Example: The State ensures that the right to health of persons with physical and mental disabilities is adequately reflected in their national health strategy, plan of action, and other policies, such as national poverty reduction plans.

In sum, international human rights law strongly supports the right of persons with disabilities to have equal and effective access to health services. The enjoyment of the right to health facilitates the enjoyment of other rights by persons with disabilities.

HEALTH PROMOTION AND DISEASE PREVENTION

Persons with disabilities benefit from healthy choices and suffer from illnesses and accidents just like everyone else. However, the incidence of infectious diseases and other preventable conditions among persons with disabilities is often higher than for the rest of the population because public health programmes fail to provide information in accessible formats and do not make an effort to target persons with disabilities. Participation by persons with disabilities and their representative organizations in the design and implementation of public health efforts is essential to ensuring that persons with disabilities are able to benefit from these crucial programmes.

The CRPD specifically recognizes the importance of gender-sensitive health services and the need for equal access to sexual and reproductive health and

population-based health programmes. Even though the CRPD makes it clear that all public health programmes must include persons with disabilities on an equal basis with others, these particular subjects are highlighted because they are areas in which persons with disabilities are often assumed to be a-sexual, forgotten, de-prioritized, or simply discriminated against in health care systems and national and international health agendas.

CASE STUDY

CONCERNING NON-DISCRIMINATORY HEALTH CARE ACCESS

Purohit and Moore v. The Gambia: In a complaint to the African Commission on Human and Peoples' Rights on behalf of mental health patients detained in a unit, legislation governing mental health, the Lunatics Detention Act of 1917, was challenged. The complaint alleged that the Act contained no guidelines for making a determination and diagnosis of mental disability; included no safeguards required during the diagnosis, certification, or detention of the person; and lacked requirements for consent to treatment, independent examination of hospital conditions, and provision for legal aid or for compensation in the case of a rights violation. The Commission held, among other things, that The Gambia failed to comply with requirements of Articles 16 (best attainable standard of physical and mental health) and 18(4) (right to special measures for disabled persons with regards to moral and physical needs) of the African Charter on Human and Peoples' Rights. Furthermore, the Commission held that States Parties were required to take concrete and targeted steps to ensure the right to health. *Purohit and Moore v. The Gambia*, Communication 241/2001 (2003) AHRLR 96 (ACHPR 2003).

Eldridge v. British Columbia: A group of deaf applicants challenged the absence of sign-language interpreters in the publicly funded health care system. The Supreme Court of Canada held that provincial governments had a positive obligation under the Canadian Charter of Rights and Freedoms to address the needs of disadvantaged groups such as persons with disabilities. The Court held that the applicants had a right to publicly funded sign-language interpretation in the provision of health care and that the failure of the authorities to ensure that the applicants benefited equally from the provincial medicare scheme amounted to discrimination. *Eldridge v. British Columbia* (Attorney General) [1997] 2 S.C.R. 624.

Victor Rosario Congo v. Ecuador: The Inter-American Commission of Human Rights, which monitors the American Convention on Human Rights, held that in the case of persons with mental disabilities, prison settings must also be appropriate for their mental and physical needs. *Victor Rosario Congo v. Ecuador*, Case 11.427, Report No. 63/99, Inter-Am. C.H.R., OEA/Ser.L/V/II.95 Doc. 7 rev. at 475 (1998).

Keenan v. United Kingdom: The European Court of Human Rights found a violation of the prohibition on inhuman and degrading treatment where a person with a mental disability was detained in squalid, inhumane conditions without receiving appropriate treatment. Although the **European Convention for the Protection of Human Rights and Fundamental Freedoms** does include the right to health, this case clearly also reflects violations of the right to health due to the potential for significant physical and mental deterioration or even death. *Keenan v. United Kingdom*, App. No. 27229/95, 33 Eur. H. R. Rep. 913, 964 (2001).

PERSONS WITH DISABILITIES AND HIV/AIDS

In 2004, the World Bank, working in partnership with the Yale School of Public Health, conducted a Global Survey on HIV/AIDS and Disability with preliminary findings from this and follow-on research suggesting that persons with disabilities have infection rates comparable to, and quite possibly significantly higher than, rates found in the general public.

Very often, children, adolescents, and adults with disabilities are invisible in HIV/AIDS outreach efforts due to stigma and discrimination, including the common and wholly false assumptions that persons with disabilities are not sexually active, are unlikely to use drugs or alcohol, and/or are at less risk of violence or rape than their non-disabled peers. Persons with disabilities are more vulnerable to infection if they do not have ready access to information, education, and services necessary to ensure sexual and reproductive health and prevention of infection. Poverty exposes women and girls with disabilities to sexual exploitation, and research suggests that a large percentage of persons with disabilities will experience sexual assault or abuse during their lifetime. Vulnerability also decreases the likelihood of being able to negotiate safe sex. Persons with intellectual disabilities and persons with disabilities living in institutional settings also experience elevated risks of sexual violence and abuse. Physical barriers to centres for HIV prevention as well as voluntary counselling and testing (hereafter VCT), treatment, and care limit access for persons with mobility impairments. Likewise, transport may be unavailable or inaccessible to persons with disabilities. Communication barriers limit access of HIV/AIDS messaging, such as radio programming, to persons who are deaf.



For individuals with disabilities who are HIV-infected, poverty and barriers such as lack of transport to medical treatment centres hampers effective access to care and treatment, including antiretroviral and other medications for opportunistic infections. Privacy and confidentiality may be compromised for persons with disabilities in the context of HIV testing and counselling owing to the presence of personal assistants or sign language interpreters. Where access to antiretroviral therapy and post-exposure prophylaxis is limited, persons with disabilities may not be prioritized for treatment on account of disability-related stigma and discrimination.

PARTICIPATION IN MEDICAL DECISION-MAKING

Under international human rights law, the population is entitled to participate in health-related policy decision-making at all levels. The right to participate extends to persons with disabilities who, like all persons, have the right to participate in decision-making processes that affect their health and development, as well as in every aspect of service delivery. CRPD Article 25, Health, reinforces the principles in CRPD Article 12, Equal recognition before the law, related to the freedom to make decisions about one's health care. It specifies that States Parties must require health professionals to "provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent" and to adopt measures that raise awareness about "human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care."

Failure to respect the independence, autonomy, and dignity of persons with disabilities in the context of medical decision-making led to horrific human rights abuses against children and adults with disabilities, including forced sterilization, cruel and totally bogus methods to "cure" specific behaviours in persons with psychosocial disabilities, psycho-surgery such as lobotomies, therapeutic, and non-therapeutic biomedical research, and experimentation. The right to be free from torture and other forms of violence is addressed in detail in Part 2, Chapter 6, Freedom from Torture and Other Forms of Abuse.

Finally, persons with disabilities, like all people, are entitled to all treatment and life-sustaining measures available, and they are also entitled to forgo such care as a matter of individual choice. This is a matter of equality, both in terms of the right to life and with respect to the right to personal integrity and decision making regarding one's own medical treatment.

USEFUL RESOURCES ON THE RIGHT TO HEALTH

- The Center for Universal Design and The North Carolina Office on Disability and Health, *Removing Barriers to Health Care: A Guide for Health Professionals*: <http://www.fpg.unc.edu/~ncodh/rbar>
 - › Provides helpful guidance on making health care accessible.
- Committee on Economic, Social and Cultural Rights, General Comment 14, The right to the highest attainable standard of health (22nd session, 2000), U.N. Doc. E/C.12/2000/4 (11 August 2000): <http://www1.umn.edu/humanrts/gencomm/escgencom14.htm>
 - › General Comment providing detailed analysis of the right to health under the ICESCR.
- Office of the High Commissioner for Human Rights/World Health Organization, *The Right to Health, Fact Sheet No. 31*: <http://www.ohchr.org/Documents/Publications/Factsheet31.pdf>
 - › Comprehensive coverage of the right to health under international human rights law.
- Office of the High Commissioner for Human Rights & UNAIDS, *International Guidelines on HIV/AIDS and Human Rights: Consolidated Version* (Geneva: OHCHR & UNAIDS) (2006): http://data.unaids.org/Publications/IRC-pub07/jc1252-internguidelines_en.pdf
 - › Detailed guidelines on health and human rights in the context of HIV/AIDS.
- Nora E. Groce, et al, “HIV/AIDS and Disability: Capturing Hidden Voices” (New Haven, Connecticut: World Bank Group/Yale School of Public Health) (2004): <http://globalsurvey.med.yale.edu>
 - › Leading study on HIV/AIDS and disability.
- Janet E. Lord, David Suozzi & Allyn L. Taylor, “Lessons from the Experience of the UN Convention on the Rights of Persons with Disabilities: Addressing the Democratic Deficit in Global Health Governance,” 38 *J. Law, Med. & Ethics* 564 (2010).
 - › Assessing the implications of the CRPD for global health governance.
- National Council on Disability, *The Right to Health: Fundamental Concepts and The American Disability Experience* (2005): <http://www.ncd.gov/publications/2005/08022005-Concepts>
 - › Overview of health and disability within the US and international human rights contexts.

- Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health: <http://www.ohchr.org/english/issues/health/right>
 - › Webpage for the Special Rapporteur on the Right to Health.
- Special Rapporteur on the Right to Health, “Mental Disability and the Right to Health” (11 February 2005): <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G05/108/93/PDF/G0510893.pdf?OpenElement>
 - › Detailed report by the Special Rapporteur on mental disability and health rights.
- Michael Stein, Janet E. Lord & Dorothy Weiss, “Equal Access to Health Care under the UN Disability Rights Convention,” in *Medicine and Social Justice: Essays on Distribution and Care* (Rosamond Rhodes et al. eds. 2012).
 - › Discussion of health rights in the context of the CRPD.
- UNAIDS, World Health Organization & Office of the High Commissioner for Human Rights, “Disability and HIV Policy Brief” (2009): http://data.unaids.org/pub/Manual/2009/jc1632_pol_brief_disability_long_en.pdf
 - › Introducing the intersections between HIV/AIDS and disability.
- United National Population Fund, “Emerging Issues: Sexual and Reproductive Health of Women with Disabilities,”: http://www.unfpa.org/upload/lib_pub_file/741_filename_UNFPA_DisFact_web_sp-1.pdf
 - › Overview of main issues confronting women with disabilities in the sexual and reproductive health context.
- World Health Organization & World Bank, “World Report on Disability” (2011): http://whqlibdoc.who.int/publications/2011/9789240685215_eng.pdf
 - › First ever world report on disability with comprehensive coverage of health issues.

CHAPTER 9: THE RIGHT TO HABILITATION AND REHABILITATION

CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

Article 26, Habilitation and rehabilitation

1. States Parties shall take effective and appropriate measures, including through peer support, to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life. To that end, States Parties shall organize, strengthen and extend comprehensive habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services, in such a way that these services and programmes:
 - a. Begin at the earliest possible stage, and are based on the multidisciplinary assessment of individual needs and strengths;
 - b. Support participation and inclusion in the community and all aspects of society, are voluntary, and are available to persons with disabilities as close as possible to their own communities, including in rural areas.
2. States Parties shall promote the development of initial and continuing training for professionals and staff working in habilitation and rehabilitation services.
3. States Parties shall promote the availability, knowledge and use of assistive devices and technologies, designed for persons with disabilities, as they relate to habilitation and rehabilitation.

OBJECTIVES

The information contained in this chapter will enable participants to work towards the following objectives:

- Define the right to habilitation and rehabilitation;
- Explain the importance of the right to habilitation and rehabilitation for persons with disabilities;
- Understand the interrelationship between the right to habilitation and rehabilitation and other human rights;
- Understand the process of developing habilitation and rehabilitation plans;
- Identify ways in which the right to habilitation/rehabilitation has been promoted or denied; and
- Understand the provisions on habilitation and rehabilitation in the **Convention on the Rights of Persons with Disabilities (CRPD)**.

GETTING STARTED: THINKING ABOUT HABILITATION AND REHABILITATION

Habilitation refers to a process aimed at helping people gain certain new skills, abilities, and knowledge. The term **rehabilitation** refers to regaining skills, abilities, or knowledge that may have been lost or compromised as a result of acquiring a disability or due to a change in one's disability or circumstances. The goals of habilitation and rehabilitation as defined in the CRPD are to “enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social, and vocational ability, and full inclusion and participation in all aspects of life.” As with any other form of service or treatment, a rights-based approach to habilitation and rehabilitation requires the full participation and consent of persons with disabilities.



Habilitation and rehabilitation are often linked with health-related issues and consequently addressed along with policies related to the right to health. In reality, rehabilitation is much more complex and far-reaching. While health-related rehabilitation can be a vital aspect of strategies to achieve these goals, many other elements are equally important, including those related to employment, education, or simply life skills. To ensure that habilitation and rehabilitation are understood to include the full range of measures necessary to equip persons with disabilities to attain their goals, the CRPD addresses the subject in a separate article.

Eliminating the barriers persons with disabilities face in claiming their human rights requires a variety of strategies and tools. Many factors must combine to ensure that societies are as open to persons with disabilities as they are to other people (for example, accessible environments, specialized programmes and technologies,

shifts in social and cultural attitudes, enforcement of non-discrimination laws, and knowledge of human rights principles). However, efforts that focus on adapting the social, legal, political, and physical environments are often inadequate to create equal opportunities for each person with a disability. An individual may require additional supports based on his or her unique circumstances and disability, such as assistive technologies, specific training, education, or skills development.

Unlike **reasonable accommodation**, habilitation and rehabilitation focus on equipping the individual with the specific knowledge, tools, or resources that he or she requires rather than ensuring that the general environment, program, practice, or job includes the features needed for an individual with a disability to succeed on an equal basis with others. For instance, an employer may be required to provide an accessible workspace as a reasonable accommodation for an employee who uses a wheelchair; however, the employer is not required to provide a wheelchair to the employee. A bank should have information on its services in accessible formats such as Braille, but the bank is not responsible for teaching a person with a visual impairment how to read using Braille. Responsibility is not always clear, however. For example if an office purchases new voice-recognition software as a reasonable accommodation for a person who is unable to use a standard computer keyboard, it would seem logical that the employer would teach that employee how to use the new software as part of the reasonable accommodation.

Habilitation and rehabilitation are crucial to ensuring that persons with disabilities are able to access all of their human rights. Without adequate habilitation and rehabilitation services, persons with disabilities may not be able to work, go to school, or participate in cultural, sports, or leisure activities. At the same time, barriers to other human rights can prevent persons with disabilities from claiming the right to habilitation and rehabilitation. For example, services may be available, but if no accessible transportation exists, many persons with disabilities will be prevented from receiving the benefit of these services. If information about habilitation and rehabilitation services is not available in accessible formats, persons with certain disabilities may never know that they exist. These examples demonstrate how the right to habilitation and rehabilitation and other human rights are **indivisible, interdependent, and interrelated**.

While persons with disabilities have the same rights as every other person, the ways people achieve their life goals—how they learn, how they communicate, how they interact with the physical environment, how they interact socially, and many other factors—differ for a variety of reasons, including disability. Habilitation and rehabilitation are processes designed to provide individualized strategies, tools, and resources to assist persons with disabilities in achieving the objectives they have set for themselves. These objectives may be as simple as taking the bus across town or as complex as becoming a world-famous rocket scientist. The important thing to remember is that ensuring access to habilitation and rehabilitation has been identified in human rights law as an obligation for States to enable persons with disabilities to claim their human rights.

WHO MAY BENEFIT FROM REHABILITATION?

Persons with disabilities are just one group that has been identified as entitled to rehabilitation programmes and services. International law and policy has long recognized the need for specific populations to have access to rehabilitation in order to successfully integrate or reintegrate in society and lead independent, productive, and happy lives.

Child Soldiers and Children Affected by War

The **Optional Protocol to the Convention on the Rights of the Child (CRC)** on the Involvement of Children in Armed Conflict calls for “the physical and psychosocial rehabilitation and social reintegration of children who are victims of armed conflict...”

Refugees

Article 14 of the **Convention Against Torture (CAT)** states that “Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible.” The reporting guidelines for countries implementing the CAT require information on any measures to assist in the victim’s rehabilitation and reintegration into the community.

Land Mine Survivors

Article 6.3 of the **Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction** calls on States to “provide assistance for the care and rehabilitation, and social and economic reintegration, of mine victims and for mine awareness programs.”

Torture Survivors

In response to the report of the **Special Rapporteur on Torture** and other cruel, inhuman or degrading treatment or punishment, the UN General Assembly adopted a resolution in 2007 that calls on national legal systems to ensure that torture victims “receive appropriate social and medical rehabilitation.” See: UN General Assembly Resolution 61/153, UN doc. A/RES/61/153: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/503/61/PDF/N0650361.pdf?OpenElement>

Rehabilitation is sometimes discussed in reference to whole countries, as well as to our earth’s environment after natural disasters or armed conflict. Rehabilitation is for anything or anyone who can benefit from assistance to ensure optimal functioning and realizing his, her, or its full potential.



WHAT DOES HUMAN RIGHTS LAW SAY ABOUT HABILITATION AND REHABILITATION?

The right to rehabilitation is addressed in various international instruments. Article 23 of the **Convention on the Rights of the Child** (CRC) calls on States Parties to ensure “effective access” of children with disabilities to:

...education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child’s achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.

The International Labour Organization (ILO) Vocational Rehabilitation and Employment (Disabled Persons) Convention, adopted in 1983, calls on members to implement national policies on vocational rehabilitation to ensure that “appropriate vocational rehabilitation measures are made available to all categories of disabled persons.” This Convention states that the purpose of vocational rehabilitation is “to enable a disabled person to secure, retain and advance in suitable employment and thereby to further such person’s integration or reintegration into society.” Although the text does not provide detailed guidance on what vocational rehabilitation should include, it recognizes that the concept of rehabilitation had evolved significantly since the development of previous ILO standards in 1955 and refers to the need for adoption of new standards based on the UN World Programme of Action Concerning Disabled Persons. In that non-binding instrument, rehabilitation was recognized to include the following range of services:

- Early detection, diagnosis, and intervention;
- Medical care and treatment;
- Social, psychological, and other types of counselling and assistance;
- Training in self-care activities, including mobility, communication, and daily living skills, with special provisions as needed (for example, for persons with hearing impairment or visual impairment);
- Provision of technical and mobility aids and other devices;
- Specialized education services;
- Vocational rehabilitation services (for example, vocational guidance, vocational training, placement in open or sheltered employment); and
- Follow-up.

The CRPD is the first instrument to mention both habilitation and rehabilitation. Article 26, Habilitation and rehabilitation, calls on States to “organize, strengthen and extend comprehensive habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services.” The CRPD stresses that habilitation and rehabilitation should be multi-disciplinary and individualized to take into account the needs and strengths of the person and that services should be available to people as close to

their own communities as possible. It recognizes the need for ongoing training of habilitation and rehabilitation professionals and the important role that assistive technologies and devices play in habilitation and rehabilitation processes.

The CRPD also mentions rehabilitation in the articles on work, health, and freedom from exploitation, violence, and abuse, though no specifics are offered as to what rehabilitation entails in those contexts.

The principle of participation by persons with disabilities in the design, development, and implementation of habilitation and rehabilitation programmes is implicit in the fundamental concepts of participation, autonomy, and decision-making included in CRPD Article 3, General principles. The principles contained in this article are considered foundational, which means they inform and apply to all of the human rights throughout the Convention. The first of the General principles listed in Article 3(a) is:

Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;

Respecting the freedom of choice and the independence of persons with disabilities is an essential component of ensuring the right to habilitation and rehabilitation.

THE DUTY TO RESPECT, PROTECT, AND FULFIL OBLIGATIONS RELATING TO HABILITATION AND REHABILITATION

Taken as a whole, States' obligations with regard to habilitation and rehabilitation include:

- Obligation to respect:** States must refrain from denying or limiting equal access to rehabilitation services for persons with disabilities.
Example: The State adopts a law that allows equal access to rehabilitation and habilitation services for war veterans with disabilities.
- Obligation to protect:** States must take all appropriate measures to ensure that third parties, such as rehabilitation professionals, service provider organizations, or others do not create barriers to rehabilitation services for persons with disabilities.
Example: The State takes measures to ensure that providers do not discriminate against persons with disabilities living in poverty in the provision of rehabilitation services.
Example: The State adopts specific measures to ensure that persons with disabilities living in rural areas are provided with information about rehabilitation services.
- Obligation to fulfil:** States must be proactive in their adoption and implementation of measures to give effect to the principles of equal access and non-discrimination in respect of rehabilitation services.

Example: The State provides disability training to rehabilitation providers to help them understand how to effectively accommodate consumers with disabilities.

Example: The State provides information on rehabilitation services in accessible formats for persons with disabilities, such as plain language for persons with intellectual disabilities.

In sum, international human rights law strongly supports the right of persons with disabilities to have equal and effective access to rehabilitation services. The enjoyment of this right facilitates the enjoyment of other rights by persons with disabilities.

CASE STUDY

PEER SUPPORT IN HABILITATION AND REHABILITATION

In the early 1960s, two students with quadriplegia were admitted to the University of California at Berkeley, but instead of living in the dormitory with other students, they were required to live at the university hospital. As more students like them were admitted, they formed a group and called themselves “The Rolling Quads.” The Rolling Quads questioned their living situation. Why were they forced to live in a hospital? There were many answers to this question. Dormitories on campus were not accessible to people using wheelchairs. University administrators expressed concern about students with disabilities needing medical care. The Rolling Quads used personal assistants or attendants, but there was no provision for personal assistants to share dormitory space. The Rolling Quads also brought up other topics. For example, they could not move freely around the city of Berkeley. There were no curb cuts to go from one sidewalk to another. No accessible transportation existed. If a student’s wheelchair broke down, there was no place to go to get it fixed.

The Rolling Quads decided to work together to advocate for their needs. As a result of their advocacy, the University opened the first Disabled Students Office. After a few years, many of the Rolling Quads were ready to graduate. To plan for the future they devised a course called “independent living,” in which they discussed how to improve conditions for persons with disabilities in the city of Berkeley, just as they had done with the University. Eventually, this group opened the first Center for Independent Living and helped to start a worldwide movement.

The Berkeley students acted on their own initiative, but they were not alone in their actions to champion disability rights. Similar groups were meeting all around the world, and these groups began communicating with each other. These peer groups came to believe that they knew more about life with a disability than the “experts.” They decided that it was themselves who were really the experts about their own lives. This viewpoint changed their way of looking at the world. If persons with disabilities were their own experts, then they were the ones most qualified to teach about their experiences and counsel other persons with disabilities about living with a disability. They began to call themselves peer counsellors.

The Rolling Quads took it upon themselves to identify their own goals for their lives at the University and beyond and made plans for how to achieve these goals. They helped one another through their shared experience. They knew what resources they needed and how to teach others to access those same resources. They took control of their own habilitation and rehabilitation.

Source: Adapted from Steve Brown, “Peer Counseling: Advocacy-Oriented Peer Support Part One,” Independent Living Research Utilization (1999): http://www.ilru.org/html/publications/readings_in_IL/peer1.html

HABILITATION AND REHABILITATION FOR PERSONS WITH INTELLECTUAL DISABILITIES AND PSYCHOSOCIAL DISABILITIES

Persons with intellectual or psychosocial disabilities are particularly vulnerable to human rights violations committed in the name of “rehabilitation.” The objective of habilitation and rehabilitation under the CRPD is to “enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life.” These efforts must always be based on the goals and preferences expressed by the person who is receiving the rehabilitation service.

Persons with intellectual or psychosocial disabilities are often subjected to programmes and therapies intended not to help them achieve what they want, but rather to change them in a way that the person may not wish to be changed. Persons with intellectual disabilities or psychosocial disabilities are assumed not to know “what is good for them” or to be incapable of defining reasonable goals for themselves. In these cases, doctors, family members, or others often employ rehabilitation approaches that further their own objectives and may violate the wishes of the person with an intellectual disability. Such “rehabilitation” violates fundamental human rights principles such as autonomy, freedom of expression, participation and inclusion, non-discrimination, and personal integrity.

USEFUL RESOURCES ON THE RIGHT TO HABILITATION AND REHABILITATION

- Disabled Peoples’ International: Community Based Rehabilitation (CBR) webpage: http://www.dpi.org/lang-en/resources/topics_list.php?topic=3
 - › Global membership organization of persons with disabilities web resources on CBR.
- International Labour Organization Convention 159, Vocational Rehabilitation and Employment (Disabled Persons) Convention (1983): <http://www.ilo.org/ilolex/english/convdsp1.htm>
 - › Legally binding convention concerning vocational rehabilitation and employment for persons with disabilities.
- International Labour Organization, Vocational Rehabilitation and Employment (Disabled Persons) Recommendation No. 168 (1983): <http://www.ilo.org/ilolex/english/recdispr1.htm>
 - › Recommendations supplementing Convention 159 to support and guide implementation.

- International Labour Office, World Health Organization, and UN Educational, Scientific and Cultural Organization, “CBR - A Strategy for Rehabilitation, Equalization of Opportunities, Poverty Reduction and Social Inclusion of People with Disabilities, Joint Position Paper” (2004): http://whqlibdoc.who.int/publications/2004/9241592389_eng.pdf
 - › Paper laying out CBR strategy focused on rehabilitation within the framework of equalization of opportunities and social inclusion.
- National Council on Independent Living: <http://www.ncil.org/>
 - › US-based national organization focused on supporting independent living for persons with disabilities.
- Rehabilitation International: <http://www.riglobal.org/>
 - › Global disabled people’s organization focusing on the rights and inclusion of persons with disabilities, with a focus on access to rehabilitation and general accessibility.
- World Health Organization, “Community Based Rehabilitation Guidelines” (2011): <http://www.who.int/disabilities/cbr/guidelines/en/index.html>
 - › CBR guidelines developed in process of global consultation.
- World Health Organization Disability and Rehabilitation, “Action Plan 2006-2011”: http://www.who.int/disabilities/publications/dar_action_plan_2006to2011.pdf
- World Health Organization & World Bank, “World Report on Disability” (2011): http://www.who.int/disabilities/publications/dar_action_plan_2006to2011.pdf

CHAPTER 10: THE RIGHT TO WORK

CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

Article 27, Work and employment

1. States Parties recognize the right of persons with disabilities to work on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:
 - a. Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;
 - b. Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances;
 - c. Ensure that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others;
 - d. Enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services, and vocational and continuing training;
 - e. Promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment;
 - f. Promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business;
 - g. Employ persons with disabilities in the public sector;
 - h. Promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures;
 - i. Ensure that reasonable accommodation is provided to persons with disabilities in the workplace;
 - j. Promote the acquisition by persons with disabilities of work experience in the open labour market;
 - k. Promote vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities.
2. States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.

OBJECTIVES

The information contained in this chapter will enable participants to work towards the following objectives:

- Define the right to work;
- Explain the importance of the right to work for persons with disabilities;
- Understand the interrelationship between the right to work and other human rights;
- Identify ways in which the rights of persons with disabilities to work have been promoted or denied; and
- Understand the provisions on work and employment in the **Convention on the Rights of Persons with Disabilities (CRPD)**.

GETTING STARTED: THINKING ABOUT WORK AND EMPLOYMENT

The phrase “right to work” can be misleading. Just as the “right to health” cannot guarantee that a person will be healthy, the “right to work” cannot guarantee a job to all people of working age. No government can realistically guarantee such a right. Instead, the “right to work” encompasses the right of all people to the opportunity to earn a living by freely choosing or accepting work and to undertake that work in safe and favourable working conditions. The right to work also includes the right to form and join trade unions, through which people can protect their interests and advocate for safe and favourable working conditions.

Unfortunately, persons with disabilities have frequently been denied the right to work. Attitudes and assumptions about the capabilities of persons with disabilities often lead employers to the false conclusion that a person’s disability makes him or her less capable and thus disqualifies him or her from being able to perform work-related tasks. This misconception results in persons with disabilities not being hired or only being hired for jobs that do not utilize their knowledge or skills. Similar attitudes lead employers to believe that some employees with disabilities may be “dangerous” to themselves or others in the workplace or that customers will be offended or feel uncomfortable by the presence of persons with disabilities. Employers also often assume that the costs of implementing **reasonable accommodations** for employees with disabilities (for example, accessibility features or flexible working schedules) are prohibitively expensive. Some employers use this rationale to pay their employees with disabilities a lower salary than that received by others doing comparable work. In more extreme cases, persons with disabilities may find themselves forced into abusive, exploitative slave-labour or other unsafe working conditions, perhaps with no pay at all. Alternatively, persons with disabilities are denied opportunities to work in mainstream settings and may have to work in a segregated setting when they might not otherwise choose to do so.



Collectively, these attitudes and assumptions result in many persons with disabilities being denied the enjoyment of their right to work at any and all stages of the employment cycle, including initial hiring, continuing employment, and career advancement. Furthermore, the subtle and insidious nature of discrimination on the basis of disability in workplace settings can make it extremely difficult for persons with disabilities to challenge the violation of their rights. For example, many employers will not openly state that a person's disability is the reason they have failed to hire him/her or have terminated his/her employment. They might, for example, say that they preferred other applicants. Gathering the evidence needed to challenge such discrimination may prove almost impossible.

Violations of other human rights can create additional barriers to persons with disabilities being able to fully enjoy their right to work. For example:

- The lack of accessible transportation may deprive persons with disabilities of their ability to access places of employment;
- The lack of access to education and to vocational and other training opportunities may leave persons with disabilities unable to meet specific job qualifications and may also restrict their earning potential;
- The lack of opportunity to live independently and in the community may force persons with disabilities to live in segregated institutional settings where access to meaningful work opportunities may be non-existent or greatly restricted; and
- The lack of access to information may make it difficult for persons with disabilities to become aware of job postings and other information about potential employment.

Violations of the right to work may also lead to violations of the enjoyment of other human rights for persons with disabilities. For example, a person with a disability who is unable to work and earn a fair wage may be unable to attain an adequate standard of living. This circumstance, in turn, may force that person to become dependent upon others, restricting choices and curtailing the ability to live independently in the community. In many cases, persons with disabilities who are unable to support themselves financially can become trapped in a cycle of poverty, unable to meet even their most basic needs for food, water, clothing, and shelter, or indeed raise a family as they would wish. In some countries, employment provides a means of accessing the health insurance needed to obtain health care services. Where persons with disabilities are unable to obtain employment in such countries, their access to health care services may also be restricted.

Perhaps the most far-reaching impact of the denial of the right to work is on a person's sense of dignity and self-worth. In many societies, the ability to work is commonly viewed as one of the most important ways in which people can make their individual contributions to society, and those perceived as unable or unwilling to work may be viewed as less valuable members of that society, especially when their inability to earn a living causes them to become reliant on the support of the government or others. Thus, full enjoyment of the right to work can be of critical importance in the full inclusion of persons with disabilities as equal members of the societies in which they live, as well as in the self-image and sense of self-worth that persons with disabilities have. In this way, it is clear that human rights are **indivisible, interdependent and interrelated**.

EXAMPLES OF BARRIERS TO THE RIGHT TO WORK

- Negative attitudes in society about the ability of persons with disabilities to work and be qualified and contributing employees;
- Physical barriers to places of work: in other words, the workplaces themselves are not physically accessible;
- Lack of accessible transportation to places of work;
- Legislation, regulations, policies, or practices that prohibit persons with disabilities from working in particular jobs or that do not protect people experiencing disability-based discrimination in employment settings;
- Lack of accessible information about available employment opportunities (for example a job opportunity is placed in a newspaper that is not accessible to persons who are blind);
- Lack of accessible job application procedures (for example, an applicant who is deaf is not provided a sign language interpreter during the job application interview); and
- Lack of accommodations to facilitate communication in employment settings by persons with disabilities, especially persons who are blind, deaf, or deafblind, persons with intellectual disabilities, and persons with learning disabilities.

WHAT DOES HUMAN RIGHTS LAW SAY ABOUT THE RIGHT TO WORK?

The right to work is addressed in a variety of international human rights instruments. The **Universal Declaration of Human Rights (UDHR)** discusses the right to work in Article 23, addressing such issues as freedom of choice in employment, fair pay, equal pay for equal work, and the right to form and join trade unions. The **International Covenant on Civil and Political Rights (ICCPR)** also contains provisions relevant to the right to work in Article 8, which focuses on the right of everyone not to be held in slavery or servitude, as well as to be free from forced or compulsory labour except in certain limited circumstances.

The **International Covenant on Economic, Social and Cultural Rights (ICESCR)** elaborates further on the right to work, with three articles addressing related issues, including:

- **Article 6**, which affirms the right to work and calls on governments to achieve its realization through policies and practices that safeguard “fundamental political and economic freedoms to the individual”;
- **Article 7**, which addresses the right of everyone to “just and favourable conditions of work,” including safe and healthy working conditions, fair wages, equal opportunity for promotion subject to seniority and competence, and rest and leisure time;
- **Article 8**, which addresses the right of everyone to form and join trade unions, and the rights of trade unions to function freely subject only to those restrictions necessary in a democratic society to preserve public order or protect the rights and freedoms of others.

General Comment No. 5 on persons with disabilities of the **Committee on Economic, Social and Cultural Rights**, the treaty body responsible for monitoring implementation of the ICESCR, addresses some of the barriers faced by persons with disabilities in fully enjoying the right to work. The ICESCR acknowledges barriers such as the pervasiveness of disability-based discrimination in the employment field, the limited and often-substandard employment options available to persons with disabilities, and the barriers to work resulting from lack of enjoyment of other human rights, such as access to transportation to get to work. It also notes the need for governments to ensure that persons with disabilities can fully enjoy their trade union-related rights and regularly consult with organizations of persons with disabilities on employment and other matters.

Article 32 of the **Convention on the Rights of the Child (CRC)** recognizes the right of all children to be free from economic exploitation and any work that might interfere with their education or that would be harmful to their “health or physical, mental, spiritual, moral or social development.” In addition, it requires States to establish a minimum age (or minimum ages) for employment, to regulate the hours and conditions of employment, and to ensure the use of penalties or other sanctions in order to enforce Article 32.

The CRPD expands upon the issues addressed in earlier human rights documents and helps to clarify how States can respect, protect, and fulfil the right to work. Because of the **indivisible**, **interdependent**, and **interrelated** nature of human rights, many articles in the CRPD can be considered relevant to the enjoyment of this right. However, Article 27, Work and employment, specifically focuses on the right to work.

A lengthy article in the CRPD, Article 27 contains two subsections. The first and longest of these, Article 27(1), expressly recognizes the right of persons with disabilities to work on an equal basis with others, including the right to the opportunity to gain a living by work freely chosen or accepted. It further states that the right to work should be enjoyed in a “labour market and work environment that is open, inclusive and accessible to persons with disabilities.” Article 27(1) then goes on to address some of the specific steps that States should take in promoting the realization of the right to work by persons with disabilities, including:

- Prohibiting discrimination on the basis of disability regarding all areas and forms of employment;
- Protecting the right to just and favourable conditions of work, including through equal pay for equal work, safe and healthy working conditions, protection from harassment, and resolution of complaints;
- Ensuring that persons with disabilities can exercise their labour and trade union rights on an equal basis with others;
- Enabling access to general technical and vocational guidance programmes and other placement and training services;
- Promoting employment opportunities and career advancement for persons with disabilities and providing assistance in finding, obtaining, maintaining, and returning to employment;
- Promoting opportunities for self-employment, entrepreneurship, developing cooperatives and business start-up;
- Employing persons with disabilities in the public sector;
- Promoting employment in the private sector through affirmative action, incentives, and other appropriate policies and measures;
- Ensuring provision of reasonable accommodation in the workplace;
- Promoting work experience for persons with disabilities in the open labour market; and
- Promoting vocational and professional rehabilitation, job retention, and return-to-work programmes.

Although much shorter, Article 27(2) is an important provision addressing the issue of exploitative labour. It requires States to ensure that persons with disabilities are not held in slavery or servitude and are protected on an equal basis with others from forced or compulsory labour.

THE DUTY TO RESPECT, PROTECT, AND FULFIL OBLIGATIONS OF THE RIGHT TO WORK

Taken as a whole, States' obligations relating to the right to work include:

1. **Obligation to respect:** States must respect the right to work by ensuring that State actors, such as government officials, do not interfere with the exercise and enjoyment of the right by persons with disabilities.

Example: The State provides legal protections recognizing the right of persons to work, including legislatively protecting the right to be free from discrimination on the basis of disability and the requirement that reasonable accommodation be provided.

Example: The State provides legal protections to ensure that persons with disabilities are not forced into jobs not of their own choosing.

2. **Obligation to protect:** States must protect the right to work by ensuring that non-State actors, such as businesses and trade unions, do not interfere with the exercise and enjoyment of the right.

Example: The State enacts and enforces laws that protect persons with disabilities from discrimination in the private employment setting.

3. **Obligation to fulfil:** States have an obligation to fulfil the right to work by taking positive action to ensure that persons with disabilities are able to exercise the right to work.

Example: The State establishes specific hiring procedures in an effort to increase the number of persons with disabilities who apply for government positions.

Example: The State develops a hotline and accessible website for employers to provide guidance on reasonable accommodations in the work environment for persons with a wide range of disabilities.

In sum, international human rights law strongly supports the right of persons with disabilities to work, not only to ensure access to employment, but also so that persons with disabilities may better enjoy their other human rights and fully assume their responsibilities as contributing members of society.

AWARENESS-RAISING IN EMPLOYMENT SETTINGS

In order for employers to uphold their obligations to current and potential employees with disabilities, and in order for persons with disabilities to advocate for full enjoyment of their rights, both employers and persons with disabilities need to be aware of their obligations and rights. Many employers in both the public and private sectors are increasingly adopting disability policies that outline their responsibilities and the rights of persons with disabilities. Sometimes employers adopt such policies of their own accord, and sometimes they do so in response to national legislation and the encouragement of **disabled people's organizations** (DPOs). Such policies help to remind those in decision-making roles of the responsibilities they have towards employees and customers with disabilities. They can also help to empower persons with disabilities to claim their rights and challenge violations of their rights.

However, policies alone are typically not enough to ensure awareness or guarantee that persons with disabilities fully enjoy their rights. It is not enough for an employer to have a policy, but rather steps also need to be taken to ensure that all affected by the policy are aware of its content and understand what they need to do to put the policy into action. Training may be needed to help people understand their rights and responsibilities under the policy, and further supports may be needed to give effect to a policy. In addition, mechanisms need to be in place to address violations of the policy effectively, and people wishing to challenge violations need to understand how to use those mechanisms and feel safe in doing so. If employees worry that they may lose their jobs or be punished in some way for drawing attention to a violation, then arguably even a well-written policy is ineffective.

CASE STUDY

VOLKSWAGEN'S CORPORATE COMMITMENT TO PERSONS WITH DISABILITIES

As part of the 2003 European Year of People with Disabilities and building upon earlier company initiatives, international car manufacturer Volkswagen signed an agreement pledging to better integrate staff with disabilities into the mainstream work process through education, training, and internal communications. As part of the 2003 celebrations, Volkswagen also released a brochure entitled "Away From Paternalism Toward Enablement," in which it outlined a variety of steps it is taking to promote disability issues, including:

- Working to ensure that its products are accessible to persons with disabilities;
- Prohibiting disability-based discrimination in the work environment;
- Utilizing principles of **universal design** to promote a healthy and safe work environment, to integrate employees with disabilities, and to re-integrate employees who may have become disabled during the time they have been employed with the company;
- Utilizing **reasonable accommodation** where universal design features do not adequately accommodate employees with disabilities; and
- Forming "integration teams" of different management departments and representatives of persons with disabilities in order to work cohesively towards the gradual implementation of disability policies throughout all company departments and manufacturing plants.

Source: Corporate Partnership Program Launched for European Year of Disabled: www.disabilityworld.org/01-03_03/employment/euyear.shtml.

USEFUL RESOURCES ON THE RIGHT TO WORK

- American Association of Persons with Disabilities (AAPD), “Disability Mentoring Day”: <http://www.aapd.com/what-we-do/employment/disability-mentoring-day/>
 - › Discusses an event that local governments can participate in to promote employment opportunities for persons with disabilities.
- Americans with Disabilities Act Guide for Small Businesses: <http://www.ada.gov/smbustxt.htm>
 - › Provides information for small businesses to understand and comply with the Americans with Disabilities Act.
- Committee on Economic, Social and Cultural Rights, General Comment No. 5, Persons with disabilities: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)4b0c449a9ab4ff72c12563edo054f17d?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)4b0c449a9ab4ff72c12563edo054f17d?Opendocument)
 - › General Comment on persons with disabilities addressing work, among other things.
- International Labour Organization Convention 159, Vocational Rehabilitation and Employment (Disabled Persons) Convention (1983): <http://www.ilo.org/ilolex/english/convdisp1.htm>
 - › Legally binding convention concerning vocational rehabilitation and employment for persons with disabilities.
- International Labour Organization, “Vocational Rehabilitation and Employment (Disabled Persons) Recommendation (No. 168)” (1983): <http://www.ilo.org/ilolex/english/recdisp1.htm>
 - › Recommendations supplementing Convention 159 to support and guide implementation.
- International Labour Organization, Managing Disability in the Workplace, Code of Practice (2002): http://www.ilo.org/public/libdoc/ilo/2002/102B09_340_engl.pdf
 - › Code developed to guide employers, including large, medium-sized or small enterprises, in the private or public sector, to develop strategies in managing disability related issues in the workplace.

CHAPTER 11: LIVING INDEPENDENTLY AND WITH DIGNITY IN THE COMMUNITY

CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

Article 19, Living independently and being included in the community

States Parties to this 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.

Article 28, Adequate standard of living and social protection

1. States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.
2. States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures:
 - a. To ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs;
 - b. To ensure access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection programmes and poverty reduction programmes;
 - c. To ensure access by persons with disabilities and their families living in situations of poverty to assistance from the State with disability-related expenses, including adequate training, counselling, financial assistance and respite care;
 - d. To ensure access by persons with disabilities to public housing programmes;
 - e. To ensure equal access by persons with disabilities to retirement benefits and programmes.

Article 12, Equal recognition before the law

1. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.
2. States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.
3. States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.
4. States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body. The safeguards shall be proportional to the degree to which such measures affect the person's rights and interests.
5. Subject to the provisions of this article, States Parties shall take all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and shall ensure that persons with disabilities are not arbitrarily deprived of their property.

OBJECTIVES

The information contained in this chapter will enable participants to work towards the following objectives:

- Define the right to live independently and with dignity in the community;
- Explain the importance of living independently and with dignity in the community for persons with disabilities;
- Understand the interrelationship between living independently and with dignity in the community and other human rights;
- Identify ways in which the rights of persons with disabilities to live independently and with dignity in the community have been promoted or denied; and
- Understand the provisions on living independently and with dignity in the community in the **Convention on the Rights of Persons with Disabilities (CRPD)**.

GETTING STARTED: THINKING ABOUT LIVING INDEPENDENTLY AND WITH DIGNITY IN THE COMMUNITY

What does the right to live independently mean? Few people in the world live completely by themselves without any contact with other people. All of us rely to some extent on other people, to provide us with advice, friendship, goods, services, and a variety of other kinds of support. What then does “living independently” mean if not living solely by yourself? The right to live independently means the right to choose how you live, where you live, with whom you live, and to what degree you wish to interact with your community. It also means having access to any support you might need to realize those choices and to achieve an adequate standard of living.

A critical component of the right to live independently in a manner that respects inherent human dignity is the opportunity to make one’s own decisions and to have those decisions be respected and acted upon. Many persons with disabilities have been denied this right, even with respect to the most basic of decisions, such as what to wear or eat or drink. In some cases, national legislation has expressly barred persons with disabilities (especially persons with intellectual or psychosocial disabilities) from making their own decisions by depriving them of the legal capacity needed to do so. In other instances, people have ignored the decisions of family members or friends with disabilities because they do not believe the person has the capacity to make “sensible” decisions.



Information and communication barriers can also negatively impact the ability of persons with disabilities to make decisions. For example, the lack of accessible information can deprive persons with disabilities of the information they need to reach a decision. Additionally, the lack of communication accommodations may make it difficult for persons with disabilities to express themselves and make their opinions and decisions understood.

Violations of other human rights can create barriers to the ability of persons with disabilities to live independently and with dignity in the community. For example:

- Disability-based discrimination in employment not only violates the right to work, but may also deprive persons with disabilities of the means to earn an income to support themselves;
- The lack of accessible transportation not only deprives persons with disabilities of the right to liberty of movement, but also harms their ability to access work, education, healthcare, and shops, as well as to interact fully with the community;
- Services such as medical care or rehabilitation that are available to others locally in a general hospital or on an outpatient basis may only be available to persons with disabilities in an institutional setting;
- The lack of an adequate standard of living may force persons with disabilities to live in a segregated institutional setting or with family members merely for survival reasons, such as access to food and shelter;
- The lack of accessible housing may greatly reduce the choices available to persons with disabilities who want to live and work in a particular community; and
- Negative and discriminatory attitudes towards persons with disabilities may make persons with disabilities feel uncomfortable or unsafe among other community members and in turn encourage them to avoid such interactions. Such attitudes may even encourage families to hide their family members with disabilities from the community.

Violations of the right to live independently in the community also frequently lead to violations of other human rights. For example:

- Forcing persons with disabilities to live in segregated settings deprives them of the opportunity to participate fully in the social, cultural, and political life of their community;
- Children with disabilities who must live apart from their families are deprived of the opportunity to grow up in a family setting and often are denied quality inclusive education;
- Institutional settings can often expose persons with disabilities to a higher risk of violence, sexual abuse, and even death, especially women and girls with disabilities and persons with intellectual disabilities; and
- Segregated settings may also deprive persons with disabilities of the opportunity to exercise their right to marry and have a family of their own.

These examples illustrate that human rights are **indivisible**, **interdependent**, and **interrelated**. Above all, violations of the right to live independently in the community disrespects the basic dignity of persons with disabilities that is inherent in all human beings.

EXAMPLES OF BARRIERS TO LIVING INDEPENDENTLY AND WITH DIGNITY IN THE COMMUNITY

- Physical barriers to places of work, shops, health care facilities, housing, and public buildings;
- Lack of accessible transportation to places of work, shops, health care facilities, and public buildings;
- Legislation, regulations, policies, or practices that force persons with disabilities to live in segregated and institutional settings against their will;
- Lack of accessible information about services to support living independently and about what the rights and responsibilities of persons with disabilities are with respect to accessing those services and supports;
- Lack of accommodations to facilitate communication by persons with disabilities, especially persons who are blind, deaf, or deafblind; persons with intellectual disabilities; and persons with learning disabilities; and
- Negative attitudes and stigma in society about the ability of persons with disabilities to live where and with whom they choose and to make decisions for themselves.

WHAT DOES HUMAN RIGHTS LAW SAY ABOUT LIVING INDEPENDENTLY AND WITH DIGNITY IN THE COMMUNITY?

A number of human rights instruments are relevant to the right to live independently and with dignity in the community. For example, the **Universal Declaration of Human Rights** (UDHR) discusses the right to an adequate standard of living (Article 25) and the right to recognition before the law (Article 6), which is relevant to the ability to make one's own decisions. The **International Covenant on Civil and Political Rights** (ICCPR) also contains provisions relevant to decision-making, such as Article 16, which recognizes everyone as equal before the law, and Article 17, which recognizes the right of everyone to freedom of expression.

The **International Covenant on Economic, Social and Cultural Rights** (ICESCR) contains provisions in Article 11 that relate to the right of everyone to an adequate standard of living, "including adequate food, clothing and housing, and to the continuous improvement of living conditions." **General Comment No. 5 of the Committee on Economic, Social and Cultural Rights**, which monitors implementation of the ICESCR, states that governments must adopt policies "to enable persons with disabilities to live an integrated, self-determined and independent life," and that "[d]isability policies should ensure the access of [persons with disabilities] to all community services."

The **Convention on the Rights of the Child (CRC)** emphasizes throughout its provisions the need to support the ability of children to live with their families where it is in the best interests of the child to do so. Further, Article 23 sets out the right of children with disabilities to “participate in the community.” The **Committee on the Rights of the Child** has further encouraged States to:

...make every effort to provide assistance for children with disabilities and support services for their families, to the maximum extent possible on an out-patient or community basis, thereby avoiding removal of children with disabilities from their families for placement in institutions.

The CRPD expands upon the issues addressed in earlier human rights documents and helps to clarify how States can **respect, protect, and fulfil** the right to live independently in the community. Because of the **indivisible, interdependent, and interrelated** nature of human rights, many articles in the CRPD are relevant to the enjoyment of this right. However, Article 19, Living independently and being included in the community; Article 28, Adequate standard of living and social protection; and Article 12, Equal recognition before the law, are especially important to issues of living independently and with dignity in the community.

CRPD Article 19, Living independently and being included in the community, explicitly addresses the right of persons with disabilities to live independently and be included in the community. It emphasizes the right of persons with disabilities to “have choices equal to others,” including the opportunity to choose where and with whom they live and to not be forced into a particular living arrangement. Article 19 requires States to ensure that persons with disabilities have access to the kinds of supports and services they may need to enable them to live independently and avoid segregation and isolation from the community. Such supports might include personal assistance and/or other in-home or community services. In addition, Article 19 requires that community services and facilities that are available to the wider population are also available on an equal basis to persons with disabilities and that those services and facilities are also responsive to the needs of persons with disabilities.

THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS ON ARTICLE 19 OF THE CRPD

The provisions of article 19 of the Convention carry far-reaching implications for all forms of institutionalized care of persons with disabilities. The recognition of the right of persons with disabilities to independent living and community inclusion requires the shift of government policies away from institutions towards in-home, residential, and other community support services. The key element of any intervention aimed at giving effect to the right to independent living and community inclusion is the explicit legal recognition of the right of persons with disabilities to determine where and with whom to live. This recognition should also openly reflect the unlawfulness of arrangements for residential care made against the wishes of a person with disabilities.

De-institutionalization is necessary but not sufficient to achieve the goal of independent living. In most cases, a national strategy that integrates interventions in the area of social services, health, housing and employment, at a very minimum, will be required. For the effective implementation of such strategies it is necessary that the independent living principle be rooted in a legislative framework which clearly establishes it as a legal right and in turn places duties on authorities and service providers, while also allowing for recourse in case of violation. Such legislative frameworks shall include the recognition of the right to access the support services required to enable independent living and inclusion in community life, and the guarantee that independent living support should be provided and arranged on the basis of the individual's own choices and aspirations, in line with the principles of the CRPD.

Source: Office of the High Commissioner for Human Rights, "Thematic Study by the Office of the United Nations High Commissioner for Human Rights on enhancing awareness and understanding of the Convention on the Rights of Persons with Disabilities," paras. 50 & 51 (26 January 2009): <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/DayGeneralDiscussion21102009.aspx>

Article 28 of the CRPD addresses the right to an adequate standard of living and social protection. It recognizes the right of persons with disabilities to have an adequate standard of living, "including adequate food, clothing and housing, and to the continuous improvement of living conditions," and to be able to enjoy this right without discrimination on the basis of disability. States must also ensure that persons with disabilities enjoy social protection without discrimination on the basis of disability. For example, persons with disabilities need to be assured equal access to clean water, social protection and poverty reduction programmes, public housing, and retirement benefits and programmes.

As discussed in detail below, Article 12, Equal recognition before the law, is perhaps most fundamental to facilitating the right to live independently and in the community as it recognizes the legal capacity of persons with disabilities and the right to exercise that capacity, with support where needed, in order to live a self-determined life.

THE CRPD COMMITTEE ON ARTICLE 12

Concluding Observations of the CRPD Committee on Article 12 to Tunisia in response to its Report

The Committee is concerned that no measures have been undertaken to replace substitute decision-making by supported decision-making in the exercise of legal capacity.

The Committee recommends that the State party review the laws allowing for guardianship and trusteeship, and take action to develop laws and policies to replace regimes of substitute decision-making by supported decision-making. It further recommends that training be provided on this issue to all relevant public officials and other stakeholders.

Source: Committee on the Rights of Persons with Disabilities, "Consideration of Reports submitted by States under Article 35, Concluding Observations - Tunisia" (April 11, 2011): <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/Session5.aspx>

Article 12 questions posed by the CRPD Committee to Spain on the submission of its Report

1. Please provide data on how many persons with disabilities have been put under guardianship to enable them to exercise legal capacity and on the number of rulings modifying the capacity to act, if any.
2. Please explain how it is ensured that guardianship is exercised to the benefit of the ward, in view of the absence of explicit safeguards in current legislation against undue influence or conflict of interest.
3. Please provide information on the measures planned or taken to replace substitute decision-making (guardianship) with supported decision-making in the exercise of legal capacity, in accordance with article 12 of the Convention.

Source: Committee on the Rights of Persons with Disabilities, "List of issues to be taken up in connection with the consideration of the initial report of Spain" (20 June 2011): http://www2.ohchr.org/SPdocs/CRPD/5thsession/CRPD.C.ESP.Q.1_en.doc

THE DUTY TO RESPECT, PROTECT, AND FULFIL OBLIGATIONS RELATING TO THE RIGHTS OF PERSONS WITH DISABILITIES TO LIVE INDEPENDENTLY AND WITH DIGNITY IN THE COMMUNITY

States' obligations with regard to the right of persons with disabilities to live independently and with dignity in the community include:

1. **Obligation to respect:** States must respect the right to work by ensuring that State actors, such as government officials, do not interfere with the exercise and enjoyment of the right to live independently and in the community by persons with disabilities.

Example: The State reviews its laws and policies to ensure that a person with a disability is not required to live in an institution in order to access rehabilitation or educational services.

Example: The State enacts a law to ensure that a person with a disability is not barred from living in a public housing complex.

2. **Obligation to protect:** States must ensure that non-State actors, such as businesses and families, do not interfere with the exercise and enjoyment of the right to live independently.

Example: The State monitors supported decision-making procedures in health care provision.

3. **Obligation to fulfil:** States must take positive action to ensure that persons with disabilities are able to exercise the right to live independently.

Example: The State reallocates funding from segregated institutional settings to community-based living options that provide adequate support for persons with disabilities to live independently in their community.

In sum, international human rights law strongly supports the right of persons with disabilities to live independently and with dignity in the community. The enjoyment of these rights contributes to the enjoyment of other human rights by persons with disabilities.

LEGAL CAPACITY AND SUPPORTED DECISION-MAKING TO LIVE INDEPENDENTLY

CRPD Article 12, Equal recognition before the law, addresses the right to equal recognition before the law and confirms that persons with disabilities “enjoy legal capacity on an equal basis with others in all aspects of life.” Historically, many persons with disabilities have been subjected to laws and practices that deprived them of their **legal capacity** and consequently of their autonomy and freedom to choose how and where to live their lives.

Of particular concern is the fact that persons with disabilities are often subjected to the decision-making of other people. Even when substitute decision-makers act in good faith and with good intentions, such practices still deny persons with disabilities the right to make their own decisions. Article 12 seeks to correct this approach by recognizing the legal capacity of persons with disabilities and providing measures to support their right to exercise their legal capacity. Some persons with disabilities require no support in making decisions while others may need intensive support. Regardless of the level of support needed, States must ensure that this support is not abusive and does not infringe the person’s human rights.

States must ensure the equal right of persons with disabilities to “own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit,” as well as to not be arbitrarily deprived of their property. These measures are important because living independently in the community can be difficult to achieve without the ability to access and control financial and property resources.

SUPPORTED DECISION-MAKING FOR PERSONS WITH DISABILITIES

Increasingly, countries around the world are moving away from substituted decision-making models, where other people make decisions on behalf of persons with disabilities, to supported decision-making, where persons with disabilities themselves make their own decisions, utilizing the support of others if and when they request it. This approach attempts to respect the inherent dignity of persons with disabilities and avoid paternalism. Though potentially useful for anyone requiring help to make decisions, it is particularly relevant for persons with psychosocial or intellectual disabilities, who historically have been forced to comply with substituted decision-making.

Although there are no internationally agreed upon standards or guidelines regarding supported decision-making, the following may be helpful for those interested in ensuring that supported decision-making activities respect the rights of persons with disabilities:

- Persons with disabilities have the right to be respected for their inherent decision-making abilities;
- Persons with disabilities have the right to develop authentic decision-making voices;
- Persons with disabilities have the right to receive support where they request it;
- Persons with disabilities have the right to genuine choices and options and to make decisions based on those options; and
- Persons with disabilities have the right to be able to make mistakes.

USEFUL RESOURCES ON LIVING INDEPENDENTLY AND WITH DIGNITY IN THE COMMUNITY

- Access Living Center for Independent Living: <http://www.accessliving.org>
 - › Useful resources on independent living.
- Canadian Association of Independent Living Centres (CAILC): <http://www.cailc.ca>
 - › Useful resources on independent living.
- Committee on the Rights of Persons with Disabilities, Day of General Discussion on “Article 12 of the CRPD – The right to equal recognition before the law” (21 October 2009): <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/DayGeneralDiscussion21102009.aspx>
 - › Contains numerous resources on Article 12 and links to papers presented at the Day of Discussion.
- Committee on the Rights of the Child, “Report on the twenty-fifth session,” Sept./Oct. 2000 CRC/C/100, paras. 688.17, 20-22, 24-25: <http://www.unhcr.org/home/RSDCOI/3f4782b74.pdf>
- Rockland Independent Living Center, “The Independent Living Philosophy: Ten Principles”: <http://www.rilc.org/principles.htm>
 - › Useful resources on independent living.

- Office of the High Commissioner for Human Rights, “OHCHR Background Conference Document on Legal Capacity”, 6th session of the Ad Hoc Committee, on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities (1-12 August 2005): http://www2.ohchr.org/SPdocs/CRPD/DGD21102009/OHCHR_BP_Legal_Capacity.doc
 - › Overview of legal approaches to legal capacity.
- Planned Lifetime Advocacy Network, “Supported Decision-making”: http://www.plan.ca/Programs_Decisions.php
 - › Useful resources on supported decision-making.

CHAPTER 12: ACCESS TO JUSTICE

CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

Article 13, Access to justice

1. States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.
2. In order to help to ensure effective access to justice for persons with disabilities, States Parties shall promote appropriate training for those working in the field of administration of justice, including police and prison staff.

Article 12, Equal recognition before the law (excerpts)

1. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.
2. States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.
3. States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.

OBJECTIVES

The information contained in this chapter will enable participants to work towards the following objectives:

- Define the right to access to justice;
- Explain the importance of equal access to justice and equal recognition before the law for persons with disabilities;
- Understand the interrelationship between access to justice and other human rights;
- Identify ways in which the rights of persons with disabilities to access justice have been promoted or denied; and
- Understand the provisions on access to justice in the **Convention on the Rights of Persons with Disabilities (CRPD)**.

GETTING STARTED: THINKING ABOUT ACCESS TO JUSTICE

“Access to justice” is a broad concept, encompassing people’s effective access to the systems, procedures, information, and locations used in the administration of justice. Persons who feel wronged or mistreated in some way usually turn to their country’s justice system. In addition, persons may be called upon to participate in the justice system, for example, as witnesses or as jurors in a trial. Unfortunately, persons with disabilities have often been denied fair and equal treatment before courts, tribunals, and other bodies that make up the justice system in their country because they have faced barriers to their access. Such barriers not only limit the ability of persons with disabilities to use the justice system, they also limit their contributions to the administration of justice.

The ability to access justice is of critical importance in the enjoyment of all other human rights. For example, a person with a disability who feels that she or he has been denied the right to work may wish to turn to the justice system to seek a remedy. However, if the justice system fails to accommodate their physical, communication, or other disability-related needs, and/or expressly discriminates against her or him, then clearly denial of access to the justice system also results in denial of protection of the right to work. Similarly, a person with a disability who has been the victim of a crime may wish to report the crime to the police and press charges against the offender. However, if he or she is denied physical access to the police station, clear communication with the police, or access to information that is understandable, then that person may not be able to fully exercise her or his rights as a victim. These examples demonstrate that human rights are **indivisible**, **interdependent**, and **interrelated**.



The enjoyment of other human rights can also impact the ability of persons with disabilities to enjoy access to justice. The accessibility of transportation may determine whether or not a person with a disability is able to travel to a police station, courthouse, or other place where justice is administered. A person with a disability who has had access to a quality education will be better able to understand and use the justice system. For persons with disabilities who have been denied the right to education, however, participation in the justice system may be difficult or impossible. Furthermore, laws pertaining to legal capacity may prevent a person with a disability from managing his or her own legal affairs, including seeking a remedy for injustice. This denies the right to equal recognition as a person before the law.

To be fully included in society, persons with disabilities need access to justice. As long as they face barriers to their participation in the justice system, they will be unable to assume their full responsibilities as members of society or fully realize their rights. For this reason it is important that barriers be removed so that persons with disabilities can enjoy the equal opportunity to perform their duties as witnesses, jurors, lawyers, judges, arbitrators, and other participants in the administration of justice.

EXAMPLES OF BARRIERS TO ACCESS TO JUSTICE

- Physical barriers to police stations, courthouses, jails, prisons, and other public buildings;
- Lack of accessible transportation to police stations, courthouses, and other public buildings;
- Legislation, regulations, policies, or practices expressly barring persons with disabilities from being witnesses, jurors, judges, lawyers, or law students;
- Lack of accessible information about how the justice system works and the rights and responsibilities of persons with disabilities within the justice system;
- Lack of accommodations to facilitate communication by persons with disabilities, especially persons who are blind, deaf, and deafblind; persons with intellectual disabilities; and persons with learning disabilities;
- Attitudes about the ability of persons with disabilities to participate meaningfully in the administration of justice, such as the false perception that persons with psychosocial disabilities cannot be reliable witnesses; and
- Lack of training for police and other officials to understand the specific needs of persons with disabilities in accessing justice and how to provide necessary accommodations.

WHAT DOES HUMAN RIGHTS LAW SAY ABOUT ACCESS TO JUSTICE?

The right to access to justice has its foundation in provisions in international law that address the equality of persons before the law, their right to equal protection under the law, and their right to be treated fairly by a tribunal or court. These rights are addressed in Articles 6 through 11 in the **Universal Declaration of Human Rights (UDHR)** and are addressed in more detail in Articles 14 – 16 of the **International Covenant on Civil and Political Rights (ICCPR)**.

Other treaties address the need to ensure that specific groups are able to enjoy these rights on an equal basis with others. The **International Convention on the Elimination of All Forms of Racial Discrimination (CERD)** and the **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)** are particularly relevant for persons with disabilities who may be subject to multiple discrimination, such as women with disabilities and ethnic minorities with disabilities. For example, Article 5(a) of CERD requires that States “eliminate racial discrimination in all its forms,” and guarantee the right of everyone “to equal treatment before the tribunals and all other organs administering justice.” Article 15 of CEDAW addresses these issues as they relate to women and requires that States treat women “equally in all stages of procedure in courts and tribunals.”

The CRPD expands upon the issues addressed in earlier human rights documents and helps to clarify how States can **respect, protect, and fulfil** the enjoyment of access to justice by persons with disabilities. CRPD Article 13, Access to justice, guarantees the right of persons with disabilities:

- To effective access to justice on an equal basis with others;
- To effective access to justice at all phases of the administration of justice, including at preliminary stages, such as initial investigations;
- To be both direct and indirect participants, including being witnesses; and
- To receive procedural and age-appropriate accommodations to facilitate their access to justice.

Article 13 of the CRPD also requires States to provide training to those working in the administration of justice in order to help ensure effective access to justice by persons with disabilities.

CASE STUDY

SUPPORT SERVICES FOR VICTIMS WITH DISABILITIES

Bizchut, the Israeli Human Rights Center for People with Disabilities, has worked extensively to advocate on access to justice for persons with disabilities. One component of this advocacy effort addresses the lack of formal support services for persons with disabilities who are the victims of crime. The organization is working to provide in-person support services and has developed the following methods:

- Accompanying the victim to the police station;
- Talking with the police to help them understand the nature of the victim's disability;
- Making suggestions for modifications to the usual procedures that could be made in order to help the investigation;
- Being present with a crime victim with a disability during police questioning, if desired by the victim;
- Accompanying a crime victim with a disability to the courthouse prior to any official meetings there, in order to prepare them for the courtroom environment, and helping him or her understand what procedures will occur and easing their concerns about these procedures;
- Accompanying the victim during court proceedings; and
- Requesting the court to make modifications to the testimony procedures, where appropriate, and with the victim's permission (for example, moving proceedings to the judge's chambers or other environment less intimidating than the courtroom or bringing in an expert to help court officials understand the victim's disability and its possible impact on the testimony).

Source: Bizchut, the Israeli Human Rights Center for People with Disabilities: <http://bizchut.org.il/en/>

THE DUTY TO RESPECT, PROTECT, AND FULFIL OBLIGATIONS RELATING TO ACCESS TO JUSTICE

Taken as a whole, States' obligations with regard to access to justice include:

1. **Obligation to respect:** States must refrain from engaging in any act, custom, or practice that denies or limits equal access to justice for persons with disabilities.

Example: The State repeals a law that allows judges and lawyers to interfere with the exercise and enjoyment of access to justice by persons with disabilities by denying them the opportunity to serve as jurors or as witnesses in a trial.

Example: The State reviews practices regarding admission of persons with disabilities into legal education programmes to ensure discrimination is not occurring and introduces legislation to override a court decision prohibiting persons with disabilities from serving as judges.

2. **Obligation to protect:** States must take all appropriate measures to eliminate discrimination and violations of access to justice by any non-State actors.

Example: The State takes measures to ensure that security guards at court house facilities take measures to accommodate persons with disabilities.

Example: The State provides accommodations in legal proceedings to enable a person with a disability who is a victim of a crime to seek a remedy.

3. **Obligation to fulfil:** States must be proactive in their adoption and implementation of measures to give effect to access to justice.

Example: The State adopts training programmes for court officials on disability awareness and how to provide reasonable accommodations for persons with disabilities in the justice system.

Example: The State introduces an “affirmative action” programme to encourage greater participation of students with disabilities in legal and paralegal education.

In sum, international human rights law strongly supports the right of persons with disabilities to have meaningful and effective access to justice in all its phases, not only as a right in itself, but also as a means to ensure that persons with disabilities may better enjoy their other human rights and fully assume their responsibilities as members of society.

ACCOMMODATING PERSONS WITH DISABILITIES IN COURTS

Persons with disabilities have the same needs as other citizens to access court programmes and services, including judicial and administrative proceedings, jury service, and courthouse meetings. The obligation on States Parties to the CRPD and international human rights law generally is to identify and remove barriers that stand in the way of access to court programmes and services for persons with disabilities. Persons with disabilities must be afforded equal access to serve as jurors, appear as parties or witnesses in a trial, or attend a hearing as an observer, as well as to serve as lawyers, clerks, court reporters, and judges.

The duty to accommodate persons with disabilities in court and other legal proceedings, such as administrative hearings, relates to the fundamental right to be heard. Access must be provided at all stages of a judicial process and must be provided to all participants.

There are two central aspects of ensuring access to courts:

- **General Accessibility:** The first is to develop and implement a comprehensive plan to address general accessibility concerns, including identifying and removing architectural barriers in courthouses, providing materials in alternative formats, making court websites accessible for people who use assistive technology, and installing listening systems in courtrooms.

- **Individualized Accessibility:** The second aspect of ensuring access to courts relates to the provision of individualized accessibility to respond to an individual's needs to ensure equality of opportunity in the administration of justice. This may include providing a sign language interpreter for a person who is deaf, a reader for a witness who is blind, or frequent breaks for a defendant who has a psychosocial disability.

The following framework reflects a holistic approach to addressing the multitude of barriers that persons with disabilities may often experience in attempting to access courts:

- **Court Facilities:** Identifying and addressing barriers within the physical or built environment. Modifications might include, for example, making pathways to court buildings accessible (for example, entrance ramps), making accessible corridors, elevators, accessible washrooms, appropriate signage, and addressing courtroom accessibility to enable wheelchair users to participate in proceedings in any role or as observers.
- **Court Programmes and Services:** Identifying and addressing barriers to access in court programmes and services. Accommodations and accessibility modifications might include, for example, interpreter services, information on accessible accommodations and how to request them, information on how to file a complaint, and provision of court information in accessible formats.
- **Court Policies:** Adopting policies and guidelines to promote disability accommodations and accessibility in court facilities, services, and programmes. Examples might include the development of an accommodation request procedure, designating a single point of contact for accommodation requests, designing a policy on excusing jurors from service in a way that ensures the inclusion of persons with disabilities, developing emergency evacuation plans for persons with disabilities, establishing procedures for receiving and acting on complaints, and establishing certification or standards on interpreter qualifications.



US CASE LAW: AFFIRMING ACCESS TO COURTS FOR PERSONS WITH DISABILITIES

Right to a Remedy: The US Supreme Court ruled that a State is not immune from a law suit under the Americans with Disabilities Act brought regarding the accessibility of a State courthouse. *Tennessee v. Lane*, 541 U.S. 509, 124 S. Ct. 1978 (2004).

Serving as a Witness: A witness who was blind testified before the jury in a criminal trial for rape. The court held that the jury could properly rely on the testimony of a witness who was blind. *Wilson v. Georgia*, 2004 Ga. App. Lexis 699 (2004).

Serving as a Juror: A criminal defendant argued that a juror who was deaf in his criminal trial should be disqualified. The court held that a trial court properly denied a criminal defendant's motion to disqualify a juror who was deaf and that a juror's inability to hear is not a disqualification in Georgia and there was no other evidence to support disqualification on other grounds. *Carter v. Georgia*, 228 Ga. App. 335, 491 S.E.2d 525 (1997). In another case, the court held that the categorical exclusion of a person who was blind from jury service was a violation of federal disability law. *Galloway v. Superior Court of District of Columbia*, 816 F. Supp. 12 (D.C. 1993).

Serving as Court Observer/Rights of Victims: The court held that a trial court did not abuse its discretion in allowing a crime victim with a disability to remain in the courtroom during a trial. The person was a victim of a crime and was a wheelchair user who was also in a coma. The defendant argued that it would be prejudicial if the victim was allowed to remain in the courtroom. The court held that victims have the right to access a courtroom and further held that the injuries to the victim were relevant to the proceeding. *Lewis v. Georgia*, 215 Ga. App. 161, 450 S.E.2d 448 (1994).

Accessibility of Court Services: Two persons who were deaf asked for, but were denied, a sign language interpreter for their wedding in a civil courtroom. The court found that the wedding was a "service" provided by the court house and that as individuals with disabilities, the plaintiffs were entitled to the provision of a sign language interpreter under the Americans with Disabilities Act. *Soto v. City of Newark*, 72 F. Supp. 2d 489 (D.N.J. 1999).

USEFUL RESOURCES ON ACCESS TO JUSTICE

- Americans with Disabilities Act-Architectural Barrier Act (ADA-ABA), *Accessibility Guidelines for Buildings and Facilities* (as amended 2004): <http://www.access-board.gov/ada-aba/final.cfm#rooms>
 - Provides detailed guidelines on accessibility, including elements within courtrooms, to comply with the Americans with Disabilities Act 1990.
- Georgia Commission on Access and Fairness in the Courts, "A Meaningful Opportunity to Participate: A Handbook for Georgia Court Officials on Courtroom Accessibility for Individuals with Disabilities" (December 2004): http://www.georgiacourts.org/files/ADAHandbk_MAY_05_800.pdf
 - Detailed handbook concerning all aspects of courtroom accessibility for persons with disabilities.

- David McChesney, *Promoting Disability Accommodation in Legal Education and Training* (Reach Canada, 2003): <http://www.reach.ca/lepof/table.htm>
 - › Detailed report on disability accommodations in legal education in Canada.
- Stephanie Ortoleva, “Inaccessible Justice: Human Rights, Persons with Disabilities and the Legal System,” 17 *ILSA Journal of International and Comparative Law*, 281 (Spring 2011): <http://sites.google.com/site/womenenabled/access-to-justice>
 - › Article that details the barriers that persons with disabilities experience in accessing justice and discusses the implications of the CRPD.
- Washington State Access to Justice Board, “Ensuring Equal Access for Persons with Disabilities: A Guide to Washington Administrative Proceedings” (2006): http://www.wsba.org/Legal-Community/Committees-Boards-and-Other-Groups/Access-to-Justice-Board/ATJ-Committees/-/media/Files/Legal%20Community/Committees_Boards_Panels/ATJ%20Board/EnsuringAccessGuideBook.ashx
 - › Provides detailed guidance on disability accommodations in administrative proceedings for persons with disabilities.

CHAPTER 13: THE RIGHT TO EDUCATION

CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

Article 24, Right to education

1. States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and life long learning directed to:
 - a. The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;
 - b. The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;
 - c. Enabling persons with disabilities to participate effectively in a free society.
2. In realizing this right, States Parties shall ensure that:
 - a. Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;
 - b. Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;
 - c. Reasonable accommodation of the individual's requirements is provided;
 - d. Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;
 - e. Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.
3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including:
 - a. Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;
 - b. Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;
 - c. Ensuring that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.

4. In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.
5. States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.

OBJECTIVES

The information contained in this chapter will enable participants to work towards the following objectives:

- Define the right to education;
- Explain the importance of education for persons with disabilities;
- Understand the interrelationship between education and other human rights;
- Identify how the rights of persons with disabilities to education have been promoted or denied;
- Understand different perspectives on inclusive and special education;
- Seek strategies to advance the right of persons with disabilities to participate in education; and
- Understand the provisions on education in the **Convention on the Rights of Persons with Disabilities (CRPD)**.

GETTING STARTED: THINKING ABOUT EDUCATION

Many children with disabilities throughout the world have been excluded from mainstream educational opportunities or denied the right to education. In some countries, negative attitudes about placing children with disabilities in the general classroom have resulted in segregated schools for children with disabilities, while in other countries the lack of disability awareness and financial resources is the main cause of exclusion. The **World Report on Disability** indicated that some progress has been made in recent decades, but still predominantly found that “children and youth with disabilities are less likely to start school or attend school than other children. They also have lower transition rates to higher levels of education.”¹⁸ Persons with disabilities face many barriers, both at the systemic level and in schools, to full and equal access to the right to education. Under the

¹⁸ World Health Organization & World Bank, “World Report on Disability”, p. 208 (2011): http://whqlibdoc.who.int/publications/2011/9789240685215_eng.pdf

CRPD, States Parties are now legally bound to provide persons with disabilities the opportunity and support they need, without **discrimination**, to access quality, lifelong education in an inclusive education setting.

EXAMPLES OF BARRIERS TO EDUCATION

- Negative attitudes of teachers, school administrators, parents, and peers about the ability of persons with disabilities to learn and actively participate in education;
- Legislation and policy that explicitly excludes persons with disabilities from education systems;
- Lack of legislation and policy that promotes inclusive education;
- Lack of adequate funding to promote inclusive education;
- Lack of accessible transportation to educational facilities;
- Physical barriers to educational facilities (for example, lack of ramps, inaccessible bathrooms, and inaccessible classrooms);
- Lack of materials in accessible formats, such as large print, Braille, plain language, or visual representations of verbal information;
- Lack of alternate forms of communication, such as sign language or Communication Access Realtime Translation (CART), or facilitated communication; and
- Lack of teacher-training on inclusive education, resulting in a shortage of qualified teachers and support staff.

For proper implementation of inclusive education, it is not enough for persons with disabilities to simply be allowed to attend school or to sit in the classroom with their peers; the information and materials presented must be provided in an *accessible* manner for meaningful learning to occur. Persons with disabilities are entitled to **reasonable accommodation** and appropriate supports to be able to equally access and fully participate in education.

THE INTERRELATIONSHIP OF RIGHTS

The right to education is interrelated and central to the enjoyment of all other human rights. Education is the foundation for a child's future and has a direct impact on many other human rights. For example, education helps students develop meaningful skills that they will use in future employment. If children with disabilities do not enjoy the right to education, they may not have any skills that will help them exercise their right to work. The lack of work and financial support may impact other rights, such as one's ability to live independently or the right to home and the family. Furthermore, education is important in helping members of society become informed about issues that impact them. When persons with disabilities cannot access their right to education, they may not be able to fully enjoy their right to participation in political and public life. There are many other examples of how the right to education is central for ensuring persons with disabilities can fully enjoy all of their human rights.

At the same time, barriers to other human rights can prevent persons with disabilities from claiming their right to education. For example, a school building may be accessible for a child who uses a wheelchair, but if no accessible transportation exists, the child may not be able to attend school. Furthermore, persons with disabilities who are denied the right to live independently and are forced to live in an institution may not have access to education. These examples demonstrate how the right to education and other human rights are **indivisible, interdependent, and interrelated**.

WHAT DOES HUMAN RIGHTS LAW SAY ABOUT THE RIGHT TO EDUCATION?

International human rights law has long recognized the right to education. Article 26 of the **Universal Declaration of Human Rights (UDHR)** provides that:

... [e]veryone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

The **International Covenant on Economic, Social and Cultural Rights (ICESCR)** reaffirms the right to education in Article 13, which calls on States Parties to:

recognize the right of everyone to education. [States Parties] agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms.

Article 5 of the **International Convention on the Elimination of all Forms of Racial Discrimination (CERD)** calls on States Parties to guarantee equality under the law for the right to education. Article 10 of the **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)** affirms the right of women to non-discrimination in education. The **Convention on the Rights of the Child (CRC)** further articulates the right to education in Article 28: “[S]tates Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity.” Article 28 encourages the development of general and vocational education, as well as educational guidance that is available and accessible to every child. Furthermore, Article 29 of the CRC calls on education to be directed at the development of a child’s personality, talents, and mental and physical abilities to their fullest potential.

The CRPD further outlines the right to education for all persons in Article 24, Education. Article 24 clearly applies the right to education to persons with disabilities and provides that “States Parties recognize the right of persons with disabilities to education.” Furthermore, Article 24 employs the concept of **inclusive education** for the first time in international law:

1. ...With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning...

2(b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;

The concept of inclusive education outlined in the CRPD is new to international law and has set a new standard for countries to implement. The CRPD requires States Parties to implement inclusive education systems that ensure **reasonable accommodations** for children with disabilities. Inclusive education promotes the education of children with disabilities in general education programmes.

Article 24 of the CRPD requires States Parties to ensure that “persons with disabilities are not excluded from the general education system on the basis of disability.” This means that States cannot prohibit children with disabilities in law or practice from attending general schools because of their disability. It also means that States must ensure that persons with disabilities do not face barriers in general education settings that amount to exclusion based on disability.

Furthermore, Article 24 also requires States to ensure that “[p]ersons with disabilities receive the support required, within the general education system, to facilitate their effective education.” To this end, Article 24 calls on States Parties to ensure that “[r]easonable accommodation of the individual’s requirements is provided.” Article 24 also requires States Parties to provide reasonable accommodations for persons with disabilities “to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others.” Reasonable accommodation is defined in Article 2 of the CRPD:

....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.

Reasonable accommodation in the context of education requires discussions between the educational provider, the student with a disability, and depending on the student’s age, parents and/or family members in order to ensure that the accommodation meets the access needs of the student and can be implemented by the provider. If a student with a disability is seven years old, then it is important for parents or family members to be involved in these discussions. However, if a student with a disability is a 20-year-old university student, he or she should be able to advocate directly to the university for appropriate accommodations.



There is no “one size fits all” formula to reasonable accommodation, and it is important to note that different students with the same disability may require very different accommodations. For example, some students with low vision may use screen-reading technology and therefore request that all information is provided to them in electronic format, while other students with the same disability may prefer materials in large print.

It is important for reasonable accommodations to be discussed and re-evaluated regularly to ensure that the accommodations are being implemented effectively. In many countries, individualized education plans (IEPs) are developed on a yearly basis for students with disabilities. In such countries, parents, teachers, and students with disabilities create an IEP at the beginning of each school year that outlines the accommodations the student will receive in school that year. The concept of reasonable accommodation is discussed in more detail in Part 2, Chapter 1, Equality and Non-Discrimination, and Part 2, Chapter 2, Accessibility.

POTENTIAL REASONABLE ACCOMMODATIONS IN EDUCATION

Accommodations may include:

- Changing the location of a class;
- Providing different forms of in-class communication;
- Enlarging print, or providing all handouts in Braille;
- Providing students with a note-taker;
- Allowing students to use assistive technology in class and on exams; and
- Allowing students to take exams in a private room.

In addition to promoting inclusive education, Article 24 of the CRPD also calls on States Parties to:

...enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community.

To this end, Article 24 calls on States Parties to facilitate “the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills.” It also requires States to facilitate “the learning of sign language and the promotion of the linguistic identity of the deaf community.” Furthermore, Article 24 calls on States to ensure that “the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.”

The CRPD also calls on States Parties to employ teachers who are qualified to teach sign language and/or Braille. Additionally, teacher training programmes should include a disability awareness component and should educate future teachers about “the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.”

TEACHER TRAINING TO PROMOTE INCLUSIVE EDUCATION

An inclusive education component should be added to curriculum for University students training to be teachers. Teachers should learn about inclusive education and teaching children with disabilities as part of their degree program so that all new teachers are prepared to teach in inclusive schools. Teachers should be knowledgeable in effective inclusive education strategies, including:

- Methods to communicate in different ways (for example, Braille, Sign Language, Augmentative and Alternative Communication);
- Methods to provide reasonable accommodation and appropriate supports for students with disabilities;
- Participatory and flexible teaching methods and curriculum development that includes all students; and
- Skills for promoting acceptance and awareness of disability issues with peers, teachers, families, and school administrators.

THE BENEFITS OF INCLUSIVE EDUCATION

Inclusive education benefits communities, families, teachers, and students by providing knowledge and understanding of disability-related issues. Inclusive education ensures that children with disabilities attend school with their peers and provides them with adequate support to succeed both academically and socially. According to the World Report on Disability:

The inclusion of children with disabilities in mainstream schools promotes universal primary completion, is cost-effective and contributes to the elimination of discrimination. Creating an inclusive learning environment will assist all children in learning and achieving their potential. Education systems need to adopt more learner-centred approaches with changes in curricula, teaching methods and materials, and assessment and examination systems. Many countries have adopted individual education plans as a tool to support the inclusion of children with disabilities in educational settings.¹⁹

Communities benefit from inclusive schools by gaining more knowledge and understanding about disabilities. The introduction of children with disabilities into mainstream schools introduces children with disabilities into the local communities and neighbourhoods and helps to break down barriers and prejudice. Communities become more accepting of difference and everyone benefits from a friendlier, open environment.



¹⁹ World Health Organization & World Bank, “World Report on Disability”, p. 208 (2011): http://whqlibdoc.who.int/publications/2011/9789240685215_eng.pdf

Schools benefit from inclusive education programmes as well. The concept of inclusive education focuses on each individual child's ability to learn rather than treating all children the same. Teachers are able to instruct each child in a more individualized way. All children, with and without disabilities, benefit from a teaching style catered to their individual way of learning. Inclusive education also features different teaching techniques, such as drawing, singing, and participatory activities. Studies suggest that young children retain more information when they are "involved" in learning rather than just receiving lectures. Inclusive education also allows teachers to become more dynamic in the classroom, and thus makes school more enjoyable for children and teachers, alike.

CASE STUDY

VIOLATIONS OF THE RIGHT TO EDUCATION IN EUROPE

In *MDAC v. Bulgaria*, the Mental Disability Advocacy Center (MDAC) brought a "collective complaint" against Bulgaria before the European Committee of Social Rights (ECSR) of the Council of Europe. The complaint alleged that children with intellectual disabilities living in Bulgarian "Homes for Mentally Disabled Children" (HMDC) receive no education because of their disability. The collective complaint stated that the Bulgarian Government violated Article 17(2) of the revised **European Social Charter**, which mandates States "to take all appropriate and necessary measures designed to provide to children and young persons a free primary and secondary education as well as to encourage regular attendance at schools." The complaint further alleged that the Bulgarian Government violated Article E of the Revised European Social Charter by discriminating based on disability.

MDAC summarized their argument as follows: "The fact that only 6.2% of children from "Homes for Mentally Disabled Children" receive schooling clearly gives rise to an inference of discrimination based on disability for which the Bulgarian Government is directly responsible." The ECSR found a violation of Article 17(2) in conjunction with Article E of the revised European Social Charter, and held that Bulgaria discriminated against children with mental disabilities by denying them their right to education.

Source: *MDAC v Bulgaria*, Complaint No. 41/2007, European Committee of Social Rights, Decision of 3 June 2008.

In *International Association of Autism Rights v. France*, Autism Europe alleged that France violated the right to education for persons with disabilities and argued that 80-90% of persons with autism had no access to adequate educational services. Autism Europe also pointed to insufficient provisions for: mainstreaming education; early intervention; teacher training; and funding education for children with disabilities. The ECSR found that France's overall lack of progress in this area constituted a violation of the right to education and the right of all persons to non-discrimination under the revised European Social Charter. Under the Charter, social rights must be realized within a reasonable time and the ECSR held that the Disabled Persons Act had been passed in 1975 and that twenty years was a sufficient amount of time to realize the right to education. Accordingly, the ECSR found that there were an unacceptable number of educational placements for persons with autism.

Source: *Autism Europe v. France*, Complaint No. 13/2002, Decision on the merits of 4 November 2003.

THE DUTY TO RESPECT, PROTECT, AND FULFIL OBLIGATIONS RELATING TO THE RIGHT TO EDUCATION

Taken as a whole, States' obligations with regard to education include:

1. **Obligation to respect:** States must refrain from denying or limiting equal access to education.
Example: The State may not adopt or maintain laws that discriminate against persons with disabilities in their access to education.
2. **Obligation to protect:** States must take all appropriate measures to ensure that third parties do not restrict the right to education of persons with disabilities.
Example: The State must ensure that private universities do not discriminate against persons with disabilities by failing to accommodate persons with disabilities.
3. **Obligation to fulfil:** States must be proactive in their adoption and implementation of measures to give effect to the principles of equal access and non-discrimination in education.
Example: The State may provide disability training to public school teachers to help them understand how to effectively accommodate students with disabilities.
Example: The State may introduce affirmative action programmes to enhance the participation of students with disabilities in education.

THE TRANSITION TO INCLUSIVE EDUCATION

In order to implement effective inclusive education systems, countries must make a commitment to:

- Amend legislation to ensure education is accessible to every child;
- Devise a time table to eliminate segregated schooling;
- Create a plan to close down institutions and move children into community settings;
- Implement training for teachers and school staff;
- Create a comprehensive system for data collection;
- Allocate resources for child-centered learning;
- Identify performance indicators; and
- Remove barriers.

In sum, international human rights law strongly supports the right of persons with disabilities to have equal access and full inclusion in education. The enjoyment of the right to education facilitates the enjoyment of other rights by persons with disabilities.

USEFUL RESOURCES ON EDUCATION

- CAST Universal Design for Learning: <http://www.cast.org/index.html>
 - › Organization devoted to making education universally accessible to all.
- Centre for Studies on Inclusive Education: <http://inclusion.uwe.ac.uk/csie/index.htm>
 - › UK-based inclusive education research centre.
- Inclusion International: http://www.inclusion-international.org/en/ii_priority_areas/ie/index.html
 - › Education webpage for the leading international organization devoted to the inclusion of persons with intellectual disabilities.
- Special Rapporteur on the Right to Education, “Report on the Right to Education of Persons with Disabilities” (19 Feb. 2007): <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G07/108/92/PDF/G0710892.pdf?OpenElement>
 - › UN independent expert report on children with disabilities and education.
- UNESCO, Inclusive Education: www.unesco.org/education/inclusive/
 - › Official UNESCO webpage on inclusive education.
- World Health Organization & World Bank, “Chapter 7, Education,” “World Report on Disability” (2011): http://whqlibdoc.who.int/publications/2011/9789240685215_eng.pdf
 - › First ever global report on disability that includes coverage of education.

CHAPTER 14: THE RIGHT TO SPORT AND CULTURE

CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

Article 30, Participation in cultural life, recreation, leisure and sport

1. States Parties recognize the right of persons with disabilities to take part on an equal basis with others in cultural life, and shall take all appropriate measures to ensure that persons with disabilities:
 - a. Enjoy access to cultural materials in accessible formats;
 - b. Enjoy access to television programmes, films, theatre and other cultural activities, in accessible formats;
 - c. Enjoy access to places for cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, and, as far as possible, enjoy access to monuments and sites of national cultural importance.
2. States Parties shall take appropriate measures to enable persons with disabilities to have the opportunity to develop and utilize their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of society.
3. States Parties shall take all appropriate steps, in accordance with international law, to ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials.
4. Persons with disabilities shall be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including sign languages and deaf culture.
5. With a view to enabling persons with disabilities to participate on an equal basis with others in recreational, leisure and sporting activities, States Parties shall take appropriate measures:
 - a. To encourage and promote the participation, to the fullest extent possible, of persons with disabilities in mainstream sporting activities at all levels;
 - b. To ensure that persons with disabilities have an opportunity to organize, develop and participate in disability-specific sporting and recreational activities and, to this end, encourage the provision, on an equal basis with others, of appropriate instruction, training and resources;
 - c. To ensure that persons with disabilities have access to sporting, recreational and tourism venues;
 - d. To ensure that children with disabilities have equal access with other children to participation in play, recreation and leisure and sporting activities, including those activities in the school system;
 - e. To ensure that persons with disabilities have access to services from those involved in the organization of recreational, tourism, leisure and sporting activities.

OBJECTIVES

The information contained in this chapter will enable participants to work towards the following objectives:

- Define the right of persons with disabilities to participate in cultural life, recreation, leisure, and sport;
- Explain the importance of participation in culture and sport for persons with disabilities;
- Understand the interrelationship between participation in cultural life, recreation, leisure, and sport and other human rights;
- Identify ways in which the rights of persons with disabilities to participate in cultural life, recreation, leisure, and sport have been promoted or denied; and
- Understand the provisions on cultural life, recreation, leisure, and sport in the **Convention on the Rights of Persons with Disabilities (CRPD)**.

GETTING STARTED: THINKING ABOUT PARTICIPATION IN CULTURAL LIFE, RECREATION, LEISURE, AND SPORT

Participation in cultural life, recreation, leisure, and sport are all essential components of being a part of one's community. Unfortunately, persons with disabilities have often been denied the right to participate in the wide array of cultural, recreational, sporting, and leisure opportunities that the rest of society takes for granted. And all too often children with disabilities are denied their right to play.

Discrimination in the area of cultural life is a global phenomenon that takes on many forms. Cultural venues are all too often inaccessible to persons with disabilities, denying them their right to participate in cultural life as direct participants and as spectators. Even the most basic activities that should be readily open to all people in a community are often unavailable to community members with disabilities. For example, people who use wheelchairs are sometimes denied entry to movie theatres on the basis that their wheelchairs present a fire hazard for other participants. Tourism facilities around the world are full of barriers that restrict movement or prevent access altogether. Hotels have few, if any, accessible rooms and do not provide accessible signage for persons with visual impairments. Tour buses are rarely able to accommodate wheelchair users. Restaurants have been known to refuse to serve persons with intellectual disabilities. Television programming and other technology allowing people to access culture and sport is not made accessible for persons who are deaf.

Around the world, persons with disabilities experience discrimination and exclusion from active participation in sport, recreation, and leisure activities. Social and communication barriers prevent persons with disabilities from participating as athletes and as spectators because of negative attitudes and lack of access to information about sporting opportunities. Physical barriers prevent persons with disabilities from accessing sporting facilities and venues. Legal and policy barriers may also lead to exclusion. For example, many universities and schools do not have policies of inclusion for allowing students with disabilities to participate in sport, and coaches have no idea how to adapt sport for athletes with disabilities.

Children with disabilities often face numerous barriers in accessing their rights to sport, recreation, and play. At the same time, many disability organizations have successfully worked to open up opportunities for children with disabilities through the development of adaptive physical education programming in schools or community-based efforts to build accessible playgrounds.



Disabled people's organizations (DPOs) worldwide are working to promote the meaningful participation of persons with disabilities in cultural life, sport, recreation, and leisure activities, which directly affects their enjoyment of all other human rights. For example, being denied the right to participate in sport in school may directly impact one's right to health. The right to participate in cultural activities is closely related to the right to access information; if information announcing cultural events is not provided in accessible formats, then one is effectively denied participation in that event. Increasingly, sport and cultural programming is seen as an important tool for peace-building, social mobilization, and the support of public health initiatives, such as HIV/AIDS education or polio immunization campaigns. The exclusion of persons with disabilities from such activities impacts the rights to social and political participation, as well as health and education. These examples demonstrate how human rights are **indivisible, interdependent, and interrelated**.

EXAMPLES OF BARRIERS TO CULTURAL LIFE, RECREATION, LEISURE, AND SPORT FOR PERSONS WITH DISABILITIES

- Negative attitudes about the ability of persons with disabilities to participate meaningfully in cultural life, sport, and recreation, both as participants and as spectators;
- Physical barriers to museums, theatres, music halls, spectator sporting venues, parks, sporting centres, and other cultural and recreational buildings and facilities;
- Lack of accessible transportation to cultural sites and sporting events;
- Lack of accessible information about cultural events and sporting opportunities, including events for persons with disabilities;
- Lack of accommodations to facilitate communication by persons with disabilities;
- Lack of knowledge and understanding about sign language as a distinct language/linguistic identity for many persons who are deaf;
- Lack of training for those involved in the organization of recreational, tourism, leisure, and sporting activities, as well as cultural activities, to understand the specific needs of persons with disabilities and how to provide necessary accommodations; and
- Lack of knowledge and experience about how to include children with disabilities in sport and recreation and how to develop adaptive physical education in schools and design accessible playgrounds and equipment.

WHAT DOES HUMAN RIGHTS LAW SAY ABOUT PARTICIPATION IN CULTURAL LIFE, RECREATION, LEISURE, AND SPORT?

The rights to participate in cultural life, recreation, leisure, and sport are reflected in a number of international human rights legal instruments, including the **Universal Declaration of Human Rights (UDHR)** and the **International Covenant on Economic, Social and Cultural Rights (ICESCR)**. Specialized conventions also reflect these rights, including the **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)**, which affirms the right of women to participate in recreational activities, sports, and all aspects of cultural life. The **Convention on the Rights of the Child (CRC)** recognizes the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child, and to participate freely in cultural life and the arts.

While reflected in various human rights instruments, these rights are not as well developed as other human rights and are often forgotten. The right of persons with disabilities to participate in a wide array of cultural, recreational, sporting, and leisure activities is recognized as central to full inclusion for persons with disabilities and is therefore defined in some detail in Article 30 of the CRPD. For this reason, the CRPD is an important development in human rights law on participation in culture, sport, recreation, and related activities.

Article 30 of the CRPD recognizes:

- The duty of States to take measures to support access to places where cultural performances or services take place. This includes, for example, theatres, museums, cinemas, libraries, and tourism services. It also includes, as far as possible, access to monuments and sites of national cultural importance.
- The right of persons with disabilities to develop and practice their creative, artistic, and intellectual potential for both individual and societal benefit. This recognizes that persons with disabilities are full participants in the cultural life of their communities as, for example, artists, musicians, scholars, and actors.
- The duty of States to ensure that laws protecting intellectual property rights do not present unreasonable or discriminatory barriers in access to cultural materials by persons with disabilities. This would cover, for example, translating books and other material into Braille, providing audio-cassettes or providing sign language or forms of accessible technology for artistic performances.
- The right of persons with disabilities to equal recognition and support of their cultural and linguistic identity. This includes, for example, the right to use sign language and the recognition and support of deaf culture. It respects the dignity of persons with disabilities who see themselves as part of a cultural or language minority, such as some members of the deaf community.
- The duty of States to promote the inclusion of persons with disabilities in mainstream sporting activities. This approach favours an inclusive approach to programming, where persons with disabilities have equal access to sport and recreational facilities (for example, community swimming pools and adaptive playgrounds) and have opportunities for participation in both disability-specific sport and recreation (such as wheelchair basketball) and mainstream sport programming.
- The rights of persons with disabilities to organize, develop, and participate in sport and recreation with other persons with disabilities, including activities organized specifically for persons with disabilities. This covers both mainstream and disability-specific sport.
- The duty of States to take measures to ensure that persons with disabilities are included as recipients of services and programming by those who organize recreational, tourism, leisure, and sporting activities.
- The right of persons with disabilities to access and to use tourism facilities. This would include museums, cinemas, and hotels, ferries and cruise ships, among other facilities.
- The right of children with disabilities to play and to participate in recreation, leisure, and sporting activities in the school system. This also includes access to playgrounds in the community and adaptive physical education in schools.

THE DUTY TO RESPECT, PROTECT, AND FULFIL OBLIGATIONS RELATING TO PARTICIPATION IN CULTURAL LIFE, RECREATION, LEISURE, AND SPORT

Taken as a whole, States' obligations with regard to the right to participation in cultural life, recreation, leisure, and sport include:

1. **Obligation to respect:** States refrain from engaging in any act, custom, or practice that creates barriers to enjoyment of the right to participate in cultural life and sport.

Example: The State refrains from limiting or interfering with the access of persons with disabilities to sporting and recreational venues and adopts laws and policies that outline accessibility guidelines in such venues.

Example: The State refrains from enforcing discriminatory practices as State policy and does not impose discriminatory practices relating to cultural life, such as restricting or limiting the use of sign language.

2. **Obligation to protect:** States ensure that non-State or private actors do not violate the rights to participate in cultural life and sport.

Example: The State requires sign language interpretation to be provided for a cultural event open to the public in a private theatre.

Example: The State undertakes accessibility audits of sporting arenas open to the public and recreational facilities operated by private companies.

3. **Obligation to fulfil:** States must take proactive steps to ensure enjoyment of the right to participate in cultural life and sport by persons with disabilities.

Example: The State provides appropriate training for tourism officials on providing accommodations to persons with disabilities.

Example: The State adopts a national action plan addressing a comprehensive strategy to make sporting arenas accessible to persons with disabilities as participants and as spectators.



In sum, international human rights law strongly supports the right of persons with disabilities to participate in cultural life, recreation, leisure, and sport. The observation of these rights facilitates the enjoyment of other rights.

DISABILITY AND THE ARTS: PRINCIPLES FOR INCLUSION

- Every young person with a disability deserves access to high quality arts educational experiences.
- All art educators should be prepared to include students with disabilities in their instruction.
- All children, youth, and adults with disabilities should have complete access to cultural facilities and activities.
- All individuals with disabilities who aspire to careers in the arts should have the opportunity to develop appropriate skills.

Source: VSA Arts: <http://www.vsarts.org>

THE RIGHT TO CULTURAL AND LINGUISTIC IDENTITY

All persons have the right to participate in the cultural life of their community without facing harassment or coercion. Thus, persons with disabilities should not, as they often are, be restricted from the practice of their own culture, nor should they be prohibited from participating in the cultural life of their community. International human rights law recognizes the rights of linguistic minorities to use and develop their own languages and cultures, and also to access language education so that they may attain fluency in additional “official” or “national” languages.

Article 2 of the **Universal Declaration of Human Rights** (UDHR) recognizes the right to be free from discrimination on the basis of one’s language, and other international instruments affirm this right, including the **Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities**. Such protections are of great relevance to those persons with disabilities who utilize sign language, Braille, or other modes and means of communication.

The inclusion in the CRPD of language specifically addressing the right of persons with disabilities to recognition and support of their specific cultural and linguistic identity, including sign languages and deaf culture, is an important new development in human rights law. Deaf advocates at the CRPD negotiations worked hard to ensure such recognition and emphasized to governments that members of deaf culture use the term *Deaf* (often in print the term is capitalized when used as a cultural marker of identity) as a way of describing their cultural identity and affiliation much more than as a term that expresses their hearing status. The right of persons with disabilities to use sign language and to affiliate with a particular cultural identity is therefore a major advance in human rights law. It is also a clear recognition of the discrimination that many persons with disabilities have experienced in using sign language and other modes and means of communication in their communities.

SPORT AS A HUMAN RIGHT

The 1982 World Programme of Action Concerning Disabled Persons stresses that governments should encourage sport activities for persons with disabilities by providing facilities and organizations. The 1993 **Standard Rules** provide detailed guidance on making sport and recreation accessible to persons with disabilities. Building upon these earlier efforts, the CRPD supports the right of persons with disabilities to participate in both mainstream and disability-specific sporting activities. Inclusion recognizes the role of mainstream sports organizations and institutions to deliver disability sport programmes that are accessible to persons with disabilities. *Disability sport* refers to sport organized specifically for persons with disabilities to provide equitable and fair categories, based on disability and ability, in order to even the playing field. Disability sport may therefore be regarded as a category of sport, such as women's sport.

For many years disability advocates have been promoting the right of persons with disabilities to participate in sport and recreational activities. The Paralympics are an example of disability sport at the highest levels of sporting competition. Other international disability-specific initiatives include the Deaf Games, organized by the International Committee of Sports for the Deaf, and the Special Olympics, a worldwide movement to provide competitive sport and recreational opportunities for persons with intellectual disabilities. However, there are numerous examples of community-based sporting opportunities, often organized by DPOs, to promote inclusion in mainstream sport or to promote disability-specific programming. A recent report issued by the UN Special Rapporteur on Disability noted that in many countries around the world, athletes with disabilities are a great source of national pride and that opportunities for persons with disabilities to participate in sport at the community level were on the rise.²⁰



²⁰ UN Special Rapporteur on Disabilities, “Global Survey on Government Action on the Implementation of the Standard Rules” (Doha: 2006).

CASE STUDY

ADDRESSING DISCRIMINATION IN SPORTS

In 2001, the Supreme Court of the United States reached a decision in *P.G.A. Tour v. Martin*, a case involving Casey Martin, a professional golfer with a disability who had requested accommodation in the form of permission to ride a golf cart in tournaments of the Professional Golfer's Association (PGA). Martin's disability was due to a disease affecting the blood flow in one of his legs, which caused extreme pain as well as fatigue, which was made worse by walking. The Supreme Court ruled that the PGA Tour is a place of public accommodation under the Americans with Disabilities Act. Accordingly, the PGA, as an operator of golf courses, must not discriminate against any player in the full and equal enjoyment of the goods, services, facilities, advantages, or accommodations of those courses. Since the PGA Tour is a place of public accommodation, the Court decided that the PGA had to accommodate Martin unless to do so would fundamentally alter the nature of the event. The Court held that providing Martin with a golf cart would not fundamentally alter the nature of the event because the fundamental nature of golf is shot making.

Source: *P.G.A. Tour, Inc. v. Martin*, 532 U.S. 661, 121 S. Ct. 1879 (2001).

In 2007, Oscar Pistorius, a South African sprint runner who has a double-amputation and was born without bones in his lower legs, took part in his first international competition. He raced against runners who ran on two legs and was able to do so with specialized artificial legs. His artificial lower legs, while enabling him to compete against all athletes, generated claims that he might have an unfair advantage over runners who ran on their own two legs instead of using prosthetics. Thereafter, the International Association of Athletics Federations (IAAF) amended its competition rules to ban the use of "any technical device that incorporates springs, wheels or any other element that provides a user with an advantage over another athlete not using such a device."

Using high-definition cameras, the IAAF monitored the track performances of Pistorius in a race against Italian club runners in Rome and in Sheffield in 2007, at which he placed last. Scientists carried out additional tests following the race. They took the view that Pistorius enjoyed considerable advantages over athletes without prosthetic limbs. One report claimed that Pistorius' limbs used 25% less energy than runners with complete natural legs to run at the same speed and that they led to less vertical motion combined with 30% less mechanical work for lifting the body. On January 14, 2008, the IAAF ruled that he was ineligible for competitions conducted under its rules, including the 2008 Summer Olympics.

Pistorius appealed the decision to the Court of Arbitration for Sport (CAS). Following a two-day hearing, the CAS ruled in favour of Pistorius, and the IAAF council decision was revoked with immediate effect. The Court ruled overall that there was no evidence that Pistorius had any net advantage over able-bodied athletes. The CAS panel unanimously determined that the report of the lead scientist only tested Oscar's biomechanics at full-speed when he was running in a straight line (unlike a real 400m race), that the report did not consider the disadvantages that Oscar faces at the start and acceleration phases of the race, and that the report failed to consider other disadvantages that Oscar experiences.

Source: Arbitral award delivered by the Court of Arbitration for Sport in the arbitration between *Mr Oscar Pistorius v. International Association of Athletics Federations*, CAS 2008/A/1480 Pistorius v/ IAAF, 16 May 2008.

TOURISM

Tourism is the largest industry in the world. In the United States alone, some 42 million travellers with disabilities take 31.7 million trips per year. They spend \$13.6 billion annually, including \$3.3 billion on airfare, \$4.2 billion on hotel accommodations, and \$2.7 billion on food and beverage.²¹ Responsible tourism development and tourism that respects the human rights of persons with disabilities must consider inclusion in planning, designing, and implementing tourism projects. Most important, disabled people's organizations (DPOs) must participate in such processes and need to engage in accessible tourism advocacy. The CRPD, which is the only major international human rights treaty to explicitly mention tourism, requires States to ensure that persons with disabilities have access to tourism and tourist services.



BARRIERS FACED BY TOURISTS WITH DISABILITIES

- Inaccessible airport transfer and ill-trained airport staff;
- Lack of accessible transport;
- Inaccessible hotel rooms;
- Professional staff not trained to inform and advise about accessibility issues;
- Lack of information about a specific attraction's accessibility (such as museums, castles, exhibitions);
- Non-adapted toilets in restaurants and public places;
- Inaccessible restaurants and tourist attractions;
- Inaccessible streets (such as no curb cuts and cars blocking wheelchair access lanes); and
- Lack of disability equipment rental (such as wheelchairs, bath chairs, toilet raisers, electric scooters).

²¹ Scott Paul Rains, "The Global Reach of Accessible Tourism" (16 May 2005).

DISABILITY ADVOCACY AND TOURISM

There is a large and growing movement within disability activism to promote accessible tourism. Many innovative and successful strategies have resulted in opening tourism to persons with disabilities:

- In Perth, Western Australia, a programme called “Beyond Accessibility” requires the hotels to use 10% to 15% of the profit they earn from the conventions brought to them by the Convention Bureau to enhance hotel accessibility.
- In Australia’s state of Tasmania, a tourism group purchased several properties throughout the seven tourist regions of the island. Each location is fully wheelchair accessible. A bus with a lift for wheelchair is made available to tourists for travel throughout the region and, as a result, the entire island is open to travellers with disabilities.
- In the Canary Islands, disability advocates have improved access to services for Canary Island residents with disabilities by consulting with the tourism industry, developing an accessibility directory for the city of Tenerife, in the Canary Islands, and making available a sophisticated online resource that offers information to travellers with disabilities.
- Architects and their students from the Rhode Island School of Design are combining environmentally sensitive, “green” construction methods and building materials with accessibility concepts to develop an accessible eco-lodge in the US Virgin Islands. Known as Concordia Estates, this resort allows persons with disabilities close access to unspoiled nature. Tourist hotels in Hawaii have also shown some initiative, not only in providing guests with comfortable and accessible rooms, but also in advising them on accessible places for food and entertainment, as well as arranging for the rental of specialized beach wheelchairs to make the beach truly accessible for all.²²
- In Costa Rica disability advocates worked with government officials to develop an accessibility protocol to enhance access to the wonders of the rainforest (see text box). What is clear is that without the initiative of disability advocates, the goal of tourism for all will not be realized.

²² *Id.*



ACCESS TO NATIONAL PARKS IN COSTA RICA

In Costa Rica, a successful example of inclusive planning and implementation for national parks development resulted in the design and implementation of an *Accessibility Protocol for Persons with Disabilities in Protected Wildlife Areas*, based on extensive research and participation by the disability community. In partnership with the responsible ministry, disability groups worked to identify barriers to access in protected areas, trained park personnel on access issues, and drafted and implemented an accessibility plan. The project was overseen by the Ministry of the Environment and Energy, which established an Institutional Commission on Disability and an internal disability policy, as called for in domestic disability legislation.

Source: Luis Fernando Astorga Gatjens, "Costa Rica Designs and Tests First Accessibility Protocol in Protected Wildlife Areas," *Disability World* (2003): http://www.disabilityworld.org/01-03_03/access/costarica.shtml

USEFUL RESOURCES ON PARTICIPATION IN CULTURAL LIFE, LEISURE, AND SPORT

- Adaptive Sports Foundation: <http://www.adaptivesportsfoundation.org>
 - › Organization focused on adapted sport for persons with disabilities.
- International Committee of Sports for the Deaf: <http://www.deaflympics.com>
 - › International organization devoted to sport within the Deaf community.
- International Paralympic Committee: <http://www.paralympic.org>
 - › Official website of the global governing body of the Paralympic Movement that organises the Summer and Winter Paralympic Games, and serves as the International Federation for nine sports.
- John F. Kennedy Center for the Performing Arts: <http://www.kennedy-center.org>
 - › Washington DC-based performing arts centre known for its accessible productions and performances by artists with disabilities.
- Janet E. Lord & Michael A. Stein, “Social Rights and The Relational Value of the Rights to Participate in Sport, Recreation and Play,” 27 Boston University Journal of International Law 249 (2009): <http://www.bu.edu/law/central/jd/organizations/journals/international/volume27n2/documents/4Lord-Stein.pdf>
 - › Detailed analysis of the CRPD and Article 30(5).
- National Arts and Disability Center: <http://www.nadc.ucla.edu>
 - › California based centre focused on disability and the arts.
- Society for Disability Arts and Culture: <http://www.s4dac.org>
 - › Based in Vancouver, Canada, this organization presents and produces works by artists with disabilities and promotes artistic excellence among artists with disabilities working in a variety of disciplines.
- Special Olympics: <http://www.speicalolympics.org>
 - › Official website of the global body responsible for organizing the Special Olympics games.
- United States Association of Blind Athletes: <http://www.usaba.org>
 - › Sporting organization focused on sport for blind persons and persons with low vision.
- VSA Arts: <http://www.vsarts.org>
 - › Helpful website devoted to disability and the arts.
- Eli Wolff, et al. eds, *Sport in the United Nations Convention on the Rights of Persons with Disabilities*, International Disability in Sport Working Group (2007): http://assets.sportanddev.org/downloads/34_sport_in_the_united_nations_convention_on_the_rights_of_persons_with_disabilities.pdf
 - › Collection of essays and short works on sport and disability.

CHAPTER 15: THE HUMAN RIGHTS OF CHILDREN WITH DISABILITIES

CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

Preamble

Recognizing that children with disabilities should have full enjoyment of all human rights and fundamental freedoms on an equal basis with other children, and recalling obligations to that end undertaken by States Parties to the Convention on the Rights of the Child.

Article 3, General principles

Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

Article 4, General obligations

In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.

Article 7, Children with disabilities

1. States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.
2. In all actions concerning children with disabilities, the best interests of the child shall be a primary consideration.
3. States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right.

OBJECTIVES

The information contained in this chapter will enable participants to work towards the following objectives:

- Understand discrimination against children with disabilities as a human rights issue;
- Understand the interrelationship and interdependence of the rights of children with disabilities and other human rights;
- Identify ways in which the rights of children with disabilities have been promoted or denied;
- Explain the importance of allowing children with disabilities a voice regarding issues that involve them; and
- Understand and apply the provisions on the human rights of children with disabilities in the **Convention on the Rights of Persons with Disabilities** (CRPD).

GETTING STARTED: THINKING ABOUT THE HUMAN RIGHTS OF CHILDREN WITH DISABILITIES

Children with disabilities throughout the world are often marginalized and excluded from mainstream society. In many countries, children with disabilities are sent away to institutions where they receive no education and are isolated from society for their entire lives. Children with disabilities are discriminated against due to their disability and due to the fact that they are children and are therefore more vulnerable to marginalization, exploitation, and abuse. For these reasons, children with disabilities are mentioned in a separate article in the CRPD. For them, as for all children, the promotion and protection of their human rights, especially to education, health, the right to family, and an adequate standard of living, is critical.

WORLD REPORT ON DISABILITY

The World Report on Disability estimates that there are between 93 and 150 million children with disabilities in the world. According to the report, “[c]hildren with disabilities are less likely to attend school, thus experiencing limited opportunities for human capital formation and facing reduced employment opportunities and decreased productivity in adulthood.”

Source: World Health Organization & World Bank, “World Report on Disability”, p. 205; 10 (2011): http://whqlibdoc.who.int/publications/2011/9789240685215_eng.pdf

While children are human beings with rights, their marginalization and exclusion requires additional protections and safeguards to be put into place. Moreover, within the constituency of children, sub-groups, such as children with disabilities or children living in poverty, remain vulnerable to additional and compounded risk factors. The different stages of childhood development raise different human rights concerns. (See text box).

EXAMPLES OF HUMAN RIGHTS VIOLATIONS AGAINST CHILDREN WITH DISABILITIES

Before Birth

- Poor maternal health and nutrition;
- Inadequate prenatal care; and
- Prenatal screening and termination of pregnancy based on disability.

At Birth

- Euthanization;
- Denial of appropriate food and/or medical treatment; and
- Risk of rejection by parents.

After Birth

- Institutional placement in segregated setting away from family;
- Isolation in the home and isolation from the community;
- Denial of the right to education, among other human rights;
- Risk of continual medical treatments, some painful and unnecessary; and
- Denial of the right to participate in decisions that affect their lives.

REALIZING A CHILD'S RIGHTS AND FREEDOMS

Multiple individual factors influence the extent to which a child with a disability is excluded within his or her particular culture and context. The more of these interrelated factors a child faces, the more his or her basic human rights are compromised or denied. In this way, children with disabilities often experience multiple discrimination based on the combination of disability and other factors, such as gender and/or poverty:

- Attitudes and behaviours of others towards them (for example, parents, teachers, neighbours, other children);
- Satisfaction of basic needs (for example, survival, food, shelter, stimulation);
- International and national policies that include or exclude them;
- Accessibility of the physical environment (for example, home, school, community); and
- Access to supports for their physical, social, mental, communication, and personal development (for example, basic aids and equipment, assistance, health and education services, access to early childhood care and education).

Perhaps the most harmful of these factors are negative attitudes, stereotypes, and false beliefs about children with disabilities. These factors present the greatest barriers to equal access and full participation for children with disabilities in all contexts, and because they are deeply rooted in culture and tradition, they are

also the hardest factors to change. Of these negative attitudes, gender stereotypes that devalue girls can result in not only discrimination, but even death. In most countries, girls with disabilities are more likely than boys with disabilities not to survive, to be abandoned, to be excluded from education, to be deemed unmarriageable, and to be excluded from general participation in their society.

CHILDREN WITH DISABILITIES IN CRISIS SITUATIONS

Children in particularly difficult circumstances such as natural disasters, armed conflict, and refugee situations are particularly vulnerable to exclusion.

International Committee of the Red Cross (ICRC): The ICRC emphasizes that armed conflict situations carry enhanced vulnerabilities for all children and, for children with disabilities, such risks are even more pronounced. For children with disabilities, whether they remain in a war zone or flee with their families or others, they face serious barriers to education, health and rehabilitation, and other essential services.

Radda Barnen/Swedish Save the Children: Radda Barnen reports that girls with disabilities living in refugee settings are especially exposed to sexual violence. Humanitarian assistance providers must take specific measures to address the enhanced risk of girls, as well as women with disabilities, to violence in refugee settings.

World Health Organization (WHO): The WHO reports that in 2011, over 5,000 war-wounded were reported by the three main hospitals in Mogadishu, Somalia, and that of almost 1,600 patients admitted with weapon-related injuries in a single month, half of the injured were children. Health facilities in the capital are poorly resourced, have poor infrastructure, and cannot handle the number of victims. Many of these children with newly acquired disabilities cannot receive medical attention and die; for others, rehabilitation is unavailable.

Sources: International Committee of the Red Cross (ICRC), "Promotion and Protection of the Rights of Children, ICRC Statement to the United Nations, 2011," <http://www.icrc.org/eng/resources/documents/statement/united-nations-children-statement-2011-10-18.htm>; Radda Barnen/Swedish Save the Children, "Inventory of documentation about Children with Disability in Armed Conflict and Refugee," Article No. 2099 (1997): http://unipd-centrodirittiumani.it/public/docs/27681_emergencies.pdf; Ikram Kramal Yacoub, "Increase In Injured Somalian Children," 15 June 2011, AL Arabiya with Agencies, <http://english.alarabiya.net/articles/2011/06/15/153415.html>

WHAT DOES HUMAN RIGHTS LAW SAY ABOUT THE RIGHTS OF CHILDREN WITH DISABILITIES?

The human rights of children are defined in various international legal instruments. The **Universal Declaration of Human Rights (UDHR)** sets forth the rights of children in Articles 25 and 26. Article 25 of the UDHR states that motherhood and childhood are entitled to special care and assistance and that all children, regardless of whether they are born in or out of wedlock, shall enjoy the same social protection. Article 26 of the UDHR entitles everyone to equal access to education and allows parents the right to choose the kind of education provided to their child.

Article 24 of the **International Covenant on Civil and Political Rights (ICCPR)** articulates the rights of children and states:

Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.

Article 24 of the ICCPR also provides for children to be registered immediately after birth and for the right of children “to acquire a nationality.”

The International Covenant on Economic, Social and Cultural Rights (ICESCR) also specifically provides for the rights of the child. Article 10(3) provides that, “[s]pecial measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation.” In addition, Article 12 of the ICESCR, which articulates the right to health for everyone calls for “[t]he provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child.”

Notably, the ICCPR and ICESCR do not specifically mention disability as a protected group, and therefore the rights of children with disabilities are not clearly articulated in these instruments. However, it is important to note that the **Committee on Economic, Social and Cultural Rights**, the **treaty body** that monitors the ICESCR, addresses this issue in **General Comment No. 5, Persons with disabilities**, and states:

The Covenant does not refer explicitly to persons with disabilities. Nevertheless, the Universal Declaration of Human Rights recognizes that all human beings are born free and equal in dignity and rights and, since the Covenant’s provisions apply fully to all members of society, persons with disabilities are clearly entitled to the full range of rights recognized in the Covenant.

The Convention on the Rights of the Child (CRC) provides the over-arching framework for children’s rights and is the first legally binding instrument to specifically mention children with disabilities. Article 2 of the CRC prohibits discrimination against children with disabilities and Article 23 specifically addresses children with disabilities. Although the CRC includes this specific article on children with disabilities, it is important to note that every right set forth in the CRC that refers to “the child” applies to children with disabilities. The CRC marks an important shift in thinking towards a “rights-based approach,” holding governments legally accountable for failing to meet the needs of all children. The CRC creates a new vision of children as bearers of rights and responsibilities appropriate to their age, rather than viewing them as the property of their parents or the helpless recipients of charity. The CRC stresses the recognition of the child as a positive participant and social actor rather than a voiceless and powerless adult-in-waiting.

There are four guiding principles outlined in the CRC that are necessary for all rights to be realized:

- **Non-discrimination:** Requires States to ensure that all children within their jurisdiction enjoy the rights in the CRC without discrimination of any kind;
- **Adherence to the best interests of the child:** Requires States to ensure that the central consideration of all decisions or actions concerning children, whether by courts, administrative offices, legislatures, public or private welfare agencies, or others are in the best interests of the child;
- **The right to life, survival, and development:** Requires States to ensure the survival and development of the child to the maximum extent possible, including positive measures; and
- **The right to participate:** Requires States to ensure that children can express their views freely in all matters affecting them.



Building upon earlier international instruments, especially the innovations of the CRC, the CRPD addresses the rights of children with disabilities in greater detail than any previous instrument. The Preamble of the CRPD makes special reference to children with disabilities:

(r) Recognizing that children with disabilities should have full enjoyment of all human rights and fundamental freedoms on an equal basis with other children, and recalling obligations to that end undertaken by States Parties to the Convention on the Rights of the Child.

Article 3, General principles, makes important reference to children with disabilities that must be applied across the treaty text and notes the importance of “respect for evolving capacities of children with disabilities and their right to preserve their identities.” Article 4, General obligations, also includes children with disabilities in the general obligations that States must ensure and provides that “States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.” This provision builds upon the CRC’s principle of ensuring that children have the opportunity to state their views freely and to participate in matters that affect them. In addition, the CRPD articulates participation and inclusion as a general principle in Article 3, which applies equally to children with disabilities.

Article 7, Children with disabilities, provides in-depth articulation of how all human rights apply to children with disabilities. Article 7 requires that:

- States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children;
- The best interests of the child is the primary consideration in matters affecting children with disabilities;
- Children with disabilities have the right to express their views freely on all matters affecting them, given due weight to their age and maturity; and
- Children with disabilities are to be provided with disability and age-appropriate assistance to realize their rights.

While Article 7 applies across the entire CRPD and requires that children with disabilities be taken into account in all aspects of CRPD implementation, there are other articles that raise specific issues of importance to children with disabilities and that add age-related considerations to certain obligations. For example, Article 6, Women with disabilities, underscores that girls with disabilities are often subjected to multiple forms of discrimination and requires States to take measures to tackle such discrimination. Article 8, Awareness-raising, emphasizes the obligation of States to undertake awareness-raising in the context of the education system, including early age school children.

COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES ON ARTICLE 7

Concluding Observations of the CRPD Committee on the report of the Government of Tunisia Article 7, Children with disabilities

16. The Committee is particularly concerned at the low rate of reporting ... of cases of habitual mistreatment of children, including children with disabilities, which may amount to situations of danger, in view of [reports] which indicated that 94 per cent of children aged between 2 and 14 years are disciplined in the home through violent means, whether verbal, physical, or through deprivation.
17. The Committee recommends that the State party:
 - a. Evaluate the phenomenon of violence against boys and girls with disabilities, and compile systematic disaggregated data ... with a view to better combating it;
 - b. Ensure that institutions providing care for children with disabilities are staffed with specially trained personnel, subject to appropriate standards, regularly monitored and evaluated, and establish complaint procedures accessible to children with disabilities;
 - c. Establish independent follow-up mechanisms; and
 - d. Take steps to replace institutional care for boys and girls with disabilities with community-based care.

Source: Committee on the Rights of Persons with Disabilities, "Concluding Observations of the Committee on the Rights of Persons with Disabilities in its Consideration of the Report of the Government of Tunisia," Fifth Session, April 2011, (June 2011), at para. 16 & 17: <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/Session5.aspx>

List of issues provided to Spain on its initial report Article 7, Children with disabilities

36. Please explain how gaps (for example lack of parenting skills, scant resources of social networks, lack of institutional support, among others) are identified in the effective protection of children with disabilities. Please indicate to what extent the new single register of cases of ill-treatment of children with disabilities has data disaggregated by age, disability and gender. Please also indicate whether the new reference module for the development of protocols on steps to be taken on cases of ill-treatment adopted in 2007 includes children with disabilities.
37. Please provide information on measures in place to improve the ability of children with disabilities to participate in decision-making on all matters relating to their lives.
38. Please provide information on the kinds of social protection available to children with disabilities whose families live in poverty.

Source: Committee on the Rights of Persons with Disabilities, "List of issues to be taken up in connection with the consideration of the initial report of Spain," Fifth Session, April 2011 (June 2011), at paras. 36-38: <http://www2.ohchr.org/SPdocs/CRPD/5thsession/CRPD.C.ESP.Q1.en.doc>

Other specific provisions in the CRPD bring attention to issues that have a particular impact on children with disabilities. For instance, Article 16, Freedom from exploitation, violence and abuse, requires States to enact child-focused legislation and policies, to ensure that instances of exploitation, violence and abuse are identified, investigated and, where appropriate, prosecuted. Likewise, Article 18, Liberty of movement and nationality, raises the issue of birth registration for children with disabilities who too often are excluded from birth registries,

thereby undermining their right to access a myriad of services. Article 18 requires States to register children with disabilities immediately after birth and guarantees their right from birth to a name, the right to acquire a nationality, and, as far as possible, the right to know and be cared for by their parents. Article 23 protects the right of children with disabilities to retain their fertility on an equal basis with others, requires States to ensure that a child shall not be separated from his or her parents against their will, except in accordance with legal procedures where such separation is necessary for the best interests of the child, and mandates that in no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents. Where children with disabilities are separated from their family, the CRPD emphasizes that States shall make every effort to provide alternative care within the wider family, and failing that, within the community in a family setting. Article 24, Education, provides that children with disabilities may not be excluded from free and compulsory primary education, or from secondary education, on the basis of disability.

THE DUTY TO RESPECT, PROTECT, AND FULFIL OBLIGATIONS RELATING TO THE RIGHTS OF CHILDREN WITH DISABILITIES

Taken as a whole, States' obligations with regard to children include:

1. **Obligation to respect:** States must refrain from engaging in any act, custom, or practice that denies or limits the rights of children with disabilities.
Example: The State adopts legislation prohibiting female genital mutilation.
Example: The State repeals discriminatory legislation that limits the right of children with disabilities to attend mainstream schools.
2. **Obligation to protect:** States must take all appropriate measures to eliminate discrimination and violations of the rights of children with disabilities by non-State actors.
Example: The State takes action to protect children with disabilities from harassment in the school system.
Example: The State takes action to stop a local community centre from denying access to children with disabilities.
3. **Obligation to fulfil:** States must be proactive in their adoption and implementation of measures to give effect to the rights of children with disabilities.
Example: The State adopts training programmes for dentists on how to accommodate children with disabilities so that they have access to dental treatment.
Example: The State introduces an “affirmative action” programme to encourage greater participation of children with disabilities in university education.

In sum, international human rights law strongly supports the right of children with disabilities to enjoy their human rights.

CHILD-CENTRED APPROACH TO RIGHTS PROGRAMMING

It is important to remember that children with disabilities, like all children, have the right to be active participants in decisions that affect them. Some key considerations for child-rights programming using a child-centred approach are:

- Consider the best interests of the child;
- Listen to children with disabilities;
- Challenge your own and others' assumptions about the needs and perspectives of children with disabilities;
- Do not make assumptions about what children with disabilities can and cannot do;
- Do not make assumptions about the needs and perspectives of children with disabilities. Ask them!;
- Seek to develop the child's abilities and competencies;
- Consider the child as a whole and the whole range of his or her development and needs;
- Analyze the situation of the child as a whole in the broader context of family and community; and
- See children with disabilities as "social actors" who are involved in decision-making.



PARENTS AND FAMILIES OF CHILDREN WITH DISABILITIES

In many countries, families, including grandparents and siblings, take care of children with disabilities with very little government-provided support. In other countries, parents are encouraged by medical professionals to institutionalize children with disabilities due to lack of resources and knowledge about the rights of children with disabilities. This section focuses on the role of parent and family support for children with disabilities. In countries where medical professionals recommend institutionalizing children with disabilities, parents and family members need to understand that children with disabilities have the same rights as other children to live in the community with their families.

Furthermore, parents and family members should be informed about how to advocate for other rights. For example, information should be available to parents of children with disabilities about how to enrol their child in an inclusive education programme that will provide the child with reasonable accommodations from the day he or she begins school. In some countries, a parent may need to contact the local school board months before the school's opening to develop a plan for their child to receive accommodations in school. Parents must be provided with adequate information to help advocate for their child's right to education and also be able to access information about government-sponsored rehabilitation programmes that their child may be eligible to attend. For instance, a child who is blind may be eligible to receive vocational rehabilitation services once per week to learn how to use certain technology, but if parents are not aware of the programme, then they may not enrol their child. Advocates play an important role in helping parents, other family members, and others to support children with disabilities consistent with human rights principles. This is vital given the stigma associated with having a child with a disability in many cultures.

THE CHILD'S RIGHT TO PARTICIPATE

Children with disabilities have the right to participate and express their views on matters that may affect them under both the CRPD and the CRC. The child's right to participate extends to various levels, including policy level decisions, community decisions, and family decisions.

A rights-based approach to participation means putting girls and boys from all backgrounds and disability types, including intellectual and psychosocial disabilities, at the centre of human rights policy and programming. This approach also recognizes children with disabilities as rights-holders and members of society and holds governments accountable for ensuring the rights of all their citizens, including children with disabilities.

HOW TO ACHIEVE CHILDREN'S PARTICIPATION

Social and Political Movements

- Children form their own movements and organizations to claim their rights with support from adults.
- Change the power relations between children and adults.
- Enable children to become democratic citizens.

Human Rights

- Promote children's civil rights (for example, expression, thought, information, organization).
- Recognize children as rights holders.

Child Development

- Develop children's abilities, confidence, and independence.
- Develop children's ability to protect themselves.
- Improve children's locus of control, level of empowerment, and learning.

Development

- Work to develop better understanding of the needs of children.
- Develop better programmes and policies for children.

Laws and policies can be put in place to empower and protect persons with disabilities, but to ensure laws and policies have meaning, it is important to train persons with disabilities about their rights. Equality and inclusion will not be achieved for persons with disabilities until the capacity of children with disabilities to make decisions is ensured, providing them with opportunities to make decisions and respecting their choices. Advocates play essential roles in empowering both children and adults working together to realize child rights.

EMPOWERING CHILDREN AND ADULTS TO REALIZE THE RIGHTS OF CHILDREN WITH DISABILITIES

Recognition of Children as Social Actors

- Parents and community members develop respect for the views and rights of children with disabilities, thereby increasing their status and voices;
- Children with disabilities are recognized as social actors who make positive contributions to local communities and society; and
- Children with disabilities bring about attitude changes amongst adults, thus challenging discrimination in the family, school, and community.

Children as Rights Holders

- Children with disabilities are empowered to address violations of rights and claim their rights;
- Educational performance of children with disabilities is improved;
- Self-esteem, confidence, and resilience of children with disabilities are enhanced;
- Enthusiasm of children with disabilities to address issues for the benefit of their peers and community is developed;
- Communication, negotiation, and teamwork skills are increased;
- Values, skills, and knowledge of democratic functioning among children with disabilities are enhanced; and
- Girls and boys with disabilities are empowered through knowledge of their own rights and recognition of the value of their participation.

Working with Children in Programme Development

- Opportunities are created for children with disabilities to participate in planning, decision-making, reporting, and legal advocacy at different levels of their community and government; and
- Children with disabilities are able to express their own perspectives, their understanding of issues, problems, analysis, solutions, and priorities, which often differ from those of adults.

Programme Outcomes

- Reduced discrimination against children with disabilities;
- Increased inclusion in the community and school;
- Improved attitudes and access to the home, community, and school; and
- Increased commitment amongst adults to work with and for children with disabilities.

Source: Adapted from Claire O’Kane, “Children and Governance,” (draft) Save the Children’s Training Manual Child Rights Programming. <http://seap.savethechildren.se/>

This chapter has emphasized how children have the right to participate fully and express their views in matters that affect them, as well as how adults can be resistant to their participation for many reasons. Protecting children's human rights is not enough; they need to be promoted as well. Most importantly, children can actively participate as partners in programming and advocacy; they can participate in actions leading to many positive outcomes, such as empowerment, social action and inclusion, and the reduction of discrimination. Because the rights of children with disabilities are vulnerable to abuse, it is the responsibility of human rights law and society to ensure these rights are upheld.

USEFUL RESOURCES ON THE HUMAN RIGHTS OF CHILDREN WITH DISABILITIES

- Child Rights Information Network: <http://www.crin.org/> and <http://www.crin.org/themes/ViewTheme.asp?id=5>
 - › Website devoted to the rights of children.
- Committee on the Rights of the Child, General Comment No. 9: The Rights of Children with Disabilities (29 Sept. 2006): <http://www.ohchr.org/english/bodies/crc/docs/co/CRC.C.GC.9.doc>
 - › General Comment of the CRC Committee focusing on children with disabilities within the context of the CRC.
- International Save the Children Alliance: <http://www.savethechildren.net/alliance/index.html>
 - › International network with a focus on the rights of children worldwide.
- UNICEF: <http://www.unicef.org/crc>
 - › Official CRC website for the United Nations Children's Fund.

CHAPTER 16: THE RIGHT TO NON-DISCRIMINATION AND EQUALITY FOR WOMEN WITH DISABILITIES

CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

Preamble (excerpts)

(q) Recognizing that women and girls with disabilities are often at greater risk, both within and outside the home of violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation,

(s) Emphasizing the need to incorporate a gender perspective in all efforts to promote the full enjoyment of human rights and fundamental freedoms by persons with disabilities,

Article 3, General principles

The principles of the present Convention shall be:

(g) Equality between men and women;

Article 6, Women with disabilities

1. States Parties recognize that women and girls with disabilities are subject to multiple discriminations, and in this regard shall take measures to ensure the full and equal enjoyment by them of all their human rights and fundamental freedoms.
2. States Parties shall take all appropriate measures to ensure the full development, advancement and empowerment of women, for the purpose of guaranteeing them the exercise and enjoyment of the human rights and fundamental freedoms set out in the present Convention.

Article 16, Freedom from exploitation, violence and abuse (excerpts)

1. States Parties shall take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects.
2. States Parties shall also take all appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring, inter alia, appropriate forms of gender- and age-sensitive assistance and support for persons with disabilities and their families and caregivers, including through the provision of information and education on how to avoid, recognize and report instances of exploitation, violence and abuse. States Parties shall ensure that protection services are age-, gender- and disability-sensitive.
5. States Parties shall put in place effective legislation and policies, including women- and child-focused legislation and policies, to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted.

OBJECTIVES

The information contained in this chapter will enable participants to work towards the following objectives:

- Explore the right to equality and freedom from discrimination for women and girls with disabilities;
- Explain the importance of these concepts for women and girls with disabilities;
- Understand the interrelationship between non-discrimination and equality for women and girls with disabilities and other human rights;
- Identify ways in which the rights of women with disabilities to non-discrimination and equality have been promoted or denied; and
- Understand the provisions on gender equality and non-discrimination in the **Convention on the Rights of Persons with Disabilities (CRPD)**.

GETTING STARTED: THINKING ABOUT THE HUMAN RIGHTS OF WOMEN WITH DISABILITIES

Throughout the world, women with disabilities are subject to two-tiered discrimination, based on their gender and based on their disability. Where women with disabilities belong to other marginalized groups, such as racial minorities or people living in poverty, they may be subject to additional layers or dimensions of disability. Women with disabilities are denied jobs, excluded from schools, considered unworthy of marriage or partnership, and are even barred from certain religious practices. Women and girls with disabilities are often the last to receive the necessary supports (for example, education, employment, appropriate general health care services) to enable them to overcome poverty and lead productive and fulfilling lives. They are at higher risk for abuse and violence, which in turn can aggravate existing disabilities or create secondary disabilities, such as psychosocial trauma.

The susceptibility of women with disabilities to discrimination is a global phenomenon, but understanding and treatment of this particular group varies within cultures. Women with disabilities in the developing world experience multidimensional discrimination: (1) because they are women; (2) because they have a disability; and (3) because they are more likely in the developing world to be living in poverty. In most developing countries, the opportunities and accessibility for girls and women with disabilities are extremely restricted, while prejudice against this group is overwhelmingly present.

The rights of women and girls to non-discrimination and equality are interrelated with all other human rights issues. When treated in a discriminatory or unequal manner, women and girls cannot fully enjoy their other rights. For example, a girl with a disability who receives an inferior education in relation to boys will be treated unequally throughout her work life. (See Discrimination in Education

box below). The lack of access by women with disabilities to general health care, including reproductive health, impacts not only their right to health, but also their right to information and potentially their rights in relation to family and parenthood. These examples demonstrate that human rights are **indivisible, interdependent, and interrelated**.



DISCRIMINATION IN EDUCATION

The combination of discrimination on the basis of gender and disability results in low literacy rates for women and girls with disabilities and poor rates of school attendance. UNESCO estimates that the overall literacy rate for persons with disabilities worldwide is 3%, but for women and girls with disabilities it is 1%. In the USA, women with disabilities are five times more likely than women without disabilities to have fewer than eight years of schooling. For girls with disabilities who do not attend school, information on reproductive health is even more limited, leading to the unsurprising result in the USA that young women with disabilities are significantly more likely to be mothers three to five years after leaving school than women without disabilities. Studies also show that students with disabilities experience higher rates of sexual harassment in schools and that girls with disabilities face higher rates than boys with disabilities.

Source: Harilyn Rousso, *Girls and Women with Disabilities: An International Overview and Summary of Research*, Disabilities Unlimited Consulting Services (2000).

WHAT DOES HUMAN RIGHTS LAW SAY ABOUT THE RIGHTS OF WOMEN AND GIRLS WITH DISABILITIES?

International human rights law clearly establishes the right of all human beings to non-discrimination and equality. The **Universal Declaration of Human Rights (UDHR)** protects women and girls with disabilities against discrimination on account of their gender, as does the **International Covenant on Civil and Political Rights (ICCPR)**.

The most important specialized international human rights treaty addressing the rights of women is the **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**. While CEDAW does not specifically address the rights of women and girls with disabilities, it applies to all women and establishes an important framework and obligations relating to non-discrimination in the public and private spheres. The **CEDAW Committee**, the body that monitors implementation of CEDAW, issued a **General Comment** calling on States to include information on women and girls with disabilities in their reports to the Committee.

The CRPD adopts a dual approach in addressing the rights of women and girls with disabilities. This may be characterized in terms of a more general approach and a more specific approach.

GENERAL OBLIGATIONS TO ADDRESS GENDER DISCRIMINATION

Equality and non-discrimination form the cornerstone upon which all human rights are constructed. At its core, recognition of human rights means accepting the notion that all human beings have equal worth and are entitled to respect for their human dignity. Thus, although the precise language differs, nearly every contemporary international human rights instrument contains a provision (usually at the beginning) stating that it should be applied on the basis of equality and without discrimination.

CRPD Article 3, General principles, section (g), provides that “equality between men and women” is a general principle underlying the entire treaty. This statement means that even if a certain provision is silent on the issue of gender equality, the principle of equality still informs the application of a treaty provision. In this way, gender equality applies across the entire CRPD.

This principle places both affirmative and negative duties on the state, also known as duties to **respect, protect and fulfil**. In applying the provisions of the Convention, the state should always take care to **respect** women’s equality in relation to men. For example, in compliance with CRPD Article 13, Access to justice, the state must not do anything that favours men and further widens disparities in power between men and women in society. On the contrary, any solutions to problems identified by the Convention should **protect** the gains that women have already made in society and advance or **fulfil** their future goals for improving their position in society even further.

CRPD Article 6, Women with disabilities, explicitly recognizes that States have the duty to address the “multiple discriminations” facing women with disabilities. It declares that States Parties shall take all appropriate measures to ensure the full development, advancement and empowerment of women, for the purpose of guaranteeing them the exercise and enjoyment of their human rights.

SPECIFIC OBLIGATIONS TO ADDRESS GENDER DISCRIMINATION

As a complement to (or, in some cases, instead of) a general equality/non-discrimination provision, many international human rights instruments also feature specific provisions focusing on certain themes and/or issues of particular interest to certain affected populations. The main area in which the CRPD adopts a gender-specific approach is with respect to exploitation, violence, and abuse.

In addressing violence, the CRPD moves far beyond the duty to **respect**, and includes specific instructions on how to **protect** and **fulfil** rights. Significantly, in so doing, the CRPD breaks down the artificial divide between the public sphere and the private or family sphere (known as the “public/private split”) by recognizing specific state obligations in each sector.

- **In the public sector:** Article 16(1) of the CRPD requires States “to take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects.”
- **In the private sector:** Article 16(2) of the CRPD requires States “to take appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring, inter alia, appropriate forms of gender- and age-sensitive assistance and support for persons with disabilities and their families and caregivers, including through the provision of information and education on how to avoid, recognize and report instances of exploitation, violence and abuse.”

Further advancing the State’s duty to protect and fulfil, Article 16(5) of the CRPD provides that “States Parties shall put in place effective legislation and policies, including women- and child-focused legislation and policies, to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted.” It is therefore a requirement of the CRPD that States adopt gender-specific measures in order to address violence and abuse.

THE DUTY TO RESPECT, PROTECT, AND FULFIL OBLIGATIONS RELATING TO THE RIGHTS OF WOMEN WITH DISABILITIES

Taken as a whole, States' obligations with regard to the human rights of women and girls with disabilities include:

1. **Obligation to respect:** States must refrain from engaging in any act, custom, or practice that creates barriers to enjoyment of the rights of women and girls with disabilities.

Example: The State may not restrict access to sexual and reproductive health care services for women with disabilities.

Example: The State prohibits sterilization of all women, including women with intellectual or other disabilities, without their informed consent.

2. **Obligation to protect:** States must take action to ensure that non-State or private actors do not violate the rights of women and girls with disabilities.

Example: The State takes measures to ensure careful monitoring of all settings where women with disabilities live or receive services, whether publicly or privately.

Example: The State includes women with disabilities in decision-making processes that concern them, such as policy making on gender-based violence.

3. **Obligation to fulfil:** States must take proactive steps to ensure enjoyment of the rights of women and girls with disabilities.

Example: The State undertakes information campaigns that seek to dispel the myth that girls with disabilities do not require or “deserve” an education.

Example: The State initiates training programmes for health care providers to ensure that women with disabilities receive necessary accommodations in accessing health care, such as access for women who use wheelchairs to breast cancer screening.

In sum, international human rights law makes clear that States have the obligation to respect, protect, and fulfil the rights of women and girls with disabilities in all areas of life on an equal basis with others.

SPECIFIC FORMS OF GENDER DISCRIMINATION AND INEQUALITY EXPERIENCED BY WOMEN AND GIRLS WITH DISABILITIES

Women and girls with disabilities are subjected to discrimination based both on their disability status and their gender. These factors work in combination, often together with additional identity markers such as race or religion, to produce a complex picture of discrimination. The sub-sections that follow provide some illustrations of the various contexts within which women and girls with disabilities experience discrimination in various spheres. Recognizing discrimination is the first step towards taking action to end it.

GENDER VIOLENCE

Women with disabilities experience high rates of violence, both at the hands of family members and of personal assistants. In addition to family members, caregivers can include attendants, interpreters, homemakers, drivers, doctors, nurses, teachers, social workers, psychiatrists, therapists, counsellors, and workers in hospitals and other institutions. This large number of people and the intimate physical and emotional contact involved in the care they provide greatly increase the risk of abuse to persons with disabilities. Furthermore, because they must often depend on caregivers, women with disabilities face even more difficulties than other women in pursuing a remedy for abuse.

1993 DECLARATION ON THE ELIMINATION OF VIOLENCE AGAINST WOMEN

Article 1

For the purposes of this Declaration, the term “violence against women” means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

Article 2

Violence against women shall be understood to encompass, but not be limited to, the following:

- a. Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;
- b. Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;
- c. Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.

Source: Declaration on the Elimination of Violence against Women, General Assembly Resolution 48/104 (1993): <http://www.un.org/documents/ga/res/48/a48r104.htm>

ACCESS TO JUSTICE

Access to justice for any historically marginalized group is essential in order to address wrongs and seek remedies. Women and girls with disabilities are often doubly disadvantaged in accessing justice on account of their gender and their disability status. Far from ensuring that justice is assured, the justice system itself often presents barriers. Rooted in discriminatory attitudes towards women and persons with disabilities, these barriers serve to perpetuate and reinforce inequality. Some examples include lack of safe and accessible transport to legal proceedings, insensitive and untrained police and court officials, and negative attitudes about women with disabilities, such as the false idea that their disability makes them unfit for parenting. For more on access to justice, see Part 2, Chapter 12, Access to Justice.

ACCESS TO REHABILITATION SERVICES

Rehabilitation services are not available to the vast majority of persons with disabilities who may benefit from them. Furthermore, services that do exist are very often inaccessible or unavailable to women and girls. In many war-affected countries, rehabilitation services are available only to men. In developing countries, women and girls with disabilities are far less likely to have access to orthotic and prosthetic services for a variety of reasons, including lack of information, inability to travel alone for services, and lack of financial resources. For more on the right to habilitation and rehabilitation, see Part 2, Chapter 9, The Right to Habilitation and Rehabilitation.

ACCESS TO ESSENTIAL HEALTH CARE

Women and girls with disabilities also face major barriers related to their right to basic health care. Obstacles in accessing general health care for women and girls with disabilities include discrimination and bias, lack of information, lack of transportation, and lack of respect for autonomy and privacy. The **World Health Organization** (WHO) reports that few schools of medicine, nursing, public health, dentistry, pharmacy, allied health professionals, or schools of social work offer any disability-related training or coursework and those that do are very narrowly focus on clinical and rehabilitation care.²³ For more on the right to health, see Part 2, Chapter 8, The Right to Health.

RIGHT TO SEXUAL AND REPRODUCTIVE HEALTH CARE

Women with mental and physical disabilities must fight to participate in decisions about their health care. In many cases, health workers persistently refuse to advise women and girls with disabilities on appropriate family planning services and methods. All too frequently, decisions are made for them without their consultation or consent, leading to a variety of human rights abuses, including forced abortion, sterilization, and psychiatric drugging. In 1997, the Government of Japan acknowledged that between 1949 and 1992, some 16,500 women with disabilities were sterilized without their consent in order to prevent “against

²³ World Health Organization, *Draft Policy on Disability* (Unpublished manuscript, 1999).

birth of defective descendants.”²⁴ The Government rejected calls by the disability community for compensation on the basis that the procedures were legal according to the domestic law at the time. When seeking reproductive health care, women with disabilities often face abusive treatment at the hands of physicians who do not understand their particular circumstances. A study in the USA, for example, showed that women with disabilities were significantly less likely to receive pelvic exams than women without disabilities.²⁵

RIGHT TO MARRY AND FORM A FAMILY



Women with disabilities also face limitations on their *rights to marry and found a family*. Legal limitations may exist that expressly exclude women with disabilities from marrying. Women with disabilities may be regarded as unfit for parenting or in other cases may be falsely told that having a child would be unsafe or unwise because of their disability. Those who have children often lose custody of them. In some countries, it is also almost impossible for women with disabilities to adopt children. Restrictions on health rights may also stand in the way of their right to found a family, as noted in the previous sub-section with regard to forced sterilization of women and girls with disabilities. For more on family rights, see Part 2, Chapter 7, Integrity, Home, Privacy, and the Family.

²⁴ DPI Japan National Assembly of Disabled Peoples International, “Counter Report of the Report of the Japanese Government Made at the 26th Session of the Extraordinary Session of the Committee on Economic, Social and Cultural Rights” (Geneva, 13-31 August 2001): <http://homepage2.nifty.com/ADI/Counterreport.html>.

²⁵ *Id.*

EDUCATION AND LITERACY

Gender bias results in low literacy and education rates for women and girls with disabilities. Disability discrimination combined with gender discrimination serves to keep women and girls with disabilities out of school. In many countries, schools are inaccessible or too far away or may exclude both girls and boys with disabilities from attendance. Imagining that their daughter who has a disability will have few opportunities in life, parents may see little reason to send her to school. UNESCO estimates that the literacy rate for persons with disabilities worldwide is only 3%, while rates for women and girls with disabilities are about 1%.²⁶ For more on the right to education, see Part 2, Chapter 13, Right to Education.

WORKPLACE DISCRIMINATION

The **labour** market does not adequately accommodate women with disabilities, nor are there sufficient laws to prevent and punish harassment – either sexual harassment or harassment on the basis of disability. According to the United Nations, only one quarter of women with disabilities worldwide are in the workforce. They are two times less likely to find work than their male counterparts.²⁷ Workplace harassment of persons with disabilities is also commonplace and biases can be particularly severe with regard to people with “hidden disabilities,” such as mental disabilities. Pervasive ignorance frequently leads potential employers to reject women with disabilities because they mistakenly assume that the women will not be able to fulfil job requirements or that reasonable accommodation will be extensive and costly. The unemployment rate for women with disabilities in developing countries is virtually 100%.²⁸ For more on more the right to work, see Part 2, Chapter 10, The Right to Work.

ADEQUATE STANDARD OF LIVING

In countries where women are most valued for their productive and reproductive capacities, women with a disability face even greater discrimination. Typically, they are often allocated the smallest amounts of food and other resources. As a result, the survival rate of girl children with disabilities is lower than that of boys. Few developing countries offer educational opportunities for girls with disabilities. Where opportunities for education exist in schools for children with disabilities, boys usually receive them. Women and girls with disabilities living in urban slums face particularly extreme circumstances, lacking adequate shelter, clean water, and sanitation, and are exposed to high levels of gender-based violence and environmental pollution. For more on the topic, see Part 2, Chapter 11, The Right to Live Independently and with Dignity in the Community.

²⁶ Nora Groce, “Women with Disabilities in the Developing World,” 8 *Journal of Disability Policy Studies*: 177-93.

²⁷ Human Rights Watch, “Women and Girls with Disabilities” webpage: <http://hrw.org/women/disabled.html>

²⁸ Dawn Ontario (Disabled Women’s Network Ontario), “Factsheets on Women with DisAbilities”: <http://dawn.thot.net/fact.html>

WOMEN WITH DISABILITIES AS ORGANIZERS

Since the beginning of the current independent living movement, women with disabilities have been active organizers and advocates for the rights of all persons with disabilities. Women with disabilities are not only taking active and leading voices in disability movements all over the world, they are also creating autonomous organizations and committees focused on the concerns of women with disabilities. These efforts are not without struggle. Issues of importance to women with disabilities are still seen as a small part of the struggle for independent living in most national and international disability organizations. Yet women in the disability community are becoming increasingly sophisticated about articulating their issues. Women with disabilities have created goals that have been included in diverse resolutions from the 1995 UN Women's Conference "Platform for Action" to individual country and organizational plans for remediating long-standing discrimination against women with disabilities.

INTERNATIONAL EFFORTS TO ADVANCE THE RIGHTS OF WOMEN WITH DISABILITIES

1995 International Symposium on Issues of Women with Disabilities, preceding the UN Fourth World Conference and NGO Forum on Women in Beijing China, coordinated by Mobility International USA (MIUSA).

1995 Disabled Women's Caucus at the NGO Forum and the UN Fourth World Conference on Women in Beijing, China, coordinated by an international caucus of women leaders with disabilities, calling themselves "Women's International Linkage on Disability."

1997 Mobility International USA (MIUSA) coordinated the **International Women's Institute on Leadership and Disability**, bringing together 35 women with disabilities from around the world for an intensive two-week leadership training program in the US.

1997 **The International Forum on Issues of Women with Disabilities**, coordinated by the World Institute on Disability and Rehabilitation International, with support from the US Departments of Education and Health and Social Services.

1998 **MIUSA International Symposium on Microcredit for Women with Disabilities**, held in Eugene, Oregon, USA.

2000 **MIUSA Global Options for Women with Disabilities in Leadership and Employment**, Eugene, Oregon

2006 **UN adopts Convention on the Rights of Persons with Disabilities**. The efforts of the Women's Caucus secured a provision on women with disabilities in the Convention and other provisions on gender.

USEFUL RESOURCES ON GENDER AND DISABILITY

- CEDAW Committee, General Recommendation No. 18 (tenth session, 1991), Disabled women: <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>
 - › Recommendation focused on women with disabilities within the context of the Convention on the Elimination of All Forms of Discrimination against Women.
- Mobility International USA: <http://www.miusa.org/>
 - › Oregon-based organization focusing on worldwide leadership programmes for women with disabilities.
- Human Rights Watch, “As If We Weren’t Human” (Aug. 26, 2010): www.hrw.org/en/reports/2010/08/26/if-we-weren-t-human
 - › Report detailing human rights abuses against women with disabilities in Northern Uganda.
- Women’s Refugee Commission, “Disabilities Among Refugees and Conflict-affected Populations” (June 2008): http://www.womensrefugeecommission.org/docs/disab_full_report.pdf
 - › Report addressing barriers to inclusion for refugees and displaced persons with disabilities, with a particular focus on women and girls.
- Women Enabled: <http://sites.google.com/site/womenenabled/>
 - › Website devoted to the human rights of women with disabilities containing useful resources on the CRPD and disability.
- World Institute on Disability: <http://wid.org/>
 - › Organization with a mission to work in communities and nations worldwide is to eliminate barriers to full social integration and increase employment, economic security and health care for persons with disabilities with numerous programmes to empower women with disabilities.
- UN Enable webpage on women with disabilities: <http://www.un.org/esa/socdev/enable/women/>
 - › Webpage containing resources on women with disabilities.
- UN Women: <http://www.unwomen.org/>
 - › Official website for United Nations Entity for Gender Equality and the Empowerment of Women, established in 2010.

CHAPTER 17: THE HUMAN RIGHTS OF OTHER POPULATIONS OF PERSONS WITH DISABILITIES

CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

Preamble (excerpts)

The States Parties to the present Convention,...

- (i) Recognizing further the diversity of persons with disabilities,
- (k) Recognizing the need to promote and protect the human rights of all persons with disabilities, including those who require more intensive support,
- (p) Concerned about the difficult conditions faced by persons with disabilities who are subject to multiple or aggravated forms of discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age or other status,
- (t) Highlighting the fact that the majority of persons with disabilities live in conditions of poverty, and in this regard recognizing the critical need to address the negative impact of poverty on persons with disabilities[.]

OBJECTIVES

The information contained in this chapter will enable participants to work towards the following objectives:

- Understand the multiple forms of discrimination that sub-groups within the general population of persons with disabilities may face and to identify discrimination against them as a human rights issue;
- Identify ways in which the human rights of these sub-groups have been promoted or denied;
- Explain the importance of affording all persons with disabilities a voice in decision-making processes that concern their interests, including the participation of persons with disabilities in development decision-making;
- Understand and apply the provisions on the human rights of persons with disabilities who may be subject to multiple forms of discrimination in the **Convention on the Rights of Persons with Disabilities (CRPD)**; and
- Highlight possible strategies to advance the rights of all persons with disabilities.

GETTING STARTED: THINKING ABOUT THE HUMAN RIGHTS OF PERSONS WITH DISABILITIES WHO EXPERIENCE MULTIPLE FORMS OF DISCRIMINATION

In general, persons with disabilities are marginalized and face discrimination on account of their disability. Some groups of persons with disabilities face multiple or aggravated discrimination on account of their status or membership in a minority group. They experience discrimination due to their disability as well as other characteristic, situation or circumstance, such as age, social situation or health status. There are many attributes which may result in multiple or aggravated discrimination. These include, but are by no means limited to: race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age, sexual minority status, poverty or other status. A person with a disability who requires intensive support may also experience such aggravated or multidimensional discrimination.

Human rights law is increasingly sensitive to understanding that individuals are diverse and multidimensional and therefore cannot be summed up in a single identity. Persons with disabilities, like other human beings, belong to more than one group at a time. The interrelationship of such multiple group membership can create additional vulnerabilities to discrimination. For example, a woman with a disability who lives in poverty who is a member of an indigenous community may experience discrimination based upon her status as a woman, a person with a disability, and a member of a minority community. Like that of many persons, her identity is complex, and her experience of discrimination is likewise complex, layered, and comprised of several dimensions.



Thus, persons with disabilities may face discrimination in a variety of life circumstances and situations. Persons with disabilities who are living in a humanitarian crisis, such as natural disaster or armed conflict, may experience discrimination on account of their disability and on the basis of their refugee or displaced status. Health status may also result in discrimination, for example, in the situation of a person with a disability who is living with HIV/AIDS or other communicable disease.

These differences and a variety of other characteristics and circumstances should be taken into account when considering how best to ensure the human rights and fundamental freedoms of *all* persons with disabilities.

WHAT DOES HUMAN RIGHTS LAW SAY ABOUT THE RIGHTS OF PERSONS WITH DISABILITIES WHO EXPERIENCE MULTIPLE FORMS OF DISCRIMINATION?

The principle of non-discrimination is one of the most fundamental norms in human rights law. The rights of persons who face discrimination on account of their particular status are well recognized in human rights treaties. Indeed, the cornerstone of human rights protection as set forth in the **UN Charter** is its non-discrimination provision, which provides that the UN shall promote “universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.” All major international human rights conventions contain non-discrimination provisions and build upon the principle of non-discrimination found in the UN Charter.

The **Universal Declaration of Human Rights** (UDHR) provides that:

Everyone is entitled to all the rights and freedoms set forth in [the UDHR] without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The **International Covenant on Civil and Political Rights** (ICCPR) contains a non-discrimination clause mirroring that found in the UDHR, an equal rights provision between men and women, and a provision guaranteeing to persons belonging to ethnic, religious, or linguistic minorities the rights, in community with other members of their group, to enjoy their own culture, to profess and practice their own religion, and to use their own language.

Specialized human rights conventions have been drafted in order to address in more detail the rights of populations who may face additional barriers to the enjoyment of their rights on account of their membership in a minority or particularly disadvantaged group. These include, for example, the **Convention on the Elimination of All Forms of Discrimination against Women** (CEDAW), the **Convention on the Elimination of All Forms of Racial Discrimination** (CERD), the **Convention on the Rights of the Child** (CRC), and the

Convention on the Rights of Migrant Workers. The rights of indigenous people are addressed in the Convention concerning Indigenous and Tribal Peoples in Independent Countries (ILO No. 169), as well as the Declaration on Rights of Indigenous Peoples adopted by the UN General Assembly in September 2007. Other population groups are similarly pressing for greater recognition of their human rights through the adoption of specialized conventions or non-binding instruments, including, for example, older persons.

The CRPD recognizes that persons with disabilities may belong to sub-groups who face additional discrimination beyond disability-based discrimination. Such persons may therefore be doubly disadvantaged and face additional barriers to their full enjoyment of human rights. The CRPD, in its Preamble, recognizes:

- The diversity of persons with disabilities;
- The reality that some persons with disabilities require intensive supports and may therefore face additional barriers to their full enjoyment of human rights;
- That certain sub-groups of persons with disabilities may be subjected to multiple or aggravated forms of discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age, or other status; and
- That persons with disabilities often live in poverty and that this status creates additional barriers for the full enjoyment of human rights.

All of the human rights set forth in the CRPD apply to all persons with disabilities, whatsoever their minority group membership, social situation, or life circumstance of any kind. All of the general principles in the CRPD support a framework of human rights protection that was clearly intended by the drafters to cover all groups of persons with disabilities, whether or not they are expressly mentioned in the CRPD. Article 3, General principles, is accordingly an important tool for persons with disabilities who may experience multiple forms of discrimination to use in their advocacy efforts. Several of the principles in Article 3 are of particular note:

- **The principle of non-discrimination:** recognizes that both disability discrimination and discrimination on other grounds are prohibited;
- **The principle of full and effective participation and inclusion in society:** recognizes that all persons with disabilities, whatever their minority or other status or circumstance are entitled to participate fully in their community and in decision-making where their interests are affected;
- **The principle of respect for difference and acceptance of persons with disabilities as part of human diversity and humanity:** recognizes that diversity in humankind, whether based on disability or any other attribute, is to be respected and valued;
- **The principle of equality of opportunity:** recognizes that all persons with disabilities are entitled to equality of opportunity, whatever their minority or other status or circumstance;

- **The principle of equality between men and women:** recognizes that persons with disabilities, whether men or women, are entitled to equality and providing an explicit basis on which to challenge double discrimination based on disability and sex; and
- **The principle of respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities:** recognizes the rights of the child and the issue of discrimination based on disability and age.

In sum, the CRPD captures the idea that the human experience and identity of persons with disabilities is complex, multi-layered, and multidimensional. Laws and policies that seek only to achieve **formal equality** will not identify and break down the many barriers that persons with disabilities experience in society. This is because formal equality stresses equal treatment: those in like positions will be treated alike. Formal equality misses the reality of multiple group identity and the complexity of structural barriers that reinforce and perpetuate discrimination. The CRPD, in response, sets out a framework that guarantees equality and non-discrimination and creates obligations that reach beyond formal equality, including obligations to provide reasonable accommodation and positive obligations to identify and remove barriers to accessibility.

THE CRPD COMMITTEE ON MULTIDIMENSIONAL DISCRIMINATION

In its Reporting Guidelines, the CRPD Committee states the following regarding Article 5, Equality and non-discrimination:

This article recognizes that all persons are equal before the law with entitlement to equal protection and benefit of the law on equal grounds without any discrimination.

States Parties should report on:

1. Whether persons with disabilities are able to use the law to protect or pursue their interests on an equal basis to others;
2. Effective measures taken to guarantee persons with disabilities equal and effective legal protection against all types of discrimination, including the provision of reasonable accommodation; and
3. Policies and programmes, including affirmative action measures, to achieve the de facto equality of persons with disabilities, taking into account their diversity.

Source: Committee on the Rights of Persons with Disabilities, "Reporting Guidelines": <http://www.ohchr.org/Documents/HRBodies/CRPD/CRPD-C-2-3.pdf>

THE DUTY TO RESPECT, PROTECT, AND FULFIL OBLIGATIONS IN RESPECT OF ALL PERSONS WITH DISABILITIES

Taken as a whole, States' obligations with regard to ensuring equality and non-discrimination for persons with disabilities who experience discrimination on account of disability and some other status (such as gender, ethnicity, and poverty), include:

1. **Obligation to respect:** States must refrain from engaging in any act, custom, or practice that is inconsistent with the principles of equality and non-discrimination.

Example: The State may not adopt or maintain laws that discriminate against persons with disabilities on account of their gender, such as allowing sterilization of women with disabilities without informed consent.

2. **Obligation to protect:** States must take all appropriate measures to eliminate discrimination and violations of equality by any non-State actors (such as persons, organizations, or private enterprises) in respect of persons with disabilities who are at risk of multiple forms of discrimination.

Example: The State must ensure that microfinance programs do not exclude persons with disabilities living in poverty from participation in microfinance schemes.

3. **Obligation to fulfil:** States must be proactive in their adoption and implementation of measures to give effect to the principles of equality and non-discrimination in respect of persons with disabilities who are at risk of multiple forms of discrimination.

Example: The State introduces an "affirmative action" programme to encourage greater participation of women with disabilities in public service.

In sum, human rights law strongly supports the right to equality and non-discrimination for persons with disabilities who experience discrimination on account of disability and some other status (such as gender, ethnicity, and poverty).

PERSONS WITH DISABILITIES LIVING IN POVERTY

Poverty is a status that leads to multiple forms of disadvantage. The United Nations estimates that one in twenty persons have a disability and that more than 75% of persons with disabilities live in developing countries.²⁹ Persons with disabilities tend to be among the poorest of the poor in society. According to World Bank estimates, one out of every five of the world's poorest persons is disabled.³⁰ Unfortunately the multitude of barriers that limit the access of persons with

²⁹ E. Helander, "Prejudice and Dignity: An Introduction to Community-based Rehabilitation," UNDP (1992).

³⁰ Ann Elwan, "Poverty and Disability: A Background Paper for the World Development Report," World Bank (October 1999).

disabilities to education, employment, housing, health care and rehabilitation, transportation, and recreation also serve to limit their participation in development planning decisions that could improve their lives. Ensuring the full participation of persons with disabilities in the planning, design, implementation, and evaluation of development programmes is essential in order to ensure the success of poverty reduction strategies. **Disabled people's organizations** (DPOs) and their allies are working to ensure that international development becomes more inclusive of the voices and needs of persons with disabilities.

Including persons with disabilities in development decision-making is critical to achieving the promise of poverty reduction and responsible development. The CRPD recognizes that development processes need to take into account disability issues. Article 33, National implementation and monitoring, stresses the important role of international cooperation for realizing the rights of persons with disabilities and calls on States to take measures “[e]nsuring that international cooperation, including international development programmes, is inclusive of and accessible to persons with disabilities.”

International development organizations tend to emphasize that the people most directly affected by a development project must have the opportunity to participate in its planning from its earliest stage. All too often, persons with disabilities are left out of these efforts. The World Bank and other development actors are currently addressing this exclusion and are trying to ensure that persons with disabilities participate in the various forms of development programming, starting at the project design stage. It will take the active efforts of DPOs to ensure that inclusive development is a reality.

POVERTY REDUCTION STRATEGY PAPERS AND INCLUSIVE DEVELOPMENT

The term Poverty Reduction Strategy Paper (PRSP) refers to an important development document devised by the World Bank and the International Monetary Fund in 1999 in order to help low-income, highly indebted countries to formulate a national plan on how to reduce poverty in their country and improve living conditions. Once a country has adopted a national PRSP, it may apply for debt relief from the World Bank, the IMF, and donor countries, and may gain access to new credits, loans and grants for development projects. The PRSP provides an important roadmap for development and sets priorities for target actions to reduce poverty. This tool and others like it are used by many international development partners.

The process by which PRSPs are developed are intended to be highly participatory and include a wide range of country stakeholders. A key principle of the process is the active involvement of civil society in the formulation, implementation, and evaluation of a country's national poverty reduction strategy. Unfortunately, persons with disabilities have too often been left out of this important process. The World Bank is working with disability organizations to improve the participation of persons with disabilities in development decision-making.

Source: Handicap International & Cristoffel Blindenmission, “Making PRSPs Inclusive” (World Bank, undated): <http://siteresources.worldbank.org/DISABILITY/Resouces/280658-1172608-11726081384/MakingPRSPInclusive/pdf>

REFUGEES AND INTERNALLY DISPLACED PERSONS

Some three to four million persons with disabilities worldwide are refugees or internally displaced within their own countries. Already highly marginalized from their communities before forced migration, persons with disabilities are exposed to increased hazards during and following flight. Nevertheless, recent humanitarian crises demonstrate that assistance operations neither foresee nor react to the specific needs of persons with disabilities. The adoption of the CRPD highlights disability-inclusion as a human rights issue in situations of risk that often lead to displacement, including natural disasters and armed conflict. The Preamble of the CRPD acknowledges that “the observance of applicable human rights instruments are indispensable for the full protection of persons with disabilities, in particular during armed conflicts and foreign occupation.” Protecting persons with disabilities in humanitarian responses requires concrete and operational guidance that takes general legal standards of the sort typically found in treaties and applies them with particularity and effect to field operations.

Forced migration impacts individuals with disabilities in a myriad of ways. Often the circumstances surrounding involuntary movement are themselves disabling and can generate secondary impairments for persons with existing disabilities, for instance, post-traumatic stress disorder or landmine accidents. Flight is typically marked by chaos. Even when persons with disabilities are not abandoned, they frequently find themselves displaced from support networks of family, friends, and community. Assistive devices, such as prosthetic limbs and hearing aids, as well as necessary medications, may be lost or left behind. The devastating impact of flight on the psychosocial well-being of the fleeing population is also a major risk factor. Health, rehabilitation, and transportation infrastructure can be destroyed during conflict or other emergencies, with serious consequences. Moreover, inadequate general medical care increases the likelihood of disablement in the midst of these crises. To formulate effective disability-inclusion strategies, the specific needs of refugees and internally displaced persons (IDPs) with disabilities must be appreciated. Most importantly, persons with disabilities and their representative organizations must be consulted and take part in the development of inclusive responses.



Advocacy by DPOs is an essential tool in ensuring that humanitarian assistance programmes take into account the specific needs of persons with disabilities in their preparation for and response to humanitarian crises. Persons with disabilities and their representative organizations must participate in all programmes designed to reach affected populations in times of crisis. This inclusion is essential for the simple reason that the affected population—here, persons with disabilities—have better information on how to empower and protect themselves than do others.

CRPD COMMITTEE GUIDANCE ON THE PROTECTION OF PERSONS WITH DISABILITIES IN SITUATIONS OF RISK

The CRPD Committee's Reporting Guidelines to States in relation to reporting on Article 11

This article obliges States Parties to ensure the protection and safety of persons with disabilities in situations of risk, such as situations resulting from armed conflicts, humanitarian emergencies or natural disasters.

States Parties should report on any measures taken to ensure their protection and safety, including measures taken to include persons with disabilities in national emergency protocols.

States Parties should report on measures taken to ensure that humanitarian aid relief is distributed in an accessible way to people with disabilities caught in a humanitarian emergency, in particular measures taken to ensure that sanitation and latrine facilities in emergency shelters and refugee camps are available and accessible for persons with disabilities.

Source: Committee on the Rights of Persons with Disabilities, "Reporting Guidelines" (2009): <http://www.ohchr.org/Documents/HRBodies/CRPD/CRPD-C-2-3.pdf>

USEFUL RESOURCES ON THE HUMAN RIGHTS OF OTHER POPULATIONS OF PERSONS WITH DISABILITIES

Ethnic Minorities and Disability:

- UN Enable website on ethnic minorities and disability: <http://www.un.org/esa/socdev/enable/comp507.htm>

Indigenous People and Disability:

- UN Enable website on indigenous people and disability: <http://www.un.org/esa/socdev/enable/comp506.htm>
- International Work Group for Indigenous Affairs website: <http://www.iwgia.org>

Migrant Workers and Disability:

- UN Enable website on migrant workers and disability: <http://www.un.org/esa/socdev/enable/comp509.htm>

Older Persons and Disability:

- UN Enable website on older persons and disability: <http://www.un.org/esa/socdev/enable/comp503.htm>

- Global Action on Aging: <http://www.globalaging.org>
 - › Leading organization on the rights of older persons
- HelpAge International: <http://www.helpage.org/Home>
 - › Leading organization on the rights of older persons.

People Living in Poverty and Disability:

- UN Enable webpage on poverty and disability: <http://www.un.org/esa/socdev/enable/comp508.htm>
- Department for International Development (DFID), “Disability, Poverty and Development”: <http://www.dfid.gov.uk.pubs/files/disability.pdf>
 - › UK international development agency major publication on poverty and disability.

People Living with HIV/AIDS and Disability:

- Nora E. Groce, World Bank, HIV/AIDS and Disability: “Capturing Hidden Voices, Report of the World Bank Yale University Global Study on HIV/AIDS and Disability” (Washington, DC, 2004): <http://cira.med.yale.edu/globalsurvey/>
 - › Major study by leading author on HIV/AIDS and disability.
- Health Canada, “HIV AIDS and Disability” (2009): http://data.unaids.org/pub/Report/2009/20091111_hiv_and_disability_en.pdf
 - › Report on HIV/AIDS and disability

Refugees and Disability:

- Janet E. Lord & Michael A. Stein, “Human Rights and Humanitarian Assistance for Refugees and Internally Displaced Persons with Disabilities in Africa” in *ASPECTS OF DISABILITY LAW IN AFRICA* 33 (Pretoria University Law Press, 2011).
 - › Focusing on the implications of the CRPD and refugee law for the African refugee context.
- UN Enable Webpage on refugees with disabilities: <http://www.un.org/esa/socdev/enable/comp505.htm>
- Glen W. White & Michael H. Fox, Catherine Rooney, & Jennifer Rowland, “Final Report Findings of the Nobody Left Behind: Preparedness for Persons with Mobility Impairments Research Project” (2007): www.nobodyleftbehind2.org/-rrtcpbs/findings/Final%20Report%20NLB%20July%202007.pdf
 - › Addressing strategies for inclusion in disaster preparedness and response.

PART 3:

ADVOCACY! TAKING ACTION FOR THE HUMAN RIGHTS OF PERSONS WITH DISABILITIES

Section 1:	3
Advocacy in Support of the Rights of Persons with Disabilities	
Section 2:	15
Monitoring and Implementing the Convention on the Rights of Persons with Disabilities	

Taking action to advance the human rights of persons with disabilities can take many forms and engage a wide array of actors and institutions. Human rights treaties can effect change in society and be a transformative force with thoughtful advocacy planning, careful implementation of the plan, and ongoing monitoring of progress towards the goals of the plan. Human rights advocacy is now understood to encompass a broad range of tactics in public education, media work, lobbying and political action, legal advocacy, and monitoring.

The vision offered by the **Convention on the Rights of Persons with Disabilities** (CRPD) for national level action is far-reaching and potentially transformative if taken up by States Parties and supported by **disabled people's organizations** (DPOs), international development actors, and national human rights institutions and mechanisms. The CRPD not only sets forth a host of general obligations familiar to human rights treaties in prompting national law reform and domestic incorporation of its provisions, but it also provides a framework for a holistic approach to national level disability rights advocacy and action. Moving beyond traditional human rights convention frameworks, it lays out a template for comprehensive action. Thus, in addition to requirements relating to international and national monitoring, the CRPD includes an express mandate for law and policy change, education and awareness-raising, and media work. The CRPD clearly envisages the broadest vision for human rights practice of any human rights treaty. Moreover, the CRPD contains several provisions directed at facilitating implementation, for instance in the area of disability data and statistics gathering.

The two sections in Part 3 provide an introduction to advocacy in support of the rights of persons with disabilities and an overview of monitoring the CRPD. Section 1 identifies the wide array of advocacy methods that can be used to advance the CRPD and discusses the process by which successful advocacy is planned, executed, and evaluated. Section 2 provides an overview of national and international monitoring in the CRPD, as well as an introduction to provisions aiming to support CRPD implementation. As set forth in this section, the CRPD offers an innovative framework for fostering change within participating States Parties at the domestic level. This is a transformation in which persons with disabilities and their advocates have a vital role to play.

SECTION 1: ADVOCACY IN SUPPORT OF THE RIGHTS OF PERSONS WITH DISABILITIES

OBJECTIVES

The background information contained in this section will enable participants to work towards the following objectives:

- Define advocacy in the context of advancing the rights of persons with disabilities under the **Convention on the Rights of Persons with Disabilities** (CRPD);
- Explain the importance of self-advocacy in achieving the human rights of persons with disabilities;
- Understand the wide variety of advocacy methods that may be used to advance the rights of persons with disabilities; and
- Highlight advocacy strategies to advance the rights of persons with disabilities.

GETTING STARTED: THINKING ABOUT ADVOCACY TO ADVANCE THE RIGHTS OF PERSONS WITH DISABILITIES

Advocacy is organized action to create positive change. Change in the context of human rights advocacy may include enabling and empowering persons with disabilities to have a voice of their own, supporting disability law or policy change and persuading decision-makers to support the proposed law or policy, gaining and exercising power to exert influence over a particular political action concerning persons with disabilities, or mobilizing citizen action in support of institutional change to advance disability rights. Advocacy usually involves many people and/or organizations working together toward a shared vision for change. Advocacy can be used for many purposes: for personal needs, for the needs of others with disabilities, or for the needs of the disability community as a whole. Advocacy can take place at many levels: locally, nationally, regionally, and internationally.

Taking action on disability rights requires self-advocates – persons with disabilities themselves – to design, implement, and evaluate advocacy efforts. Self-advocates who have lived experience of disability are best placed to ensure that the voice of persons with disabilities is heard through advocacy efforts. It is also the case, as in all human rights advocacy initiatives, that self-advocates must be prepared to work with other human rights and social justice allies in collaboration to ensure that human rights are respected and to effectively create social change.

ESSENTIALS OF ADVOCACY

Awareness of Rights

Awareness of Self

Organized Action

AWARENESS OF RIGHTS

In order to ensure that rights are being upheld, it is first important to understand the rights that persons with disabilities are afforded. The first two parts of this manual review and explain the human rights of persons with disabilities as articulated in the **Convention on the Rights of Persons with Disabilities (CRPD)**. The rights are set out in the first two parts because it is important for disability rights advocates to first understand the human rights to which persons with disabilities are entitled before they can truly conduct effective human rights advocacy. Such awareness increases consciousness and mobilizes people to take action, to advocate against discrimination, and to fight for the rights to which they are entitled. While having knowledge of the existence of laws or policies is not enough to effect change, possessing an awareness of human rights can also be empowering and inspire people to undertake self-advocacy for the first time.

As discussed in Part 2, persons with disabilities have faced many barriers to equal access and full participation throughout the world. In some countries, disability rights advocates are very aware of these violations because they have a deep understanding of the rights of persons with disabilities and have focused advocacy campaigns on promoting rights. In other countries, there is little awareness about these rights and it is important to develop awareness and understanding to promote equal access and full participation. The content provided in Part 2 is meant to help build awareness of rights and the activities in Part 4 of this manual help further this understanding through participatory learning techniques.

AWARENESS OF SELF

Self-knowledge and effective communication are key to becoming a strong self-advocate. Persons with disabilities, like all human rights advocates, need to know their own strengths and needs, as well as have the ability to effectively communicate those needs when advocating for their rights. For example, employees with disabilities need to be able to advocate for **reasonable accommodations** in the workplace. In order to effectively advocate for reasonable accommodation a person with a disability must know:

- That they are entitled to reasonable accommodation;
- The reasonable accommodations they need to complete job tasks; and
- How to request reasonable accommodations from their employer.

Like any skill, advocacy must be practiced and, as a result, it improves with time.

ORGANIZED ACTION

Awareness alone does not create change. Organized action does and a commitment to undertaking advocacy is essential to taking action. It is important to start with small attainable steps. It is also important to effectively organize advocacy action. Defining advocacy goals, developing an advocacy strategy, making decisions about leadership and coordination, crafting communication and messaging, mobilizing and undertaking advocacy activities, and measuring progress towards goals and objectives are all part of effective, organized advocacy.

CONSIDERING ADVOCACY METHODS AND TACTICS

Advocacy happens at various levels and encompasses a broad range of strategies and tactics. Advocacy should be understood as a process that very often involves several or even many interrelated actions to effect the change that advocates want to make.

CASE STUDY

MULTI-LAYERED ADVOCACY BY THE NATIONAL ASSOCIATION OF THE DEAF TO ADVANCE FREEDOM OF EXPRESSION AND OPINION

The National Association of the Deaf (NAD) has engaged in a number of advocacy tactics designed to increase the accessibility of mainstream media for persons who are deaf or hard of hearing in the United States. NAD advocacy efforts include:

- Working with Congress and the Federal Communications Commission to establish new rules on captioning for television broadcasters, in order to increase the number of captioned television programmes;
- Participating in the Coalition for Movie Captioning (CMC), an umbrella organization of disabled people's organizations (DPOs) that advocates for movies in theatres to be available with quality captions, including on the day and date of release of new movies;
- Bringing legal complaints against companies who refuse to allow customers to communicate with them via telephone relay – a service that enables people to type over the telephone system, facilitating communication between both persons who are deaf and hearing;
- Advocating that broadcasters and others who provide information in emergency situations ensure that such information is accessible to persons who are deaf or hard of hearing;
- Campaigning for the right of children who are deaf to learn sign language.

Source: National Association of the Deaf, available at: <http://www.nad.org>

While human rights advocacy tactics are interrelated and overlap, the following categories are useful in capturing the wide array of tactics that persons with disabilities can utilize to advance their rights:

Public Education Advocacy Action:

- **Educating ourselves:** gathering the information we need to understand the issue and analyzing what we have learned. For example: holding disability rights education workshops for self-advocates on the CRPD and holding intergroup dialogue within the disability community led by experienced facilitators.
- **Educating others:** drawing the attention of allies and the general public to an issue that needs to be addressed and showing how we want to create change. For example: implementing a public education campaign about the problem of bullying children with disabilities in schools, holding a disability sporting event at a community centre, or working with a local museum to lead a disability rights-themed tour.
- **Changing attitudes:** addressing stereotypes and misconceptions about a particular issue and about persons with disabilities generally. For example: using participatory human rights education to educate election officials or teachers about the rights and abilities of persons with disabilities.

CASE STUDY

PUBLIC EDUCATION ADVOCACY IN ACTION: SHUDARSON SUBEDI'S STORY

Shudarson Subedi founded Nepal Disabled Human Rights Center (DHRC-Nepal) in 2000 to pressure the government to enforce existing laws related to persons with disabilities. He brought a successful case in front of the Supreme Court of Nepal to guarantee free and equal education for persons with disabilities. At the same time, Shudarson has made a concerted effort to draw attention to this victory through the media, so that all persons with disabilities may take advantage of this right. More than 2,000 students with disabilities from all over Nepal who had previously been denied acceptance in schools have received free education after the Court ruling. He also sent letters to the Ministry of Education, who then circulated them to the district and regional education officers, putting everyone on notice that persons with disabilities were not to be denied their right to education.

Shudarson knows that disseminating information is the best way to ensure that rights are enforced; too many persons with disabilities do not realize that they are legally entitled to have access to equal education and employment opportunities despite their disabilities, and too many government officials and employers do not realize that they have a legal obligation to accommodate persons with disabilities. Shudarson initiated a weekly radio program in 2002, broadcasting stories produced by journalists with disabilities. Listeners are encouraged to form "Radio Listener Clubs," which serve as citizen watchdog groups for the rights of persons with disabilities. There are now more than 170 self-motivated Radio Listener Clubs throughout Nepal. Shudarson has also founded Disability Voice, a monthly journal dedicated to the concerns, issues, and rights of persons with disabilities in Nepal.

Source: Ashoka, "Shudarson Subedi" (2005): <http://www.ashoka.org/node/3651>

Media Advocacy Action:

- **Traditional media:** presenting information, such as human rights monitoring results, to the news media to influence public opinion on a disability rights issue and to address policy makers. For example: issuing a press release urging action on a disability rights violation, holding a press conference to highlight abuses in institutions, writing a letter to the editor of a newspaper about a policy proposal.
- **Online and social media:** presenting information on disability rights issues utilizing the new tools of social media. For example: building coalitions to highlight disability rights issues through Facebook and Twitter or spreading information about a violation through YouTube.
- **Media training:** presenting information and guidelines to media to improve quality of coverage of disability issues in the media. For example: holding participatory workshops to train journalists on disability rights and the appropriate portrayal of the voice and image of persons with disabilities in the media.



Lobbying and Political Advocacy Action:

- **Addressing policy-makers:** influencing them to consult with and include the concerns of persons with disabilities when making public policies. For example: holding a public forum with decision-makers run by self-advocates on a proposed public policy.
- **Addressing law-makers:** lobbying for support and fulfilment of the human rights of persons with disabilities. For example: meeting with legislators to educate and lobby on a proposed disability rights law.

- **Addressing public officials:** pressuring for enforcement of laws and policies that respect and protect the human rights of persons with disabilities. For example: staging a public demonstration to raise attention on a disability rights issue that is being ignored or neglected.
- **Social and community service providers:** effectively communicating for service delivery. For example: navigating the service delivery system through communication with bankers, grocers, social workers, and/or medical professionals.

Legal Advocacy Action:

- **Creating new law:** participating in advocacy for new laws on disability rights and taking part in the drafting of such laws. For example: advocating for comprehensive disability rights legislation consistent with international law, including the CRPD.
- **Repealing negative law:** taking action to repeal laws that stand in the way of the enjoyment of disability rights. For example: advocating to repeal a discriminatory marriage law that bars persons with disabilities from exercising their right to marry.
- **Working to implement disability rights law:** taking action to ensure that laws are properly implemented and enforced. For example: highlighting non-compliance with accessibility standards in new building construction, training employers on how to provide reasonable accommodations to employees with disabilities, filing a complaint before a court or human rights body alleging violations of the rights of persons with disabilities.

CASE STUDY

LEGAL ADVOCACY IN INDIA ON ELECTION ACCESS

In 1995, persons with disabilities were guaranteed equal opportunities with the passing of The Disability Act in India. Notwithstanding this development, persons with disabilities were unable to vote because of inaccessible facilities and services. In an unprecedented show of strength, India's disability community demanded the attention of political parties and set out their needs in election manifestos. They convened a "National Convention on political rights of disabled people" in New Delhi, organized by the Disabled Rights Group (DRG). In order to make political parties realize the seriousness of their needs, around 700 people from 17 States of India came together in Delhi and submitted their Charter of Demands to the major national Political Parties. The DRG also appealed to the then-President Dr. A.P.J and a document was presented to the Election Commission outlining the problems faced by voters with disabilities and the solutions to them:

Problem 1: Lack of accessible transportation disenfranchises millions of voters with disabilities.

Solution: Government to issue directive to public transport such as buses to pay special attention to voters with disabilities, giving them enough time to board the buses and allowing them to disembark from the bus as close to the polling booth as possible.

Problem 2: Barriers and barricades put up at the polling booths by security agencies.

Solution: Election Commission to issue directive to allow vehicles carrying persons with disabilities to go up to the polling booth. Special stickers can be issued to such vehicles.

Problem 3: Polling booths themselves have steps that are difficult to negotiate.

Solution: Provide wooden ramps at polling stations.

Problem 4: Visually impaired voters cannot cast their vote in secrecy and have to take the help of someone.

Solution: Print numbers in Braille and stick them on the electronic voting machines.

Problem 5: Hearing impaired voters are harassed because of their invisible disability.

Solution: Election Commission to send a firm circular sensitizing their staff about such voters.

On April 19, 2004, the Supreme Court passed an interim order for state governments to provide wooden ramps in all polling booths across the country for the second phase of elections, and without fail in the last two phases on May 5 and May 10. While no special arrangements, such as Braille facilities for persons who are blind, were ordered at that time, the Supreme Court mandated that for all future elections, starting from September 2004, Braille labels giving the names and numbers of candidates should be on all electronic voting machines.

Source: Accessible General Elections in India, "History": <http://sites.google.com/site/accessibleelections/history>

Advocacy efforts benefit from the collective action of individuals and groups working together to achieve a shared goal. Wise advocates recognize that creating lasting change takes time, especially when old attitudes and habits must be overcome. They plan and commit themselves to a sustainable, long-term effort, but they also set short-term goals and benchmarks.

ADVOCACY PLANNING

Planning is an essential part of the advocacy process. There are many ways to think about advocacy planning. The following steps represent one approach:

STEP 1, Define the change you want to make: This step calls for advocates to consider and answer a range of questions, including:

- What are the main issues or barriers to the human rights of persons with disabilities in your community?
- If you could create change surrounding any one of these issues or barriers, which would make the most difference in the lives of persons with disabilities?

STEP 2, Articulate the change you want to make: Once you have a clear vision of the change you want to make, the next step is to develop the skills to communicate your vision articulately and convincingly to others, both potential supporters and opponents. Questions to consider at this stage include:

- How does the problem intersect with other kinds of human rights violations many persons with disabilities experience?
- What group(s) of persons with disabilities does it principally affect?
- What are the possible cause(s) of the problem?
- How does the problem connect to the human rights of persons with disabilities, including specific articles of the CRPD and other human rights documents?
- How does the problem affect the lives of persons with disabilities (and their families where relevant)?
- How will addressing the problem improve the lives of persons with disabilities and the community in general?
- What specific actions should be taken to address the problem?
- How can members of the community get involved in addressing the problem?

STEP 3, Prepare for action and gather information: Once you have articulated the change you want to make, it is important to analyze it in terms of you and your organization's strengths, weaknesses, opportunities, and threats, referred to as a SWOT analysis, and to collect relevant information needed to make a sound plan.

The following factors should be considered in a SWOT analysis:

Strengths: Consider strengths from your organization's and/or your personal point of view and from the point of view of the people with whom you deal.

- What are your advantages?
- What do you do well?
- What do other people see as your strengths?
- What unique resources do you have?

Weaknesses: Again, consider this from an internal and external basis: do other people seem to perceive weaknesses that you do not see? It is best to be realistic now and face any unpleasant truths as soon as possible.

- What do you do poorly?
- What should you avoid?
- Where do you have fewer resources than others?
- What are others likely to see as your weaknesses?

Opportunities:

- What are the good opportunities facing you?
- What are the interesting trends of which you are aware?
- Who are your potential allies?

Threats:

- What obstacles do you face?
- Does your group have all the required skills for the job?
- Do competitors or opponents already exist?

A wide variety of information is required to plan an effective advocacy strategy. Questions to consider include:

- What statistics are available about persons with disabilities in your community, your country, and in the world (such as, their numbers, ages, income levels, etc.)?
- What laws and official policies does your country have that directly affect persons with disabilities?
- Has your country ratified and is thus legally bound to uphold any of the international human rights treaties affecting persons with disabilities?
- Does your country have a national human rights commission and/or a national disability commission?

STEP 4, Make the advocacy plan: Once the initial steps of defining, articulating, and gathering information about the action(s) you wish to take, you are ready to make an action plan. Advocates and their organizations may wish to develop more than one plan, perhaps having one action plan for actions aimed at long term goals and several others for individual, short-term actions. In every case, advocates should include a section on follow-up and evaluation.

STEP 5, Take action: After the advocacy plan is adopted, you are ready to implement the action plan(s) and use the skills and information gained to clearly address social change no matter how small the step. Advocates should allocate a reasonable amount of time to accomplish their goal and set a date to follow-up.

STEP 6, Follow-up: Once a group has begun to take action, it is important to meet regularly to evaluate progress, communicate the successes or challenges faced, and make adjustments, if needed, to the action plan(s). Questions to consider at this stage include:

- Did you follow the action plan?
- What successes did you have?
- What challenges did you encounter?
- Does the plan need to be amended?
- If you met your goal:
 - › What factors contributed to your success?
 - › How can you build on this success?
 - › Should you repeat this strategy?
- If your goal was not met:
 - › What revisions need to be made to the action plan?
 - › Does additional research need to be completed?
 - › Are additional resources needed?
- What are your next steps for action?

ADVOCACY PARTNERS

Working in partnership with human rights allies is an important part of successful advocacy. Disability rights advocates have a wide range of possible partners with whom to work to effect change. **These include, but are by no means limited to, the following groups:**

Disabled People's Organizations

Disabled people's organizations (DPOs), or groups led by and advocating on behalf of persons with disabilities themselves, represent the core of the disability rights movement. They provide an important environment to practice advocacy skills and promote a sense of belonging, identity, and connection to others who share similar life experiences. Membership in disability organizations may also provide a useful way for persons with disabilities to learn more about their own disability and strategies that others have used to advocate for their rights. For example, persons with the same disability type may benefit from discussing how they developed self-advocacy skills and the reasonable accommodations they request to access different realms of society (such as in education, employment, health, transportation).

Human Rights Organizations

Human rights organizations make natural allies for the disability community and are increasingly engaging in disability rights work or collaborating with DPOs in support of specific disability rights issues. While many human rights organizations may not have extensive experience addressing the rights of persons with disabilities, they can clearly build their capacity on disability rights through collaboration with disability advocates and DPOs.

Parent Groups

Parents and family members of children and young persons with disabilities may benefit from joining a parents group to learn more about their child's rights. Many parents are not aware of the rights of their child and do not know where to find useful information. Membership in a parents group can help raise awareness and help parents become better advocates for their child. Although parents should learn to advocate for their child, it is important to ensure that their child also learns self-advocacy skills. In too many cases, parents and family members become overprotective and do not allow their children to develop the self-advocacy skills that they will need to live independently in the future.

Student Groups

Student groups at universities have executed some of the most effective advocacy campaigns in various countries. In some instances, students with disabilities have created their own student groups to advocate for disability accommodations. Indeed, such a student group at the University of California in Berkeley helped to launch the American disability rights movement during the 1970s.

National Human Rights Institutions

There are now more than 90 national human rights institutions, many of which focus in particular on the rights of marginalized groups and which make natural allies for the disability community. In addition, there are many specialized national human rights institutions, such as disability commissions, that focus exclusively on disability rights. It is important for disability advocates to put disability rights on the agenda of national human rights institutions and to work in collaboration with them given their role in national human rights monitoring.

USEFUL RESOURCES ON HUMAN RIGHTS ADVOCACY

- The Advocates for Human Rights, *A Practitioner's Guide to Human Rights Monitoring, Documentation, and Advocacy* (January 2011): http://www.theadvocatesforhumanrights.org/uploads/final_report_3.pdf
 - › Detailed and highly useful human rights advocacy guide.
- New Tactics Human Rights Project, Center for the Victims of Torture, *New Tactics in Human Rights: A Resource for Practitioners* (2004): <http://www.newtactics.org/sites/newtactics.org/files/resources/oricontentsintro.pdf>
 - › Handbook detailing wide array of human rights advocacy tactics.

SECTION 2: MONITORING AND IMPLEMENTING THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

CRPD KEY PROVISIONS ON MONITORING AND IMPLEMENTATION

Article 31, Statistics and data collection

Article 32, International cooperation

Article 33, National implementation and monitoring

Article 34, Committee on the Rights of Persons with Disabilities

Article 35, Reports by States Parties

Article 36, Consideration of reports

Article 40, Conference of States Parties

GETTING STARTED: THINKING ABOUT MONITORING AND IMPLEMENTING THE CRPD

The adoption of the **Convention on the Rights of Persons with Disabilities** (CRPD) by countries throughout the world and its entry into force is a major step forward in the global recognition of the human rights of persons with disabilities. It also represents a challenge for States and disability rights advocates alike, whose work is far from finished with the adoption of the CRPD. Like other human rights conventions, the CRPD contains important obligations to ensure that States actually monitor their progress in meeting treaty commitments. **States Parties** are required to participate in the CRPD's compliance mechanisms at both the national and international level. The role for civil society organizations, especially disabled people's organizations (DPOs) and other human rights groups, is to undertake independent monitoring of how well States are doing in complying with the CRPD. Such advocacy can take many forms. The sections that follow provide an overview of CRPD monitoring and implementation requirements and suggest some ideas of where disability advocacy efforts can hold States accountable to their CRPD obligations.

WHAT DOES THE CRPD SAY ABOUT MONITORING AND IMPLEMENTING DISABILITY RIGHTS OBLIGATIONS?

Human rights conventions create both monitoring and implementation obligations that have implications not only for States Parties, but also for non-governmental organizations (NGOs), national human rights institutions, and international organizations, among others.

Monitoring in the human rights context refers to the process of tracking or checking to determine if States are, in fact, meeting the specific requirements of the treaty. States are responsible for undertaking their own monitoring activities and, in addition, States must ensure that independent monitoring also occurs, for instance, by a national human rights commission. NGOs also have a critical independent monitoring role as an additional check on State compliance with treaty obligations.

Implementation in the human rights context refers to the actual carrying out of treaty obligations. This is the action that must follow a State's adoption of treaty obligations. In a comprehensive human rights treaty such as the CRPD, implementation encompasses all the processes involved in seeing the obligations of the treaty given effect, including law and policy reform, training, ongoing monitoring, adjusting to new conditions, and ensuring progressive realization of economic, social, and cultural rights.

Articles 31-40 of the CRPD set forth the provisions for monitoring and implementing the treaty. They are designed to facilitate the ways States Parties meet the specific human rights obligations set forth in the CRPD and keep systematic track of how they do so. Some of these implementation tools are new and innovative and represent a progressive development of human rights monitoring mechanisms.

DISABILITY DATA AND STATISTICS

The collection and analysis of reliable data on disability and related issues plays a significant role in the development of accurate, useful, and implementable laws and policies to protect and promote the rights of persons with disabilities. CRPD Article 31, Statistics and data collection, requires States to collect appropriate information, including statistical and research data, as a basis for formulating laws and policies relating to the rights of persons with disabilities. The CRPD further requires data collection to comply with legally established standards to ensure confidentiality and respect for privacy, as well as internationally accepted norms to protect rights and ethical principles in the collection and use of statistics.

The CRPD also requires this data to be broken down, or “disaggregated,” in various ways (for example, according to gender, age, geographical location, or disability group) to enable it to be used to assess the effectiveness of implementation efforts in any particular area or with respect to a particular group. The CRPD also requires

States to ensure that this information is disseminated to persons with disabilities in accessible formats as well as to other interested persons, in particular through DPOs.

THE COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES ON DATA AND STATISTICS

The Committee on the Rights of Persons with Disabilities (CRPD Committee) issued the following concluding observations in response to the report of Tunisia:

37. The Committee recommends that the State party systematize the collection, analysis and dissemination of data, disaggregated by sex, age and disability, enhance capacity-building in this regard, and develop gender-sensitive indicators to support legislative developments, policymaking and institutional strengthening for monitoring and reporting on progress made with regard to the implementation of the various provisions of the Convention.

38. The Committee regrets the invisibility of children with disabilities in data related to protection of children.

39. The Committee recommends that the State party systematically collect, analyze and disseminate data, disaggregated by sex, age and disability, on abuse and violence against children.

Source: Committee on the Rights of Persons with Disabilities, "Reporting Guidelines": <http://www.ohchr.org/Documents/HRBodies/CRPD/CRPD-C-2-3.pdf>

INTERNATIONAL COOPERATION AND DISABILITY-INCLUSIVE DEVELOPMENT

The CRPD has an explicit social development dimension. It recognizes that persons with disabilities often face the risk of poverty and that many of them experience multiple forms of discrimination based on economic or other status. It also acknowledges the importance of addressing the negative impact of poverty on persons with disabilities.

CRPD Article 32, International cooperation, expressly recognizes the importance of international cooperation to support the national efforts of States Parties to effectively implement their obligations. It requires States Parties to cooperate through partnerships with other States, and/or with relevant international and regional organizations and civil society to support national measures to implement the CRPD. The CRPD also expressly recognizes the importance of ensuring that international development programmes include persons with disabilities and thus supports disability-inclusive development processes. This inclusion is critical, given that the vast majority of persons with disabilities live in developing countries in poverty.

Article 32 specifically identifies a range of measures that States can take within the framework of international cooperation, such as:

- Disability inclusion in international cooperation, including international development programmes;
- Capacity building, including through the exchange and sharing of information, experiences, training programmes, and best-practices;

- Research programmes and the facilitation of access to scientific knowledge; and
- Technical and economic assistance, including the facilitation of access to accessible and assistive technologies.



MULTILATERAL AND BILATERAL EFFORTS TO ADVANCE DISABILITY INCLUSIVE DEVELOPMENT

UN General Assembly: In 2008, as part of an ongoing effort to advance disability-inclusive development in its resolutions, the UN General Assembly adopted the resolution “Realizing the **Millennium Development Goals** for persons with disabilities through the implementation of the World Programme of Action concerning Disabled Persons and the Convention on the Rights of Persons with Disabilities.”

UN Secretary-General: In 2009 the UN Secretary-General issued a report focusing on the situation of persons with disabilities with respect to the realization of the Millennium Development Goals and on lessons learned and synergies and complementarities achieved, based on the implementation of the World Programme of Action on Disabled Persons, the **Standard Rules on the Equalisation of Opportunities for Persons with Disabilities**, and the CRPD.

UN Secretariat for the CRPD: In collaboration with the **World Health Organization** (WHO), the **UN Secretariat for the CRPD** organized the Expert Group Meeting on Mainstreaming Disability in Millennium Development Goals Policies, Processes and Mechanisms: Development for All. The meeting, held in 2009, reviewed existing policy frameworks, resources, and tools, as well as mechanisms for mainstreaming disability in Millennium Development Goals processes. It also provided policy recommendations.

The European Commission: In 2004, the European Commission issued a “Guidance Note on Disability and Development.” This document provides advice to European Union (EU) delegations on how to address disability within the context of development cooperation and explicitly recognizes that poverty reduction goals cannot be met without accounting for the needs of persons with disabilities. It also recognizes that persons with disabilities are not sufficiently included in international development work funded by the EU. The Guidance Note supports:

1. Understanding the scale and impact of disability in the country setting and recognizing the diversity of the population of persons with disabilities;
2. Advocating and supporting the human rights model of disability, as opposed to the charity or medical models;
3. Pursuing a “twin-track approach,” defined as the need to “mainstream disability issues across all relevant programmes and projects and to have specific projects for disabled people”; and
4. Assessing, as part of the mid-term review, the extent to which country programmes are inclusive of persons with disabilities.

The Australian Agency for International Development (AUSAID): In 2009, AUSAID issued “Development for All: Towards a Disability-Inclusive Australian Aid Program 2009-2014,” a strategic plan to advance disability inclusion in development. The process by which it was developed was purposefully participatory, including consultation not only within and among the Australian disability community, but also including the participation of stakeholders in developing countries where AUSAID works. Principles to guide the strategy include:

Ensuring an active central role by persons with disabilities;

1. Recognition and respect for rights;
2. Respect and understanding of diversity;
3. Taking the interaction of gender and disability into account;
4. Focusing on children; and
5. Supporting people and partnerships.

The United States Agency for International Development (USAID): In November 2004, USAID made the 1997 Disability Guidelines part of USAID policy. The specific objectives of the USAID Disability Policy are:

1. To advance United States foreign assistance program goals by promoting the participation and equalization of opportunities of individuals with disabilities in USAID policy, country and sector strategies, activity designs and implementation;
2. To increase awareness about disability issues within USAID programmes and in host countries;
3. To engage other U.S. government agencies, host country counterparts, governments, implementing organizations, and other donors in fostering a climate of non-discrimination for persons with disabilities; and
4. To support international advocacy for persons with disabilities.

Sources:

- United Nations General Assembly, “Realizing the Millennium Development Goals for persons with disabilities through the implementation of the World Programme of Action concerning Disabled Persons and the Convention on the Rights of Persons with Disabilities.” GA Res A/RES/63/150 (18 December 2008): <http://www.un.org/disabilities/default.asp?id=1463>.
- “Disability and the Millennium Development Goals,” Expert Group Meeting on Mainstreaming Disability in Millennium Development Goals (MDGs) policies, processes and mechanisms: Development for All (WHO, Geneva, 14-16 April 2009): <http://www.un.org/disabilities/default.asp?id=1470>
- European Commission (EC), “Guidance Note on Disability and Development” (July 2004): http://ec.europa.eu/development/body/publications/docs/Disability_en.pdf
- AUSAID, “Development for All: Towards a Disability-Inclusive Australian Aid Program 2009-2014” (2008): http://www.aisaid.gov.au/keyaid/pdf/FINAL%20AusAID_Development%20for%20All.pdf
- USAID Disability Policy: <http://www.usaid.gov/about/disability/DISABPOL.FIN.html>

NATIONAL LEVEL MONITORING REQUIREMENTS

The CRPD stands out among the core human rights conventions because it devotes specific language to the issue of national level monitoring. CRPD Article 33, National implementation and monitoring, requires States Parties to establish specific mechanisms at the national level with a view to strengthening implementation and monitoring of the rights of women, men, and children with disabilities. The CRPD requires States to:

- Designate a focal point or focal points within government relating to implementation – in other words, a designated office or other entity that has primary responsibility for overseeing implementation of the CRPD;

- Consider the establishment or designation of a coordination mechanism within government to facilitate related action in different sectors and at different levels; and
- Establish an independent framework, such as a national human rights institution, to promote, protect and monitor the CRPD.

Article 33 further requires that civil society, in particular persons with disabilities and their representative organizations, be involved and participate fully in all aspects of monitoring. DPOs thus have an important role to play in ensuring that they are effectively engaged in monitoring at the national level.

Other mechanisms of national monitoring are also relevant for effective implementation of the CRPD. For example, national courts and tribunals can ensure legal protection of the rights in the CRPD. A national process that monitors a national human rights action plan is also effective for the advancement of disability rights.

NATIONAL HUMAN RIGHTS INSTITUTIONS AND THE CRPD

National Human Rights Institutions (NHRIs) were deeply involved in the process of drafting the CRPD. NHRI representatives from around the world participated in the negotiations and have worked to promote the CRPD through a wide variety of activities. Through its International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), a representative body of national human rights institutions from all parts of the globe, NHRIs have come together to discuss the CRPD and share lessons learned and country experiences.

Two of these meetings were sponsored by the Harvard Law School Project on Disability, which is actively working with NHRIs from around the world to advance CRPD education and treaty implementation. Other CRPD meetings of NHRIs have been sponsored by the Asia Pacific Forum on NHRIs, an NGO dedicated to strengthening the capacity of NHRIs to advance human rights.

SHADOW REPORTING BY NGOS

Non-governmental organizations (NGOs), such as **disabled people's organizations** (DPOs) play an essential role in providing both reliable and independent information to UN bodies, such as the **Human Rights Council**, a **Special Rapporteur**, or a treaty body like the CRPD Committee. One method of providing inputs to the CRPD Committee and other treaty bodies is through the submission by an NGO or coalition of NGOs of a **shadow report**, which supplements, and in some cases counters information provided in the official governmental report. Such additional information is often very useful for treaty bodies, provided it is credible. Other reports may not “shadow” or parallel a government report, but may provide human rights reporting and documentation that is helpful to the treaty body or other UN human rights mechanisms.

While there is no single format for shadow reports to a treaty body, it should:

- Be organized according to the articles of the particular treaty, as a commentary on the State Party's report; and
- Analyze a particular problem rather than merely describe it.

DPOs may find it useful to produce reports that shadow the entire State report, but this is a labour-intensive process. Instead, a disability organization that works on particular problems might produce reports that merely shadow one or a few articles of a treaty, for example the provisions on violence. It is often helpful for NGOs to work in coalitions to create shadow reports, for example a DPO might collaborate with a women's human rights NGO in drafting a shadow report on the reproductive rights of women with disabilities, with each organization contributing in the area of their expertise. Working in coalitions is also an effective way to ensure that the particular treaty-monitoring body gains a comprehensive view of a situation in a particular country. Advocates should follow basic ethical guidelines and human rights principles in their preparation of shadow reports, taking care to present accurate information, partnering with local organizations and consulting experts with disabilities, and avoiding conflicts of interest (for example, participating in a shadow report without disclosing close links to a government), among others.

INTERNATIONAL LEVEL MONITORING REQUIREMENTS UNDER THE CRPD

At the international level, the CRPD provides for monitoring through the creation of the **Committee on the Rights of Persons with Disabilities** (CRPD Committee), a group of elected independent experts. Such a committee, known as a **treaty body**, is a common feature of all core human rights conventions. Treaty bodies all perform important oversight functions, including: the review of periodic reports which States Parties are required to make; engaging in dialogue with States regarding their reports; and issuing concluding observations and recommendations to the State Party.

Although recommendations and concluding observations issued by treaty committees are not legally binding, they carry weight and can often lead to changes in law and policy. Moreover, they provide an important basis upon which NGOs can advocate for human rights implementation.

In addition to its creation of a treaty body, the CRPD also provides for an annual **Conference of States Parties** (COSPP) to consider matters related to the implementation of the CRPD. Attended by representatives of all States that have ratified the CRPD, this conference provides an important opportunity for States to share lessons learned and an excellent opportunity for disability advocates to lobby States on CRPD implementation.

THE COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES

The CRPD mandates the creation of the CRPD Committee. It is composed of 18 independent experts and is responsible for monitoring the implementation of the Convention by States Parties. The CRPD Committee meets twice a year in Geneva and has the following functions, similar to other human rights treaty bodies:

- Examination of periodic reports submitted by States;
- Development of list of questions in response to a State's report;
- Submission of concluding observations on State reports;
- Formulation of general comments that elaborates on a theme or provides interpretive guidance on treaty provisions;
- Recommendations;
- Consideration of individual communications (as provided under the **Optional Protocol**, considered in more detail below); and
- Undertaking of inquiries (as provided under the **Optional Protocol**, considered in more detail below);

PERIODIC REPORTING

Periodic reporting, a mechanism written into most human rights treaties, provides a means of systematically monitoring how States Parties are meeting the obligations they undertook when they ratified a treaty. Reporting under the CRPD is an important tool with which governments, national human rights institutions, and civil society can take stock of the state of enjoyment of human rights of persons with disabilities in a particular Member State. Periodic reporting to the CRPD Committee serves the following functions:

- Provides a vehicle for governments, national human rights institutions, and civil society to understand better the objectives and rights included in the CRPD;
- Gives publicity to the CRPD and the human rights situation of persons with disabilities;
- Provides an opportunity for the reporting State to benefit from the expertise of the CRPD Committee and to open dialogue on advancing implementation of the CRPD;
- Highlights good practices that could be shared with other States Parties;
- Allows governments to benefit from the good practices and experiences of other governments as all periodic reports and concluding observations of Committees are public documents;
- Provides essential guidance to governments, national human rights institutions, and civil society for future action to implement the CRPD, giving an authoritative guide for future legislation, policies and programmes; and
- Highlights areas where a State Party might benefit from international assistance.

Within two years after ratification of the CRPD, each State Party is required to submit to the CRPD Committee an initial comprehensive report on measures taken to implement the treaty and progress to date. The CRPD Committee, like other treaty bodies, has established reporting guidelines to direct States Parties in the preparation of their reports. The initial report should do the following:

- Establish the constitutional, legal, and administrative framework for the implementation of the CRPD, which should include identifying laws that advance the CRPD along with those that have been, or still need to be, modified to advance implementation;
- Explain the policies and programmes adopted to implement each of the CRPD's provisions; and
- Identify any progress made in the enjoyment of the rights of persons with disabilities as a result of ratification and implementation of the CRPD.

Each State Party must submit subsequent reports at least every four years or whenever the Committee so requests. Subsequent reports should do the following:

- Respond to the concerns and other issues highlighted by the CRPD Committee in its concluding observations in previous reports;
- Indicate progress made in the enjoyment of the rights of persons with disabilities over the reporting period; and
- Highlight any obstacles that the government and other actors might have faced in implementing the CRPD over the reporting period.



Reports may indicate factors and difficulties that States are facing in implementing the CRPD.

States should prepare reports in an open and transparent manner and should consult with and actively involve persons with disabilities and their representative organizations.

The preparation of periodic reports has the following intended effects:

- Encourages governments to undertake a comprehensive review of national law, policies, and programmes on human rights and disability;
- Ensures State Parties regularly monitor the enjoyment of the rights of persons with disabilities;
- Encourages governments to set priorities and indicators by which to judge their performance;
- Provides governments with a benchmark against which subsequent reports may be compared;
- Provides an opportunity for public discussion and scrutiny of the government's performance; and
- Highlights difficulties in implementation that might otherwise not come to light.

FOLLOW-UP TO PERIODIC REPORTING

Once the CRPD Committee has considered the report and formulated its **concluding observations** and recommendations, the Committee may transmit its findings to the various specialized agencies, funds, and programmes of the United Nations for follow-up in the form of technical cooperation. There are many UN agencies whose mandates include activities relevant to the rights of persons with disabilities, such as UNESCO, the International Labour Organization (ILO), the World Health Organization, the UN Development Programme (UNDP), UNICEF, and the World Bank. By engaging these and other organizations, States and the CRPD Committee can help ensure that periodic reporting has an impact beyond the dialogue with the Committee and can lead to sustained improvement in the enjoyment of the rights of persons with disabilities.

OPTIONAL PROTOCOL TO THE CRPD

An optional protocol is an international agreement (treaty) that has a relationship to a “parent” treaty. It introduces procedures and/or addresses issues that the original treaty does not cover. It is called “optional” because States are not required to become parties to the protocol, even if they are party to the parent treaty. Thus a government may have ratified and become a party to the CRPD, but may not have ratified and become a party to the Optional Protocol to the CRPD.

The Optional Protocol to the CRPD introduces two procedures to strengthen implementation of the CRPD:

- An individual communications procedure; and
- An inquiry procedure.

COMMUNICATIONS PROCEDURE UNDER THE CRPD OPTIONAL PROTOCOL

The individual communications procedure permits individuals and groups of individuals whose government has ratified the Optional Protocol to complain to the CRPD Committee that the State has breached one of its obligations under the CRPD. This complaint is known as an “individual communication.”

When the CRPD Committee receives such an individual communication, it will examine the complaint and then formulate its views and recommendations, if any, on the communication and send them to the State in question. Those views and recommendations appear in the CRPD Committee’s public report to the General Assembly. Individual communications procedures are a paper process only - in other words, neither the complainant nor the State appears before the CRPD Committee in person.

Not all communications are admissible. A communication will be considered inadmissible where:

- It is anonymous;
- It is an abuse or incompatible with the provisions of the CRPD;
- The same complaint has already been examined by the CRPD Committee;
- The same complaint has been or is being examined under another international investigations procedure;
- All available domestic remedies have not yet been exhausted – in other words, the complainant has attempted to obtain a remedy through the legal system of the State prior to lodging a complaint at the international level with the CRPD Committee, though if no remedies exist at the domestic level, this requirement may be waived;
- It is ill-founded or not sufficiently substantiated; and/or
- The facts occurred and terminated before the Protocol was valid for State in question.

INQUIRY PROCEDURE UNDER THE CRPD OPTIONAL PROTOCOL

Like some other human rights treaties, the CRPD’s Optional Protocol has a procedure of inquiry that allows the CRPD Committee to initiate investigations regarding “egregious or systematic human rights violations.” In such cases, the CRPD Committee is to call on that State Party to collaborate in an investigation and submit its observations for review. The inquiry is confidential and has to be conducted with the full cooperation of the State concerned.

The CRPD Optional Protocol inquiry procedure mirrors those of other human rights inquiry procedures and proceeds as follows:

- Information is submitted to the CRPD Committee, for example by a DPO or some other non-governmental organization, alleging serious human rights violations;

- The CRPD Committee reviews the information to assess its reliability and whether it does indicate grave or systematic violations of the CRPD;
- The CRPD Committee may invite the State in question to cooperate in the examination of the information, for example, by asking the State to submit its observations on the information received;
- The CRPD Committee reviews any of the State Party's observations;
- The CRPD Committee reviews other reliable information, for instance, reports received from DPOs;
- The CRPD Committee may choose to designate one or more of its members to conduct an inquiry and report to it on an urgent basis;
- Where the CRPD Committee decides it is warranted, and provided the State concerned gives consent, the inquiry may include a visit to the country by Committee members;
- Following an examination of the findings of the inquiry, the CRPD Committee must transmit the findings and its comments to the State, which has six months to submit its observations to the CRPD Committee;
- After the six month period in which it may submit its observations, the State may be invited to provide details of measures taken to respond to the inquiry and the CRPD Committee may request further information from the State;
- The CRPD Committee will then publish a summary of its findings in its report to the General Assembly and, subject to the agreement of the State concerned, the CRPD Committee may also publish its full report on the inquiry.

It is possible for a State to ratify the Optional Protocol but to “opt-out” of the inquiry procedure. In other words, at the time of **signing, ratification, or accession** of the Protocol, the State may declare that it does not recognize the competence of the CRPD Committee to undertake inquiries, although it does accept the individual communications procedure. While a State may “opt-out” of the inquiry procedure, all States Parties to the Optional Protocol must accept the individual communications procedure.

OTHER MECHANISMS FOR MONITORING THE RIGHTS OF PERSONS WITH DISABILITIES

Other human rights treaty bodies: There are currently nine human rights **treaty bodies** like the CRPD Committee. All are composed of independent experts who monitor implementation of the core international human rights treaties. A tenth treaty body, the Subcommittee on Prevention of Torture, established under the Optional Protocol to the Convention against Torture, monitors places of detention in States Parties to the Optional Protocol. The treaty bodies are created in accordance with the provisions of the treaty that they monitor. **The Office of the High Commissioner for Human Rights (OHCHR)** supports the work of these treaty bodies and assists them in harmonizing their working methods and reporting requirements through their secretariats.

HUMAN RIGHTS TREATY MONITORING BODIES

There are ten human rights treaty bodies that monitor implementation of the core international human rights treaties:

- **Human Rights Committee**
- **Committee on Economic, Social and Cultural Rights**
- **Committee on the Elimination of Racial Discrimination**
- **Committee on the Elimination of Discrimination against Women**
- **Committee against Torture**
- **Subcommittee on Prevention of Torture**
- **Committee on the Rights of the Child**
- **Committee on Migrant Workers**
- **Committee on the Rights of Persons with Disabilities**
- **Committee on Enforced Disappearance**

Because all human rights treaties protect the rights of persons with disabilities, the independent committees of all other UN human rights treaties also have a role in monitoring the rights of persons with disabilities within the scope of each specific treaty. For example, the Human Rights Committee has authority to monitor the civil and political rights of persons with disabilities amongst States Parties to the **International Covenant on Civil and Political Rights (ICCPR)**. The **Committee on the Rights of the Child** has the authority to consider the situation of the enjoyment of the rights of children with disabilities under the **Convention on the Rights of the Child (CRC)**.

Universal Periodic Review Process: The **Universal Periodic Review (UPR)** is a unique process which involves a review of the human rights records of all 192 UN Member States once every four years. The UN General Assembly created the UPR in 2006 by resolution 60/251, which also established the Human Rights Council itself. The UPR provides the opportunity for each State to declare what actions they have taken to improve the human rights situation in their countries and to fulfil their human rights obligations.

Special procedures: Special Procedures refer to various mechanisms overseen by the Human Rights Council to address either specific country situations or thematic human rights issues across the world. These procedures include:

- **Individual Experts:** An individual **special rapporteur**, representative, or independent expert appointed by the Human Rights Council and working on a voluntary basis.
- **Working Groups:** A group of prominent, independent experts working on a voluntary basis and appointed by the Human Rights Council.

The mandates of these Special Procedures typically task the appointed experts or working group to examine, monitor, advise, and publicly report on human rights situations. Some known as country mandates have the responsibility to focus on specific countries or territories. Others, known as thematic mandates, are assigned to monitor major issues of human rights violations worldwide. Currently, there are some 30 thematic mandates and some 8 country mandates. All report to the Human Rights Council on their findings and recommendations. In some cases, these mandates are the only mechanisms that draw the attention of the international community to certain human rights issues. There are opportunities for disability advocates to engage with these special procedures to ensure that the rights of persons with disabilities are being addressed in all of the contexts within which individual experts and working groups work.

CRPD SECRETARIAT SUPPORT

Two offices play unique roles in relation to supporting the institutional arrangements of the CRPD. The CRPD Secretariat, located within the Department of Economic and Social Affairs, based in New York City, services the **Conference of States Parties** to the CRPD. The CRPD Committee is supported by the Office of the High Commissioner for Human Rights (OHCHR), based in Geneva, Switzerland.

SOME SPECIALIZED TERMS RELATED TO MONITORING

Committee on the Rights of Persons with Disabilities (CRPD Committee): Committee of 18 independent experts responsible for monitoring the implementation of the CRPD by States Parties and for reviewing communications and initiating inquiries under the Optional Protocol to the CRPD.

Concluding Observations: Document prepared by treaty bodies, such as the CRPD Committee, in response to its review of a report submitted by a State Party as part of the process of reviewing a State's implementation of a human rights treaty.

Conference Of States Parties: Meeting of States Parties to the CRPD in which treaty implementation is discussed and to which non-governmental organizations, including disabled people's organizations (DPOs), national human rights institutions, observer States, and others are invited.

CRPD Secretariat: Refers to the two offices within the United Nations mandated to provide personnel, policy, research, and logistical support to the **CRPD Committee** and the **Conference of States Parties**. The **CRPD Committee** is supported by the **Office of the High Commissioner for Human Rights** and the **Conference of States Parties to the CRPD** is supported by the UN Department of Economic and Social Affairs (UN DESA).

General Comment: Document adopted by a treaty body that sets forth the committee's understanding of a particular treaty provision or a particular issue covered by the treaty or its methods of work. General comments often seek to clarify the reporting duties of States Parties with respect to certain provisions and suggest approaches to implementation of treaty provisions. Also called "general recommendation" by some treaty bodies.

Individual Communications Procedure: A procedure allowing an individual or group to lodge a complaint to a **treaty body** (or other procedure) that alleges human rights treaty violations. Such procedures result in non-binding recommendations in cases of violation.

Inquiry Procedure: A procedure allowing a treaty body to initiate an inquiry into grave or systemic human rights treaty violations. Such procedures result in non-binding findings and/or recommendations.

Optional Protocol: Separate treaty that provides States Parties to the parent treaty with the opportunity to participate or "opt in" with regard to procedures set forth in the optional protocol or additional obligations not found in the parent treaty.

ADDITIONAL RESOURCES ON MONITORING

- Committee on the Rights of Persons with Disabilities webpage: <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx>
- Committee on the Rights of Persons with Disabilities, Guidelines on treaty-specific document to be submitted by states parties under article 35, paragraph 1, of the Convention on the Rights of Persons with Disabilities: <http://www.ohchr.org/Documents/HRBodies/CRPD/CRPD-C-2-3.pdf>
- Office of the High Commissioner for Human Rights, “Monitoring the Convention on the Rights of Persons with Disability: Guidance for Human Rights Monitors”: http://www.ohchr.org/Documents/Publications/Disabilities_training_17EN.pdf
 - › Concise manual relating to CRPD monitoring.
- UN Department of Economic and Social Affairs (UN-DESA), the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Inter-Parliamentary Union (IPU), *Handbook for Parliamentarians on the Convention on the Rights of Persons with Disability: From Exclusion to Equality, Realizing the Rights of Persons with Disabilities* (2007): <http://www.un.org/disabilities/default.asp?id=212>
 - › Overview of the CRPD for legislators and others.
- Comisión Nacional de los Derechos Humanos de México, Network of the Americas, Office of the United Nations High Commissioner for Human Rights, “National Monitoring Mechanisms of the Convention on the Rights of Persons with Disabilities” (2008).
 - › Collection of essays on the CRPD within the context of national monitoring mechanisms.
- Gerard Quinn, Keynote Address, “Implementing the UN Convention on the Rights of Persons with Disabilities - The Institutional Architecture for Change,” *Jacobus tenBroek Disability Law Symposium*, NFB Headquarters Baltimore, Maryland, USA (17 April 2009): <http://www.nuigalway.ie/cdlp/documents/publications/NFB%20paper%20final.pdf>
 - › Analysis of CRPD implementation challenges by leading commentator.
- International Disability Alliance webpage, <http://www.internationaldisabilityalliance.org>
- Julie Mertus, *The United Nations and Human Rights* (2d edition, 2009).
 - › Excellent introduction to the UN human rights system.
- Michael Ashley Stein & Janet E. Lord, “Monitoring the Convention on the Rights of Persons with Disabilities: Innovations, Lost Opportunities, and Future Potential,” 32 *Human Rights Quarterly* 691 (August 2010).
 - › Detailed consideration of CRPD monitoring mechanisms.

PART 4:

FACILITATING HUMAN RIGHTS LEARNING

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SECTION 1

LEARNING ABOUT HUMAN RIGHTS

Human Rights. YES! calls for a way of learning that places participants at the centre of the experience and gives them the authority over and “ownership” of their own learning. Part 4 contains active learning exercises to accompany the content of each section of the book. These exercises are designed to encourage learners to grapple with concepts, share experiences, and think analytically about issues and social change.

Each learning exercise in this book comes with the urgent insistence that it be modified as necessary to ensure full access for all participants. The aim of each exercise is to promote inclusion and participation, and to this end it is important for facilitator’s to always keep accessibility in mind. In every exercise, the facilitator should employ multiple modes of communicating information, such as supplementing oral presentation and group discussion with note taking on chart paper or a board in the front of the room, taking care to make the experience accessible to all.

Facilitators should make every effort to determine if reasonable accommodations are needed for participants with disabilities. Both when the training is announced and at its opening, facilitators should inform participants that reasonable accommodations will be provided upon request (for example, the announcement might read “Please let us know if you have any specific reasonable accommodation requests prior to the event”). Even when advance information is not available, facilitators can make some simple provisions, such as preparing exercise handouts in a variety of formats such as large print and remaining aware of participant needs as the workshop evolves (for example, observing if some participants need more time to complete tasks, longer or more frequent breaks, or assistance to participate in group work) and responding accordingly.

Whenever possible the facilitator should send out any handouts or readings via email before the event so that persons who use screen-reading technology or people who may prefer extra time to read can review them prior to attending. The facilitator should also read out loud the sections of the handout as the group discusses them. For example, if the group is talking about the first sentence of the handout, the facilitator should read that sentence out to everyone first.

The concept of **reasonable accommodation**, which is discussed throughout this manual, is part of the facilitator’s duty to provide for participants with disabilities. If, for example, an activity calls for role-play that may not be accessible to persons with different types of disabilities, then it is important for the facilitator to adapt the activity to accommodate each participant.

Learning activities for Part 1, Understanding the Human Rights of Persons with Disabilities, introduce participants to the general concepts and language of human rights. Learning activities for Part 2, The Convention on the Rights of Persons

with Disabilities, address the content of specific issues contained in these topical chapters. Following these exercises is a general discussion of facilitating human rights learning, covering topics like skilful facilitating, principles of interactive learning, accommodating participants with disabilities, and planning workshops.

One learning exercise, *Universal Exercise: Making a Commitment*, is common and essential to all chapters. This exercise is intended as the ideal conclusion for every chapter of Part 2, encouraging participants to translate what they have learned into concrete action. As noted above, the methodology of this manual makes the participants the focus of the experience and allows them to have a voice in the direction of their own learning.

UNIVERSAL EXERCISE: MAKING A COMMITMENT TO PROMOTE THE HUMAN RIGHTS OF PERSONS WITH DISABILITIES

- Objective:** To make a commitment to take action for the human rights of persons with disabilities
- Time:** 15-60 minutes
- Materials:** Chart paper and markers or blackboard and chalk

DISCUSS:

Emphasize that human rights involve both rights and responsibilities. Ask participants to think about the specific right you just discussed and ask questions like these:

- After learning about this right of persons with disabilities, are you ready to think about taking concrete action?
- What aspect of this right do you recognize as lacking respect, protection, or fulfilment in your community? List these.
- What issues related to this right do you think could be addressed and improved in your community? List these.

COMMIT:

Recognize that, although there is still much planning and information gathering to do, commitment to creating change is also very important.

Ask each participant to think of one individual action, however small, that she or he is willing and able to take in the next month to promote the rights of persons with disabilities to ensure their full enjoyment of all human rights.

Go around the group and ask each participant to name the action they feel able and willing to undertake.

Note to Facilitator: If there is insufficient time to complete Step 3, just a verbalized commitment to action is a strong conclusion.

STRATEGIZE:

If time permits, draft an action plan that promotes the human rights of persons with disabilities. Stress that action could include legal research and gathering information on local conditions, as well as direct approaches to local officials and institutions. You might suggest some of the following steps:

1. Identify actors and institutions with responsibility to ensure the respect, protection, and fulfilment of this right.
2. Consider what can be done to ensure that they meet their responsibilities.
3. Identify allies and resources to help in this action.

Ask participants to share their plans.

Note to Facilitator:

Where several participants mention similar actions, invite them to form groups and plan together.

For detailed advocacy planning see Part 3, *Advocacy! Taking Action for the Human Rights of Persons with Disabilities*.

SECTION 2

LEARNING EXERCISES FOR PART 1: UNDERSTANDING THE HUMAN RIGHTS OF PERSONS WITH DISABILITIES

INDEX OF PART 1 EXERCISES

Introductory Exercise 1: The Impact of Myths and Stereotypes about Persons with Disabilities

Introductory Exercise 2: The Interdependence of Rights

Introductory Exercise 3: Tree of Rights

Introductory Exercise 4: Design a National Census Survey for Your Country

Introductory Exercise 5: Language and Rights

INTRODUCTORY EXERCISE 1: THE IMPACT OF MYTHS AND STEREOTYPES ABOUT PERSONS WITH DISABILITIES

Objective: To share lived experiences with discrimination based on myths and stereotypes and begin thinking about their impact on the human rights of persons with disabilities

Time: 45 minutes

Materials: Optional: Copies of “Common Myths and Stereotypes about Persons with Disabilities”

INTRODUCE:

Explain that discrimination is often based on mistaken ideas and stereotypes that one group holds about another. This exercise will examine the impact of these myths and stereotypes on the lives of persons with disabilities.

DISCUSS:

Divide participants into small discussion groups and ask them to develop a list of myths and stereotypes about persons with disabilities. Ask each group to discuss these questions:

- What are some underlying reasons for these views (for example, fears, cultural and religious attitudes, ignorance)?
- How do these views affect the way persons with disabilities are regarded and/or treated by their families? By their communities? In public policy and law?

REPORT/DISCUSS:

Ask a spokesperson from each group to summarize their conclusions. Discuss these or similar questions:

- What seem to be the principal underlying reasons for these myths and stereotypes?
- What seem to be the most serious effects of these myths and stereotypes on persons with disabilities? On society?
- Which of these views are most prevalent in your community?
- How do these views result in discrimination and prevent persons with disabilities from enjoying their human rights?
- How can these views be confronted?
- Why is it important to challenge such myths about persons with disabilities?

Variation: Conclude the exercise by distributing copies of “Myths and Stereotypes about Persons with Disabilities” from Part 1, page 4: Understanding the Human Rights of Persons with Disabilities. Compare this list with that generated by participants and ask questions like these:

- Were your lists similar to this one?
- Were there ideas on this list you did not include? Did this list omit ideas you included on your lists?
- How do you explain any differences between your list and this one?
- Do you disagree with any of the statements on this list?
- Did this list make you aware of new points of view?

INTRODUCTORY EXERCISE 2: THE INTERDEPENDENCE OF RIGHTS

- Objective:** To examine the fundamental human rights contained in the UDHR and raise awareness of how these rights relate to each other
- Time:** 45 minutes
- Materials:** Chart paper and markers or blackboard and chalk
Copies of Effects Cascade for each small group
Copies of the simplified version of the UDHR

EXPLAIN/ILLUSTRATE:

Explain that this activity helps to illustrate how rights are indivisible, interdependent, and interrelated, as well as demonstrate the far-reaching effects when just one right is denied.

Demonstrate how the Effects Cascade works:

1. Write a human right from the UDHR in the centre of the big circle at the top of the cascade (for example, the right to education).
2. Ask, “If this right is denied, what are three possible effects?” Write any three effects mentioned in circles that extend with arrows from the central circle.
3. Then take each of the three mentioned effects (for example, the inability to get a good job) and ask, “What human rights would be denied by this effect (for example, the right to an adequate standard of living). Write each right in a circle that extends with arrows from the effect.

Alternative: Ask each group to write the number of the UDHR article for each right mentioned in the cascade (for example, “the inability to get a good job”: Article 25, Right to Adequate Living Standard; Article 23, Right to Desirable Work).

COMPLETE:

Divide participants into small groups of 2-4 and give each a copy of the Effects Cascade. Ask each group to write a human right in the centre of their chart. Encourage groups to choose a variety of different rights. Ask them to consider what effects result when a person with disabilities – or anyone – is denied this right.

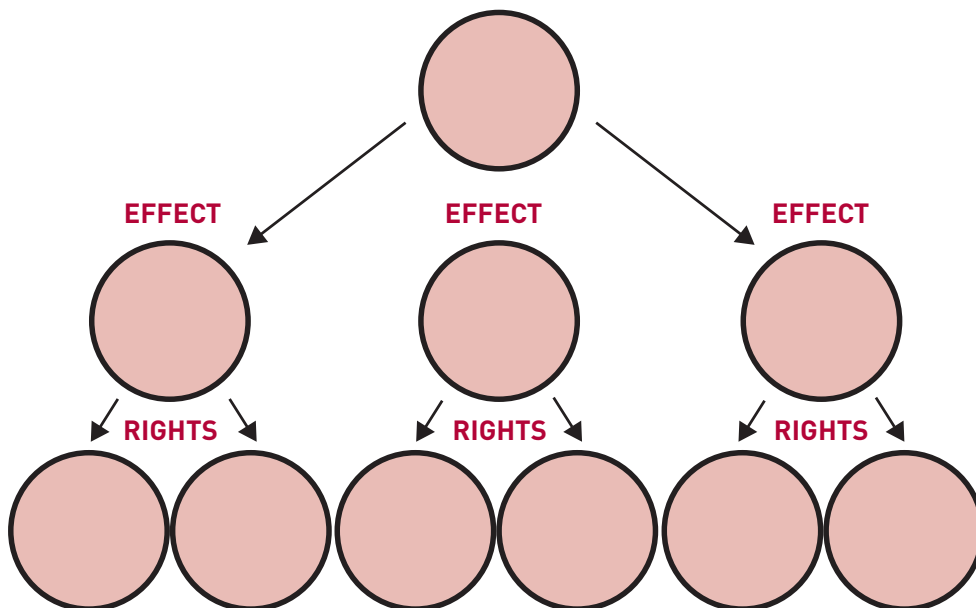
Note to Facilitator: Participants may think of more than three effects, but encourage them to choose the three most far-reaching effects.

DISCUSS:

Ask a spokesperson from each group to present the group's chart. Discuss the results:

- Are you surprised by some of the effects that can occur when one right is denied?
- What happens when more than one right is denied?
- What results are most negative for persons with disabilities?
- What does this activity suggest to you about the interdependence of rights (for example, the importance of enjoying all human rights)?

SAMPLE EFFECTS CASCADE



INTRODUCTORY EXERCISE 3: TREE OF RIGHTS

- Objective:** To identify how a range of human rights applies to persons with disabilities
- Time:** 45 minutes
- Materials:** Tree trunks sketched on large posters; 10 cut-outs each of branches/leaves/fruits on which to write; UDHR (short version); and CRPD Article 3, General principles; Article 4, General obligations

INTRODUCE:

Emphasize that like all human beings, persons with disabilities are holders of human rights. Explain that in order to claim their human rights, persons with disabilities must understand what those rights are and what must be done to respect, protect, and fulfil them.

BRAINSTORM/CONSTRUCT:

Divide participants into small groups. Provide each group with a large poster-size drawing of a tree trunk and paper cut-outs of branches (10), leaves (10), and fruit (10). Explain the exercise:

Step 1: Participants select 10 principles from the UDHR, write one principle on each branch, and attach the branches to the trunk to create a tree.

Step 2: On each branch attach one leaf that includes how that right applies to persons with disabilities (Note: Here it may be helpful for participants to refer to CRPD Articles 3 and 4, as the concepts in these CRPD articles underpin all rights as they relate to persons with disabilities.)

Step 3: On each branch, attach one piece of fruit that describes an action that can be taken by governments to ensure that right.

Example:

- Branch: Right to Equality before the Law (UDHR Article 7)
- Leaf: Right to make decisions about where one lives
- Fruit: Laws to ensure that persons with disabilities are not automatically considered “legally incompetent” and are involved in legal decisions that affect them

REPORT/ANALYZE:

Post each tree on the wall. Have each group read a few of their branches and the associated leaves and fruits from its tree.

- Which UDHR principles did more than one group choose?
- How were the leaves and fruits different among those groups for the same UDHR principle?
- What were some of the more difficult rights to address? Was it difficult to decide what to write on the leaves? Why?

Select one or two examples and look at the relevant text from the full CRPD (see Annex) to analyze what it offers in the context of that particular right.

DISCUSS:

The rights of persons with disabilities are not different from the rights of everyone else, but they do often manifest themselves differently for persons with disabilities.

- How does the CRPD help articulate the rights of persons with disabilities more specifically than the UDHR?
- How does it help guide governments in their responsibilities with respect to the human rights of persons with disabilities?

INTRODUCTORY EXERCISE 4: DESIGN A NATIONAL CENSUS SURVEY FOR YOUR COUNTRY

Objective: To examine how definitions of disability have a practical impact on advocacy and other efforts

Time: 45 minutes

Materials: Paper and pens/pencils; Handout 4

INTRODUCE:

Explain that the purpose of a national census is to count the number of persons in a country and to understand their distribution across different demographic categories. For instance, governments need to know the number of school-aged children in order to allocate the necessary resources to educate them.

DISCUSS:

Discuss the following questions, either in small groups or the large group:

- Why is it important to know how many persons with disabilities are in your country and where they are located? How does this relate to human rights?
- Is it important to identify what types of disabilities persons have (for example, mobility impairments, sensory disabilities, psychosocial disabilities)?

ANALYZE:

What definition of disability should be used to ensure the most accurate and inclusive consensus? Handout 4 provides some examples of definitions or descriptions of disability used in various international and national contexts.

- What are the major differences between these definitions?
- Which ones seem to be the most useful? Inclusive? Accurate?
- Which ones seem the most limited? What do they leave out?

HANDOUT 4

DEFINITIONS OF DISABILITY

UN Convention on the Rights of Persons with Disabilities (CRPD): Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

Americans with Disabilities Act (ADA): An individual with a disability is a person who: (1) has a physical or mental impairment that substantially limits one or more major life activities; or (2) has a record of such an impairment; or (3) is regarded as having such an impairment.

Definition from the 2002 Housing and Population Census conducted by the Government of Uganda: A person with a disability is defined as one who is limited in the kind of or amount of activities that he or she can do, because of ongoing difficulty(ies) due to a long-term physical condition or health problem that has lasted six months or more. This includes all those difficulties that are expected to last more than six months.

DEFINE/PRESENT/DISCUSS:

There are many different contexts in which it is important to clarify the meaning of disability. As an advocate, you should be prepared to express your opinions about what disability means in various advocacy situations. Work with a partner to develop a definition that you yourself would use in talking to others about disability rights. Present your definition to the whole group. Discuss the advantages and disadvantages of each definition. If possible, allow time for revisions.

RESEARCH:

- Does your national census address the question of disability?
- If so, what definition of disability is used in your national census?
- Is this the same definition that is used in national legislation?
- How can you find out?
- What definition would you recommend to use in the census? In national legislation?

INTRODUCTORY EXERCISE 5: LANGUAGE AND RIGHTS

Objective: To understand the role that language can play in supporting both positive and negative attitudes about the role of persons with disabilities in society

Time: 45 minutes

Materials: Chart paper and markers or blackboard and chalk

INTRODUCE:

Explain that language may be used in different ways to support both negative and positive attitudes about disability. This language may be found in the words used for persons with disabilities, the words that describe their disability, or the words used to describe their role in the family or community. Attitudes may also be reflected in the words that persons avoid using.

DISCUSS:

Break into small groups. Ask each group to generate examples of language used in their society to describe persons with disabilities, their disability, or their role in family or community.

REPORT/ANALYZE:

Ask each group to report their findings. List these terms on chart paper in a table like the one on the next page. Discuss the following questions:

- How do the terms used to describe disability in your local language reflect people's attitudes toward disability and persons with disabilities?
- How does this language reflect the negative models of disability (for example, the Medical Model, the Charity Model)? How does it support and maintain these negative models?
- How does this language reflect positive approaches?
- How does it support and maintain positive attitudes?
- How does such language affect persons with disabilities?
- What can be done to alter negative language?
- What are the advantages of the human rights approach to disability? How can it be promoted?

LANGUAGE DESCRIBING DISABILITY

A PERSON WITH A DISABILITY	THE DISABILITY	THE ROLE OF THE PERSON WITH A DISABILITY

SECTION 3

LEARNING EXERCISES FOR PART 2: THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

INDEX OF PART 2 EXERCISES

CHAPTER 1: Equality and Non-Discrimination

Exercise 1.1: What Does It Mean to Enjoy Equality and Non-Discrimination?

Exercise 1.2: Understanding Barriers to Equality and Non-Discrimination

Exercise 1.3: Understanding Equality and Non-Discrimination

Exercise 1.4: What is “Reasonable Accommodation”?

CHAPTER 2: Accessibility

Exercise 2.1: Getting Started in Thinking About Accessibility

Exercise 2.2: What Does It Mean to Enjoy Accessibility?

Exercise 2.3: Understanding Barriers to Accessibility

Exercise 2.4: Understanding Accessibility

CHAPTER 3: The Right to Participation in Political and Public Life

Exercise 3.1: What Rights to Participation in Decision Making Does the CRPD Affirm?

Exercise 3.2: Voting Access for Persons with Disabilities

Exercise 3.3: Voter Observation and Monitoring

Exercise 3.4: Inclusive and Accessible Civic and Voter Education

CHAPTER 4: Freedom of Expression and Opinion

Exercise 4.1: Enjoying the Right to Freedom of Expression and Opinion

Exercise 4.2: Understanding Barriers to Freedom of Expression and Opinion

Exercise 4.3: Understanding Freedom of Expression and Opinion

CHAPTER 5: The Right to Life and Protection in Situations of Risk

Exercise 5.1: Threats to Life

Exercise 5.2: What Rights to Life and Protection in Situations of Risk Does the CRPD Affirm?

Exercise 5.3: Advocating for Community-Based Living

Exercise 5.4: Persons with Disabilities in Situations of Risk

CHAPTER 6: Freedom from Torture and Other Forms of Abuse

Exercise 6.1: The Effects of Violence on Persons with Disabilities

Exercise 6.2: What Rights to Freedom from Torture and Other Forms of Abuse does the CRPD Affirm?

Exercise 6.3: Understanding the Rights of Persons with Disabilities in Prison or Detention

CHAPTER 7: Privacy, Integrity, Home, and the Family

Exercise 7.1: What Does It Mean to Enjoy the Rights to Respect for Privacy, Integrity, Home, and the Family?

Exercise 7.2: Understanding Barriers to Respect for Privacy, Integrity, Home, and the Family

Exercise 7.3: Understanding Respect for Privacy, Integrity, Home, and the Family

CHAPTER 8: The Right to Health

Exercise 8.1: Understanding the Right to Health

Exercise 8.2: Identifying Barriers to Health for Persons with Disabilities

Exercise 8.3: Designing Accessible Health Services

Exercise 8.4: Scenarios in Medical Decision Making

Exercise 8.5: Designing Accessible HIV/AIDS Services

CHAPTER 9: The Right to Habilitation and Rehabilitation

Exercise 9.1: Habilitation or Rehabilitation?

Exercise 9.2: Participating in the Design of Habilitation and Rehabilitation Programmes

CHAPTER 10: The Right to Work

Exercise 10.1: What Does it Mean to Enjoy the Right to Work?

Exercise 10.2: Understanding Barriers to Enjoyment of the Right to Work

Exercise 10.3: Understanding the Right to Work

Exercise 10.4: “Sheltered” vs. “Supported” Employment

CHAPTER 11: Living Independently and with Dignity in the Community

Exercise 11.1: What Does it Mean to Live Independently and with Dignity in the Community?

Exercise 11.2: Understanding Barriers to Enjoyment of the Right to Live Independently and with Dignity in the Community

Exercise 11.3: Understanding the Right to Live Independently and with Dignity in the Community

CHAPTER 12: Access to Justice

Exercise 12.1: Turning to the Justice System

Exercise 12.2: Barriers to the Justice System

Exercise 12.3: What Rights to Access to Justice Does the CRPD Affirm?

CHAPTER 13: The Right to Education

Exercise 13.1: What Rights to Education Does the CRPD Affirm?

Exercise 13.2: Experiencing Education

Exercise 13.3: Identifying the Causes of Discrimination in Education

Exercise 13.4: Speaking Up for Education

CHAPTER 14: The Right to Sports and Culture

Exercise 14.1: Barriers to Participation in Cultural Life, Recreation, Sport, and Leisure

Exercise 14.2: What Rights to Participate in Cultural Life, Recreation, Sport, and Leisure Does the CRPD Affirm?

Exercise 14.3: What are the Cultural Rituals in Your Community?

Exercise 14.4: What is an Athlete?

Exercise 14.5: Speaking Up for Accessible Tourism

CHAPTER 15: The Human Rights of Children with Disabilities

Exercise 15.1: What Rights of Children with Disabilities Does the CRPD Affirm?

Exercise 15.2: Attitudes, Beliefs, and Views on Diverse Childhoods

Exercise 15.3: Describing Good Practices and Overcoming Resistance to Children's Participation

Exercise 15.4: Children with Disabilities as Partners in Programming

CHAPTER 16: Non-Discrimination and Equality for Women

Exercise 16.1: The Far-Reaching Effects of Discrimination

Exercise 16.2: The Roots of Discrimination

Exercise 16.3: How Does the CRPD Affirm the Rights of Women and Girls to Non-Discrimination and Sex Equality?

Exercise 16.4: Decision Making in the Family and Beyond

CHAPTER 17: The Human Rights of Other Populations of Persons with Disabilities

Exercise 17.1: What Does it Mean to Experience Multiple Discrimination?

Exercise 17.2: What Rights of Persons with Disabilities Who Experience Multiple Discrimination Does the CRPD Affirm?

Exercise 17.3: Speaking Out for Participation and Inclusion in Development Decision Making

EXERCISES FOR CHAPTER 1: EQUALITY AND NON-DISCRIMINATION

EXERCISE 1.1: WHAT DOES IT MEAN TO ENJOY EQUALITY AND NON-DISCRIMINATION?

Objective: To understand what it means to enjoy equality and non-discrimination

Time: 30 minutes

Materials: Chart paper and markers or blackboard and chalk

BRAINSTORM/DISCUSS:

Brainstorm, listing responses to the following questions:

- What does the word *equality* mean to you?
- What would “enjoying full equality and non-discrimination” mean to you in terms of:
 - › How you live your life?
 - › How you treat other people?
 - › How other people treat you?
 - › What opportunities you have access to?
 - › What life experiences you can enjoy?
 - › How others live and experience their lives?

Review the definitions of **formal equality**, **equality of opportunity**, and **de facto equality**. Ask for examples of each from participants’ personal experiences or observations.

IMAGINE:

Divide participants into small groups. Give these instructions:

Make up a fictional account of a person with a disability who enjoys formal equality of opportunity (for example, at school, in the workplace, in the community) but does not yet enjoy de facto equality with others in that setting. Give the person a name, specific age, disability, and living context. Consider:

- What barriers have been removed or actions taken to ensure that this person enjoys formal equality of opportunity?
- What barriers have *not* been removed?
- How would de facto equality be different for this person?

PRESENT/DISCUSS:

Ask each group to “introduce” their imagined person. After each presentation, discuss:

- What additional actions are needed to ensure de facto equality for that person?
- Who is responsible for taking those actions and how could they be achieved?

EXERCISE 1.2: UNDERSTANDING BARRIERS TO EQUALITY AND NON-DISCRIMINATION

Objective: To identify barriers to equality and non-discrimination faced by persons with disabilities

Time: 45 minutes

Materials: Chart paper and markers or blackboard and chalk

DISCUSS:

- Can you think of examples of discrimination and inequality that might be common to different persons with disabilities in their everyday lives? List these.
- In your examples of discrimination and inequality, does the discrimination occur only on the grounds of disability? What other kinds of discrimination might persons with disabilities experience?
- Does discrimination only affect persons with disabilities? What about their friends or families?

ANALYZE:

Break into pairs or small groups and, using the list of examples of discrimination and inequality generated, ask each group or pair to choose one example and discuss among each other:

- *Who* is responsible for the discrimination and inequality?
- *Why* might the person or persons responsible engage in the discrimination and violations of equality? Are they even aware they are behaving in a discriminatory way?
- *What* is the root cause of the discrimination and inequality identified?

ROLE-PLAY:

Ask each group or pair to report on their analysis and to role-play at least one of the barriers or root causes of discrimination and inequality that a person with a disability might face.

DISCUSS:

- What are the consequences when the root causes of discrimination and inequality are not addressed? To the person with a disability? To society as a whole?
- Which root causes/barriers have the greatest effect on persons with disabilities? On society as a whole?
- What can be done to eliminate these most significant uses and/or barriers to full enjoyment of the principles of equality and non-discrimination?
- What can be done to make persons aware that they are behaving in ways that continue discrimination against persons with disabilities?

EXERCISE 1.3: UNDERSTANDING EQUALITY AND NON-DISCRIMINATION

- Objective:** To review and understand the equality and non-discrimination provisions of the CRPD
- Time:** 45 minutes
- Materials:** Chart paper and markers or blackboard and chalk; copies of CRPD Articles 5 and 2

REVIEW:

Divide the participants into small groups. Ask each group to work together to paraphrase CRPD Article 5, Equality and non-discrimination, and CRPD Article 2, Definitions, in common language and give some examples of how they could be enjoyed and make a difference for persons with disabilities in their community. Alternatively, have some groups address Article 5 and others address Article 2.

PARAPHRASE:

Read Articles 5 and 2 aloud, pausing at each natural section to ask different groups for their paraphrase. Discuss the meaning of the sections until everyone can agree on a paraphrase. Write the final paraphrase of the articles on chart paper and read it aloud.

GIVE EXAMPLES:

Ask for examples of how the rights to equality and non-discrimination could be enjoyed and make a difference for persons with disabilities.

DISCUSS:

How can Articles 5 and 2 of the CRPD be used to set national disability rights agendas and formulate platforms of action for submission to political parties or government?

EXERCISE 1.4: WHAT IS “REASONABLE ACCOMMODATION”?

- Objective:** To understand the concept of “reasonable accommodation”
Time: 30 minutes
Materials: Chart paper and markers or blackboard and chalk; copies of CRPD Articles 2 and 5.3; Post-It Notes
Optional: newspaper/magazine articles

EXPLAIN:

Invite participants to discuss their understanding of the term “reasonable accommodation.” After a short discussion, review the definition of reasonable accommodation from CRPD Article 2 with participants. List and briefly discuss key duties listed in the definition:

- Identify barriers that impact the enjoyment of human rights for persons with disabilities;
- Remove barriers;
- Make modifications or adjustments that are necessary and appropriate;
- Make modifications or adjustments that do not impose a disproportionate or undue burden;
- Respond to the specific, individual circumstances of the person with a disability;
- Find solutions to address barriers that are appropriate to the individual with a disability;
- Recognize that some accommodations may entail cost-free changes to standard practices while others may require resources to be spent on supports, equipment, or modifications; and
- Understand that such accommodations are directed at ensuring the enjoyment of all human rights.

Emphasize that such accommodation includes modifying policies and practices, as well as making changes to facilities or premises in order to remove disabling barriers.

BRAINSTORM:

Ask participants to break into small groups and discuss reasonable accommodations in various settings. Instruct each group to develop a list of reasonable accommodations that may be relevant to the enjoyment of different rights. For example, groups should brainstorm and develop a list of reasonable accommodations for the following settings (note to facilitator: each group should only be assigned one setting at a time):

- Education
- Employment
- Political Participation
- Health
- Justice
- Culture and Sport

Note to Facilitator: To encourage discussion, facilitators may want to provide examples of reasonable accommodations after participants discuss the definition. For example, facilitators may provide a copy of an Individual Education Plan (IEP) to help participants start thinking about accommodations in an education setting, or the facilitator may distribute a variety of examples from different workplaces involving persons with different types of disabilities to use in this exercise. See, for example, Arthur O’Reilly, “The Right to Decent Work of Persons With Disabilities”, International Labour Organization (2007): <http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1177&context=gladnetcollect>

DISCUSS:

Ask one spokesperson from each group to present the list of reasonable accommodations they discussed. Ask non-group members if they can think of any reasonable accommodations the group did not include. Are all of the examples provided reasonable accommodations? Develop and write down a list of reasonable accommodations for each setting based on the discussions.

It is also important for participants to start considering the idea of “reasonable” versus “unreasonable” accommodations. Facilitators should ask the following questions:

- Are all accommodations “reasonable”?
- What might be considered an “unreasonable accommodation”?
By whom? Why?
- Who or what institution decides whether an accommodation is “reasonable” or “unreasonable”?
- What is “undue hardship?” How is it determined?

CONCLUDE:

Review the various lists of accommodations that have been developed and consider next steps:

- What should be done to ensure these accommodations are provided in each setting to persons with disabilities?
- How can you use the CRPD to help you achieve these accommodations?

EXERCISES FOR CHAPTER 2: ACCESSIBILITY

EXERCISE 2.1: GETTING STARTED IN THINKING ABOUT ACCESSIBILITY

Objective: To identify barriers to accessibility

Time: 45 minutes

Materials: Paper and pens; chart paper and markers

BRAINSTORM:

Ask participants to break into small groups. Ask each group to discuss what they think “accessibility” means for persons with disabilities. Next, ask each group to identify barriers to accessibility in their community. Remind them to think about different disability groups as they discuss the following questions:

- What are the main barriers that persons with disabilities face in accessing information?
- What are the main barriers that persons with disabilities face in communicating?
- What are the main barriers that persons with disabilities face in accessing the built environment (for example, buildings)?
- What are the main legal barriers that persons with disabilities face in accessing their rights?

ANALYZE:

Ask each group to list out three examples of accessibility for persons with disabilities that they can think of in their local community.

REPORT:

Ask each spokesperson to report on the barriers to accessibility their group discussed. Compile a list of the barriers that are reported. Ask a spokesperson for each group to report on the three examples of accessibility in their community. Compile a list of all the examples.

DISCUSS:

Review and discuss the two lists with participants. Ask participants to discuss if there are any items mentioned on both lists (for instance, a ramp is listed as an example of accessibility in the community and the lack of a ramp is mentioned as one of the main barriers to the built environment). Ask participants to develop a strategy for removing the access barriers they identified. Is there an easy, short-term solution? If not, what immediate measures can be put into place to begin to address the issue?

EXERCISE 2.2: WHAT DOES IT MEAN TO ENJOY ACCESSIBILITY?

- Objective:** To understand what it means to enjoy accessibility
Time: 30 minutes
Materials: Chart paper and markers or blackboard and chalk; Post-It Notes; paper and pens

BRAINSTORM:

Ask participants to brainstorm some typical life activities that most people in your community do (for example, going shopping, going to work, going to school, talking to friends, taking public transportation, eating in a restaurant, attending a religious service, or attending a social, cultural, or sporting event). Repeat these aloud and list them on chart paper.

Next ask participants to name different types of disabilities that individuals may have in their communities, including persons with physical, sensory, learning, intellectual, psychosocial, and multiple disabilities. Repeat these aloud and record each on a separate Post-It Note.

Note to Facilitator: Adapt this exercise to accommodate participants with disabilities. For example, some participants may need assistance in writing the role and others may need to have the role they draw read to them.

IMAGINE:

Take all the Post-It Notes naming disabilities and drop them into a container. Ask each participant to select a note from the container.

Give each participant a paper and pencil. Ask them to do the following:

1. Write “Your friend is ...” at the top of the page.
2. Add more description including an imagined sex and age for the suggested person (for example, “Your friend is a middle-aged man who uses a wheelchair”; “Your friend is a twenty-year-old woman who is bipolar”; “Your friend is a teenage girl with Down’s Syndrome”; “Your friend is a man of seventy who is deaf and dyslexic”). They might also add something about the person’s environment (for example, “your friend works on a farm,” “your friend lives in an institution,” or “your friend has six children”).
3. When it is complete, fold the paper.

Collect the slips of descriptions and place them in an open container.

ANALYZE:

Divide participants into pairs or small groups. Ask each person in the group to choose two activities from the list (more than one person may have the same activity) and announce to the others what they are.

Then ask everyone to draw one of the descriptive slips from the container. Give these instructions:

1. The slip you drew is your friend’s identity for the rest of the exercise. “Introduce” your friend to the group and restate the two activities you have chosen.
2. Speaking one at a time, describe what you think it would be like for your friend to participate in the activities you chose.
3. What barriers to access might your friend encounter? Consider:
 - Physical barriers;
 - Informational barriers;
 - Institutional barriers; and
 - Attitudinal barriers.
4. What would it take for your friend to be able to participate? What accessibility features would your friend need?

Note to Facilitator: You may need to remind participants of the differences in kinds of barriers and illustrate each.

REPORT:

Ask each participant to describe their scenario and what activities they discussed. Then ask each to name the accessibility features that would be required in order for the identified friend to be able to participate in their activities. List these needs on a chart like the one below and retain it for use in Exercise 2.2. Be sure to ask for informational, institutional, attitudinal, and physical barriers.

PHYSICAL BARRIER	INFORMATION BARRIER	ATTITUDE BARRIER	INSTITUTIONAL BARRIER	ACCESSIBILITY FEATURE NEEDED

DISCUSS:

- Did the definition of accessibility differ depending upon the person under discussion, or does it stay the same for all people?
- How would you define accessibility so that it fits all these cases?
- How does having accessibility make a difference in the lives of individual persons with disabilities? In the life of the community?
- How does not having accessibility make a difference in the lives of individual persons with disabilities? In the life of the community?

EXERCISE 2.3: UNDERSTANDING BARRIERS TO ACCESSIBILITY

Objective: To identify barriers to accessibility faced by persons with disabilities

Time: 30 minutes

Materials: List of life activities generated in Exercise 2.2

DISCUSS:

Using the list of needed accessibility features generated in Exercise 2.2, ask participants to assess to what extent these accommodations are available in this community. Record responses on a chart like that below.

Note to Facilitator: If participants don't know the answer, write a question and discuss where information could be obtained.

ACCESSIBILITY FEATURE	NEVER AVAILABLE	SOMEWHAT AVAILABLE	GENERALLY AVAILABLE	USUALLY AVAILABLE	ALWAYS AVAILABLE

DISCUSS:

- What accessibility features are most available in the community? Why do you think this is the case?
- What accessibility features are least available? Why?
- Are persons with certain disabilities provided with more accessibility features than others? Which ones? Why?
- Are persons with certain disabilities provided with fewer accessibility features than others? Which ones? Why?

Note to Facilitator: In asking why some accessibility features are more generally available than others, always seek to establish whether advocacy by persons with disabilities has brought about some of these accessibility features.

EVALUATE:

- What accessibility features are most needed in your community? Be sure to think broadly about all the different persons with disabilities who might need accessibility features, so that no groups of people are left out.
- What can be done to see that these needs are met?

EXERCISE 2.4: UNDERSTANDING ACCESSIBILITY

Objective: To review and understand the accessibility provisions of the CRPD

Time: 45 minutes

Materials: Chart paper and markers or blackboard and chalk; copies of CRPD Article 9, Accessibility

REVIEW:

Divide the participants into small groups. Ask each group to work together to paraphrase Article 9, Accessibility, in common language and give some examples of how it could be enjoyed and make a difference for persons with disabilities in their community. Given the length of Article 9, you may want to ask different groups to address specific sections, especially if you feel that particular sections have already been addressed through previous exercises.

PARAPHRASE:

Read Article 9 aloud, pausing at each comma or natural section to ask different groups for their paraphrase. Discuss the meaning of the section until everyone can agree on a paraphrase.

Write the final paraphrase of Article 9 on chart paper and read it aloud.

GIVE EXAMPLES:

Ask for examples of how accessibility could be enjoyed and make a difference for persons with disabilities.

DISCUSS:

- How can Article 9 of the CRPD be used to set national disability rights agendas and formulate platforms of action for submission to political parties or government decision-makers?
- What would it mean in your country?

EXERCISES FOR CHAPTER 3: THE RIGHT TO PARTICIPATION IN POLITICAL AND PUBLIC LIFE

EXERCISE 3.1: WHAT RIGHTS TO PARTICIPATION IN DECISION MAKING DOES THE CRPD AFFIRM?

Objective: To review and understand the rights to participation and public life affirmed by the CRPD

Time: 30 minutes

Materials: Chart paper and markers or blackboard and chalk; copies of CRPD Article 29

REVIEW:

Divide participants into small groups and assign each group different parts of Article 29, Participation in political and public life, such as Articles 29(a)(i) and 29(b). Ask each group to work together to:

1. Paraphrase their assigned section in common, clearly understandable language; and
2. Give some examples of how that right could be enjoyed and make a difference for persons with disabilities.

PARAPHRASE/GIVE EXAMPLES:

Read each section of Article 29 aloud and ask the assigned group to give their paraphrase. Discuss the meaning of the section until everyone can agree on a paraphrase. Write the final paraphrase of each section Article 29 on chart paper and read it aloud.

After each section, ask for examples of how that right could be implemented and make a difference for persons with disabilities.

DISCUSS:

How can Article 29 of the CRPD be used to set national disability rights agendas and formulate platforms of action for submission to political parties or government decision makers?

EXERCISE 3.2: VOTING ACCESS FOR PERSONS WITH DISABILITIES

Objective: To consider how voting processes can ensure the participation of persons with disabilities

Time: 45 minutes

Materials: Chart paper and markers or blackboard and chalk

DISCUSS:

Divide participants into small discussion groups. Ask each group to discuss the following questions, encouraging them to consider these questions as they may apply to persons with different kinds of disabilities (for example, physical, sensory, intellectual, psychosocial):

- What barriers do you think might exist in exercising rights to political participation in your community (for example, in voting, in holding public office, in accessing information)?
- If you do not know of any barriers to voting, how and where could you find out?
- What has been your own experience or observation relating to barriers faced by persons with disabilities in voting?

REPORT:

Ask each group to summarize their discussion and role-play a situation identified in their discussion. Record the situations of barriers as they are mentioned.

DISCUSS:

Emphasize to the group that discrimination is often based on mistaken ideas and stereotypes that one group holds about another.

- How would you confront perceptions about persons with psychosocial disabilities in voting?
- How could you increase the visibility of persons with disabilities in an election process?
- How could you ensure that election observers think about accessibility issues in their monitoring role?
- What steps could you take to reach citizens with disabilities in voter awareness programmes?

Alternative: As a whole group, draw together suggestions into an Election Access Tips Document covering some or all of the following actions to improve accessibility in voter registration: voter education, places of registration and voting, ballot casting, and voter observation. Use in disability rights advocacy and distribute to national election commissions, NGOs active in elections work and voter observation, and international democracy and governance groups engaged in voter education, election administration, and observation.

EXERCISE 3.3: VOTER OBSERVATION AND MONITORING

Objective: To consider how persons with disabilities and their allies can monitor and evaluate election procedures

Time: 45 minutes

Materials: Chart paper and markers or blackboard and chalk

EXPLAIN:

Emphasize to the group that persons with disabilities can play a significant role in election observation, ensuring the transparency of an election and identifying barriers to voting. Election observers observe and monitor the balloting process and the counting of results. Observation includes, among other things:

1. The location of polling stations and their accessibility to the population, which includes:
 - The opening and closing of polling stations at stated times;
 - The arrangement of voting booths; and
 - The orderly movement of voters.
2. The presence of well-trained and competent officials who are knowledgeable about the procedures and responsive to requests for assistance.
3. An established procedure for identification and verification of voters' secrecy in the act of balloting, such as:
 - The marking of ballot papers out of the sight of officials and observers; and
 - Provision for secret balloting for voters who are blind.
4. The security of the ballot box and integrity of the counting process and results, such as:
 - Ensuring that ballot boxes are empty before voting begins, and secure and sealed when polling stations are closed and during any transit procedure; and
 - Ensuring that votes are tallied in a process that inspires confidence.

DISCUSS/DRAFT:

Divide participants into small discussion groups. Ask each group to discuss these questions:

- How can a disability dimension be included in election observation?
- What steps can be taken to ensure that election observers are aware of election access issues?
- How can election observation results be used to improve election access in future elections?

Ask each group to design their own voter observation forms and/or procedures with questions relating to election access for persons with disabilities.

REPORT/DISCUSS:

Ask a spokesperson from each group to summarize the group's discussion conclusions and present the group's draft election observation form. Record ideas on chart paper as they are mentioned.

TAKE ACTION:

Use the tool you have created to participate in election observation, help train observers, and report on your election observation.

EXERCISE 3.4: INCLUSIVE AND ACCESSIBLE CIVIC AND VOTER EDUCATION

Objective: To consider how persons with disabilities can be effectively included in civic education and voter education outreach campaigns

Time: 45 minutes

Materials: Chart paper and markers or blackboard and chalk.

EXPLAIN:

Emphasize to the group that persons with disabilities are important participants in civic education and voter education campaigns, and thus steps must be taken to ensure they are not excluded.

DISCUSS/DRAFT:

Divide participants into small discussion groups. Ask each group to discuss these questions:

- How can a disability dimension be included in civic education programs and in voter education?
- What steps can be taken to ensure that civic educators and election educators are aware of election access issues?

Ask each group to each design their own disability-inclusive civic education and/or voter education action plan to:

1. Reach persons with all kinds of disabilities; and
2. Educate the general public so that they understand that persons with disabilities have political rights.

CONSIDER:

- Design of civic education materials (for instance, materials used in schools): How might they be adapted in order to be more inclusive?
- Design of voter education materials: How might you modify materials to ensure they are accessible to persons with disabilities?
- Voter education workshop planning:
 - › How might you ensure that persons with disabilities can participate in and have access to voter education in their communities by designing for inclusion?
 - › What access issues will you need to plan for in-workshop design?
- Who might be an appropriate partner or ally in your efforts to be inclusive of persons with disabilities in civic education or voter education?

REPORT/DISCUSS:

Ask a spokesperson from each group to summarize their discussion conclusions and present their draft civic education plans or voter education campaign plan of action. Record ideas on chart paper as they are mentioned.

TAKE ACTION:

Use the action plan you have created to help ensure that civic education programmes and voter education are inclusive, train civic and voter educators in the disability community, and report on your activities.

HANDOUT 3.4

TIPS FOR AWARENESS-RAISING THROUGH CIVIC AND VOTER EDUCATION

Training:

- Consultation between election officials and disabled people’s organizations (DPOs) to ensure that disability access issues are integrated into voter education.

Materials Development & Dissemination:

- Create materials that provide tips and information on election access for persons with disabilities so that all those involved in electoral processes can become familiar with the removal of barriers to the participation of persons with disabilities.
- Design and disseminate posters and other collateral materials highlighting the right of citizens with disabilities to vote, including rights in relation to assisted voting.
- Civic education and voter education materials should be made available in accessible formats and should include the voice and/or image of persons with disabilities.

Radio and Television Media:

- Develop and disseminate video tapes of televised messages and audio tapes of radio messages to TV and radio stations to encourage voters with disabilities to register and vote and to encourage families and friends to assist voters with disabilities in accessing registration and polling centres;
- Include persons with disabilities in televised voter education public service announcements.
- Create a Working Group on Electoral Access to brief media representatives on the importance of voter access, including representatives of the print, televised, and radio media.

Other Forms of Voter Outreach:

- Use of community theatre in which persons with disabilities take part in performances in the voter education process, including the use of sign language or production of “silent theatre” to reach persons who are deaf.

EXERCISES FOR CHAPTER 4: FREEDOM OF EXPRESSION AND OPINION

EXERCISE 4.1: ENJOYING THE RIGHT TO FREEDOM OF EXPRESSION AND OPINION

Objective: To understand what it means to enjoy the right to freedom of expression and opinion

Time: 30 minutes

Materials: Chart paper and markers or blackboard and chalk

BRAINSTORM/DISCUSS:

Think about the typical life activities that persons in your community undertake. List these activities. (Save this list for further use in Exercise 4.2 and 4.3).

ANALYZE:

Examine this list of life activities and list participants' responses to the following questions:

- In which instances do persons with disabilities need access to information in order to participate fully?
- What kind of information do they need?
- Who is responsible for providing it?
- In which instances do persons with disabilities need to be able to develop and communicate opinions in order to participate fully?
- What different methods of communication can you think of that persons with disabilities might use?

PRIORITIZE:

Divide participants into small groups. Ask them to look at the list of needs identified in the Step 2 analysis and decide on the five most important needs of persons with disabilities in order to enjoy the right to expression and opinion.

Bring the group back together and ask them to share and compare their prioritized lists. Combine these lists to form a list that everyone can agree upon.

Explain that this is a first step in the process of advocacy planning for the right to expression and opinion. Encourage participants to keep their prioritized lists for later use.

EXERCISE 4.2: UNDERSTANDING BARRIERS TO FREEDOM OF EXPRESSION AND OPINION

Objective: To identify barriers to freedom of expression and opinion faced by persons with disabilities

Time: 40 minutes

Materials: List of life activities generated in Exercise 4.1

ANALYZE:

Using the list of life activities generated in Exercise 4.1, ask each participant (or pair of participants) to choose one activity from the list and to evaluate the barriers persons with disabilities might face in either accessing information or expressing their thoughts, opinions, and preferences when they participate in that activity.

REPORT:

Ask each participant or pair to report on their analysis of the barriers a person with disabilities might face in accessing information and/or expressing and communicating their opinions when they participate in that particular life activity.

DISCUSS:

- What are the consequences when persons with disabilities are excluded from accessing or imparting information in the life activities examined?
 - › To the person with a disability?
 - › To society as a whole?
- Which barriers have the greatest effect on persons with disabilities?
- What can be done to eliminate these most significant barriers to accessing or imparting information?

EXERCISE 4.3: UNDERSTANDING FREEDOM OF EXPRESSION AND OPINION

Objective: To review and understand the CRPD provisions for freedom of expression and opinion

Time: 45 minutes

Materials: Chart paper and markers or blackboard and chalk; copies of CRPD Article 21

REVIEW:

Divide the participants into small groups. Ask each group to work together to discuss one of the sections of Article 21, Freedom of expression and opinion and access to information.

- What does each section require?
- Who is responsible to meet this requirement?
- What challenges might there be to implementation?
- How can these challenges be overcome?

REPORT:

Have one representative for each group report on the outcomes of their discussion.

GIVE EXAMPLES:

Ask for examples of how each of the provisions of Article 21 could be applied to the real life examples listed and discussed in Exercise 4.1 and 4.2.

DISCUSS:

- How can Article 21 of the CRPD be used to set national disability rights agendas and formulate platforms of action for submission to political parties or government decision makers?
- What would it mean for persons with disabilities if the CRPD were realized in your country?

EXERCISES FOR CHAPTER 5: THE RIGHT TO LIFE AND PROTECTION IN SITUATIONS OF RISK

EXERCISE 5.1: THREATS TO LIFE

- Objective:** To understand threats to the right to life of persons with disabilities
Time: 30 minutes
Materials: Chart paper and markers or blackboard and chalk

INTRODUCE:

Explain that persons with disabilities face many threats to their lives, not necessarily from their disability, but because of the negative attitudes and stigma that others associate with disability in some societies. These threats may include the dangers of living in institutions, decisions made by the medical profession, social attitudes, and public policies like eugenics. Furthermore, explain how poverty may also threaten their quality of life and health, along with armed conflict or natural disaster.

DISCUSS:

Divide participants into pairs and ask each pair to:

1. Share some examples from their own experiences or the experiences of people in their communities of such dangers to survival;
2. Try to explain the cause of such threats to the survival of persons with disabilities; and
3. Refer to text box “Barriers to the Enjoyment of the Rights to Life” in Part 2, Chapter 5, or formulate a new list from participant responses.

REPORT:

Ask each pair to report the causes they recognized for such threats to life. List these on a chart/blackboard as they are reported. Discuss.

- Can these causes be grouped into categories (for example, poverty, cultural or societal attitudes, medical decisions, or public policies)?
- What actions could be taken to address these causes and protect the right to life of persons with disabilities? Are there preventive measures that may be taken to reduce life-threatening situations? Are there advocacy strategies that might help?

EXERCISE 5.2: WHAT RIGHTS TO LIFE AND PROTECTION IN SITUATIONS OF RISK DOES THE CRPD AFFIRM?

Objective: To review and understand Articles 10 and 11

Time: 30 minutes

Materials: Chart paper and markers or blackboard and chalk; copies of CRPD Articles 10 and 11

REVIEW:

Assign either CRPD Article 10, Right to life, or Article 11, Situations of risk and humanitarian emergencies, to small groups of participants. Ask each group to discuss and paraphrase its article in common language and give some examples of how that right could be enjoyed and make a difference for persons with disabilities.

PARAPHRASE/GIVE EXAMPLES:

Read each section of Articles 10 and 11 aloud and ask the assigned group to give their paraphrase. Discuss the meaning of the section until everyone can agree on a paraphrase. Especially ask:

- What does “inherent” mean?
- What might “necessary measures” refer to in each article?

Ask for examples of armed conflict, humanitarian emergencies, and natural disasters, focusing on those experienced by the disability community.

Write the final paraphrase of Articles 10 and 11 on chart paper and read them aloud. After each section, ask for examples of how that right could be enjoyed and make a difference for persons with disabilities. What “necessary measures” might be implemented by States to ensure the right to life and protection in situations of risk? Encourage participants to be as specific as possible.

DISCUSS:

- How can Articles 10 and 11 of the CRPD be used to set national disability rights agendas and formulate platforms of action for submission to political parties or government decision makers?
- What types of actors might disabled people’s organizations (DPOs) target for advocacy around the right to life and protection in situations of risk (for example, Ministries of Health, humanitarian and disaster assistance organizations, the United Nations High Commissioner for Refugees)?

EXERCISE 5.3: ADVOCATING FOR COMMUNITY-BASED LIVING

- Objective:** To consider strategies for addressing threats to the right to life of persons with disabilities living in institutions and conducting advocacy on community-based living
- Time:** 30 minutes
- Materials:** Chart paper and markers or blackboard and chalk

INTRODUCE:

Explain that persons with disabilities in many parts of the world are still housed in large-scale institutions and that community-based living is still a new phenomenon in many places. Disability groups, such as Disability Rights International in the USA and the Mental Disability Advocacy Center in Hungary, are working to expose abuses in institutional settings and promote community-based living.

DISCUSS:

Divide participants into pairs and ask them to:

1. Share examples of situations in their own community/country/region where persons with disabilities are not being provided with the opportunity to live in the community;
2. Identify threats to the life and survival of persons with disabilities living in institutions; and
3. Identify the barriers that continue to prevent persons with disabilities from living in the community.

REPORT:

Ask each pair to report on the situations identified, the threats to life/survival, and the barriers that prevent community living. List these on the chart as they are reported.

- What actions could be taken to address these issues and protect the right to life of persons with disabilities?
- What type of advocacy might be most effective (for example, education, dialogue, documenting and reporting, media campaigning, court action)?
- Who needs to be informed in order to take action?

EXERCISE 5.4: PERSONS WITH DISABILITIES IN SITUATIONS OF RISK

Objective: To consider the needs of persons with disabilities in natural disasters and identify strategies to enhance their protection in emergency preparedness

Time: 45 minutes

Materials: Chart paper and markers or blackboard and chalk (optional)

BRAINSTORM:

Ask participants to identify natural disasters that can take place in their community (for example, flooding, blizzard, tornado, hurricane, earthquake). List these. Ask the group to create three profiles of persons with disabilities in their communities. Encourage diverse profiles, including different ages, disabilities (including psychosocial and intellectual disabilities), ethnic minority status, and living arrangements (for example, living alone, in an institution, with family). Collect the profiles and select a diverse sample to use in role-plays.

IMAGINE:

Divide participants into small groups and give each group a profile with these instructions:

Choose one of the typical disasters identified in Step 1 and discuss the many problems that might arise for the community (for example, loss of electricity, gas or water, loss of most forms of communication, loss of means of transportation, inability to meet basic needs such as food, water, shelter, latrines, and health care services)? Then discuss the particular problems that persons with disabilities might experience during these crises and in relation to the challenges that the community is experiencing (for example, loss of assistance devices, such as artificial limbs, crutches, hearing aids, eye glasses, inaccessible means of communication, physical barriers). Discuss ways in which persons playing support roles during an emergency could effectively provide assistance to persons with disabilities during emergency situations (for example, family member, neighbour, police, relief worker, medical personnel).

PRESENT:

Ask each group to present its scenario. Afterward, ask the audience for feedback:

- What kinds of responses were or would have been helpful in this situation?
- What kinds of responses were or would have been unhelpful?

DISCUSS:

Emphasize that although persons with disabilities have a human right to life and that States must take specific measures to ensure their protection and safety in emergencies, the needs of persons with disabilities are often overlooked in real crises or situations of armed conflict.

- What can be done to ensure protection of this right?
- Who is responsible to see that this protection is provided?
- Does your community have a disaster preparedness plan?
- Does it include such protections? What can you do to help first responders and aid workers to better include disability issues in their work?

Optional: Have each group present a disaster preparedness plan that takes into account the needs of persons with disabilities or a checklist of tips for humanitarian organizations.

EXERCISES FOR CHAPTER 6: FREEDOM FROM TORTURE AND OTHER FORMS OF ABUSE

EXERCISE 6.1: THE EFFECTS OF VIOLENCE ON PERSONS WITH DISABILITIES

Objective: To understand the effects of violence on different populations of persons with disabilities.

Time: 30 minutes

Materials: Chart paper and markers or blackboard and chalk

INTRODUCE:

Explain that persons with disabilities are not at risk of violence and abuse because of their disabilities, but because of the actions of abusing individuals in society. Violence and abuse may affect different populations of persons with disabilities differently. These differences must be taken into consideration when designing violence and abuse prevention programmes.

BRAINSTORM:

Divide participants into small groups and ask them to do the following:

1. List different populations of persons with disabilities (for example, women, children and teenagers, sexual minorities, men, elders, refugees, internally displaced persons) and kinds of disability (for example, visual, mobility, hearing, intellectual, psychosocial).
2. Provide examples of how violence and abuse may impact different populations.

Note to Facilitator: Save this list for use in Exercise 6.3.

REPORT:

Ask a spokesperson from each group to report their findings. List these on chart paper in a table like the one below. When the first two columns are complete, ask participants to identify challenges to addressing violence and abuse against each different group. Write the responses in the third column.

ANALYZE:

Ask participants to consider the following based on their initial discussion:

- What actions could be taken to address violence and abuse prevention?
- Who must be involved in order for prevention to be effective?

TYPE OF DISABILITY	KINDS OF VIOLENCE	CHALLENGES TO ADDRESSING THIS VIOLENCE

Source: Adapted from Marsha Saxton, *The Impact of Violence on People with Disabilities*, World Institute on Disability: <http://www.wid.org>

EXERCISE 6.2: WHAT RIGHTS TO FREEDOM FROM TORTURE AND OTHER FORMS OF ABUSE DOES THE CRPD AFFIRM?

- Objective:** To review and understand CRPD Articles 15 and 16
- Time:** 30 minutes
- Materials:** Chart paper and markers or blackboard and chalk; copies of CRPD Articles 15 and 16

REVIEW:

Assign different parts of CRPD Articles 15, Freedom from torture or cruel, inhuman or degrading treatment or punishment, and Article 16, Freedom from exploitation, violence and abuse, to small groups of participants (you may wish to divide Article 16 into four parts). Ask them to work together to paraphrase their section in common language and give some examples of how that right could be enjoyed and make a difference for persons with disabilities.

PARAPHRASE/GIVE EXAMPLES:

Read each section of Articles 15 and 16 aloud and ask the assigned group to give its paraphrase. Discuss the meaning of the section until everyone can agree on a paraphrase. Write the final paraphrase of Articles 15 and 16 on chart paper and read it aloud. After each section, ask for examples of how that right could be enjoyed and make a difference for persons with disabilities.

DISCUSS:

- How can Articles 15 and 16 of the CRPD be used to set national disability rights agendas and formulate platforms of action for submission to political parties or government decision makers?
- How can these provisions be used to monitor conditions in prisons or institutions or other settings where persons with disabilities may be vulnerable to violence and abuse?
- How can these provisions be used to help advocate for violence prevention programmes?

EXERCISE 6.3: UNDERSTANDING THE RIGHTS OF PERSONS WITH DISABILITIES IN PRISON OR DETENTION

Objective: To understand the particular needs of persons with disabilities in prison or detention

Time: 30 minutes

Materials: Chart paper and markers or blackboard and chalk
Optional: Copies of the list generated in Exercise 6.1.

INTRODUCE:

Explain that prisoners with disabilities, like all persons with disabilities, require accommodation for their disability. Reintroduce the list of disability populations created in Exercise 6.1 or create a new list of different groups of persons with disabilities (for example, women, children and teenagers, sexual minorities, men, elders, refugees) and kinds of disability (for example, visual, mobility, hearing, intellectual, psychosocial).

DISCUSS:

Divide participants into small groups and ask each to use the list as a guide to do the following:

1. Provide examples of how prison conditions and treatment in detention may affect a person with a disability and present risks of violence/abuse; and
2. Identify challenges to addressing the rights of persons with disabilities in prison or held in detention.

ANALYZE:

Ask participants to consider the following based on their initial discussion:

- What actions could be taken to address the rights of persons with disabilities in prison or detention?
- Who must be involved in order for prevention to be effective?
- What advocacy initiative might help create change in this area?

EXERCISES FOR CHAPTER 7: PRIVACY, INTEGRITY, HOME, AND THE FAMILY

EXERCISE 7.1: WHAT DOES IT MEAN TO ENJOY THE RIGHTS TO RESPECT FOR PRIVACY, INTEGRITY, HOME, AND THE FAMILY?

Objective: To understand the rights to respect for privacy, integrity, home, and the family

Time: 40 minutes

Materials: Chart paper and markers or blackboard and chalk

BRAINSTORM:

Divide participants into small groups and assign each one of these or other typical life situations involving privacy, personal integrity, and/or respect for home and family:

- Visiting the doctor;
- Telephoning or writing a letter or e-mail to a friend;
- Visiting the bank; or
- Meeting with your child's teacher to discuss the child's performance at school.

Ask each group to discuss the experience of persons with disabilities in this situation:

- In which instances do persons with disabilities need to enjoy privacy, personal integrity, and/or respect for home and family in order to participate fully? Make a list of life activities.
- What information might persons with disabilities reasonably expect to be kept private?
- Would the personal integrity involve mental or physical integrity, or both?
- Who might be responsible for respecting the rights indicated in the different examples?

REPORT:

Ask a spokesperson from each group to summarize their discussions.

- What similarities do you observe in experiences in these different settings?
- Are there other situations in everyday life when similar issues occur?
- What can persons with disabilities do in these situations to protect their privacy and integrity?

DISCUSS:

Ask the group to discuss the changes that can be made to protect the privacy and integrity of persons with disabilities.

EXERCISE 7.2: UNDERSTANDING BARRIERS TO RESPECT FOR PRIVACY, INTEGRITY, HOME, AND THE FAMILY

Objective: To identify barriers to enjoyment of the rights to respect for privacy, personal integrity, the home, and family faced by persons with disabilities

Time: 40 minutes

Materials: List of life activities generated in Exercise 7.1

ANALYZE:

Using the list of life activities used in Exercise 7.1 and the responses given in the discussion, ask each participant (or pair of participants) to choose one activity and to evaluate the specific barriers persons with disabilities might face in enjoying the rights to respect for privacy, personal integrity, the home, and family while participating in that activity.

DISCUSS:

Ask each participant or pair to report on their analysis and to discuss at least one example of barriers that a person with a disability might face in enjoying the rights to respect for privacy, personal integrity, the home, and family while participating in that particular life activity.

REPORT/DISCUSS:

- What are the consequences when persons with disabilities do not enjoy respect for their privacy, personal integrity, home, and family?
 - › To the person with a disability?
 - › To society as a whole?
- Which barriers have the greatest effect on persons with disabilities?
- What can be done to eliminate these most significant barriers?

EXERCISE 7.3: UNDERSTANDING RESPECT FOR PRIVACY, INTEGRITY, HOME, AND THE FAMILY

Objective: To review and understand the provisions on rights to respect for privacy, integrity, home, and the family in the CRPD

Time: 45 minutes

Materials: Chart paper and markers or blackboard and chalk; copies of CRPD Articles 17, 22, and 23

REVIEW:

Divide the participants into small groups. Ask each group to work together to discuss one of the sections of Article 17, Protecting the integrity of the person; Article 22, Respect for privacy; and Article 23, Respect for home and the family. Specifically, what does each section require to be achieved? Who is responsible? What challenges might there be to implementation and how can these be overcome?

DISCUSS:

Have each group report on the outcomes of their discussions.

GIVE EXAMPLES:

Ask for examples of how each of the provisions of Articles 17, 22, and 23 could be applied to the real life examples discussed in Exercises 7.1 and 7.2.

DISCUSS:

- How can Articles 17, 22, and 23 of the CRPD be used to set national disability rights agendas and formulate platforms of action for submission to political parties or government decision makers?
- What would it mean in your country?

EXERCISES FOR CHAPTER 8: THE RIGHT TO HEALTH

EXERCISE 8.1: UNDERSTANDING THE RIGHT TO HEALTH

Objective: To understand rights and responsibilities associated with the right to the “highest attainable standard of health”

Time: 30 minutes

Materials: Paper and pen/pencil or chalkboard and chalk

BRAINSTORM:

Ask participants to brainstorm definitions of *health* or “a healthy person.” Record suggestions on chart paper. Assist the group in arriving at a definition that combines their main ideas and write it at the top of the chart paper. Follow up with questions like these:

- Can someone with a disability be considered “a healthy person”?
- What are the essential requirements for a person to attain health? Consider material, informational, environmental, and behavioural factors.
- What happens when one of these necessities is missing? When two or more are missing?
- Who has the responsibility to see that all people are able to attain good health?

INTRODUCE:

Emphasize that achieving human health involves both rights and responsibilities, as well as both governmental and individual efforts. Divide participants into small groups and ask each group to choose one health topic to explore.

SUGGESTED TOPICS FOR DISCUSSION

- Contagious diseases
- Nutrition
- Respiratory health
- HIV/AIDS or other infectious diseases
- Sanitary Conditions and hygiene
- Immunization
- Other health issues in your community

DISCUSS:

Explain that each group should:

1. Decide what the government’s responsibilities are regarding this health issue; and

2. Decide what individuals must do for themselves.

Demonstrate how to structure and record the discussion using a chart like that below.

Example: Safe drinking water

HEALTH ISSUE: SAFE DRINKING WATER	
GOVERNMENT RESPONSIBILITIES	INDIVIDUAL RESPONSIBILITIES
<ul style="list-style-type: none">• Making sure that public sources of water are safe• Making sure that clean water is available to all people equally• Providing information about the importance of avoiding unsafe water and how to counteract its effects• Supplying clean water in emergency situations	<ul style="list-style-type: none">• Refraining from activities that may contaminate drinking water• Taking recommended actions when water might be unsafe (for example, boiling water, going to another source to obtain water)• Reporting illnesses believed to be the result of unclean water from a public source• Reporting sources of water pollution

REPORT:

Ask a spokesperson from each group to present their findings.

DISCUSS:

- What measures must a government take to meet its responsibility to implement the right to health? Is your government succeeding in implementing this right?
- Do you think your government is providing the “*highest attainable standard of health*”? Why or why not?
- What must individuals do to meet their responsibility to implement this human right? Do you think most people understand their responsibilities?
- What are some barriers that persons with disabilities face in attaining the right to health?
- What special measures should governments take to ensure that persons with disabilities enjoy this human right?

EXERCISE 8.2: IDENTIFYING BARRIERS TO HEALTH FOR PERSONS WITH DISABILITIES

Objective: To identify the social, legal, and practical challenges to persons with disabilities claiming the right to health

Time: 45 minutes

Materials: Copies of Article 25 of the CRPD

BRAINSTORM:

Ask participants to give examples of barriers that prevent persons with disabilities from claiming the right to health. List these.

DISCUSS:

Divide participants into three groups.

Ask each group to list the specific barriers that persons with diverse types of disabilities may experience. Ensure coverage of at least:

- Physical disabilities;
- Sensory disabilities;
- Intellectual disabilities; and
- Psychosocial disabilities.

Ask each group to explain why these barriers exist. Ask the groups to consider if persons with certain types of disabilities experience higher levels of discrimination and why this is the case.

REPORT/DISCUSS:

Have each group read the list of barriers it identified. List these and discuss:

- Do persons with certain types of disabilities experience higher levels of discrimination? Why?

Distribute copies of CRPD Article 25, Health, and/or read it out loud and discuss:

- How are the barriers identified by the groups addressed in Article 25?
- What actions does the CRPD require States to take to remove these barriers?
- How can persons with disabilities assist governments in implementing these changes?
- How would these changes contribute to the improved health of persons with disabilities?

EXERCISE 8.3: DESIGNING ACCESSIBLE HEALTH SERVICES

Objective: To identify the resources and solutions needed to remove practical barriers to health care services

Time: 45 minutes

Materials: Handout of scenarios

INTRODUCE:

Observe that even when health care services are available to the general population, persons with disabilities often face barriers in accessing them. Divide the participants into three groups and give each group one of the scenarios in which a person with a disability seeks medical care.

HANDOUT 8.3

SCENARIOS

Scenario 1:

José is a wheelchair user who is paralyzed from the waist down. He has come with his friends to the community centre to participate in an HIV/AIDS education session. The session is to be held on the second floor and there is no elevator.

Scenario 2:

Alika is deaf and has come to an HIV/AIDS testing centre alone. She is literate and can communicate in writing.

Scenario 3:

Karen has an intellectual disability. She is 28 and lives with her family. She has an independent social life, a boyfriend, and a job selling fruit in the market. Karen's mother has accompanied her to the counselling centre.

Give these instructions:

Step 1: Read the scenarios aloud and discuss:

- › What are the potential accessibility barriers the patient might encounter in the health care setting? What is likely to happen next when each character enters the medical system (for example, emergency room, doctor's office, examining room)?
- › What factors might prevent each person from receiving the best possible care?
- › What solutions are needed to accommodate the disability? What resources do these solutions require?
- › What kind of training would health professionals require to make sure they can provide the best care (for example, accessibility training, education on the rights of persons with disabilities)?

Step 2: Based on your discussion, plan two brief role-plays showing the best and worst outcomes.

DISCUSS/PLAN:

Give participants plenty of time to plan their role-plays.

PRESENT:

Ask each group to present its role-play. Ask for comments after each:

- Are there other possible worst-case outcomes?
- Are there additions to the best-case outcomes to suggest?

DISCUSS:

- Are these role-plays realistic?
- What can be done to ensure that persons with disabilities receive the best possible care when they enter the medical system?
- What kind of training would doctors and health care professionals need to make sure they can provide the best care to persons with disabilities?

Note to Facilitator: Adapt these scenarios to the needs and context of your participants (for example, use other settings, other disabilities, other illnesses, including those related to sexuality and reproduction, and other barriers).

Optional Exercise: Design an accessible examination room. Either draw what the room would look like or simply list the features it should have to be accessible to persons with all types of disabilities.

EXERCISE 8.4: SCENARIOS IN MEDICAL DECISION MAKING

Objective: To examine ways in which disability may influence medical decisions.

Time: 45 minutes

Materials: Copies of Handout 8.4

DISCUSS:

Explain that this exercise examines the ways in which disability may influence medical decisions. Divide participants into three groups and give each a scenario from the list on the handout below. Ask the groups to discuss their scenarios and make a decision.

REPORT:

Ask a spokesperson from each group to describe their scenario and the decision they reached. After each report, ask for questions and comments from the other groups and ask questions like these:

- How did you make your decision? What factors influenced your decision?
- Is this disability discrimination?
- How should decisions like these be made in real life?

DISCUSS:

- What are the human rights principles that apply in these situations?
- Who *should* be responsible for making these decisions? Doctors? The government? Ethics committees?
- In fact, how are decisions like these usually made?
- How can persons with disabilities be protected from discrimination based on disability?

HANDOUT 8.4

SCENARIOS

Scenario 1:

Two children of similar age require heart transplants. One is a child with Down Syndrome and the other is a child with no disability. Neither child has any other known medical condition besides the heart-related illness. The likelihood of success of the transplant is equal for both children. The life expectancy of a person with Down Syndrome is generally estimated to be twenty years less than a person without Down Syndrome (if neither is affected by poverty, neglect or other factors that reduce life-expectancy). Based on this information, which child should receive the heart transplant?

Scenario 2:

Two women who are HIV-positive apply to receive expensive retroviral drugs from a public health clinic with limited resources. One woman has a chronic psychosocial disability; the other has no disability. The clinic can only support one new client. Based on this information, which woman should receive the drugs?

Scenario 3:

Two members of the same community step on landmines and lose a leg below the knee. One is a seven-year-old schoolboy and the other a farmer aged forty. Both wish to have an artificial leg, but there are resources for only one to receive a prosthesis. The adult will probably be able to wear his artificial limb for many years, but the boy will out-grow his several times before he reaches adulthood. The boy's rehabilitation will therefore be much more expensive than the man's. Based on this information, who should receive the artificial leg?

EXERCISE 8.5: DESIGNING ACCESSIBLE HIV/AIDS SERVICES

Objective: To identify the resources and solutions needed to remove practical barriers to health care services, and HIV/AIDS services in particular

Time: 45 minutes

Materials: Handout 8.3 (see exercise 8.3 for copy of handout)

INTRODUCE:

Observe that even when health care services, including HIV/AIDS services, are available to the general population, persons with disabilities often face barriers in accessing them. Divide the participants into three groups and give each group one of the scenarios in which a person with a disability seeks medical care.

DISCUSS/PLAN:

Give these instructions:

Step 1: Read the scenarios aloud and discuss:

- › What are the potential accessibility barriers the patient might encounter in the health care setting?
- › What is likely to happen next in each scenario?
- › What factors might prevent each person from receiving the best possible access and accommodation?
- › What solutions are needed to accommodate the disability? What resources do these solutions require?
- › What kind of training would HIV/AIDS educators and health professionals need to make sure they can provide the best care (for example, accessibility training and/or education on the rights of persons with disabilities)?

Step 2: Based on your discussion, plan two brief role-plays showing the best and worst outcomes.

PRESENT:

Ask each group to present its role-plays. Ask for comments after each:

- Are there other possible worst-case outcomes?
- Are there additions to the best-case outcomes to suggest?

DISCUSS:

- Are these role-plays realistic?
- What can be done to ensure that persons with disabilities receive the best possible care when they enter the medical system?
- What kind of training would doctors and health care professionals need to make sure they can provide the best care to persons with disabilities?

Note to Facilitator: Adapt these scenarios to the needs and context of your participants (for example, use other settings, other disabilities, other issues relating to HIV/AIDS, including those related to sexuality and reproduction, and other barriers).

Optional Exercise: Design an accessible medical treatment centre. Either draw what the room would look like or list the features it should have to be accessible to persons with all types of disabilities.

EXERCISES FOR CHAPTER 9: THE RIGHT TO HABILITATION AND REHABILITATION

EXERCISE 9.1: HABILITATION OR REHABILITATION?

- Objective:** To understand what it means to enjoy the right to habilitation and rehabilitation
- Time:** 45 minutes
- Materials:** Slips of paper and pencils; chart paper and markers or blackboard and chalk

INTRODUCE:

Remind participants of the distinctions between **habilitation** and **rehabilitation**.

CREATE EXAMPLES:

Divide participants into small groups; give each group 10 slips of paper and pens and these instructions:

1. Working together as a group, make up two examples for each of these terms: **habilitation**, **rehabilitation**, and **reasonable accommodation**.
2. Write each example on a separate slip of paper along with a label indicating which term you are illustrating.
3. Try to use a variety of disabilities (for example, psychosocial and physical) and motivations (for example, health, employment, education, social service).

Sample:

You lost the ability to write after a stroke. Now you are learning to write again.

Rehabilitation

Note to Facilitator: Adapt Step 2 to accommodate participants who have visual disabilities and/or cannot write.

TEST YOUR KNOWLEDGE:

Collect the slips, fold them, and place them in a container. Divide the participants into two teams and explain the competition:

- A player from Team A will draw a slip from the container and read it aloud.
- The first player from Team B must identify the situation as **habilitation**, **rehabilitation** or **reasonable accommodation**. If the answer is correct, Team B wins a point.
- Continue in this way, alternating teams until all the slips have been used. Tally a score and declare a winner.

DEFINE:

Define some basic objectives of the following areas of habilitation and rehabilitation:

- Health;
- Employment;
- Education; and
- Social services.

DISCUSS:

- Are any of the above areas more important than others, in your opinion?
- Do you think that most persons with disabilities in your community have access to adequate habilitation and rehabilitation services? Do you think that they know about their right to habilitation and rehabilitation? If not, why?
- What can be done to ensure that all persons with disabilities have access to habilitation and rehabilitation?

EXERCISE 9.2: PARTICIPATING IN THE DESIGN OF HABILITATION AND REHABILITATION PROGRAMMES

Objective: To practice developing an action plan for habilitation or rehabilitation

Time: 1 hour

Materials: None

INTRODUCE:

Ask participants questions like these about the importance of the participation of persons with disabilities:

- Why is it important for habilitation and rehabilitation programmes to be “individualized”?
- Why should persons with disabilities play a role in developing programmes for which they are the beneficiaries?
- How are habilitation and rehabilitation programmes usually planned in your community?

DISCUSS:

Divide participants into small groups. Give these instructions:

1. Invent a fictional but typical situation of a person who requires habilitation or rehabilitation services in one of the following areas: health, employment, education, or social services.
2. Choose somebody to play the role of the “client” (the person for whom the habilitation or rehabilitation is being provided).
3. Other group members can designate themselves as other actors, such as service providers, counsellors, doctors, family members, disability advocates, other persons with disabilities, or others who should be involved in the design and implementation of a habilitation or rehabilitation plan.
4. Use the following questions as a basic guide for developing an outline for the plan. Stress to participants that they are not being asked to create a complicated, detailed plan, but rather an outline that defines the goals, approach, and basic structure. Some questions should be answered solely or primarily by the client, while others will involve other actors.
 - › What goals are you attempting to reach that require assistance in the form of habilitation or rehabilitation?
 - › What is the definition of success for your habilitation or rehabilitation scheme?
 - › Why are you entitled to these services?
 - › What human rights are affected by your need for habilitation or rehabilitation in this context?

- › Who should participate in the design of your programme?
- › What is each person’s responsibility (including the client)?
- › What resources are required for the client to successfully reach his or her goals (for example, training, assistive technologies)?
- › What qualifications, training, or education should instructors, counsellors, health care practitioners, or other team members have in order to provide the habilitation or rehabilitation services required?

REPORT:

Ask each group to introduce its “client,” and explain the collaborative process they used to design the habilitation or rehabilitation plan. Allow both the client and the spokesperson to describe their roles in planning. Briefly describe the plan.

ANALYZE/DISCUSS:

- What was the most difficult part of this process? What problems were encountered?
- What types of decisions were easy?
- What other questions or subjects, in addition to those listed above, did the groups identify as critical to address?
- What can persons with disabilities do if they feel like they are not being included in decisions regarding their own habilitation and rehabilitation programmes?

EXERCISES FOR CHAPTER 10: THE RIGHT TO WORK

EXERCISE 10.1:

WHAT DOES IT MEAN TO ENJOY THE RIGHT TO WORK?

Objective: To understand what it means to enjoy the right to work

Time: 30 minutes

Materials: Chart paper and markers or blackboard and chalk

DEFINE:

Divide participants into small groups and ask each group to come up with their own definition of “the right to work.”

REPORT:

Ask a spokesperson from each group to give their definition. Record these and discuss the differences and similarities of these definitions. Help the group recognize where their definitions may differ from that used in this chapter.

DISCUSS:

- Do you know persons with disabilities in your community who work? Where do they work and what kinds of jobs do they do?
- Do the persons with disabilities in your community who work seem to enjoy the right to work according to your definition?
- Do you think that most persons with disabilities in your community enjoy the right to work? Who in particular do you think *does* enjoy the right to work? Who does not?
- What can be done to ensure that all persons with disabilities in the community can fully enjoy the right to work?

EXERCISE 10.2: UNDERSTANDING BARRIERS TO ENJOYMENT OF THE RIGHT TO WORK

Objective: To explore barriers to the right to work

Time: 45 minutes

Materials: Copies of Handout 10.2

INTRODUCTION:

Ask for participants to give examples of barriers that prevent some persons with disabilities in the community from enjoying the right to work. List these barriers. Ask if some particular groups of persons with disabilities are especially prevented from enjoying the right to work.

DISCUSS:

Divide participants into small groups of two or three. Ask each group to review the three scenarios, describing which aspects of the right to work were denied in each case and how they were denied.

REPORT:

Following the small group discussions, reconvene and ask participants to share their thoughts about the scenarios they discussed. Ask questions like these:

- What barriers to employment were evident in the scenarios?
- Did you find disability discrimination? Where?
- What aspect(s) of Article 27 were violated in each of the scenarios?

ANALYZE/DISCUSS:

Discuss with the group what it would take for each of the individuals in the three scenarios to achieve the right to work.

Consider the various supports and accommodations referenced in CRPD Article 27.

- What could be done to obtain these supports and accommodations?

HANDOUT 10.2

DENIAL OF THE RIGHT TO WORK SCENARIOS

Scenario 1:

Adnan has just graduated from university with a degree in business. He was the first person who is blind to receive a degree from his university. He is eager to obtain employment and identifies three good prospects. The first is with a bank that requires an online application. Unfortunately, the online application is not accessible to him because his screen-reading technology will not work with the application. The second opportunity is with a software company and Adnan arrives at the office for the interview. He is told by the interviewer that the company has never before hired a person who is blind and he is not sure how comfortable he would be working there. The third opportunity is with a large coffee roasting company. Adnan gets through to the third interview and is then told that he cannot be hired because there is concern that it might be unsafe for him as the business offices are inside the factory and some parts of the factory have elevated hallways with no railings and other hazards.

Scenario 2:

Fiona is a teacher who was in a car accident. She is looking forward to returning to work. She now uses a wheelchair as a result of a spinal cord injury. The principal at her school has told her that she really ought to retire. He explains that it will not work out for her because the front entrance of the school has stairs, though the back entrance is accessible; her desk is not high enough for her wheelchair and if the school gives her a new desk, all the other teachers will want new desks, which is expensive; some of the students might make fun of her and he does not want her treated badly; and, since she is in a wheelchair, she will likely be too tired to get her job done.

Scenario 3:

Robert is a man with an intellectual disability. He has been employed at the corner grocery shop in his community for the past ten years, stocking shelves, cleaning, and assisting the store manager. He shows up for work on time, and does his tasks independently and very thoroughly. The grocery shop is sold to another owner who is dismayed to find a person with an intellectual disability in his store. He tells the store manager that Robert should be fired because he is “too slow,” will make the customers in the store uncomfortable, and having him on the staff will make people think that the owner “cannot hire normal people.”

EXERCISE 10.3: UNDERSTANDING THE RIGHT TO WORK

- Objective:** To review and understand the right to work affirmed by the CRPD
Time: 45 minutes
Materials: Chart paper and markers or blackboard and chalk; copies of CRPD Article 27

REVIEW:

Divide the participants into small groups. Ask each group to work together to paraphrase Article 27, Work and employment, in common language and give some examples of how that right could be enjoyed and make a difference for persons with disabilities in their community.

Note to Facilitator: Given the length of Article 27, you may want to ask different groups to address different sections.

PARAPHRASE:

Read Article 27 aloud. Pause at each comma or natural section to ask different groups for their paraphrase. Discuss the meaning of the section until everyone can agree on a paraphrase.

Write the final paraphrase of Article 27 on chart paper and read it aloud.

GIVE EXAMPLES:

Ask for examples of how the right to work could be enjoyed and make a difference for persons with disabilities.

DISCUSS:

- How can Article 27 of the CRPD be used to set national disability rights agendas and formulate platforms of action for submission to political parties or government decision makers?
- What does it mean to persons with disabilities in your country?

EXERCISE 10.4: SHELTERED VERSUS SUPPORTED EMPLOYMENT?

- Objective:** To discuss the benefits of different types of work environments
Time: 30 minutes
Materials: Chart paper and markers or blackboard and chalk

EXPLAIN:

Briefly discuss definitions of sheltered and supported types of work environments:

Sheltered employment is designed specifically for the employment of persons with disabilities. It usually does not include any non-disabled workers other than those in supervisory roles.

Integrated or Supported employment, which originated in the United States, is an alternative to sheltered and other segregated forms of employment. It takes place in an integrated workplace with ongoing support for persons with disabilities.

BRAINSTORM:

Display two flipchart sheets with “Sheltered” and “Supported” employment options. Ask participants to give advantages and disadvantages of the two types of work environments, as you name different aspects of employment:

- Employment contract
- Working conditions
- Pay
- Applicability of health and safety rules
- Benefits
- Job security
- Training/learning opportunities
- Promotion

DISCUSS AND REPORT:

Divide participants into small groups. Ask the small groups to discuss the advantages and disadvantages of “sheltered” versus “supported” employment and list them out. Ask a spokesperson from each group to present the highlights of their discussion to the larger group.

CONCLUDE:

Invite participants to discuss possible actions to support persons with disabilities at the workplace and in other settings.

EXERCISES FOR CHAPTER 11: LIVING INDEPENDENTLY AND WITH DIGNITY IN THE COMMUNITY

EXERCISE 11.1: WHAT DOES IT MEAN TO LIVE INDEPENDENTLY AND WITH DIGNITY IN THE COMMUNITY?

Objective: To understand what it means to live independently and with dignity

Time: 30 minutes

Materials: Chart paper and markers or blackboard and chalk

DEFINE AND CONSIDER:

The facilitator should ask the group the following questions and list the responses:

- What does “living independently” mean to you? To your community?
- Where and how do most persons with disabilities live in your communities?
- Who in your community is typically placed in an institution? What kinds of disabilities do they typically have?
- Do you know persons with disabilities who live independently according to your definition?

ANALYZE:

Emphasize that all human beings have a right to live with dignity and equality. Ask the group the following questions and list the responses:

- What does “living with dignity” mean to you?
- Do you think persons with disabilities would give the same definition as persons who do not currently have a disability?
- Do you think most persons with disabilities in your community live in dignity? Who in particular do you think *does* live in dignity? Who does not?

DISCUSS:

What can be done to ensure that all persons with disabilities in the community can live in dignity? Can live independently?

EXERCISE 11.2: UNDERSTANDING BARRIERS TO ENJOYMENT OF THE RIGHT TO LIVE INDEPENDENTLY AND WITH DIGNITY IN THE COMMUNITY

- Objective:** To understand barriers to living independently and with dignity
Time: 30 minutes
Materials: Chart paper and markers or blackboard and chalk; copies of the CRPD

INTRODUCE:

Ask for examples of barriers that prevent some persons with disabilities in the community from living independently and with dignity. List these examples.

- Are some groups of persons with disabilities especially prevented from living independently and with dignity? Why?

DISCUSS:

Divide participants into small groups of two or three. Ask each to make up a short fictional but typical biography of a person with disabilities in this community, describing how he or she was denied the right to live independently or with dignity.

Alternative: Present these “biographies” as role-plays.

REPORT/ANALYZE:

Ask each group to present its “biography.” After each, discuss what specific human rights were violated in this fictional person’s story. List these violations.

ANALYZE/DISCUSS:

Discuss with the group what it would take for each of these fictional persons to achieve the right to live independently and with dignity. You might frame this as how to reverse the negative biographies and violations reported in Step 3.

Consider the various supports guaranteed in Article 12, Equal recognition before the law; Article 19, Living independently and being included in the community; and Article 28, Adequate standard of living and social protection.

- What could be done to obtain these supports?
- Would it help to advocate for these supports in terms of human rights?

EXERCISE 11.3: UNDERSTANDING THE RIGHT TO LIVE INDEPENDENTLY AND WITH DIGNITY IN THE COMMUNITY

Objective: To review and understand the right to live independently and with dignity affirmed by the CRPD

Time: 45 minutes

Materials: Chart paper and markers or blackboard and chalk; copies of CRPD Articles 12, 19, and 28, and related questions

PARAPHRASE AND DISCUSS:

Divide participants into three groups and assign each one of the CRPD articles: Article 12, Equal recognition before the law; Article 19, Living independently and being included in the community; and Article 28, Adequate standard of living and social protection. (Because of its length, you may want to divide Article 19 among three groups, with items 4 and 5 being considered by separate groups). Give each group copies of its respective article and the additional questions about the article.

Assignment:

1. Paraphrase all parts of the article into everyday language. Write your paraphrase on chart paper.
2. Answer the following questions about your article:

Article 12, Equal recognition before the law

- What do you think is meant in Part 1 by “recognition everywhere as persons before the law”?
- What do you think is meant in Part 2 by “enjoy legal capacity”?
- What kind of support do you think is intended in Part 3 by “support they may require in exercising their legal capacity”?
- What are some examples of “the exercise of legal capacity” mentioned in Part 4?

Article 19, Living independently and being included in the community

- What do you think is meant by “independent living”? Give some examples.
- What do you think is meant by “full inclusion and participation in the community”?

Article 28, Adequate standard of living and social protection

- What do you think is meant in Part 1 by “adequate standard of living”?
- What do you think is meant in Part 1 by “continuous improvement of living conditions”?

- What do you think is meant in Part 2 by “social protection”?
- What “services, devices and other assistance” do you think are meant in Part 2(a)?

REPORT:

Ask each group to post their paraphrase and read it aloud with the whole group, pausing at each phrase to ask if participants have questions or alternative language. Ask them to explain their answers to the questions that come with each article. Try to arrive at a clean and clearly understandable version of each article. Write each on chart paper and read aloud.

GIVE EXAMPLES:

Ask for examples of how these rights could be enjoyed and make a difference for persons with disabilities.

DISCUSS:

How can these articles be used to set national disability rights agendas and formulate platforms of action for submission to political parties of government decision makers?

EXERCISES FOR CHAPTER 12: ACCESS TO JUSTICE

EXERCISE 12.1: TURNING TO THE JUSTICE SYSTEM

Objective: To recognize the complexity of the justice system and how people use it

Time: 30 minutes

Materials: Chart paper and markers or blackboard and chalk

BRAINSTORM:

Ask participants to name some typical reasons that people in their community turn to the justice system. List as many of these as possible on a chart like the one on the next page. Include issues related to property, family matters, violent crimes, or instances where one person has hurt another but the act is not considered a crime (for example, making false spoken or written statements about a person). For each reason given, ask what institutions people turn to for justice in each situation (for example, police, council of elders, religious authorities, magistrates, courts).

REASON FOR TURNING TO THE JUSTICE SYSTEM	INSTITUTION TURNED TO	ROLES IN THIS INSTITUTION

LIST:

Ask what are the various roles individuals play in these institutions of the justice system mentioned in Step 1 (for example, victim, perpetrator, witness, police, elder, lawyer, judge, specialized expert, juror, prison official) and list these on the chart.

- Do persons with disabilities usually play any of these roles in your community? Check those that apply.

DISCUSS:

Consider those roles that persons with disabilities do not play:

- What happens when persons with disabilities are excluded from these roles and thus from full participation in the justice system? To the person with disabilities? To the justice system?
- Why do you think persons with disabilities are excluded from these roles?
- What can be done to increase the participation of persons with disabilities in the justice system?

EXERCISE 12.2: BARRIERS TO THE JUSTICE SYSTEM

Objective: To identify barriers to participation in the justice system faced by persons with disabilities

Time: 30 minutes

Materials: List of roles generated in Exercise 12.1

ANALYZE:

Using the list of persons and institutions involved when people turn to the justice system generated in Exercise 12.1, ask each participant (or pair of participants) to choose one role and to evaluate the barriers a person with a disability might face in fulfilling this role.

ROLE PLAY:

Ask each participant or pair to report on their analysis and to role-play at least one of the barriers a person with a disability would face in fulfilling this role.

DISCUSS:

- What are the consequences when persons with disabilities are excluded from full participation in the justice system? To the person with a disability? To the justice system? To society as a whole?
- Which barriers have the greatest effect on persons with disabilities? On the justice system? On society as a whole?
- What can be done to eliminate these most significant barriers to full participation? List these barriers and save the list for reuse in Exercise 12.3.

EXERCISE 12.3: WHAT RIGHTS TO ACCESS TO JUSTICE DOES THE CRPD AFFIRM?

Objective: To review and understand the right to access to justice affirmed by the CRPD

Time: 30 minutes

Materials: Chart paper and markers or blackboard and chalk; copies of Article 13 of the CRPD

REVIEW:

Divide the participants into small groups. Ask each group to work together to paraphrase Article 13, Access to justice, in common language and give some examples of how that right could be enjoyed and make a difference for persons with disabilities in their community.

PARAPHRASE:

Read Article 13 aloud. Pause at each natural section to ask different groups for their paraphrase. Discuss the meaning of the section until everyone can agree on a paraphrase. Write the final paraphrase of Article 13 on chart paper and read aloud.

GIVE EXAMPLES:

Ask for examples of how that right could be enjoyed and make a difference for persons with disabilities.

DISCUSS:

- How can Article 13 of the CRPD be used to set national disability rights agendas and formulate platforms of action for submission to political parties or government decision makers?
- How can it be used to engage in dialogues with court administrators and ministries of justice?

EXERCISES FOR CHAPTER 13: THE RIGHT TO EDUCATION

EXERCISE 13.1: WHAT RIGHTS TO EDUCATION DOES THE CRPD AFFIRM?

Objective: To review and understand the right to education affirmed by the CRPD

Time: 30 minutes

Materials: Chart paper and markers or blackboard and chalk; copies of CRPD Article 24

REVIEW:

Divide the participants into small groups. Give each group a copy of Article 24, Education, and ask them to work together to paraphrase it in common language. Since the article is quite long, you may wish to assign different parts to different groups.

PARAPHRASE:

Read Article 24 aloud. Pause at each comma or natural section to ask different groups for their paraphrase. Discuss the meaning of the section until everyone can agree on a paraphrase.

Write the final paraphrase of Article 24 on chart paper and read aloud.

GIVE EXAMPLES:

Encourage participants to draw from their past experiences and give some examples of how the right to education could be enjoyed and make a difference for persons with disabilities in their community.

DISCUSS:

How can Article 24 of the CRPD be used to set national disability rights agendas and formulate platforms of action for submission to political parties or government decision makers?

EXERCISE 13.2: EXPERIENCING EDUCATION

Objective: To discuss improvements to the education system

Time: 45 minutes

Materials: Chart paper and markers or blackboard and chalk

INTRODUCE:

Divide participants into groups of 2-3 to discuss the following:

- In what type of school setting did you receive your education (e.g. inclusive school, mainstream/integrated school, or a segregated school)?
- Describe the best parts of your educational experience. What made it so good?
- Describe the worst parts of your educational experience. What made it so bad?
- Did your worst experiences violate the right to education?

REPORT:

Ask a spokesperson from each group to summarize their discussion:

- What kinds of educational environments did persons experience?
- What factors created good or bad educational experiences? List them.

DISCUSS:

- Does the current education system support persons with disabilities and provide reasonable accommodations? Should it?
- Consider the roles that persons with disabilities currently play in the education system: what happens when persons with disabilities are excluded from these roles or excluded entirely from the education system?

Now consider what changes or improvements you would make to prevent others from experiencing the same barriers to education.

EXERCISE 13.3: IDENTIFYING THE CAUSES OF DISCRIMINATION IN EDUCATION

- Objective:** To analyze the causes of educational discrimination
Time: 45 minutes
Materials: Chart paper and markers or blackboard and chalk; copies of Causation Map

BRAINSTORM:

Ask participants what they consider to be the principal problems of discrimination or barriers to persons with disabilities accessing quality education. List these problems.

Solicit input from other persons who have noticed the problem and/or are affected by it.

List the barriers and instances of discrimination as they are mentioned.

EXPLAIN:

Divide participants into small groups and ask each group to choose a problem to analyze from the list created above. Give each group copies of the Causation Map. Explain that their task is to break the problem down into manageable parts. Give these instructions and introduce the Causation Map, explaining that it pushes you to consider all possible causes of the problem. Illustrate how to use the diagram using a simple example.

ANALYZE:

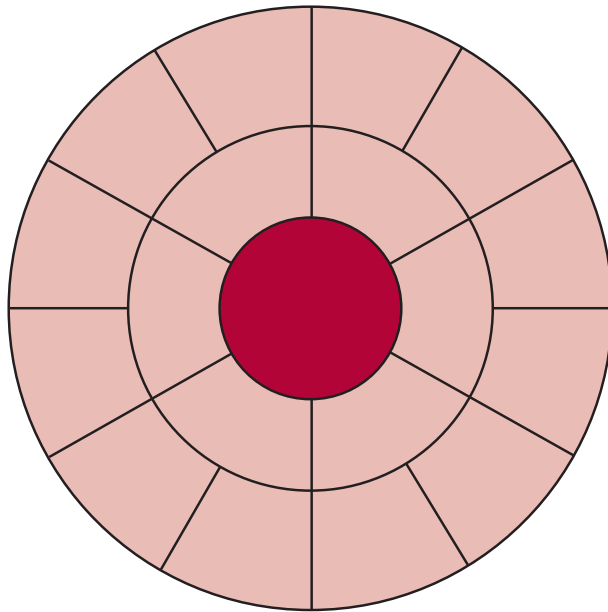
Give these instructions:

Step 1: Identify the problem. Write down the problem experienced on a flip chart as the first heading in an outline.

Step 2: What are the major causes that contribute to the problem? These might involve people, systems, equipment, cultural attitudes, or external forces. Write down each cause as a sub-heading under the problem.

Step 3: Taking each cause identified in Step 2, identify possible sub-causes for that cause. Write these sub-causes on the outline.

Alternative: Do the analysis above, using the causation diagram below. Write down the problem identified in the centre of the diagram and circle it. Next, write down each cause in an inner circle around the problem listed in the centre of the diagram. Finally, write sub-causes in the outer rim of the circle. This diagram helps to show the relationship between the problem identified and its causes and sub-causes.



REPORT/DISCUSS:

Ask a spokesperson from each group to state their problem and summarize their analysis, using the outline created on the chart paper. (Present the diagram that was created if this option was utilized).

SUMMARIZE:

Ask participants to draw some general conclusions from these analyses, asking questions like these:

- Did you observe any similarities in these analyses?
- Were similar causes and sub-causes identified?
- Why do you think the same causes were identified in so many diagrams?
- Can you use this analysis to investigate or create plans for taking action to address some of the principal causes of the problems analyzed here?

EXERCISE 13.4: SPEAKING UP FOR EDUCATION

Objective: To examine discrimination in education systems and consider how to take action against it

Time: 60 minutes

Materials: Chart paper and markers or blackboard and chalk

INTRODUCE:

Reintroduce the list of discrimination or barriers in accessing quality education used in Exercise 13.2. Observe that while that exercise looked at the causes of these problems, this one seeks to articulate them and look for solutions.

PLAN:

Divide participants into small groups of 3-6 participants. Ask each group to choose a problem from the list that they would like to focus on. Give these instructions:

1. Plan a five-minute presentation to a mock “Board of Education” that includes teachers, administrators, and parents.
2. Ask groups to choose a spokesperson for the presentation and someone to serve on the “Board of Education.”
3. While the groups plan presentations, each member of the “Board of Education” meets to decide on their roles. These roles should reflect the attitudes, both positive and negative, found in the community. Roles might include teacher, parent, peer, administrator, religious or community leader, or government official.
4. Presentations should:
 - Describe the discrimination, including whom it affects and some of its causes;
 - Relate the discrimination to a human right in the CRPD;
 - Describe the discrimination’s affect on the lives of persons with disabilities;
 - Describe how addressing the problem can improve the lives of persons with disabilities; and
 - Propose next steps or specific actions that can be taken to address the problem.

ROLE-PLAY/DISCUSS:

Have the spokesperson from each group make a presentation to the “Board.” Encourage members of the “Board” to respond according to their role.

DISCUSS/DRAW CONCLUSIONS:

Debrief each presentation by asking for questions, comments, objections, or suggestions from the larger group. Ask questions like these:

- How did the spokesperson feel when presenting the problem?
- How did the “Board” react? What attitudes and barriers were represented?
- Were the responses of the “Board” typical of opinion in your community?
- Were the problems presented human rights issues?
- Was the tactic for addressing the problem feasible in your education system? Why or why not?
- What would be the next step in real life for addressing this problem?

EXERCISES FOR CHAPTER 14: THE RIGHT TO SPORTS AND CULTURE

EXERCISE 14.1: BARRIERS TO PARTICIPATION IN CULTURAL LIFE, RECREATION, SPORT, AND LEISURE

Objective: To identify barriers to participation in cultural life, recreation, sport, and leisure faced by persons with disabilities

Time: 60 minutes

Materials: Chart paper and markers or blackboard and chalk; copies of CRPD Article 30

BRAINSTORM:

Ask the group to brainstorm some of the activities that Article 30, Participation in cultural life, recreation, leisure and sport, might include. List these activities. They could cover, for example, particular types of cultural activities, language/linguistic identity, sport, recreation, leisure, and play.

ANALYZE:

Divide participants into pairs and ask each pair to select one of the activities listed in Step 1 and evaluate the specific barriers persons with disabilities might face in achieving full participation in the selected activity. Encourage participants to think of a scenario that illustrates some of these barriers, perhaps drawing from their personal experience.

ROLE-PLAY:

Ask each participant or pair to report on their analysis and/or to role-play at least one of the barriers a person with a disability might experience in engaging in this activity (for example, negative attitudes and stereotypes, ignorance about how to accommodate persons with disabilities)

DISCUSS:

- What are the consequences when persons with disabilities are excluded from full participation in cultural life, recreation, sport, leisure and related areas?
- What are the consequences for the community?
- For the person with a disability? For society as a whole?
- Which barriers have the greatest effect on persons with disabilities? On the community? On society as a whole?
- What can be done to eliminate these most significant barriers to full participation? List these potential solutions.

DEVELOP:

Ask each pair to join with another to form groups of four. Ask each group to create a fact sheet or checklist that might be used to advocate for the inclusion of a person with a disability in one of the activities they analyzed in Step 2. For example, the group may wish to draft a list of the benefits of inclusion to both a person with a disability and to society as a whole. The group might also draft a list of tips for including and accommodating persons with disabilities in that activity.

SHARE:

Ask each group of four to post and explain its list. Discuss:

- How could these lists be used as tools for disability rights advocacy and awareness-raising?
- Who would be the appropriate target audience for this advocacy and awareness-raising (for example, local community theatres, sport centres, or a tourism authority)?

EXERCISE 14.2: WHAT RIGHTS TO PARTICIPATE IN CULTURAL LIFE, RECREATION, SPORT, AND LEISURE DOES THE CRPD AFFIRM?

Objective: To review and understand the right to participate in cultural life, recreation, leisure, and sport in the CRPD

Time: 30 minutes

Materials: Chart paper and markers or blackboard and chalk; copies of CRPD Article 30

REVIEW:

Divide the participants into small groups. Ask each group to work together to paraphrase Article 30, Participation in cultural life, recreation, leisure and sport, in common language and give some examples of how the rights in the provision could be enjoyed and make a difference for persons with disabilities in their community. Since Article 30 is rather long, you may want to divide different parts among the groups.

PARAPHRASE:

Read Article 30 aloud. Pause at each comma or paragraph to ask different groups for their paraphrase. Discuss the meaning of the section until everyone can agree on a paraphrase. Write the final paraphrase of Article 30 on chart paper and read it aloud.

GIVE EXAMPLES:

Ask for examples of how the right to participation in cultural life, recreation, leisure and sport could be enjoyed and make a difference for persons with disabilities.

DISCUSS:

- How can Article 30 of the CRPD be used to set national disability rights agendas and formulate platforms of action for submission to political parties or government decision makers?
- What organizations at the community, national, and international levels might support these rights (consider both governmental as well as non-governmental bodies)?

EXERCISE 14.3: WHAT ARE THE CULTURAL RITUALS IN YOUR COMMUNITY?

Objective: To consider the cultural rituals within the family or community and barriers that persons with disabilities face in accessing their right to participate in culture

Time: 30 minutes

Materials: Chart paper and markers or blackboard and chalk

BRAINSTORM/DISCUSS/REPORT:

Ask participants to brainstorm in small groups:

- What are the rituals in your culture that mark the important events in a person's life (for example, birth, coming of age, marriage, death) or the seasons of the year (for example, religious holidays, national holidays)? List them.
- What is the value and importance of these rituals to the individual? To the family? To the community or society as a whole?

ANALYZE:

Ask each group to report back on their findings and combine their lists. Discuss among the whole group:

- Are persons with disabilities welcome or permitted to participate in these rituals? If not, why not?
- How does exclusion impact persons with disabilities personally?
- How does it affect their family? Their community? Society as a whole?
- How does exclusion impact their ability to participate as full members in society?

STRATEGIZE:

Ask the group to consider ways of addressing discrimination in relation to participation in these cultural rituals.

- How might these barriers be challenged within the family? Within the community?

EXERCISE 14.4: WHAT IS AN ATHLETE?

Objective: To consider the attributes of athletes and the barriers that athletes with disabilities face in accessing their right to participate in sport

Time: 30 minutes

Materials: Chart paper and markers or blackboard and chalk

BRAINSTORM:

Ask participants to brainstorm these questions and record their answers on chart paper:

- What are the general attributes of an athlete?
- What words or phrases come to mind in thinking about an athlete?

BRAINSTORM:

Ask participants to think about an athlete with a disability. Record these responses on a separate chart.

- What do you think about when you think about an athlete with a disability?
- What words come to mind?

COMPARE:

Compare the two charts and discuss the results:

- How are the responses different?
- How are they the same?
- Does anything about these two lists surprise you?

DISCUSS:

- Are there athletes with disabilities in your community?
- If so, what kinds of sports do they engage in?
- If not, why not?
- What organizations at the community, national, and international levels might support the rights of athletes with disabilities? (Consider both governmental as well as non-governmental bodies).

Variation: This exercise may be easily adapted to address scientists, artists, musicians, and other participants in cultural life, sport, and recreation.

EXERCISE 14.5: SPEAKING UP FOR ACCESSIBLE TOURISM

Objective: To examine discrimination in tourism and tourism development and to consider how to take action against it

Time: 60 minutes

Materials: Chart paper and markers or blackboard and chalk

LIST:

Ask participants what they consider are the main problems of discrimination or barriers in tourism for persons with disabilities. List them.

PLAN:

Divide participants into small groups. Ask each group to choose a problem from the list that they would like to focus on. Give these instructions:

1. Plan a five-minute presentation to a mock “Tourism Development Board” that includes officials, representatives of the tourist industry, and members of the public;
2. Choose a spokesperson for your group’s presentation and also someone from the group to serve on the “Tourism Development Board”;
3. While the groups plan presentations, each member of the “Tourism Development Board” meets to decide on their roles. (These roles should reflect typical attitudes, both positive and negative, found in the community);
4. Presentations should:
 - Describe the discrimination, including whom it affects and, if possible, its cause(s);
 - Relate the discrimination to a human right in the CRPD;
 - Describe the effects of discrimination on the lives of persons with disabilities;
 - Describe how addressing the problem can improve the lives of persons with disabilities, and of persons generally; and
 - Propose next steps or specific actions that can be taken to address the problem.

ROLE-PLAY/DISCUSS:

Have the spokesperson from each group make a presentation to the “Tourism Development Board.” Encourage members of the “Board” to respond according to their agreed upon role. Debrief each presentation by asking for questions, comments, objections, or suggestions from the larger group.

CONCLUDE:

Debrief the exercise by asking questions like these:

- How did the spokesperson feel when presenting the problem?
- How did the “Board” react? What attitudes and barriers were represented?
- Were the problems human rights issues?
- Was the tactic for addressing the problem feasible in your community? Why or why not?
- In real life, what would be the next step for addressing this problem?

EXERCISES FOR CHAPTER 15: THE HUMAN RIGHTS OF CHILDREN WITH DISABILITIES

EXERCISE 15.1: WHAT RIGHTS OF CHILDREN WITH DISABILITIES DOES THE CRPD AFFIRM?

Objective: To review and understand the rights of children with disabilities affirmed by the CRPD

Time: 30 minutes

Materials: Chart paper and markers or blackboard and chalk; copies of the CRPD

REVIEW:

Divide the participants into small groups. Assign each group one or two of the following parts of the CRPD: CRPD Preamble item (r); Article 3, General principles; Article 4, General obligations; Article 7, Children with disabilities; Article 16, Freedom from exploitation, violence and abuse; Article 18, Liberty of movement and nationality; and Article 24, Education. Ask each group to work together to paraphrase their part in common language and give some examples of how that right could be enjoyed and make a difference for children with disabilities in their community.

PARAPHRASE:

Read the assigned CRPD sections aloud, pausing at each comma or paragraph to ask groups for their paraphrase. Discuss the meaning of each section until everyone can agree on a paraphrase. Write the final paraphrase on chart paper.

GIVE EXAMPLES:

Ask for examples of how these rights could be enjoyed and make a difference for children with disabilities.

DISCUSS:

- How can these articles of the CRPD be used to create social change or impact national policy or local/community decision making?

EXERCISE 15.2: ATTITUDES, BELIEFS, AND VIEWS ON DIVERSE CHILDHOODS

Objective: To identify common attitudes, beliefs, and views on diverse childhoods

Time: 40 minutes

Materials: Chart paper and markers or blackboard and chalk; copies of Handout 15.2

REFLECT/ANALYZE:

Break participants into small groups and give each group a copy of Handout 15.2. Ask them to discuss these questions and record their opinions on chart paper using the format of the Handout.

Alternative: Give each group a pre-made chart in this format.

- What are 5 common *negative* beliefs and attitudes in your country about children with disabilities and their childhood?
- What are 5 common *positive* beliefs and attitudes in your country that support children with disabilities and their childhood?
- How do these positive and negative beliefs and attitudes impact children with disabilities?
 - › In your opinion?
 - › In the opinion of children with disabilities?
- How do these positive and negative beliefs and attitudes impact the opportunities and programmes available to children with disabilities?
 - › In your opinion?
 - › In the opinion of children with disabilities?

HANDOUT 15.2

NEGATIVE BELIEFS AND ATTITUDES	POSITIVE BELIEFS AND ATTITUDES	IMPACT OF THESE BELIEFS AND ATTITUDES
1.	1.	1.
2.	2.	2.
3.	3.	3.
4.	4.	4.
5.	5.	5.

DISCUSS:

Ask each group to post its chart and briefly report its list of positive and negative beliefs and attitudes. After the presentations, summarize the key impacts noted:

- How does the age of a child with a disability (for example, for toddlers, youth, young adults) affect the impact of beliefs and attitudes?
- How does gender of a child with a disability affect beliefs and attitudes?
- How do the differing abilities of children with disabilities impact these beliefs and attitudes (for example, children with visual impairments, psychosocial disabilities, multiple disabilities)?
- How do cultural expectations influence children with disabilities?
- In challenging our assumptions about children with disabilities, how can we promote a child-centred approach (for example, listening to children, allowing them to be active participants involved in decision making)?
- How can this cycle of oppression/exclusion be broken through programme interventions?
- When you listen to children with disabilities, what are their concerns and opinions regarding opportunities and programmes available for them (programmes for all children and/or programmes for children with disabilities)?
- How do positive and negative beliefs (Columns 1 & 2) impact their opportunities?

EXERCISE 15.3: DESCRIBING GOOD PRACTICES AND OVERCOMING RESISTANCE TO CHILDREN'S PARTICIPATION

Objective: To describe good practices of child participation and identify common forms of adult resistance to child participation and strategies to overcome resistance

Time: 50 minutes

Materials: Copies of handout 15.3; chart paper and markers or blackboard and chalk

DISCUSS/ANALYZE:

Break participants into small groups and give each group a copy of Handout 15.3. Ask them to do the following:

1. Share experiences of working with children and young persons with disabilities as partners in their programmes and projects, especially those that have resulted in positive outcomes;
2. Have individuals present some of their key examples. After each presentation:
 - › Ask the reasons for selecting that particular example
 - › Ask what factors contributed to the positive outcome
3. Using Handout 15.3 as a model, identify examples of adult resistance to child participation in different contexts and record them on chart paper.
4. In a second column, consider ways of overcoming adult resistance toward the participation of children with disabilities.

Alternative: Give each group a pre-made chart in this format.

DISCUSS:

Ask participants to post their charts and share their outcomes.

Analyze the answers to identify the common resistance and strategies for overcoming resistance. Record these on a separate chart.

Reflect on resistance and how it varies: for different types of disability, for girls or boys, for school-going or non-school-going children, and in rural and urban settings.

Encourage participants to cite positive personal experiences as examples of the process of overcoming adult resistance.

HANDOUT 15.3

ADULT RESISTANCE TO CHILD PARTICIPATION AND OVERCOMING RESISTANCE

	ADULT RESISTANCE TO CHILD PARTICIPATION	OVERCOMING ADULT RESISTANCE
Family		
School		
Community		
Workplace		
Local Government		
Within own organization or NGO		
Other		

EXERCISE 15.4: CHILDREN WITH DISABILITIES AS PARTNERS IN PROGRAMMING

Objective: To identify good practices for enlisting the participation of children with disabilities in the programme cycle or parts of the programme cycle and to identify ways for strengthening the participation of children with disabilities in programmes and projects

Time: 60 minutes

Materials: Copies of handout 15.4; chart paper and markers or blackboard and chalk

LIST:

Ask participants to share good examples of working with children with disabilities as partners in programmes and to identify the gaps in their interventions. List the gaps on chart paper or the chalkboard.

SMALL GROUP WORK:

Break into small groups and discuss the following questions about the gaps identified in Step 1:

- Are children with disabilities (including children with intellectual disabilities) consulted and involved? Are their views incorporated into stages of programming/the project cycle?
- Is relevant and child/ability-friendly information provided?
- Are the views of different groups of children (different disabilities/ages) taken into consideration?
- Will the project empower children and/or adults to claim the rights of children (as in the CRC) and the rights of persons with disabilities (as in the CRPD)?

While they are still in their small groups, ask participants to focus their discussion on ways to strengthen the participation of children with disabilities in programmes and projects.

What are some key lessons:

- On empowering children with disabilities?
- On encouraging adults to realize the rights of children with disabilities?

DISCUSS:

Bring all groups together to share ideas. Summarize by going through some of the programme and project cycle and identifying a few key elements in similar and contrasting ways to strengthen the participation of children with disabilities.

EXERCISES FOR CHAPTER 16: NON-DISCRIMINATION AND EQUALITY FOR WOMEN

EXERCISE 16.1: THE FAR-REACHING EFFECTS OF DISCRIMINATION

Objective: To understand the multiple effects of discrimination experienced by women and girls with disabilities

Time: 60 minutes

Materials: Paper and markers; copies of the Effects Cascade (in Part 4, Section 2).

Optional: Paper cut into circles or paper plates and markers

BRAINSTORM:

Ask participants to brainstorm ways in which women or girls with disabilities experience discrimination or unequal treatment. List them, combining similar examples. Keep this list for use in Exercise 16.2.

ANALYZE:

Divide participants into pairs or small groups and ask each pair or group to choose one example of discrimination to analyze. Give these instructions and illustrate how to use the Effects Cascade:

Step 1: Identify the problem. Write down the problem in the circle at the top of the cascade.

Step 2: Think of three results of that problem in the lives of women and girls with disabilities and write these in the three circles below the big circle.

Step 3: For each of the three results, think of two additional effects that may follow. If you identify more responses, add extra circles.

Example: If the problem is that women and girls with disabilities do not receive an equal education, three results might be:

- They cannot read or write;
- They cannot earn an adequate living; or
- They are excluded from others in their age group.

From the effect “They cannot read or write,” three results might be:

- They cannot receive written information;
- They cannot read instructions on medications;
- They cannot communicate by letter or email.

Alternative: If time permits, use a positive cascade using what would result if the right were enjoyed (for example, “Women and girls with disabilities receive an equal education”).

REPORT:

Ask each pair or small group to present its Effects Cascade. At the end of each presentation, ask the whole group for additional ideas about other effects. Add these to the diagram. Keep all the diagrams mounted at the front of the room.

DISCUSS:

Emphasize that just as these effects of discrimination are far reaching, they also involve violations of human rights that have multiple effects. Review each chart and ask participants to identify what human rights might be violated in each chart, besides the general rights to equality and freedom from discrimination.

Example: On the effects of “Women and girls with disabilities do not receive an equal education,” you might write:

- “They cannot read or write” = Right to Education denied;
- “They cannot earn an adequate living” = Right to an Adequate Standard of Living denied;
- “They are excluded from others in their age group” = Right to Participate in the Community denied.

CONCLUDE:

Conclude by emphasizing the inter-relatedness of rights. Illustrate how this works both positively and negatively. Take any one of the issues analyzed and do a positive Effects Cascade, showing how the realization of one right affirms other human rights.

Example: If “Women and girls with disabilities receive an equal education,” some effects might be:

- “They *can* read and write” = Right to Education realized;
- “They *can* earn an adequate living” = Right to an Adequate Standard of Living realized;
- “They *participate* in their age group” = Right to Participate in the Community realized.

EXERCISE 16.2: THE ROOTS OF DISCRIMINATION

- Objective:** To analyze causes of discrimination experienced by women and girls with disabilities
- Time:** 60 minutes
- Materials:** Copies of a Causation Map (See Exercise 13.3); paper and markers

INTRODUCE:

Reintroduce the list of examples of discrimination used in Exercise 16.1. Explain that while the first exercise looked at the effects of discrimination, this one will analyze its causes.

ANALYZE:

Divide participants into pairs or groups and ask each to choose an example of discrimination to analyze. These may be the same groups and topics as Exercise 16.1 or both may be new. Give each pair or group copies of a Causation Map, chart paper and markers. Explain that their task is to break the problem down into manageable parts. Introduce the Effects Map, explaining that it pushes you to consider all possible causes of the problem. Illustrate how to use the Causation Map using a simple, straightforward problem:

Step 1: Identify the problem. Write down the problem you face in detail at the centre of the diagram and circle it.

Step 2: What are the major causes that contribute to the problem? These causes might involve people, systems, equipment, cultural attitudes, or external forces. Write down each cause around the central circle and draw a circle around it. Draw lines between these causes and the central problem.

Step 3: Taking each cause identified in Step 2 in turn, identify possible sub-causes for each cause. Write these sub-causes in smaller circles surrounding the main cause and connect them to it with lines.

Step 4: Analyze your diagram. Depending on the complexity and importance of the problem, you can investigate or create plans for taking action to address the problem.

Alternative: Create an outline with the problem as the heading and factors and sub-causes as sub-headings.

REPORT:

Ask each pair or group to present their diagram. At the end of each presentation, ask the whole group for additional ideas about other causes or how to address the problem.

SUMMARIZE:

Ask participants what common causes they observed in these different analyses. List them and discuss how these principal sources of discrimination might be addressed.

EXERCISE 16.3: HOW DOES THE CRPD AFFIRM THE RIGHTS OF WOMEN AND GIRLS TO NON-DISCRIMINATION AND SEX EQUALITY?

Objective: To review and understand the human rights of women and girls affirmed by the CRPD

Time: 30 minutes

Materials: Chart paper and markers or blackboard and chalk

REVIEW:

Divide the participants into small groups. Ask each group to work together to discuss both general and specific approaches to non-discrimination and sex equality undertaken by the CRPD.

GIVE EXAMPLES:

Ask for examples of how the rights of women and girls with disabilities could be enjoyed and make a difference in their lives. List and number these vertically on chart paper.

LIST:

Next to the list generated in Step 2, place a chart with three columns across the top labelled, “RESPECT, PROTECT, FULFIL.” The results should be a double chart like that below. Taking each item in turn, decide whether each example would represent action by the State to **respect**, **protect**, or **fulfil** the rights of women with disabilities.

EXAMPLE	RESPECT	PROTECT	FULFIL
All women obtain an education			✓
Domestic violence against women is prosecuted as a crime		✓	

DISCUSS:

- How can the sex equality and non-discrimination provisions of the CRPD be used to set national disability rights agendas and formulate platforms of action for submission to political parties or government decision makers?

EXERCISE 16.4: DECISION MAKING IN THE FAMILY AND BEYOND

Objective: To identify decision-making power in the family and beyond

Time: 90 minutes

Materials: Copies of Articles 6 and 3(g) of the CRPD; chart paper and markers or blackboard and chalk

BRAINSTORM:

Ask the full group to call out answers to the following question: “What decisions are made in the typical family?” Participants should offer their ideas without comment. Record their responses without comment.

DISCUSS:

Ask the group to comment on any differences in the decisions that men and women make. Add any of the following that are not included in the list:

- Whom to live with and according to what arrangement;
- Whether to marry;
- Whom to marry;
- When to marry;
- Whether to bear children;
- When to begin bearing children and how many children to bear;
- Whether to retain one’s own nationality and citizenship in marriage;
- Whether to adopt children and how many to adopt;
- Whether to raise another persons’ child outside of adoption;
- Whether and when to divorce and on what conditions;
- Whether to own and control personal property, borrow money, or to open a business;
- Whether to apply for paid employment and what type of employment to enter.

DISTRIBUTE/ANALYZE:

Distribute CRPD Article 6, Women with disabilities, and Article 3, General principles, section (g), and point out that it provides for women with disabilities to have equal rights and responsibilities on the basis of non-discrimination. In small groups or in pairs, ask participants to discuss the following questions and report back to the full group:

- What do these provisions in CRPD mean?
- Should there be recognition that women with disabilities may have different needs from men?
- How are these provisions followed or not followed in your community? In your family?

EXERCISES FOR CHAPTER 17: THE HUMAN RIGHTS OF OTHER POPULATIONS OF PERSONS WITH DISABILITIES

EXERCISE 17.1: WHAT DOES IT MEAN TO EXPERIENCE MULTIPLE FORMS OF DISCRIMINATION?

Objective: To understand the effects of multiple forms of discrimination

Time: 60 minutes

Materials: Slips of paper and pencils

BRAINSTORM:

Ask the group to list types of disabilities with which they are familiar (for example, persons with physical, sensory, learning, intellectual, and psychosocial disabilities). Have the groups list them and write them on separate slips of paper. Collect these slips in a container.

Next, ask the participants to name the groups in their community who experience discrimination (for example, religious and racial minorities, indigenous peoples, immigrants and migrants, people of colour, sexual minorities, poor people, people with HIV/AIDS). Have the groups list them and write them on separate slips of paper. Collect these slips in another container.

IMAGINE/DISCUSS:

Divide participants into small groups. Explain that each group will imagine a person with certain characteristics that they will choose at random, starting with that person's disability. Ask each group to draw a slip from the container containing types of disabilities and discuss what kinds of discrimination based on that disability their imagined person might face.

Note to facilitator: Adapt Steps 2, 3, and 4 to accommodate participants whose disability does not permit them to read.

IMAGINE/DISCUSS:

After about five minutes, announce that in addition to having a disability, this person also has another characteristic that results in discrimination. Have each group draw a slip from the container with names of groups. Ask them to imagine and discuss what additional discrimination this person might now face.

IMAGINE/DISCUSS:

After another five minutes, announce that this person has another characteristic that causes discrimination and have each group draw a second slip from the container of group characteristics. Ask them to imagine and discuss what additional discrimination this person might now face.

DISCUSS:

Bring participants back together and ask a spokesperson from each group to “introduce” the person they have imagined and describe the multiple layers of discrimination that person might face.

DISCUSS /STRATEGIZE:

Discuss what steps might be taken to end the kinds of discrimination these imaginary persons face by asking questions like these:

- Are some kinds of discrimination harder to address than others? Which ones? Why?
- Are some kinds of discrimination more harmful or painful than others?
- Do some kinds of discrimination have more far-reaching effects than others?
- What can be done to address multiple forms of discrimination experienced by persons with disabilities?

EXERCISE 17.2: WHAT RIGHTS OF PERSONS WITH DISABILITIES WHO EXPERIENCE MULTIPLE DISCRIMINATION DOES THE CRPD AFFIRM?

- Objective:** To review and understand the rights of persons with disabilities who experience multiple discrimination
- Time:** 45 minutes
- Materials:** Chart paper and markers or blackboard and chalk; copies of CRPD Preamble

REVIEW:

Divide the participants into small groups. Ask each group to work together to paraphrase the paragraphs in the CRPD Preamble in common language and give some examples of how those provisions can help disadvantaged groups of persons with disabilities enjoy their human rights.

Alternative: Divide the sections of the Preamble among several groups.

PARAPHRASE:

Read the CRPD Preamble above aloud and pause at each comma or natural section to ask different groups for their paraphrase. Discuss the meaning of each section until everyone can agree on a paraphrase. Write the final paraphrase on chart paper.

GIVE EXAMPLES:

Ask for examples of how these provisions in the CRPD could be enjoyed and make a difference for different groups of persons with disabilities who may experience multiple forms of discrimination.

DISCUSS:

- How can these articles of the CRPD be used to set national disability rights agendas and formulate platforms of action for submission to political parties or government decision makers?

EXERCISE 17.3: SPEAKING OUT FOR PARTICIPATION AND INCLUSION IN DEVELOPMENT DECISION MAKING

Objective: To examine the right of persons with disabilities to participate in development decision making

Time: 60+ minutes

Materials: Chart paper and markers or blackboard and chalk

BRAINSTORM:

Ask participants to list areas where they experience barriers in participating in development decision making in their community (for example, with international development organizations, with local governments, with community leaders, with religious leaders).

Divide participants into small groups and ask each group to choose an area of exclusion from development decision making on which they wish to concentrate (for example, planning of a development project, purchase of inaccessible buses, or policies on health, social welfare, or education).

PLAN:

Ask each group to prepare a five-minute presentation to a “panel of community development leaders” on their problem. Each presentation should:

1. Describe the exclusion of persons with disabilities in a specific development decision-making process and identify the group of persons with disabilities that it impacts and if possible the cause(s) of the problem;
2. Relate the problem to the human rights of persons with disabilities;
3. Clarify how the problem affects the lives of persons with disabilities (and their families where relevant);
4. Show how addressing the problem can improve their lives;
5. Propose specific actions that should be taken to address the problem; and
6. Show how members of the community can get involved in addressing the problem.

Ask each group to choose a spokesperson to make the presentation and one or two to serve as the “panel of community development leaders.” While the groups plan their presentations, the panel of leaders meets to decide on their roles, representing probable attitudes within the community leadership.

ROLE-PLAY:

The spokesperson from each group makes a presentation and members of the panel listen and respond, asking questions and offering comments, objections, or suggestions in keeping with their chosen roles.

DISCUSS:

After the presentations and role-play, discuss:

- How did the spokespersons feel when presenting the problem?
- How did the “community leaders” respond to the presentation? What attitudes in the community were they representing?
- How did the audience, composed of the rest of the group, respond to the presentations?
- Did any spokesperson discuss the problem as a human rights violation? Did putting the problem in this context strengthen the argument?
- Are any of the ideas put forward feasible in your community? Why or why not?

CONCLUDE:

Challenge the participants to evaluate their knowledge of the problem and inclusiveness of perspective:

- How did you obtain your information on the barriers to participation and their impact? Was it accurate and complete? If not, what additional information do you need and how can you obtain it?
- Did you consult the persons with disabilities involved about the problem and how it affects them? About the actions that could improve the problem?
- Why is it important in real-life human rights advocacy to include the active participation of those directly involved and affected?
- How can you apply the example of this exercise to planning and implementing advocacy for persons with disabilities in your community?

SECTION 4

LEARNING EXERCISES FOR PART 3: ADVOCACY! TAKING ACTION FOR THE RIGHTS OF PERSONS WITH DISABILITIES

INDEX OF PART 3 EXERCISES

Advocacy Exercise 1: Defining the Change You Want to Make

Advocacy Exercise 2: Articulating the Change You Want to Make

Advocacy Exercise 3: Conducting a SWOT Analysis

Advocacy Exercise 4: Gathering Information

Advocacy Exercise 5: Making an Action Plan

Advocacy Exercise 6: Evaluating Advocacy

STEP 1: DEFINE THE CHANGE YOU WANT TO MAKE

ADVOCACY EXERCISE 1: DEFINING THE CHANGE YOU WANT TO MAKE

- Objective:** To help participants identify the action they wish to take
- Time:** 30 minutes
- Materials:** Chart paper and markers or blackboard and chalk; copies of Handout 1

DISCUSS/LIST:

- What are the main issues or barriers to the human rights of persons with disabilities in your community? Brainstorm a list and record it on chart paper.
- If you could create change on any one of these issues or barriers, which one(s) would make the most difference in the lives of persons with disabilities? Mark these issues with a star.

ANALYZE:

Ask participants to break into small groups according to the starred items that they would most like to work on. If many people want to work on the same issue or barrier, encourage several small groups rather than a single large one.

Give each group a copy of Handout 1, Defining the Change You Want to Make, to guide their discussions.

REPORT:

Ask each group to post and briefly explain their analysis of the change they wish to make. Ask for comments and suggestions from the whole group.

HANDOUT 1

DEFINING THE CHANGE YOU WANT TO MAKE

1. What is the specific change you wish to bring about? Write this in a few sentences on chart paper.
2. Does this change involve having the right:
 - › **Respected** (that is, having the right recognized, stopping people and institutions from denying or limiting the right)?
 - › **Protected** (that is, having laws and measures to ensure the right is not violated and prevent its violation in the future)?
 - › **Fulfilled** (that is, given sufficient recognition, funding, and other positive acts that enable and assist the enjoyment of that right)?
3. Analyze possible underlying causes of the situation you wish to change. Look at each from as many perspectives as you can imagine. For example:
 - › Attitudes
 - › Laws
 - › Society
 - › Religion and culture
 - › Government
 - › Health care system
 - › Individuals and families
 - › Other perspectives
4. Of the underlying causes identified for each challenge, which seem to be the most significant?

STEP 2: ARTICULATING THE CHANGE YOU WANT TO MAKE

ADVOCACY EXERCISE 2: ARTICULATING THE CHANGE YOU WANT TO MAKE

Objective: To develop skills in articulating advocacy goals

Time: 60 minutes

Materials: Chart paper and markers or blackboard and chalk; copies of Handout 2

EXPLAIN:

Once you have a clear vision of the change you want to make, you need to develop the skills to communicate your vision articulately and convincingly to others, to both potential supporters and opponents.

Ask each group to prepare a five-minute presentation to a “panel of community leaders” on their chosen problem. Give each group a copy of Handout 2, Articulating the Change You Want to Make, and encourage each to try to include most of what it suggests.

Note to Facilitator: Allow plenty of time for planning and practice. Emphasize that although some members of the group may naturally be better public speakers, everyone should participate in the planning and be able to explain their vision for change.

PLAN:

Ask each group to choose one or two spokespersons to make the presentation and two or three to serve as the “panel of community leaders.” While the groups practice their presentations, the “panel of leaders” meets to decide on their roles, representing probable attitudes within the community leadership (for example, a hostile mayor, a supportive community leader, a school board member, a religious authority). Alternatively, ask one or two people from each group to come together to form the panel for all presentations.

PRESENT:

Ask the spokesperson(s) from each group to make a presentation to the panels members, who listen and respond, asking questions and offering comments, objections, or suggestions in keeping with their chosen roles.

Note to Facilitator: Time the presentations carefully; most presenters have difficulty filling the full five minutes. Also, limit the panel’s responses in order for all groups to have sufficient time.

DISCUSS:

After the presentations and role play, discuss:

- How did the spokespersons feel when presenting the problem?
- How did the “community leaders” respond to the presentation? What attitudes in the community were they representing?
- How did the audience, composed of the rest of the group, respond to the presentations?
- Did any spokesperson discuss the problem as a human rights violation? Did putting the problem in this context strengthen the argument?
- Are these ideas for improving this specific right feasible in your community? Why or why not?

CONCLUDE:

Challenge the participants to evaluate their knowledge of the problem and inclusiveness of their perspective:

- How would you change your presentation in a real-life situation?
- How did you obtain your information on the barriers to participation and their impact? Was it accurate and complete? If not, what additional information do you need and how can you obtain it?
- Did you consult persons with disabilities about the problem and how it affects them? About the actions that could improve the problem?
- Why is it important in real-life human rights advocacy to include the active participation of those directly involved and affected?
- How can you apply the lessons learned from this exercise to planning and implementing advocacy for persons with disabilities in your own community?

Emphasize that while articulating your vision for change is a critical skill for effective advocacy, it is also one that develops through practice. The more you do it, the better you get. Encourage participants to take opportunities to speak out about the change they want to make.

Note to Facilitator: If the technology is available, arrange to record the presentations on video and let the speakers privately critique their performances.

HANDOUT 2

ARTICULATING THE CHANGE YOU WANT TO MAKE

1. Describe the problem. If possible, mention:
 - › How this problem may intersect with other kinds of human rights violations that many persons with disabilities experience;
 - › The group(s) of persons with disabilities it principally affects; and
 - › The possible cause(s) of the problem.
2. Relate the problem to the human rights of persons with disabilities, referring to specific articles of the CRPD and, if possible, to other human rights documents.
3. Clarify how the problem affects the lives of persons with disabilities (and their families where relevant).
4. Show how addressing the problem can improve the lives of persons with disabilities and the community in general.
5. Propose specific actions that should be taken to address the problem. Show how members of the community can get involved in addressing the problem.

STEP 3: PREPARING FOR ACTION

ADVOCACY EXERCISE 3: CONDUCTING A SWOT ANALYSIS

Objective: To analyze the activists' strengths, weaknesses, opportunities, and threats

Time: 45 minutes

Materials: Chart paper and markers or blackboard and chalk; copies of Handout 3

EXPLAIN/ANALYZE:

Explain that once you have articulated the change you want to make, you need to analyze it in terms of your and your organization's strengths, weaknesses, opportunities, and threats (a SWOT analysis). Divide participants into small groups. Give everyone copies of Handout 3, A SWOT Analysis, and ask them to answer its questions.

HANDOUT 3

A SWOT ANALYSIS

Strengths: Consider strengths from your organization's and/or your personal point of view and from the point of view of the people you deal with.

- What are your advantages?
- What do you do well?
- What do other people see as your strengths?
- What unique resources do you have?

Weaknesses: Again, consider this from an internal and external basis: do other people seem to perceive weaknesses that you do not see? It is best to be realistic now and face any unpleasant truths as soon as possible.

- What are your weaknesses?
- What should you avoid?
- Where do you have fewer resources than others?
- What are others likely to see as your weaknesses?

Opportunities:

- What are the good opportunities facing you?
- What are the interesting trends you are aware of?
- Who are your potential allies?

Threats:

- What obstacles do you face?
- Does your group have all the required skills for the job?
- Do competitors or opponents already exist?

Source: Mind Tools: <http://www.mindtools.com/swot.html>

REPORT/COMPARE/CONSOLIDATE:

Taking each category in turn, ask each group to report its findings. Record these separate charts for each category, putting a star by items mentioned by more than one group. When complete, discuss the results, asking questions like these:

- What are the main strengths/weaknesses/opportunities/threats noted by most groups?
- Did some observations surprise you?
- How can you make use of the results of this analysis?

DISCUSS:

Post the list of *challenges* identified in the SWOT analysis conducted in Advocacy Exercise 3. Consider these questions about the challenges facing the present and future work of your organization:

- Which of these challenges are you or others already working to change? How?
- Does your work address the underlying causes of the situation? How?
- Which of the identified challenges might be easily added to existing work being done by or on behalf of persons with disabilities? Why?
- Would some of these challenges for persons with disabilities be especially difficult, disadvantageous, or even dangerous to address? Why?

DISCUSS:

Post the list of *opportunities* identified in the SWOT analysis conducted in Advocacy Exercise 3. Consider these questions about allies and potential allies:

- Who are the most likely allies to support your action? Why?
- Do you share the same goals?
- How can your work and theirs complement and support each other?
- What do you and/or your organization have to offer the collaboration?
- What do you and/or your organization have to gain from the collaboration?
- Are there potential problems with collaboration with any group?
- How can you establish this collaboration?

Note to Facilitator: Even in a small group, divide participants into pairs; comparing different analyses is very useful.

Modify the questions where appropriate.

ADVOCACY EXERCISE 4: GATHERING INFORMATION

Objective: To facilitate gathering background information

Time: Variable

Materials: None

EXPLAIN/ANALYZE:

Observe that a wide variety of information is required to plan effective advocacy. This exercise is intended to help identify the areas where research is needed. Ask questions like these:

- What *statistics* are available about persons with disabilities in your community, your country, and in the world (for example, their numbers, ages, income levels, etc.)?
- Is this data reliable?
- What additional statistics do you need to take action?
- Where can you find this information? Who can help?
- What *laws and official policies* does your country have that directly affect persons with disabilities?
 - › Do you consider these laws and policies to be adequate and effective?
 - › Do they adequately protect the rights of persons with disabilities?
 - › Are these laws and policies consistently enforced and implemented? If not, why not?
 - › Are further laws needed? If so, what new laws would you recommend?
- Has your country **ratified** (and is thus legally bound to uphold) any of the international human rights **treaties** affecting persons with disabilities?
 - › Has your country ratified the Convention on the Rights of Persons with Disabilities (CRPD)?
 - › If no, why not? What can you do to change this decision?
 - › If yes, what steps has your government already taken in that direction?
 - › Are any groups in your country already advocating ratification of the CRPD? What are they doing? How can you help?
- Does your country have a national human rights commission and/or a national disability commission?
 - › Are these institutions part of the government or independent of it, that is, part of “civil society”?
 - › What, if anything, are these institutions doing to improve human rights and/or the lives of persons with disabilities?
 - › How can you work with these institutions to see that human rights standards are enforced for persons with disabilities?

- › Find out what government ministries and agencies are working on the rights and needs of persons with disabilities. Do they have disability policies and/or disability focal points?
- › Are any of these governmental bodies especially encouraging or discouraging of advocacy on the rights of persons with disabilities?

Note to Facilitator: These questions may require initial research to answer. You may wish to work through this exercise over two or more sessions, discussing and assigning topics for groups of participants to investigate at the first meeting, and meeting to report back at the last.

STEP 4: MAKING YOUR ACTION PLAN

ADVOCACY EXERCISE 5: MAKING AN ACTION PLAN

Objective: To develop long- and short-term action plans
Time: Variable
Materials: Copies of sample action plan forms

EXPLAIN:

Point out that having completed the initial stages of defining, articulating, and gathering information about the action(s) participants wish to take the group is ready to make an action plan.

Distribute the sample action planning forms. Explain that there are many formats for such a plan and these examples are offered to stimulate their thinking.

PLAN:

Point out that the group may wish to develop more than one plan, perhaps having one action plan for actions aimed at long-term goals and several others for individual, short-term actions. Encourage the group to include in every plan a section on follow-up and evaluation.

Assist participants in organizing small groups with specific responsibilities. Some groups may choose to work all together; others may prefer to have small groups develop plans for the same action and then combine the best features of these alternative plans.

STEP 5: TAKING ACTION

Participants are ready to implement their action plan(s) and use the skills and information they've gained to clearly address social change no matter how small the step. Encourage the group to give themselves a reasonable amount of time to accomplish their goal and set a date to follow-up.

STEP 6: FOLLOWING-UP

ADVOCACY EXERCISE 6: EVALUATING ADVOCACY

Objective: To develop long- and short-term action plans

Time: Variable

Materials: Copies of sample action plan forms

Note to Facilitator: Once the group has begun to take action, they should meet regularly to evaluate their progress, communicate the successes or challenges faced, and make adjustments, if needed, to their action plan.

DISCUSS:

Encourage participants to share their experiences, asking questions like these:

- Did you follow the action plan?
- What successes did you have?
- What challenges did you encounter?
- Does the plan need to be amended?
- If you met your goal:
 - › What factors contributed to your success?
 - › How can you build on this success?
 - › Should you repeat this strategy?
- If your goal was not met:
 - › What revisions need to be made to the action plan?
 - › Does additional research need to be completed?
 - › Are additional resources needed?
- What are your next steps for action?
 - › Do you have another action to take?

ADVOCACY ACTION PLAN

We recommend completing one Action Plan per meeting per group.

Action Group: _____

Date: _____

ISSUE

What type of issue is the group addressing?

ACTIONS

What type of actions are necessary?

BY WHOM

Who will take action?

BY WHEN

By what date will the action be done?

RESOURCES NEEDED

What financial, material, and human resources are needed to take action?

DATE ACTION TAKEN

When was the action taken?

FOLLOW-UP

What happened as a result of the action?

1ST GOAL/OBJECTIVE

Description:

Measurement:

Importance: Essential Important Desirable

2ND GOAL/OBJECTIVE

Description:

Measurement:

Importance: Essential Important Desirable

3RD GOAL/OBJECTIVE

Description:

Measurement:

Importance: Essential Important Desirable

SECTION 5

FACILITATING HUMAN RIGHTS LEARNING

A. THE ROLE OF THE FACILITATOR

These active learning exercises do not need a teacher, but rather a *facilitator*; for everyone in the group is a learner engaged in a common effort towards a shared goal. Together they examine their own experiences and seek to come to individual conclusions. Because people cannot be told what to think, the goal of a learning exercise is not some “right answer” or even agreement, but a cooperative exploration of ideas and issues. Because this methodology assumes that everyone has the right to an opinion and respects individual differences, it is especially appropriate to human rights learning. It encourages critical analysis of real-life situations and can lead to thoughtful and effective action to create change.

Facilitation does not usually come naturally. As with any skill, the best way to learn to facilitate is to practice often and have a self-critical attitude, always seeking to improve.

Mastering the art of facilitation also requires a clear understanding of the role of the facilitator:

- **To establish a relationship of equality and cooperation with participants.** The facilitator is “first among equals,” but responsibility for learning rests with the whole group.
- **To create an environment of trust and openness.** The facilitator helps everyone feel safe to speak honestly in a situation where differences of opinion, as well as differences in ability, are respected.
- **To ensure that everyone feels included** and is enabled to participate;
- **To provide a structure for learning**, which might include setting and observing meeting times, opening and closing sessions, and keeping to an agenda. The facilitator continually consults participants about the effectiveness of the structure.
- **To make sure the logistics are handled appropriately.** This might include gathering and preparing materials, setting up the meeting space, notifying participants, and seeing that necessary preparations are made. Facilitating learning for persons with disabilities also includes providing accommodations so that everyone can participate fully.

A facilitator is NOT:

- **A teacher or “the person in charge.”** The whole group is responsible for learning. The facilitator’s role is to help that learning happen more effectively. The facilitator is a co-learner, exploring all subjects as an equal partner and contributing individual experience to that of others.

- **A judge.** In active learning, no one, least of all the facilitator, determines that some opinions are “correct” or “better.”
- **Necessarily an expert.** Although preparing each session, the facilitator may not know as much about a subject as some other members of the group.
- **The centre of attention.** A good facilitator generally speaks less than other participants; instead, she or he draws others into the discussion.
- **The housekeeper.** While the facilitator takes initial leadership in coordinating the sessions, she or he should not become the only person who takes responsibility.

B. INTERACTIVE LEARNING

The process of learning is more important than the content! The activities in *Human Rights. Yes!* are designed to actively involve participants in their own learning and acknowledge the differences in the ways that adults learn. Each session seeks to encourage participants in:

- **Concrete experience:** to involve themselves fully and without bias in new experiences;
- **Reflective observation:** to observe and to reflect on these experiences from many perspectives;
- **Abstract conceptualization:** to create concepts that integrate observations into coherent theories; and
- **Active experimentation:** to use these theories to make decisions, solve problems, and take action.

The effectiveness of interactive learning techniques has been interpreted quantitatively by the National Training Laboratories in Bethel, Maine, USA, in an analysis that measured and contrasted average retention rates across a variety of teaching styles.

AVERAGE RETENTION RATE OF DIFFERENT LEARNING METHODS

Lecture	5%
Reading	10%
Audio Visual	20%
Demonstration	30%
Group Discussion	75%
Teaching Others	80%

C. LEADING DISCUSSION

Discussion is one of the most important ways for people to participate in their own learning. Therefore, every facilitator needs to learn to lead discussions skilfully.

ASK OPEN OR LEADING QUESTIONS

Most of the questions for discussion in *Human Rights. YES!* fall into this category. An open question encourages a wide range of answers, from the personal (“This reminds me of a time when I was a little girl ...”) to the objective (“I have heard that in some countries persons with disabilities are not allowed to marry”). Open questions cannot be answered by “yes” or “no.” For example, these are open questions:

- How do you define “reasonable accommodation”?
- Can a leader also be a follower?

Leading questions take participants step by step towards a learning goal. Each question builds on the previous answer and leads to another question. Because the Greek philosopher Socrates used leading questions in his teaching, it is sometimes called the “Socratic method.” For example, this is a series of leading questions:

- Do you remember a time when you were not consulted about your opinion on something important that concerned you?
- How might things have turned out differently if you had been consulted?
- What are some results of this failure to permit you to express an opinion?
- Why do you think that the CRPD has emphasized the right of persons with disabilities to an opinion?

Avoid too many subjective questions, which invite a strictly personal response and do not necessarily lead to dialogue or discussion (for example, “Have I summarized accurately what you said?” or “Are you ready for a break?”). Also avoid closed questions that can be answered with a fact or just “yes” or “no” (for example, “What time is it?” or “Did you enjoy that activity?”).

RESPECT ALL ANSWERS OR OPINIONS

The role of the facilitator is not to judge and all participants need to have their opinions acknowledged and respected, regardless of what the facilitator thinks personally. However, comments that are disrespectful of other participants or contrary to the ethics of the learning partnership need to be addressed.

REPEAT AND RESTATE

The facilitator often needs to acknowledge that participants’ comments were heard and understood. Sometimes the facilitator may need to restate a comment to make sure that it was fully understood, but it is important to get the participant’s assent that the restatement was accurate (“Did I understand what you just said?”).

SIGNAL ATTENTION

In addition to verbal responses, the facilitator can communicate attention in many ways, including through tone of voice, “body language,” writing down comments, and making eye contact.

RESIST IMPOSING OPINIONS

The facilitator’s role is to invite sharing of opinions, not to impose his or her opinions. As co-learner, facilitators may, of course, add their own views to the discussion, but only with discretion and tact.

CONTROL THE TRAFFIC

The facilitator needs to ensure that no one dominates the conversation, that everyone gets a chance to speak, and that the discussion stays on topic.

D. ACCOMMODATING PARTICIPANTS WITH DISABILITIES

BEFORE THE WORKSHOP

- If possible, find out well in advance who will attend and what accommodations they may need in order to participate fully.
- Adapt your learning materials, agenda, and activities to ensure that everyone can participate (for example, large print, Braille, plain language handouts).
- Arrange any aids to communication that may be needed (for example, sign language interpreters).
- Brief any speakers or additional facilitators on making their presentations accessible.
- Consider the safety and accessibility of the workshop location:
 - › Transportation to and from the meeting place;
 - › Access to the building;
 - › Access to and inside all meeting rooms; and
 - › Access to bathrooms and eating areas.

DURING THE WORKSHOP

- Ask at the beginning if anyone is aware of barriers you have not anticipated.
- Invite participants to let you know during the workshop if new barriers arise.
- Be sensitive to ability differences among participants.
- As a general practice, both write and speak aloud important points made by both you and participants.

- Ask participants to decide when and for how long breaks will occur.
- Plan extra time for participants with limited mobility to break into groups.
- Be creative. Be prepared with more than one way of explaining important concepts, processes, and instructions.

CONCLUDING AND FOLLOWING UP ON THE WORKSHOP

- Encourage participants to find ways to take action appropriate to their concerns, disabilities, and advocacy.
- In your evaluation, ask everyone whether they felt they were able to participate fully and equally.
- Ask for feedback and advice on how to make future workshops more accessible.

E. PLANNING WORKSHOPS

Although workshops differ in their purpose, setting, and duration, the list below shows the basic component of any interactive workshop and may serve as a planning tool.

OPENING AND INTRODUCTIONS

- **Plan what happens when participants arrive** (for example, how they are greeted, get information, orient themselves). Be prepared to accommodate different kinds of disability.
- **Plan how participants will get to know each other.** Consider using several modes of introduction (for example, verbal, such as self-introductions or visual, such as nametags).

GOALS

- **State the purpose and goals of the workshop** orally and in writing.
- **Some goals may be general and process orientated:** for example, to understand, to appreciate, to know, to recognize. It is usually difficult to evaluate your learning impact with goals of this type (for example, at the end of the workshop participants will understand shared leadership).
- **Other goals deal with concrete skills** that you hope participants will acquire: for example, to analyze, to plan, to construct, to produce, to identify, to compare, to assemble, to draw, to solve, to measure.

PARTICIPANT EXPECTATIONS

- **Allow a time at the beginning for participants to state what they wanted to get out of the workshop.**

- **Be willing to admit that some expectations are not possible to meet**, (for example, not within the capacity of the staff, the needs of the organization, or the limitations for the funders).
- **Be willing to change the direction of the workshop to include expectations where possible**, especially if many participants express that expectation.

AGENDA SETTING

- **Post a written agenda** with times of activities and names of presenters so participants know what to expect.
- The agenda belongs to the group. **Consult with participants about the agenda**. Does it meet their needs (for example, for covering the topic or allowing for breaks and rest)?
- Especially in a workshop of several days, consult participants daily about the content and structure of the agenda. Read this aloud at the start of every session on the agenda.

PRESENTATIONS AND LEARNING ACTIVITIES

- **Anticipate some anxiety at the beginning** until the group feels comfortable together. A simple request like “find a partner” can cause distress.
- If possible, **have several different speakers and facilitators**.
- **Use a variety of methodologies**, keeping in mind that participants will have many different learning styles.
- **Adapt activities to the needs, interests, and abilities of the participants**.
- **Anticipate sleepy after-lunch and early-morning periods**.

OPPORTUNITIES FOR REFLECTION AND QUESTIONING

- **Plan a way for participants to reflect on what they are learning** and experiencing. This reflection might be some kind of journal, discussion in pairs or small groups, or simply a period of quiet.
- **Encourage participants to interject their questions or responses** during the course of the workshop and/or set aside several periods for open comments or questions.

SUMMING UP AND EVALUATION

- At the end of the workshop (or every day in a long workshop), **remind participants of the original goals** and the activities and presentations that they have experienced in pursuit of that goal.

- **Prepare some anonymous method for participants to evaluate the workshop**, both in terms of accomplishing its goals, but also from the perspective of their individual experience. Make available alternatives to written evaluations for those who need it.
- **Summarize and record the evaluation feedback** from every workshop you do. Use it to improve your facilitation skills.

FOLLOWING UP

- **Provide a method for participants to stay in touch** with each other and you and your organization if they wish.
- **Evaluations done several weeks after a workshop** can give you a different and often more accurate sense of the effectiveness of your facilitation.

F. SAMPLE WORKSHOPS

With the adoption of the UN Convention on the Rights of Persons with Disabilities, disability rights are now on the agenda of many groups and disability advocates are likely be called upon to teach about or lead workshops on human rights. Workshops based on the exercises and materials provided in *Human Rights. YES!* may be highly effective for education and advocacy for a wide range of groups, including:

- Disabled people's organizations
- Mainstream human rights organizations
- Parliamentary human rights committees
- National human rights institutions
- Election officials
- Primary and high school teachers
- Employer associations
- Tourism authorities
- Faith-based communities
- Development and humanitarian organizations
- Health workers and emergency responders.

Note to Facilitator: For more sample workshops see Nancy Flowers, *The Human Rights Education Handbook*, (2000): <http://www.umn.edu/humanrts/edumat/hreduseries/hrhandbook/part5D.htm>. The following examples, which are derived from successful workshops, provide some basic models for building workshops.

HALF-DAY/3 ½-HOUR WORKSHOP MODEL

Topic: The human right of persons with disabilities to education

Setting: In-service workshop for high school teachers and administrators

Participants: High school teachers and administrators

Objective: To raise awareness about inclusive education

INTRODUCTIONS (10 MINUTES)

Ask participants to pair off and share who they are and what brought them to the workshop and/or what they hope to get from it. Then each partner introduces the other to the whole group.

AGENDA AND OBJECTIVES OF WORKSHOP (5 MINUTES)

Facilitator reviews the workshop agenda and objectives, commenting on how it can or cannot fulfil participants' expectations.

EXERCISE 13.2: EXPERIENCING EDUCATION (45 MINUTES)

This exercise offers an opportunity to share personal experiences of the education system and evaluate ideas for how it could better serve the needs of persons with disabilities.

PRESENTATION: INTRODUCTION TO THE CRPD (15 MINUTES)

Part 1 of *Human Rights. YES!* provides essential terms and fundamental concepts, especially the human rights approach to disability.

EXERCISE 13.1: WHAT RIGHTS TO EDUCATION DOES THE CONVENTION THE RIGHTS OF PERSONS WITH DISABILITIES AFFIRM? (30 MINUTES)

This exercise introduces participants to the provisions and key concepts on education in the CRPD.

BREAK (10 MINUTES)

EXERCISE 13.3: IDENTIFYING THE CAUSES OF DISCRIMINATION IN EDUCATION (30 MINUTES)

This exercise encourages participants to examine the causes discrimination in education systems and consider how to address them.

EXERCISE 13.4: SPEAKING UP FOR EDUCATION (30 MINUTES)

This exercise allows participants to consider how to end discrimination in education against persons with disabilities.

CLOSING: UNIVERSAL EXERCISE, SECTION 1: MAKING A COMMITMENT (30 MINUTES)

This exercise allows participants to reflect on the notion that human rights involve both rights and responsibilities and encourages them to take action to support the right of persons with disabilities.

EVALUATION 5 MINUTES

Distribute evaluation forms and collect.

ONE-DAY/6-HOUR WORKSHOP MODEL

Topic: An Introduction to the Human Rights of Persons with Disabilities

Setting: National Disability Conference workshop

Participants: Disability advocates with little previous human rights education

Objectives:

- To understand and explore human rights concepts and advocacy strategies;
- To build human rights learning environments for disability advocates to advance their advocacy around human rights issues; and
- To learn skills that participants can apply to their home communities.

INTRODUCTIONS (10 MINUTES)

Each participant can pair off with another and share who they are and what brought them to the workshop and/or what they hope to get from it. Then each partner introduces the other to the whole group.

AGENDA AND OBJECTIVES OF WORKSHOP (5 MINUTES)

Facilitator briefly reviews the workshop agenda and objectives, commenting on how it does or does not fulfil participants' expectations.

INTRODUCTORY EXERCISE, SECTION 1: THE IMPACT OF MYTHS AND STEREOTYPES ABOUT PERSONS WITH DISABILITIES (45 MINUTES)

This exercise allows participants to share lived experiences with discrimination based on myths and stereotypes and to begin thinking about their impact on human rights.

PRESENTATION: THE HUMAN RIGHTS FRAMEWORK (15 MINUTES)

Part 1 of *Human Rights. YES!* provides an introduction to human rights.

INTRODUCTORY EXERCISE 2, SECTION 2: THE INTERDEPENDENCE OF RIGHTS (45 MINUTES)

This exercise examines the fundamental human rights contained in the UDHR and to raise awareness of how these rights relate to each other.

BREAK (15 MINUTES)

PRESENTATION: THE CRPD (15 MINUTES)

Part 1 of *Human Rights. YES!* provides essential terms and fundamental concepts, especially the rights-based approach to disability.

INTRODUCTORY EXERCISE 3, SECTION 2: TREE OF RIGHTS (45 MINUTES)

This exercise identifies the range of human rights to which persons with disabilities are entitled.

INTRODUCTORY EXERCISE 5, SECTION 2: LANGUAGE & RIGHTS (45 MINUTES)

This exercise examines the role that language can play in supporting both positive and negative attitudes about the role of persons with disabilities in society.

LUNCH (1 HOUR)

ENERGIZER (5 MINUTES)

Re-engage the group with a quick energizer activity, such as “Calling the Names,” in which the group forms a circle and thinks of individuals who support, inspire, or guide them in their work. Each member calls out the name of that person, one by one.

(For this and other energizers see: Nancy Flowers, *The Human Rights Education Handbook*, (2000):<http://www1.umn.edu/humanrts/edumat/hreduseries/hrhandbook/activities/6.htm>).

EXERCISE 13.1: WHAT RIGHTS TO EDUCATION DOES THE CRPD AFFIRM? (30 MINUTES)

This exercise introduces participants to the provisions and key concepts on education in the CRPD.

BREAK (10 MINUTES)

EXERCISE 13.4: SPEAKING UP FOR EDUCATION (45 MINUTES)

This exercise allows participants to examine discrimination in education systems and consider how to take action against it.

CLOSING: UNIVERSAL EXERCISE, SECTION 1: MAKING A COMMITMENT (45 MINUTES)

This exercise invites participants to reflect on the notion that human rights involve both rights and responsibilities and encourages them to take action to support the right of persons with disabilities to an education.

EVALUATION (5 MINUTES)

Distribute evaluation forms and collect.

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ANNEX 1: HUMAN RIGHTS DOCUMENTS

UNIVERSAL DECLARATION OF HUMAN RIGHTS

Adopted and proclaimed by General Assembly Resolution 217 A (III) of 10 December 1948

On December 10, 1948 the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights, the full text of which appears in the following pages. Following this historic act the Assembly called upon all member countries to publicize the text of the Declaration and “to cause it to be disseminated, displayed, read and expounded principally in schools and other educational institutions, without distinction based on the political status of countries or territories.”

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore, the General Assembly

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive

by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1.

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2.

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3.

Everyone has the right to life, liberty and security of person.

Article 4.

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5.

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6.

Everyone has the right to recognition everywhere as a person before the law.

Article 7.

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8.

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9.

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10.

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11.

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12.

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13.

1. Everyone has the right to freedom of movement and residence within the borders of each state.
2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14.

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15.

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16.

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.

3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17.

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Article 18.

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19.

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20.

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

Article 21.

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right of equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22.

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23.

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24.

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25.

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26.

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27.

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28.

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29.

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.
2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30.

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

UNIVERSAL DECLARATION OF HUMAN RIGHTS

(Plain Language Version)

Article 1, Right to equality:

You are born free and equal in rights to every other human being. You have the ability to think and to tell right from wrong. You should treat others with friendship.

Article 2, Freedom from discrimination:

You have all these human rights no matter what your race, skin colour, sex, language, religion, opinions, family background, social or economic status, birth or nationality.

Article 3, Right to life, liberty and personal security:

You have the right to live, to be free and to feel safe.

Article 4, Freedom from slavery:

Nobody has the right to treat you as a slave, and you should not make anyone your slave.

Article 5, Freedom from torture and degrading treatment:

Nobody has the right to torture, harm or humiliate you.

Article 6, Right to recognition as a person before the law:

You have a right to be accepted everywhere as a person according to law.

Article 7, Right to equality before the law:

You have a right to be protected and treated equally by the law without discrimination of any kind.

Article 8, Right to remedy by capable judges:

If your legal rights are violated, you have the right to fair and capable judges to uphold your rights.

Article 9, Freedom from arbitrary arrest and exile:

Nobody has the right to arrest you, put you in prison or to force you out of your country without good reasons.

Article 10, Right to fair public hearing:

If you are accused of a crime, you have the right to a fair and public hearing.

Article 11, Right to be considered innocent until proven guilty:

1. You should be considered innocent until it can be proved in a fair trial that you are guilty.
2. You cannot be punished for doing something that was not considered a crime at the time you did it.

Article 12, Freedom from interference with privacy, family, home and correspondence:

You have the right to be protected if someone tries to harm your good name or enter your house, open your letters or email or bother you or your family without good reason.

Article 13, Right to free movement:

1. You have the right to come and go as you wish within your country.
2. You have the right to leave your country to go to another one, and you should be able to return to your country if you want.

Article 14, Right to protection in another country:

1. If someone threatens to hurt you, you have the right to go to another country and ask for protection as a refugee.
2. You lose this right if you have committed a serious crime.

Article 15, Right to a nationality and the freedom to change it:

1. You have the right to belong to a country and have a nationality.
2. No one can take away your nationality without a good reason. You have a right to change your nationality if you wish.

Article 16, Right to marriage and family:

1. When you are legally old enough, you have the right to marry and have a family without any limitations based on your race, country or religion. Both partners have the same rights when they are married and also when they are separated.
2. Nobody should force you to marry.
3. The family is the basic unit of society, and government should protect it.

Article 17, Right to own property:

1. You have the right to own things.
2. Nobody has the right to take these things from you without a good reason

Article 18, Freedom of thought, conscience and religion:

You have the right to your own thoughts and to believe in any religion. You are free to practice your religion or beliefs and also to change them.

Article 19, Freedom of opinion and information:

You have the right to hold and express your own opinions. You should be able to share your opinions with others, including people from other countries, through any means of communication.

Article 20, Right to peaceful assembly and association:

1. You have the right to meet peacefully with other people.
2. No one can force you belong to a group.

Article 21, Right to participate in government and elections:

1. You have the right to participate in your government, either by holding an office or by electing someone to represent you.
2. You and every one have the right to serve your country.
3. Governments should be elected regularly by fair and secret voting.

Article 22, Right to social security:

The society you live in should provide you with social security and the rights necessary for your dignity and development.

Article 23, Right to desirable work and to join trade unions:

1. You have the right to work, to choose your work and to work in good conditions.
2. People who do the same work should get the same pay.
3. You should be able to earn a salary that allows you to live and support your family.
4. All people who work have the right to join together in unions to defend their interests.

Article 24, Right to rest and leisure:

You have the right to rest and free time. Your workday should not be too long, and you should be able to take regular paid holidays.

Article 25, Right to adequate living standard:

1. You have the right to the things you and your family need for your health and well-being, including food, clothing, housing, medical care and other social services. You have a right to help if you are out of work or unable to work.

2. Mothers and children should receive special care and help.

Article 26, Right to education:

1. You have the right to go to school. Primary schooling should be free and required. You should be able to learn a profession or continue your studies as far as you can.
2. At school, you should be able to develop all your talents and learn to respect others, whatever their race, religion or nationality.
3. Your parents should have a say in the kind of education you receive.

Article 27, Right to participate in the cultural life of community:

1. You have the right to participate in the traditions and learning of your community, to enjoy the arts and to benefit from scientific progress.
2. If you are an artist, writer or scientist, your work should be protected and you should be able to benefit from it.

Article 28, Right to a social order:

You have a right to the kind of world where you and all people can enjoy these rights and freedoms.

Article 29, Responsibilities to the community:

1. Your personality can only fully develop within your community, and you have responsibilities to that community.
2. The law should guarantee human rights. It should allow everyone to respect others and to be respected.
3. These rights and freedoms should support the purposes and principles of the United Nations.

Article 30, Freedom from interference in these human rights:

No person, group or government anywhere in the world should do anything to destroy these rights.¹

¹ Compasito - Manual on human rights education for children (Council of Europe, 2007).

UNIVERSAL DECLARATION OF HUMAN RIGHTS

(Summary)

- Article 1** Right to Equality
- Article 2** Freedom from Discrimination
- Article 3** Right to Life, Liberty, and Personal Security
- Article 4** Freedom from Slavery
- Article 5** Freedom from Torture and Degrading Treatment
- Article 6** Right to Recognition as a Person before the Law
- Article 7** Right to Equality before the Law
- Article 8** Right to Remedy by Competent Tribunal
- Article 9** Freedom from Arbitrary Arrest and Exile
- Article 10** Right to Fair Public Hearing
- Article 11** Right to be Considered Innocent until Proven Guilty
- Article 12** Freedom from Interference with Privacy, Family, Home and Correspondence
- Article 13** Right to Free Movement in and out of the Country
- Article 14** Right to Asylum in other Countries from Persecution
- Article 15** Right to a Nationality and the Freedom to Change It
- Article 16** Right to Marriage and Family
- Article 17** Right to Own Property
- Article 18** Freedom of Belief and Religion
- Article 19** Freedom of Opinion and Information
- Article 20** Right of Peaceful Assembly and Association
- Article 21** Right to Participate in Government and in Free Elections
- Article 22** Right to Social Security
- Article 23** Right to Desirable Work and to Join Trade Unions
- Article 24** Right to Rest and Leisure
- Article 25** Right to Adequate Living Standard
- Article 26** Right to Education
- Article 27** Right to Participate in the Cultural Life of Community
- Article 28** Right to a Social Order that Articulates this Document
- Article 29** Community Duties Essential to Free and Full Development
- Article 30** Freedom from State or Personal Interference in the above Rights

CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

(Adopted by the UN General Assembly 13 December 2006; opened for signature 30 March 2007)

Preamble

The States Parties to the present Convention,

- a. *Recalling* the principles proclaimed in the Charter of the United Nations which recognize the inherent dignity and worth and the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world,
- b. *Recognizing* that the United Nations, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, has proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind,
- c. *Reaffirming* the universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms and the need for persons with disabilities to be guaranteed their full enjoyment without discrimination,
- d. *Recalling* the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,
- e. *Recognizing* that disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others,
- f. *Recognizing* the importance of the principles and policy guidelines contained in the World Programme of Action concerning Disabled Persons and in the Standard Rules on the Equalization of Opportunities for Persons with Disabilities in influencing the promotion, formulation and evaluation of the policies, plans, programmes and actions at the national, regional and international levels to further equalize opportunities for persons with disabilities,
- g. *Emphasizing* the importance of mainstreaming disability issues as an integral part of relevant strategies of sustainable development,
- h. *Recognizing also* that discrimination against any person on the basis of disability is a violation of the inherent dignity and worth of the human person,

- i. *Recognizing further* the diversity of persons with disabilities,
- j. *Recognizing* the need to promote and protect the human rights of all persons with disabilities, including those who require more intensive support,
- k. *Concerned* that, despite these various instruments and undertakings, persons with disabilities continue to face barriers in their participation as equal members of society and violations of their human rights in all parts of the world,
- l. *Recognizing* the importance of international cooperation for improving the living conditions of persons with disabilities in every country, particularly in developing countries,
- m. *Recognizing* the valued existing and potential contributions made by persons with disabilities to the overall well-being and diversity of their communities, and that the promotion of the full enjoyment by persons with disabilities of their human rights and fundamental freedoms and of full participation by persons with disabilities will result in their enhanced sense of belonging and in significant advances in the human, social and economic development of society and the eradication of poverty,
- n. *Recognizing* the importance for persons with disabilities of their individual autonomy and independence, including the freedom to make their own choices,
- o. *Considering* that persons with disabilities should have the opportunity to be actively involved in decision-making processes about policies and programmes, including those directly concerning them,
- p. *Concerned* about the difficult conditions faced by persons with disabilities who are subject to multiple or aggravated forms of discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age or other status,
- q. *Recognizing* that women and girls with disabilities are often at greater risk, both within and outside the home of violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation,
- r. *Recognizing* that children with disabilities should have full enjoyment of all human rights and fundamental freedoms on an equal basis with other children, and recalling obligations to that end undertaken by States Parties to the Convention on the Rights of the Child,
- s. *Emphasizing* the need to incorporate a gender perspective in all efforts to promote the full enjoyment of human rights and fundamental freedoms by persons with disabilities,
- t. *Highlighting* the fact that the majority of persons with disabilities live in conditions of poverty, and in this regard recognizing the critical need to address the negative impact of poverty on persons with disabilities,

- u. *Bearing in mind* that conditions of peace and security based on full respect for the purposes and principles contained in the Charter of the United Nations and observance of applicable human rights instruments are indispensable for the full protection of persons with disabilities, in particular during armed conflicts and foreign occupation,
- v. *Recognizing* the importance of accessibility to the physical, social, economic and cultural environment, to health and education and to information and communication, in enabling persons with disabilities to fully enjoy all human rights and fundamental freedoms,
- w. *Realizing* that the individual, having duties to other individuals and to the community to which he or she belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the International Bill of Human Rights,
- x. *Convinced* that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State, and that persons with disabilities and their family members should receive the necessary protection and assistance to enable families to contribute towards the full and equal enjoyment of the rights of persons with disabilities,
- y. *Convinced* that a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities will make a significant contribution to redressing the profound social disadvantage of persons with disabilities and promote their participation in the civil, political, economic, social and cultural spheres with equal opportunities, in both developing and developed countries,

Have agreed as follows:

Article 1, Purpose

The purpose of the present Convention is 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.

Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

Article 2, Definitions

For the purposes of the present Convention:

“Communication” includes languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology;

“Language” includes spoken and signed languages and other forms of non-spoken languages;

“Discrimination on the basis of disability” means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation;

“Reasonable accommodation” means 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;

“Universal design” means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. “Universal design” shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.

Article 3, General principles

- a. The principles of the present Convention shall be:
- b. Respect for inherent dignity, individual autonomy including the freedom to make one’s own choices, and independence of persons;
- c. Non-discrimination;
- d. Full and effective participation and inclusion in society;
- e. Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- f. Equality of opportunity;
- g. Accessibility;
- h. Equality between men and women;
- i. Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

Article 4, General obligations

- i. States Parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability. To this end, States Parties undertake:
 - a. To adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention;
 - b. To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities;
 - c. To take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes;

- d. To refrain from engaging in any act or practice that is inconsistent with the present Convention and to ensure that public authorities and institutions act in conformity with the present Convention;
 - e. To take all appropriate measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise;
 - f. To undertake or promote research and development of universally designed goods, services, equipment and facilities, as defined in article 2 of the present Convention, which should require the minimum possible adaptation and the least cost to meet the specific needs of a person with disabilities, to promote their availability and use, and to promote universal design in the development of standards and guidelines;
 - g. To undertake or promote research and development of, and to promote the availability and use of new technologies, including information and communications technologies, mobility aids, devices and assistive technologies, suitable for persons with disabilities, giving priority to technologies at an affordable cost;
 - h. To provide accessible information to persons with disabilities about mobility aids, devices and assistive technologies, including new technologies, as well as other forms of assistance, support services and facilities;
 - i. To promote the training of professionals and staff working with persons with disabilities in the rights recognized in this Convention so as to better provide the assistance and services guaranteed by those rights.
2. With regard to economic, social and cultural rights, each State Party undertakes to take measures to the maximum of its available resources and, where needed, within the framework of international cooperation, with a view to achieving progressively the full realization of these rights, without prejudice to those obligations contained in the present Convention that are immediately applicable according to international law.
 3. In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.
 4. Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of persons with disabilities and which may be contained in the law of a State Party or international law in force for that State. There shall be no restriction upon or derogation from any of the human rights and fundamental freedoms recognized or existing in any State Party to the present Convention pursuant to law, conventions, regulation or custom on the pretext that the present Convention does not recognize such rights or freedoms or that it recognizes them to a lesser extent.

5. The provisions of the present Convention shall extend to all parts of federal states without any limitations or exceptions.

Article 5, Equality and non-discrimination

1. States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.
2. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.
3. In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.
4. Specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention.

Article 6, Women with disabilities

1. States Parties recognize that women and girls with disabilities are subject to multiple discrimination, and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms.
2. States Parties shall take all appropriate measures to ensure the full development, advancement and empowerment of women, for the purpose of guaranteeing them the exercise and enjoyment of the human rights and fundamental freedoms set out in the present Convention.

Article 7, Children with disabilities

1. States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.
2. In all actions concerning children with disabilities, the best interests of the child shall be a primary consideration.
3. States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right.

Article 8, Awareness-raising

1. States Parties undertake to adopt immediate, effective and appropriate measures:

- a. To raise awareness throughout society, including at the family level, regarding persons with disabilities, and to foster respect for the rights and dignity of persons with disabilities;
 - b. To combat stereotypes, prejudices and harmful practices relating to persons with disabilities, including those based on sex and age, in all areas of life;
 - c. To promote awareness of the capabilities and contributions of persons with disabilities.
2. Measures to this end include:
- a. Initiating and maintaining effective public awareness campaigns designed:
 - i. To nurture receptiveness to the rights of persons with disabilities;
 - ii. To promote positive perceptions and greater social awareness towards persons with disabilities;
 - iii. To promote recognition of the skills, merits and abilities of persons with disabilities, and of their contributions to the workplace and the labour market;
 - b. Fostering at all levels of the education system, including in all children from an early age, an attitude of respect for the rights of persons with disabilities;
 - c. Encouraging all organs of the media to portray persons with disabilities in a manner consistent with the purpose of the present Convention;
 - d. Promoting awareness-training programmes regarding persons with disabilities and the rights of persons with disabilities.

Article 9, Accessibility

- i. To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:
 - a. Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;
 - b. Information, communications and other services, including electronic services and emergency services.

2. States Parties shall also take appropriate measures to:
 - a. Develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;
 - b. Ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities;
 - c. Provide training for stakeholders on accessibility issues facing persons with disabilities;
 - d. Provide in buildings and other facilities open to the public signage in Braille and in easy to read and understand forms;
 - e. Provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public;
 - f. Promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information;
 - g. Promote access for persons with disabilities to new information and communications technologies and systems, including the Internet;
 - h. Promote the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost.

Article 10, Right to life

States Parties reaffirm that every human being has the inherent right to life and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others.

Article 11, Situations of risk and humanitarian emergencies

States Parties shall take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.

Article 12, Equal recognition before the law

1. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.
2. States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.

3. States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.
4. States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body. The safeguards shall be proportional to the degree to which such measures affect the person's rights and interests.
5. Subject to the provisions of this article, States Parties shall take all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and shall ensure that persons with disabilities are not arbitrarily deprived of their property.

Article 13, Access to justice

1. States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.
2. In order to help to ensure effective access to justice for persons with disabilities, States Parties shall promote appropriate training for those working in the field of administration of justice, including police and prison staff.

Article 14, Liberty and security of the person

1. States Parties shall ensure that persons with disabilities, on an equal basis with others:
 - a. Enjoy the right to liberty and security of person;
 - b. Are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the existence of a disability shall in no case justify a deprivation of liberty.
2. States Parties shall ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of this Convention, including by provision of reasonable accommodation.

Article 15, Freedom from torture or cruel, inhuman or degrading treatment or punishment

1. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his or her free consent to medical or scientific experimentation.
2. States Parties shall take all effective legislative, administrative, judicial or other measures to prevent persons with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman or degrading treatment or punishment.

Article 16, Freedom from exploitation, violence and abuse

1. States Parties shall take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects.
2. States Parties shall also take all appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring, inter alia, appropriate forms of gender- and age-sensitive assistance and support for persons with disabilities and their families and caregivers, including through the provision of information and education on how to avoid, recognize and report instances of exploitation, violence and abuse. States Parties shall ensure that protection services are age-, gender- and disability-sensitive.
3. In order to prevent the occurrence of all forms of exploitation, violence and abuse, States Parties shall ensure that all facilities and programmes designed to serve persons with disabilities are effectively monitored by independent authorities.
4. States Parties shall take all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disabilities who become victims of any form of exploitation, violence or abuse, including through the provision of protection services. Such recovery and reintegration shall take place in an environment that fosters the health, welfare, self-respect, dignity and autonomy of the person and takes into account gender- and age-specific needs.
5. States Parties shall put in place effective legislation and policies, including women- and child-focused legislation and policies, to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted.

Article 17, Protecting the integrity of the person

Every person with disabilities has a right to respect for his or her physical and mental integrity on an equal basis with others.

Article 18, Liberty of movement and nationality

1. States Parties shall recognize the rights of persons with disabilities to liberty of movement, to freedom to choose their residence and to a nationality, on an equal basis with others, including by ensuring that persons with disabilities:
 - a. Have the right to acquire and change a nationality and are not deprived of their nationality arbitrarily or on the basis of disability;
 - b. Are not deprived, on the basis of disability, of their ability to obtain, possess and utilize documentation of their nationality or other documentation of identification, or to utilize relevant processes such as immigration proceedings, that may be needed to facilitate exercise of the right to liberty of movement;
 - c. Are free to leave any country, including their own;
 - d. Are not deprived, arbitrarily or on the basis of disability, of the right to enter their own country.
2. Children with disabilities shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by their parents.

Article 19, Living independently and being included in the community

States Parties to this 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.

Article 20, Personal mobility

States Parties shall take effective measures to ensure personal mobility with the greatest possible independence for persons with disabilities, including by:

- a. Facilitating the personal mobility of persons with disabilities in the manner and at the time of their choice, and at affordable cost;

- b. Facilitating access by persons with disabilities to quality mobility aids, devices, assistive technologies and forms of live assistance and intermediaries, including by making them available at affordable cost;
- c. Providing training in mobility skills to persons with disabilities and to specialist staff working with persons with disabilities;
- d. Encouraging entities that produce mobility aids, devices and assistive technologies to take into account all aspects of mobility for persons with disabilities.

Article 21, Freedom of expression and opinion, and access to information

States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice, as defined in article 2 of the present Convention, including by: Providing information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost;

- a. Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions;
- b. Urging private entities that provide services to the general public, including through the Internet, to provide information and services in accessible and usable formats for persons with disabilities;
- c. Encouraging the mass media, including providers of information through the Internet, to make their services accessible to persons with disabilities;
- d. Recognizing and promoting the use of sign languages.

Article 22, Respect for privacy

- 1. No person with disabilities, regardless of place of residence or living arrangements, shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence or other types of communication or to unlawful attacks on his or her honour and reputation. Persons with disabilities have the right to the protection of the law against such interference or attacks.
- 2. States Parties shall protect the privacy of personal, health and rehabilitation information of persons with disabilities on an equal basis with others.

Article 23, Respect for home and the family

- 1. States Parties shall take effective and appropriate measures to eliminate

discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others, so as to ensure that:

- a. The right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognized;
 - b. The rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children and to have access to age-appropriate information, reproductive and family planning education are recognized, and the means necessary to enable them to exercise these rights are provided;
 - c. Persons with disabilities, including children, retain their fertility on an equal basis with others.
1. States Parties shall ensure the rights and responsibilities of persons with disabilities, with regard to guardianship, wardship, trusteeship, adoption of children or similar institutions, where these concepts exist in national legislation; in all cases the best interests of the child shall be paramount. States Parties shall render appropriate assistance to persons with disabilities in the performance of their child-rearing responsibilities.
 2. States Parties shall ensure that children with disabilities have equal rights with respect to family life. With a view to realizing these rights, and to prevent concealment, abandonment, neglect and segregation of children with disabilities, States Parties shall undertake to provide early and comprehensive information, services and support to children with disabilities and their families.
 3. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. In no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents.
 4. States Parties shall, where the immediate family is unable to care for a child with disabilities, undertake every effort to provide alternative care within the wider family, and failing that, within the community in a family setting.

Article 24, Education

1. States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and life long learning directed to:

- a. The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;
 - b. The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;
 - c. Enabling persons with disabilities to participate effectively in a free society.
2. In realizing this right, States Parties shall ensure that:
 - a. Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;
 - b. Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live; (c) Reasonable accommodation of the individual's requirements is provided;
 - c. Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;
 - d. Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.
 3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including:
 - a. Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;
 - b. Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;
 - c. Ensuring that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.
 4. In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative

and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.

5. States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.

Article 25, Health

States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation. In particular, States Parties shall:

- a. Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health and population-based public health programmes;
- b. Provide those health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimize and prevent further disabilities, including among children and older persons;
- c. Provide these health services as close as possible to people's own communities, including in rural areas;
- d. Require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, inter alia, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care;
- e. Prohibit discrimination against persons with disabilities in the provision of health insurance, and life insurance where such insurance is permitted by national law, which shall be provided in a fair and reasonable manner;
- f. Prevent discriminatory denial of health care or health services or food and fluids on the basis of disability.

Article 26, Habilitation and rehabilitation

- I. States Parties shall take effective and appropriate measures, including through peer support, to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life. To that end, States Parties shall organize, strengthen and extend comprehensive

habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services, in such a way that these services and programmes:

- a. Begin at the earliest possible stage, and are based on the multidisciplinary assessment of individual needs and strengths;
 - b. Support participation and inclusion in the community and all aspects of society, are voluntary, and are available to persons with disabilities as close as possible to their own communities, including in rural areas.
2. States Parties shall promote the development of initial and continuing training for professionals and staff working in habilitation and rehabilitation services.
 3. States Parties shall promote the availability, knowledge and use of assistive devices and technologies, designed for persons with disabilities, as they relate to habilitation and rehabilitation.

Article 27, Work and employment

1. States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, *inter alia*:
 - a. Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;
 - b. Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances;
 - c. Ensure that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others;
 - d. Enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training;
 - e. Promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment;

- f. Promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business;
 - g. Employ persons with disabilities in the public sector;
 - h. Promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures;
 - i. Ensure that reasonable accommodation is provided to persons with disabilities in the workplace;
 - j. Promote the acquisition by persons with disabilities of work experience in the open labour market;
 - k. Promote vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities.
2. States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.

Article 28, Adequate standard of living and social protection

- 1. States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.
- 2. States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures:
 - a. To ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs;
 - b. To ensure access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection programmes and poverty reduction programmes;
 - c. To ensure access by persons with disabilities and their families living in situations of poverty to assistance from the State with disability-related expenses, including adequate training, counseling, financial assistance and respite care;
 - d. To ensure access by persons with disabilities to public housing programmes;

- e. To ensure equal access by persons with disabilities to retirement benefits and programmes.

Article 29, Participation in political and public life

States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake to:

- a. Ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by:
 - i. Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;
 - ii. Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;
 - iii. Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice;
- b. Promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:
 - i. Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties;
 - ii. Forming and joining organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.

Article 30, Participation in cultural life, recreation, leisure and sport

- i. States Parties recognize the right of persons with disabilities to take part on an equal basis with others in cultural life, and shall take all appropriate measures to ensure that persons with disabilities:
 - a. Enjoy access to cultural materials in accessible formats;
 - b. Enjoy access to television programmes, films, theatre and other cultural activities, in accessible formats;
 - c. Enjoy access to places for cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, and, as far as possible, enjoy access to monuments and sites of national cultural importance.

2. States Parties shall take appropriate measures to enable persons with disabilities to have the opportunity to develop and utilize their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of society.
3. States Parties shall take all appropriate steps, in accordance with international law, to ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials.
4. Persons with disabilities shall be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including sign languages and deaf culture.
5. With a view to enabling persons with disabilities to participate on an equal basis with others in recreational, leisure and sporting activities, States Parties shall take appropriate measures:
 - a. To encourage and promote the participation, to the fullest extent possible, of persons with disabilities in mainstream sporting activities at all levels;
 - b. To ensure that persons with disabilities have an opportunity to organize, develop and participate in disability-specific sporting and recreational activities and, to this end, encourage the provision, on an equal basis with others, of appropriate instruction, training and resources;
 - c. To ensure that persons with disabilities have access to sporting, recreational and tourism venues;
 - d. To ensure that children with disabilities have equal access with other children to participation in play, recreation and leisure and sporting activities, including those activities in the school system;
 - e. To ensure that persons with disabilities have access to services from those involved in the organization of recreational, tourism, leisure and sporting activities.

Article 31, Statistics and data collection

1. States Parties undertake to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the present Convention. The process of collecting and maintaining this information shall:
 - a. Comply with legally established safeguards, including legislation on data protection, to ensure confidentiality and respect for the privacy of persons with disabilities;
 - b. Comply with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles in the collection and use of statistics.

2. The information collected in accordance with this article shall be disaggregated, as appropriate, and used to help assess the implementation of States Parties' obligations under the present Convention and to identify and address the barriers faced by persons with disabilities in exercising their rights.
3. States Parties shall assume responsibility for the dissemination of these statistics and ensure their accessibility to persons with disabilities and others.

Article 32, International cooperation

1. States Parties recognize the importance of international cooperation and its promotion, in support of national efforts for the realization of the purpose and objectives of the present Convention, and will undertake appropriate and effective measures in this regard, between and among States and, as appropriate, in partnership with relevant international and regional organizations and civil society, in particular organizations of persons with disabilities. Such measures could include, inter alia:
 - a. Ensuring that international cooperation, including international development programmes, is inclusive of and accessible to persons with disabilities;
 - b. Facilitating and supporting capacity-building, including through the exchange and sharing of information, experiences, training programmes and best practices;
 - c. Facilitating cooperation in research and access to scientific and technical knowledge;
 - d. Providing, as appropriate, technical and economic assistance, including by facilitating access to and sharing of accessible and assistive technologies, and through the transfer of technologies.
2. The provisions of this article are without prejudice to the obligations of each State Party to fulfill its obligations under the present Convention.

Article 33, National implementation and monitoring

1. States Parties, in accordance with their system of organization, shall designate one or more focal points within government for matters relating to the implementation of the present Convention, and shall give due consideration to the establishment or designation of a coordination mechanism within government to facilitate related action in different sectors and at different levels.
2. States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the present Convention. When designating or establishing such a mechanism, States Parties shall take

into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights.

3. Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process.

Article 34, Committee on the rights of persons with disabilities

1. There shall be established a Committee on the Rights of Persons with Disabilities (hereafter referred to as “the Committee”), which shall carry out the functions hereinafter provided.
2. The Committee shall consist, at the time of entry into force of the present Convention, of twelve experts. After an additional sixty ratifications or accessions to the Convention, the membership of the Committee shall increase by six members, attaining a maximum number of eighteen members.
3. The members of the Committee shall serve in their personal capacity and shall be of high moral standing and recognized competence and experience in the field covered by the present Convention. When nominating their candidates, States Parties are invited to give due consideration to the provision set out in article 4.3 of the present Convention.
4. The members of the Committee shall be elected by States Parties, consideration being given to equitable geographical distribution, representation of the different forms of civilization and of the principal legal systems, balanced gender representation and participation of experts with disabilities.
5. The members of the Committee shall be elected by secret ballot from a list of persons nominated by the States Parties from among their nationals at meetings of the Conference of States Parties. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
6. The initial election shall be held no later than six months after the date of entry into force of the present Convention. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit the nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating the State Parties which have nominated them, and shall submit it to the States Parties to the present Convention.
7. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election once. However, the term of six of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these six members shall be chosen by lot by the chairperson of the meeting referred to in paragraph 5 of this article.

8. The election of the six additional members of the Committee shall be held on the occasion of regular elections, in accordance with the relevant provisions of this article.
9. If a member of the Committee dies or resigns or declares that for any other cause she or he can no longer perform her or his duties, the State Party which nominated the member shall appoint another expert possessing the qualifications and meeting the requirements set out in the relevant provisions of this article, to serve for the remainder of the term.
10. The Committee shall establish its own rules of procedure.
11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention, and shall convene its initial meeting.
12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide, having regard to the importance of the Committee's responsibilities.
13. The members of the Committee shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

Article 35, Reports by states parties

1. Each State Party shall submit to the Committee, through the Secretary-General of the United Nations, a comprehensive report on measures taken to give effect to its obligations under the present Convention and on the progress made in that regard, within two years after the entry into force of the present Convention for the State Party concerned.
2. Thereafter, States Parties shall submit subsequent reports at least every four years and further whenever the Committee so requests.
3. The Committee shall decide any guidelines applicable to the content of the reports.
4. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports, repeat information previously provided. When preparing reports to the Committee, States Parties are invited to consider doing so in an open and transparent process and to give due consideration to the provision set out in article 4.3 of the present Convention.
5. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

Article 36, Consideration of reports

1. Each report shall be considered by the Committee, which shall make such suggestions and general recommendations on the report as it may consider appropriate and shall forward these to the State Party concerned. The State Party may respond with any information it chooses to the Committee. The Committee may request further information from States Parties relevant to the implementation of the present Convention.
2. If a State Party is significantly overdue in the submission of a report, the Committee may notify the State Party concerned of the need to examine the implementation of the present Convention in that State Party, on the basis of reliable information available to the Committee, if the relevant report is not submitted within three months following the notification. The Committee shall invite the State Party concerned to participate in such examination. Should the State Party respond by submitting the relevant report, the provisions of paragraph 1 of this article will apply.
3. The Secretary-General of the United Nations shall make available the reports to all States Parties.
4. States Parties shall make their reports widely available to the public in their own countries and facilitate access to the suggestions and general recommendations relating to these reports.
5. The Committee shall transmit, as it may consider appropriate, to the specialized agencies, funds and programmes of the United Nations, and other competent bodies, reports from States Parties in order to address a request or indication of a need for technical advice or assistance contained therein, along with the Committee's observations and recommendations, if any, on these requests or indications.

Article 37, Cooperation between states parties and the committee

1. Each State Party shall cooperate with the Committee and assist its members in the fulfilment of their mandate.
2. In its relationship with States Parties, the Committee shall give due consideration to ways and means of enhancing national capacities for the implementation of the present Convention, including through international cooperation.

Article 38, Relationship of the committee with other bodies

In order to foster the effective implementation of the present Convention and to encourage international cooperation in the field covered by the present Convention:

- a. The specialized agencies and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such

provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite specialized agencies and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

- b. The Committee, as it discharges its mandate, shall consult, as appropriate, other relevant bodies instituted by international human rights treaties, with a view to ensuring the consistency of their respective reporting guidelines, suggestions and general recommendations, and avoiding duplication and overlap in the performance of their functions.

Article 39, Report of the committee

The Committee shall report every two years to the General Assembly and to the Economic and Social Council on its activities, and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.

Article 40, Conference of states parties

1. The States Parties shall meet regularly in a Conference of States Parties in order to consider any matter with regard to the implementation of the present Convention.
2. No later than six months after the entry into force of the present Convention, the Conference of the States Parties shall be convened by the Secretary-General of the United Nations. The subsequent meetings shall be convened by the Secretary-General of the United Nations biennially or upon the decision of the Conference of States Parties.

Article 41, Depositary

The Secretary-General of the United Nations shall be the depositary of the present Convention.

Article 42, Signature

The present Convention shall be open for signature by all States and by regional integration organizations at United Nations Headquarters in New York as of 30 March 2007.

Article 43, Consent to be bound

The present Convention shall be subject to ratification by signatory States and to formal confirmation by signatory regional integration organizations. It shall be open for accession by any State or regional integration organization which has not signed the Convention.

Article 44, Regional integration organizations

1. “Regional integration organization” shall mean an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by this Convention. Such organizations shall declare, in their instruments of formal confirmation or accession, the extent of their competence with respect to matters governed by this Convention. Subsequently, they shall inform the depositary of any substantial modification in the extent of their competence.
2. References to “States Parties” in the present Convention shall apply to such organizations within the limits of their competence.
3. For the purposes of article 45, paragraph 1, and article 47, paragraphs 2 and 3, any instrument deposited by a regional integration organization shall not be counted.
4. Regional integration organizations, in matters within their competence, may exercise their right to vote in the Conference of States Parties, with a number of votes equal to the number of their member States that are Parties to this Convention. Such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

Article 45, Entry into force

1. The present Convention shall enter into force on the thirtieth day after the deposit of the twentieth instrument of ratification or accession.
2. For each State or regional integration organization ratifying, formally confirming or acceding to the Convention after the deposit of the twentieth such instrument, the Convention shall enter into force on the thirtieth day after the deposit of its own such instrument.

Article 46, Reservations

1. Reservations incompatible with the object and purpose of the present Convention shall not be permitted.
2. Reservations may be withdrawn at any time.

Article 47, Amendments

1. Any State Party may propose an amendment to the present Convention and submit it to the Secretary-General of the United Nations. The Secretary-General shall communicate any proposed amendments to States Parties, with a request to be notified whether they favour a conference of States Parties for the purpose of considering and deciding upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any

amendment adopted by a majority of two thirds of the States Parties present and voting shall be submitted by the Secretary-General to the General Assembly for approval and thereafter to all States Parties for acceptance.

2. An amendment adopted and approved in accordance with paragraph 1 of this article shall enter into force on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment. Thereafter, the amendment shall enter into force for any State Party on the thirtieth day following the deposit of its own instrument of acceptance. An amendment shall be binding only on those States Parties which have accepted it.
3. If so decided by the Conference of States Parties by consensus, an amendment adopted and approved in accordance with paragraph 1 of this article which relates exclusively to articles 34, 38, 39 and 40 shall enter into force for all States Parties on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment.

Article 48, Denunciation

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. The denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

Article 49, Accessible format

The text of the present Convention shall be made available in accessible formats.

Article 50, Authentic texts

The Arabic, Chinese, English, French, Russian and Spanish texts of the present Convention shall be equally authentic.

In witness thereof the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

(Plain-language Version)

Preamble

The countries that agree to this document recognize:

- a. The founding documents of the UN say that we are all equal, and we are all members of the human family. This is important for freedom, justice, and peace in the world,
- b. We are all equal, and all of us have the same human rights,
- c. All human beings everywhere in the world have all human rights. These rights cannot be divided. Persons with disabilities must enjoy all human rights and fundamental freedoms, and they must not be discriminated against,
- d. There are seven other international agreements that promote and protect human rights,
- e. Disability is something that changes all the time. It is the environment and people's attitudes that create disability,
- f. It is important to keep in mind what the Standard Rules and the World Programme of Action concerning Disabled Persons are trying to achieve when trying to make laws, rules, decisions, programmes, and practice better for persons with disabilities,
- g. It is very important to make sure that the situation of persons with disabilities is always equally taken into consideration when governments and international organizations make plans about a country's growth (for example, about how to get people out of poverty or get them jobs),
- h. When someone discriminates against persons with disabilities, he or she takes away their dignity and value as human beings,
- i. There are many differences among persons with disabilities,
- j. All persons with disabilities must have their rights, including persons with disabilities who need extra support,
- k. The rights of persons with disabilities are still being taken away, even though there are agreements that protect their rights,
- l. It is important that countries work with one another to make life better for persons with disabilities, especially in poor countries,
- m. If persons with disabilities are fully included and enjoy their rights, they help make their countries better,

- n. It is very important that persons with disabilities are free to make their own decisions,
- o. Persons with disabilities should be included in the making of policies and programmes, especially those that are directly related to them,
- p. Persons with disabilities are not only discriminated against because of their disabilities, but also for many other reasons, including their race and sex.
- q. Women and girls with disabilities are more often abused, beaten, injured, or taken advantage of,
- r. Children with disabilities have the same rights as all other children, and that the international agreement on children's rights also applies to them,
- s. It is important for a country to consider the situations of both women and men in everything it does for the human rights of persons with disabilities,
- t. It is also very important to remember that most persons with disabilities are poor, and it is necessary to find out how their poverty affects them,
- u. We must have peace and security to make sure persons with disabilities can have their rights, especially when they live in war zones or in countries that are not run by their own government,
- v. It is very important for persons with disabilities to be able to enjoy all areas of life, to have good health care, to go to school, and to have the information they need so that they can use their rights,
- w. Every person has the duty to make sure everyone else enjoys his or her rights,
- x. The family is the main group in a society, and persons with disabilities and their families should get the protection and help they need to be able to work for their human rights,
- y. An Agreement that covers all areas of life will be very helpful in making lives of persons with disabilities better and in making sure that persons with disabilities are treated equally and equally included in all areas of life, and in poor and richer countries.

Because of all the things listed here, the countries that decide to be part of this Agreement agree to the following:

Article 1: Purpose

This Agreement is made is to make sure that

- the human rights and freedoms of all persons with disabilities are enjoyed, promoted, and protected;

- respect for the dignity of persons with disabilities is promoted.

Persons with disabilities include those who have long-term impairments (for example, physical, psychosocial, intellectual) and who are not included in society for different reasons (for example, because of barriers like attitudes, language, physical barriers, laws).

Article 2: Definitions

“Communication” means all the ways that people can communicate (for example, spoken language, sign language, text, Braille, touch, large print, written, audio, plain language, human reader).

“Language” means all kinds of languages (for example, spoken, signed, and types of language that are not spoken).

“Discrimination on the basis of disability” means a person may be excluded, shut out, or prevented from doing things because of their disability. This discrimination can be in all areas of life.

“Reasonable Accommodation” means that a person may need to have changes made so they are able to enjoy their rights (for example, changes where they live or work). If some changes are too expensive or too difficult, then they may not have to be made.

“Universal Design” means that things are made, programmes created, and places designed so that they can be used by all people. Sometimes someone with a particular type of disability may need something specially made so they can enjoy their rights.

Article 3: General principles

This Agreement is based on these principles:

- Dignity
- Ability to choose
- Independence
- Non-discrimination
- Participation
- Full inclusion
- Respect for difference
- Acceptance of persons with disabilities as part of humanity
- Equality of opportunity
- Accessibility
- Equality of men and women
- Respect for children.

Article 4: General obligations

1. The countries that agree to this Agreement promise to make sure that all human rights apply to all people, without discrimination because of disability. To fulfil this promise, they will:
 - a. Make new laws, policies, and practices in their country that are like those in this Agreement;
 - b. Change or get rid of old rules, laws, and customs that discriminate against persons with disabilities;
 - c. Make sure that the human rights of persons with disabilities are included in all policies and programmes;
 - d. Not do anything that goes against this Agreement, and make sure others respect the Agreement;
 - e. Take action to stop individuals, organizations, or businesses from discriminating because of disability;
 - f. Work on developing and making available affordable goods, services, equipment, and facilities that persons with disabilities all over the world can use;
 - g. Work on developing affordable new technologies in all aspects of life that are useful for persons with disabilities;
 - h. Provide information about all types of assistance, including technologies, in a way that all persons with disabilities can understand;
 - i. Promote trainings about the rights in this Agreement for those who work with persons with disabilities.
2. Put into practice laws and rules that relate to economic, social, and cultural rights as much as they can with resources they have. If need be, they can cooperate with other countries to put these rights into practice. All other rights must be put into practice right away.
3. When making laws and rules about this Agreement, the countries will talk to and involve persons with disabilities, including children with disabilities, through the organizations that represent them.
4. Not let this Agreement change any laws or rules that are better for the rights of persons with disabilities. Countries must not use the Agreement as an excuse to not put into practice human rights that already exist.
5. Apply this Agreement to the country as a whole.

Article 5: Equality and non-discrimination

1. All persons with disabilities are equal before the law and protected by the law without any discrimination.
2. Discrimination because of a disability will not be allowed and persons with disabilities will be protected from such discrimination.
3. If a person with a disability needs changes made to his or her environment in order to enjoy his or her rights, then those changes will be made.
4. If persons with disabilities need special actions in order to become equal to others, this type of treatment is not unfair to others.

Article 6: Women with disabilities

1. Women and girls with disabilities face many kinds of discrimination. Countries will make sure girls and women enjoy full and equal human rights and freedoms.
2. Countries will take action to support the growth and empowerment of women with disabilities so that they can use and enjoy their rights.

Article 7: Children with disabilities

1. Children with disabilities have the same rights as other children.
2. Anything concerning children with disabilities must be done for the good of the child.
3. Children with disabilities have the right to give their opinions and have their opinions listened to. Children with disabilities should get the help they need to give their opinions.

Article 8: Awareness-raising

1. The countries will:
 - a. Help families and all people in society be more aware of the issues facing persons with disabilities. They will work to make sure that the rights and dignity of persons with disabilities are respected;
 - b. Fight against stereotypes and prejudices about persons with disabilities; (Stereotypes are general and incorrect beliefs that some people have about other people. These beliefs are often damaging and lead to discrimination.)
 - c. Help everyone be aware of what persons with disabilities can do and how they can help the country grow.
2. The countries will also:
 - a. Make everyone aware of the rights of persons with disabilities:

- i. Show that persons with disabilities have the same rights as everyone else;
 - ii. Highlight disability in the community and change misunderstandings about disability;
 - iii. Show the skills of persons with disabilities and how they can be put to use.
- b. Make sure that schools teach respect for the rights of persons with disabilities;
 - c. Encourage media (for example, radio, television, newspapers and magazines) to show images of persons with disabilities that promote the rights of persons with disabilities;
 - d. Promote training programmes to make people aware of the rights of persons with disabilities.

Article 9: Accessibility

1. The countries will get rid of barriers that persons with disabilities face. This way persons with disabilities can live independently and fully live their lives. The countries will get rid of barriers in;
 - a. Buildings, roads, transportation and indoor and outdoor objects (for example, in schools, housing, hospitals, health centres, and workplaces);
 - b. Information, communications, and other services (for example, electronic services and emergency services).
2. The countries will also;
 - a. Set standards for accessibility of public places and services;
 - b. Make sure that private businesses and organizations open to the public are accessible;
 - c. Train people about what persons with disabilities need when it comes to accessibility;
 - d. Have Braille signs and easy to read and understand information in public buildings;
 - e. Provide help so persons with disabilities can access buildings open to the public (for example, readers, sign language interpreters, and guides);
 - f. Provide other types of help persons with disabilities need to get access to information;
 - g. Promote to new technologies for persons with disabilities;
 - h. Promote new technologies that improve access to information and communications for persons with disabilities.

Article 10: Right to life

All persons with disabilities have the right to life. The countries will act to make sure persons with disabilities can use this right.

Article 11: Situations of risk and humanitarian emergencies

The countries will make sure that persons with disabilities are protected in times of war, natural disasters, or other emergencies.

Article 12: Equal recognition as a person before the law

1. Persons with disabilities have the right to be recognized as people before the law.
2. Persons with disabilities are capable like all other people on legal issues in all areas of their lives.
3. Persons with disabilities have a right to get support if they need it to make decisions about legal issues.
4. When persons with disabilities need support on legal or financial issues:
 - a. They will be protected from abuse;
 - b. Their rights and their choices will be respected;
 - c. People who give support will not pressure persons with disabilities into making a decision;
 - d. They get the help they need, only for the time they need it and only as much as they need;
 - e. The courts will review the support received.
5. The countries will make sure that persons with disabilities:
 - a. Have the right to own or get property;
 - b. Have the right to control their money or other financial affairs;
 - c. Have the same opportunities as other people to get bank loans, mortgages and credit;
 - d. Cannot have property taken away without a reason.

Article 13: Access to justice

1. The countries will make sure that persons with disabilities can access the justice system in their countries just like all other people. Any rules about how things should be done should be adapted so that persons with disabilities can be involved in all stages of legal processes, (for example, being a witness).
2. People working in the justice system (for example, police and prison staff) should have training in how to improve access for persons with disabilities.

Article 14: Liberty and security

1. The countries will:
 - a. Make sure that persons with disabilities have the same right to liberty and security as all other people;
 - b. Make sure that this right is not taken away from persons with disabilities because they have a disability or in any illegal way.
2. The countries will make sure that if a person has had his or her liberty taken, he or she will be protected by law. They will also make sure that changes are made to the individual's environment if they are needed for that person to enjoy his or her human rights.

Article 15: Freedom from torture or cruel, inhuman or degrading treatment or punishment

1. Nobody will be tortured, or be treated or punished in a cruel, inhuman or degrading way. Nobody will be forced to take part in medical or scientific experiments.
2. The countries agree to pass laws, and take other action to make sure that persons with disabilities are protected from torture just like all other people.

Article 16: Freedom from exploitation, violence and abuse

The countries will:

1. Pass laws and take other action to make sure persons with disabilities are not exploited or abused, both inside and outside their home.
2. Take action to prevent abuse of persons with disabilities by giving help and appropriate information to persons with disabilities and their families.
3. Make sure that places and programmes serving persons with disabilities are regularly looked at to make sure there is no violence or abuse.
4. Support persons with disabilities with their recovery and reintegration into society if they have been victims of violence and abuse.
5. Create laws and policies to investigate and punish people who abuse or mistreat persons with disabilities. These laws and policies will include the needs of women and children.

Article 17: Protecting integrity

Persons with disabilities have the same right as everyone else to have their physical and mental selves respected.

Article 18: Freedom of movement and nationality

1. Persons with disabilities have the same rights as others to move around in their country or between countries, to choose where they live, and to have a nationality. The countries will make sure that persons with disabilities:
 - a. Have the right to get and to change their nationality. Nobody can take away their nationality without a reason or because of a disability;
 - b. Cannot have their passports or other identification of nationality taken away without a reason or because of a disability, and that they are allowed to try to move to another country;
 - c. Are free to leave their own country and any other country;
 - d. Cannot be stopped from entering their own country without a reason or because of a disability.
2. Children with disabilities will be registered immediately after they are born. They will have the right to a name, to a nationality, and as much as possible the right to know their parents and be raised by their own parents.

Article 19: Living independently and being included in the community

All persons with disabilities have the same right as anyone else to live in the community, to be fully included and to participate in the community.

The countries will make sure that persons with disabilities:

- a. Have the same opportunities as other people to choose whom they live with and where they live. They should not be forced to live in institutions or in other living arrangements that they do not like;
- b. Have a range of choices on where and how to live in the community, including personal assistance to help with inclusion in the community and prevent them from being isolated;
- c. Can use community services that are available to the public, which may need to be adapted to a particular person's needs.

Article 20: Personal mobility

The countries will make sure that persons with disabilities can move around with the greatest possible independence, including:

- a. Assisting people to move around in the way at the time they choose, and at a cost that they can afford;
- b. Assisting persons with disabilities to access mobility aids and technology, including making sure they do not cost a lot;
- c. Providing training in mobility skills for persons with disabilities and staff working with them;

- d. Encouraging those that produce mobility aids and technology to take into account all aspects of movement.

Article 21: Freedom of expression and opinion and access to information

The countries will make sure that persons with disabilities have the right to say what they think through Braille, sign language, or any other types of communication that they choose.

The countries will make sure that persons with disabilities have the same right as other people to give and receive information, including:

- a. Providing information intended for the general public to persons with disabilities in formats that are adequate for them without extra cost (for example, Braille);
- b. Accepting the use of different ways persons with disabilities communicate in official situations;
- c. Encouraging private businesses and organizations that serve the public to make their services more accessible for persons with disabilities;
- d. Encouraging the media to make their information accessible to persons with disabilities;
- e. Agreeing to, and promoting the use of, sign language.

Article 22: Respect for privacy

1. No matter where persons with disabilities live, no one can interfere in their private life, enter their home, open their mail, bother their family, or harm their good name without a good reason. Persons with disabilities have the right to be protected by the law from such attacks.
2. Information about persons with disabilities, their health, and rehabilitation is private and protected.

Article 23: Respect for home and the family

1. The countries will stop discrimination against persons with disabilities when it comes to marriage and family relations and make sure that:
 - a. Persons with disabilities have the same right as other people to marry and have a family;
 - b. Persons with disabilities have the same rights as other people to have children and to decide how many children to have and when to have them. They should get information on reproduction and family planning and help to understand this information;
 - c. Persons with disabilities have the same right as everyone else to keep their fertility.

2. Persons with disabilities have the rights and responsibilities related to caring for or adopting children, with the most important concern being what is best for the child. The countries will give persons with disabilities any help they need to raise their children.
3. Children with disabilities have the same rights as everyone else to a family life. To prevent abuse, the countries will provide information, services, and support to children with disabilities and their families.
4. Children must not be taken away from their parents against their will, unless it is best for them and is done legally. A child cannot be separated from parents because of the parent's or the child's disability.
5. If close family members cannot care for a child with a disability, the countries will look for another relative or someone in the local community to care for the child.

Article 24: Education

1. All persons with disabilities have the right to education. The countries will make sure that the entire education system includes persons with disabilities, and that the educational system works to:
 - a. Develop everyone's human potential, sense of dignity, and self worth, as well as respect for human rights, freedoms, and diversity;
 - b. Develop the personality and talents of persons with disabilities to their fullest potential;
 - c. Make it possible for persons with disabilities to be involved in society.
2. To do this, the countries will make sure that:
 - a. Persons with disabilities are not kept out of education because of their disability, and children with disabilities are not kept out of free and required primary or from secondary education because of their disability;
 - b. All persons with disabilities can choose education that includes them, is accessible and is in their own community;
 - c. Reasonable changes are made to make sure that persons with disabilities get the most out of their education;
 - d. Persons with disabilities get the help they need to get the most out of their education;
 - e. The individual needs of students with disabilities are met.
3. The countries will make it possible for persons with disabilities to learn social and life skills they need to go to schools and be in the community. They will do this by:

- a. Arranging that students learn skills for communication (for example, Braille) and movement, and that they get support from other persons with disabilities of their own age;
 - b. Teaching sign language;
 - c. Making sure that especially children who are blind, deaf or deafblind are educated in the most appropriate types of communication so that they get the most out of their education.
4. To help make sure that these rights are put into practice, the countries will hire teachers who are persons with disabilities, teachers who are qualified in Braille and sign languages, and will train teachers and staff at all levels of education on how to give quality education to persons with disabilities.
 5. Countries will make sure that persons with disabilities have equal access to vocational training, to universities and to lifelong learning like all other people, and will make any changes needed to make that happen.

Article 25: Health

All persons with disabilities have the same right to quality health care, without discrimination because of their disability.

The countries will make sure that health and rehabilitation services are available, including:

- a. Making sure that persons with disabilities get the same variety, quality, and standard of free and affordable health care as other people;
- b. Making sure that persons with disabilities can get services they need because of their disability and to protect them from further disability;
- c. Having health services in people's own communities;
- d. Making sure through training and standards that health workers give the same quality care to persons with disabilities as to others, including getting their agreement;
- e. Stopping discrimination against persons with disabilities about health insurance and life insurance;
- f. Making sure that persons with disabilities will not be discriminated against and denied health care or health services, or food and fluids, because of their disability.

Article 26: Habilitation and rehabilitation

- i. The countries will take action (for example, by promoting peer support) to make it possible for persons with disabilities to enjoy maximum independence, their full abilities, and inclusion in all aspects of life. To make sure this happens, the countries will make available services that cover all areas of life, both in habilitation and rehabilitation, so that they:

- a. Begin as early as possible, and are suited to a person's strengths and needs;
 - b. Help persons with disabilities be involved in the community and are voluntary and available as close as possible to their communities. (Note: Habilitation is a process that helps people who are born with a disability or acquire a disability at an early age get new skills, abilities, and knowledge. Rehabilitation refers to the process of re-gaining lost skills or abilities).
2. The countries will promote training for people working in habilitation and rehabilitation services.
 3. The countries will promote the use of assistive devices and other types of aid as they relate to habilitation and rehabilitation.

Article 27: Work and employment

1. Persons with disabilities have the same right to work as other people. They have the right to earn a living from work they choose in a work environment that is open and accessible to all people. The countries will pass laws and take other action needed to:
 - a. Stop discrimination because of disability in all work situations, including trying to get jobs, getting hired, keeping a job, being promoted and working in safe and healthy conditions;
 - b. Protect the rights of persons with disabilities to equal pay for equal work, equal opportunity, safe and healthy working conditions, and the ability to make complaints;
 - c. Make sure that persons with disabilities can organize and join labour unions and trade unions like everyone else;
 - d. Make it possible for persons with disabilities to get career counselling and job trainings;
 - e. Promote job opportunities and promotions and help persons with disabilities to find and keep jobs;
 - f. Promote self-employment, business opportunities, cooperatives, and start-up businesses;
 - g. Hire persons with disabilities in the government;
 - h. Encourage and help employers to hire persons with disabilities;
 - i. Make it easy for persons with disabilities to be in the work place and work environment by making sure reasonable adjustments are made for them;
 - j. Make sure that persons with disabilities can gain work experience in the labour market;
 - k. Promote programmes to support persons with disabilities to return to work and keep their jobs.

2. The countries will make sure that persons with disabilities are not made slaves. They will protect persons with disabilities from forced labour as all other people are protected.

Article 28: Adequate standard of living and social protection

1. Persons with disabilities have the right to a good standard of living for themselves and their families. This includes enough food, clothing, housing, and continued improvement of their living conditions.
2. Persons with disabilities have the right to social protection by the government, without discrimination because of disability. The countries will protect this right, including by making sure that:
 - a. Persons with disabilities can get the services, equipment, and help they need;
 - b. Persons with disabilities have access to financial assistance and programmes that help them get out of poverty. This especially applies to women and girls and older persons with disabilities;
 - c. Persons with disabilities and their families who live in poverty get help from the government to be able to pay for expenses related to their disability;
 - d. Persons with disabilities have access to government housing programmes;
 - e. Persons with disabilities can get pensions.

Article 29: Participation in political and public life

Persons with disabilities have the same political rights as all other people. The countries will:

- a. Make sure that persons with disabilities can be fully involved in political and public life, for example by having the right to vote and be elected. To do this they should make sure:
 - i. That voting is easy to understand and accessible;
 - ii. That persons with disabilities can vote in secret and be elected and hold office;
 - iii. That persons with disabilities can get help in voting from someone of their choice.
- b. Encourage persons with disabilities to be involved in the government and public affairs, including:
 - i. Being involved in non-governmental organizations and associations focused on the activities of political parties and civil society;
 - ii. Making and belonging to organizations to represent persons with disabilities internationally, nationally, regionally and locally.

Article 30: Participation in cultural life recreation, leisure and sport

1. Persons with disabilities have the right to take part in cultural life. The countries will take action to make sure that:
 - a. Persons with disabilities have access to literature and the arts in formats they can use;
 - b. Persons with disabilities can get television programmes, film, theatre and other cultural activities in a way that they will understand, for example with captioning and sign language;
 - c. Persons with disabilities can access cultural performances and services such as libraries, museums, theatres and important places.
2. The countries will make it possible for persons with disabilities to develop and use their creative, artistic, and intellectual talents.
3. The countries will make sure that laws that protect documents and other writings and inventions from forgery or copying do not discriminate against persons with disabilities.
4. Persons with disabilities have the right, just like everyone else, to have their culture and language recognized, for example sign languages and deaf culture.
5. Persons with disabilities have the same right as others to take part in recreation, leisure and sports. The countries will take action to:
 - a. Promote and encourage persons with disabilities to take part in sports with people without disabilities at all levels;
 - b. Make sure that persons with disabilities have a chance to organize and participate in sport activities, and to receive the same training and support as other people;
 - c. Make sure that persons with disabilities can get to sports and recreation arenas as other people can;
 - d. Make sure that children with disabilities can participate in play and sports at school like other children;
 - e. Make sure that persons with disabilities can get services to help organize recreational and sporting activities.

Article 31: Statistics and data collection

1. The countries will collect and look at information about persons with disabilities to put into practice this Agreement. In collecting and using this information they will:
 - a. Respect people's right to privacy. The information should be given only if people agree;

- b. Respect human rights and ethics.
2. The information collected will be put in useful groups so that the countries can learn more about barriers that exist for persons with disabilities and understand better how to put this Agreement into practice.
3. The countries are responsible for giving out this information and making sure that persons with disabilities can read and understand it.

Article 32 – 50: Duties of governments

These articles explain how people and governments should work together to make sure all persons with disabilities get all their rights.

The main ideas are:

- The countries should work together to put this Agreement into practice.
- Persons with disabilities and their organizations must be included in this work.
- A UN Committee on the Rights of Persons with Disabilities will be created to make sure the countries keep their promises to this Agreement.
- The countries will write regular reports for the Committee telling how they're putting this Agreement into practice.
- The Committee will report regularly to the UN General Assembly and other groups and make suggestions on how this Agreement is being respected.
- The countries that sign this agreement have the responsibility to put it into practice. However, they can decide not to accept certain parts that they disagree with.
- This agreement should be made available in ways that persons with disabilities can read or understand it.

HUMAN RIGHTS INSTRUMENTS

The following are the internet addresses for the principal instruments cited in *Human Rights. YES!*

- **The African Charter on Human and Peoples' Rights (African Charter)**
<http://www1.umn.edu/humanrts/instree/z1afchar.htm>
- **Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT, Torture Convention)**
http://www.unhchr.ch/html/menu3/b/h_cat39.htm
- **Convention Concerning Indigenous and Tribal Peoples in Independent Countries (ILO No. 169)**
<http://www.ohchr.org/english/law/indigenous/htm>
- **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**
<http://www.ohchr.org/english/law/cedaw.htm>
- **International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)**
<http://www.unhchr.ch/html/menu3/b/9.htm>
- **Convention on the Rights of the Child (CRC, Children's Convention)**
<http://www.ohchr.org/english/law/crc.htm>
- **International Convention for the Protection of the Rights of Migrant Workers and Members of Their Families (ICRMW)**
<http://www.ohchr.org/english/law/cmw.htm>
- **Convention on the Rights of Persons with Disabilities (CRPD)**
<http://www.ohchr.org/english/law/disabilities-convention.htm>
- **Declaration on the Rights of Indigenous Peoples**
<http://www.ohchr.org/english/issues/indigenous/docs/draftdeclaration.pdf>
- **European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention)**
<http://conventions.coe.int/Treaty/en/Treaties/Html/005.htm>
- **ILO Convention 159 (concerning vocational Rehabilitation and Employment (Disabled Persons))**
<http://www.ilo.org/ilolex/english/convdisp1.htm>
- **Inter-American Convention on Human Rights (Inter-American Convention)**
<http://www1.umn.edu/humanrts/oasinstr/zoas3con.htm>
- **International Covenant on Civil and Political Rights (ICCPR)**
<http://www.ohchr.org/english/law/ccpr.htm>

- **International Covenant on Economic, Social and Cultural Rights (ICESCR)**
http://www.unhchr.ch/html/menu3/b/a_ceschr.htm
- **Universal Declaration of Human Rights (UDHR)**
<http://www.unhchr.ch/udhr/>
- **UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities (Standard Rules)**
<http://www.un.org/esa/socdev/enable/dissreoo.htm>

ANNEX 2: GENERAL RESOURCES

WEB-BASED INTERNATIONAL HUMAN RIGHTS LAW LIBRARIES

Office of the High Commissioner for Human Rights (International Human Rights Instruments):

<http://www.unhchr.ch/html/intlinst.htm>

University of Minnesota Human Rights Library:

<http://www.umn.edu/humanrts>

WEB-BASED GENERAL RESOURCES ON HUMAN RIGHTS AND DISABILITY

ACT (Advocating Change Together)

(Information on disability rights advocacy particularly for self-advocates with developmental disabilities):

<http://www.selfadvocacy.org>

Disabled Peoples' International, "Ratification Toolkit"

(On ratification advocacy for the Convention on the Rights of Persons with Disabilities):

<http://www.icrpd.net/ratification/en/index.htm>

Disabled Peoples' International, "Implementation Toolkit"

(On implementation advocacy for the Convention on the Rights of Persons with Disabilities):

<http://www.icrpd.net/implementation/en/index.htm>

Harvard Project on Disability, Harvard Law School

(Information on the range of law, policy and advocacy initiatives of the Project):

<http://www.hpod.org/>

International Disability Alliance

(Coalition of NGOs advancing the Convention on the Rights of Persons with Disabilities)

<http://www.internationaldisabilityalliance.org/en>

United Nations Department of Economic and Social Affairs

(Website offering info on the UN Program on Disability and disability specific resources):

<http://www.un.org/disabilities>

Office of the High Commissioner for Human Rights

(Webpage for human rights and disability)

<http://www.ohchr.org/EN/Issues/Disability/Pages/DisabilityIndex.aspx>

World Enable

(Internet accessibility initiative providing information on a range of topics, including the Convention on the Rights of Persons with Disabilities):

<http://www.worldenable.net>

ANNEX 3: A GLOSSARY FOR DISABILITY AND HUMAN RIGHTS

Note: Terms in this glossary are found in bold-face type in the text of *Human Rights. YES!*

Adoption: Usually refers to the initial diplomatic stage at which the official text of a **treaty** is accepted (in the case of a UN treaty, by the General Assembly). After adoption, a treaty is typically opened for **signature** and is usually subject to **ratification** by individual governments.

Affirmative Action (also Positive Discrimination, Reverse Discrimination): Action taken by a government or private institution to make up for past discrimination in education, employment, or promotion on the basis of gender, race, ethnic origin, religion, or disability.

African Charter on Human and People's Rights (African Charter): A regional human rights treaty for the African continent adopted by the Organization of African Unity (OAU) (now reconfigured as the African Union) in 1981.

American Convention on Human Rights (American Convention, Pact of San Jose, Costa Rica): A regional human rights treaty **adopted** by the Organization of American States (OAS) in 1969.

Americans with Disabilities Act (ADA): Passed in 1990, this US Federal law provides comprehensive civil rights protections with the aim of achieving full integration in society for persons with disabilities. By far the most forward-thinking disability legislation of its time, the ADA has become a model for legislation in many other countries.

Article: A numbered section of a legal document such as a **treaty** or **declaration**. For example, Article 7 of the **Convention on the Rights of Persons with Disabilities** addresses children with disabilities.

Basic Principles for the Treatment of Prisoners: Adopted by the UN General Assembly in 1990, this document sets out standards of good practice for the treatment of prisoners and management of penal institutions. The main emphasis is on the need to safeguard the human rights of prisoners.

Body of Principles for the Protection of All persons under Any Form of Detention or Imprisonment: Adopted by the UN General Assembly in 1992, this document sets out standards for treatment of people held in any form of detention or imprisonment, whether in a state prison or some other form of detention.

Committee on Economic, Social and Cultural Rights: The body of independent experts that monitors implementation of the **International Covenant on Economic, Social and Cultural Rights (ICESCR)** by its **States Parties**.

Committee on the Rights of Persons With Disabilities (CRPD Committee): The body of 18 independent experts responsible for monitoring the implementation of the CRPD by **States Parties** and for reviewing communications and initiating inquiries under the **Optional Protocol** to the CRPD.

Concluding Observations: Document prepared by **treaty bodies**, such as the CRPD Committee or CERD Committee, in response to its review of a report submitted by a **State Party** as part of the process of reviewing a State's implementation of a human rights treaty.

Conference of States Parties to the CRPD: Meeting of **States Parties** to the CRPD in which treaty implementation is discussed and to which **non-governmental organizations**, including disabled people's organizations, national human rights institutions, observer States and others are invited.

CRPD Secretariat: Refers to the two offices within the United Nations mandated to provide personnel, policy, research and logistical support to the **CRPD Committee** and the **Conference of States Parties**. The CRPD Committee is supported by the **Office of the High Commissioner for Human Rights** and the Conference of States Parties is supported by the UN Department of Economic and Social Affairs (UN DESA).

Convention: Legally binding agreement between states; used synonymously with **treaty** and **covenant**. Conventions are stronger than **declarations** because they are legally binding for governments that have **ratified** them. When the UN General Assembly **adopts** a convention, it creates international norms and standards. Once a convention is adopted by the UN General Assembly, **member states** can then **sign** and **ratify** the convention, promising to uphold it.

Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT, Torture Convention) (adopted 1984; entered into force 1987): Treaty defining and prohibiting torture and other forms of cruel, inhuman or degrading treatment or punishment.

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, Women's Convention) (adopted 1979; entered into force 1981): The first legally binding international document prohibiting discrimination against women and obligating governments to take **affirmative action** to advance the equality of women.

Convention on the Rights of Persons with Disabilities (CRPD) (adopted 2006; entered into force 2008): Treaty defining the rights of persons with disabilities within the context of international human rights law and covering civil, political, economic, social and cultural rights; first international treaty on disability rights.

Convention on the Rights of the Child (CRC, Children's Convention) (adopted 1989; entered into force 1990): **Treaty** setting forth a full spectrum of civil, cultural, economic, social, and political rights for children.

Covenant: Binding agreement between states; used synonymously with **convention** and **treaty**. The major international human rights covenants, both adopted by the General Assembly in 1966, are the **International Covenant on Civil and Political Rights (ICCPR)** and the **International Covenant on Economic, Social and Cultural Rights (ICESCR)**.

Declaration: Document stating agreed-upon standards but which is not legally binding. UN conferences (e.g., the 1993 UN Conference on Human Rights in Vienna, the 1995 World Conference for Women in Beijing) usually produce two sets of declarations: an official document written by government representatives and an unofficial document written by **non-governmental organizations (NGOs)**. The UN General Assembly often issues influential but legally **non-binding** declarations. Such documents may, however, contribute to the development of customary international law.

Declaration on the Rights of Persons Belonging to National, or Ethnic, Religious and Linguistic Minorities (adopted 1992): Instrument that recognizes and protects the existence and the national or ethnic, cultural, religious and linguistic identity of minorities.

De facto equality: Equality that exists in practice and people's lived experience as well as in law. De facto equality is achieved only when discrimination is effectively abolished and people enjoy their rights on an equal basis with others.

Disabled People's Organization (DPO): Non-governmental organization led by and for persons with disabilities.

Entry into force: The process through which a **treaty** becomes fully binding on the states that have **ratified** it. This happens when the minimum number of **ratifications** called for by the treaty has been achieved.

Equality of opportunity: Equality based on people's ability to be included and enjoy opportunities on the same basis as all other people.

European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention, European Convention on Human Rights, ECHR): A regional human rights treaty adopted in 1950 by the Council of Europe. All Council of Europe member states are party to the ECHR, and new members are expected to ratify the convention at the earliest opportunity.

Formal equality: Concept of equality that people who are alike should be treated equally and judged on their actual characteristics. Formal equality in employment, for example, would demand that applicants for a job be evaluated on their relevant experience, background, and skills, and that the selection process neither favour nor disfavour anyone based on other factors, such as race, social standing, family connections or other non-relevant matters. Formal equality does not take into account that persons are not necessarily similarly situated and thus additional measures (such as positive discrimination) may be required in order to advance substantive equality.

Fulfil human rights: The obligation to “fulfil” human rights means that States must take positive action to ensure that everyone, including persons with disabilities can exercise their human rights. They must adopt laws and policies that promote human rights. They must develop programmes and take other measures to implement these rights. They must allocate the necessary resources to enforce laws and fund programmatic efforts.

General Comment: Document adopted by a **treaty body** that sets forth the committee’s understanding of a particular treaty provision or a particular issue covered by the treaty or its methods of work. General comments often seek to clarify the reporting duties of State parties with respect to certain provisions and suggest approaches to implementation of treaty provisions. Also called “general recommendation” by some treaty bodies.

Habilitation: Effective and appropriate measures aimed to help people attain and maintain maximum independence and full inclusion and participation in all aspects of life and for the benefit of people who are born with a disability or acquire a disability at an early age, to empower them to reach their full potential as they learn and grow. By contrast, **rehabilitation** refers to re-gaining and maintaining maximum independence and full inclusion after acquiring a disability or a change in one’s disability.

Human Rights Committee: The **treaty body** of independent experts that monitors implementation of the **International Covenant on Civil and Political Rights** by state parties.

Human Rights Council: Created at the 2005 World Summit to replace the United Nations Commission on Human Rights, the Council is a political organ mandated to investigate violations of human rights. The Human Rights Council is a subsidiary body of the General Assembly and reports directly to it.

Human Rights Framework: Refers to the corpus of legally, politically, and morally binding set of principles for governments as set forth in international human rights instruments.

Inalienable: Refers to the principle that human rights belong to every person and cannot be taken from a person under any circumstances. Human rights automatically belong to each human being. They are not given to people by their government or any other authority, nor can they be taken away.

Inclusive education: The education of all children, youth and adults - with and without disabilities - in the general education system with appropriate accommodations and support. Inclusion involves having access to education with appropriate networks of support and changing the policies, practices, and attitudes within the school system to remove barriers for students with disabilities.

Independent living movement: Social movement of persons with disabilities that emerged in the United States, Europe and elsewhere, beginning in the 1970s, that is based on the premise that persons with disabilities should have

the choice of living in the community with the appropriate supports. This can be accomplished through the creation of personal assistance services allowing an individual to manage his or her personal care, to keep a home, to have a job, go to school, worship, and otherwise participate in the life of the community.

Individual Communications Procedure: A dispute settlement procedure familiar in human rights systems allowing an individual or group to lodge a complaint to a **treaty body** (or other procedure) that alleges human rights violations. Such procedures result in non-binding recommendations in cases of violation.

Indivisible: Refers to the principle that each human right is of equal importance. A person cannot be denied a right because someone decides it is “less important” or “nonessential.”

Informed consent: Refers to the process by which a person is provided with the information necessary to fully participate in decisions about his or her health care and also the process required in order for medical research and experimentation to be deemed lawful. Based on a patient’s right to direct what happens to his or her body and the ethical duty of the physician/researcher to involve the patient in decision-making. The right to informed consent is recognized in Article 25 of the CRPD, Health.

Inherent: Principle that human rights are a natural part of who you are. The text of Article 1 of the **Universal Declaration of Human Rights** (UDHR) begins: “All human beings are born free and equal in dignity and rights.”

Instrument: A formal, written, official document, such as a **treaty** or **declaration**, in which a State expresses its intention to uphold certain human rights principles or norms. May be legally binding or **non-binding**. May be global, regional, or national.

Integrated education: Placing children with disabilities in the general education system with the expectation that they adapt or “fit in” to the existing system and culture and without providing necessary supports and removing barriers to their learning; differs from **inclusive education**, which supplies these supports and accommodations.

Inter-American Convention on the Elimination of all Forms of Discrimination Against Persons with Disabilities: Treaty adopted by the Organization of American States (OAS) in 1999; first regional treaty specifically addressing disability rights.

Interdependent: Refers to the complementary and interrelated framework of human rights law. For example, your ability to participate in your government is directly affected by your right to express yourself, to get an education, and even to obtain the necessities of life.

Intergovernmental organizations (IGOs): Organizations sponsored by several governments that seek to coordinate their efforts; some are regional (e.g., the Council of Europe, the Organization of American States), some are alliances

(e.g., the North Atlantic Treaty Organization); and some are dedicated to a specific purpose (e.g., the **World Health Organization, International Labour Organization**).

International Bill of Human Rights: The combination of the **Universal Declaration of Human Rights (UDHR)**, the **International Covenant on Civil and Political Rights (ICCPR)** and the **International Covenant on Economic, Social, and Cultural Rights (ICESCR)**.

International Convention on the Elimination of All Forms of Racial Discrimination (CERD, Race Convention) (adopted 1965; entered into force 1969): Treaty defining and prohibiting racial discrimination.

International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW) (adopted 1990; entered into force 1998): Treaty defining the rights of migrant workers and their families.

International Covenant on Civil and Political Rights (ICCPR) (adopted 1966; entered into force 1976): The ICCPR declares that all people have a broad range of civil and political rights. One of the core documents comprising the **International Bill of Human Rights**.

International Covenant on Economic, Social, and Cultural Rights (ICESCR) (Adopted 1966; entered into force 1976): The ICESCR declares that all people have a broad range of economic, social, and cultural rights. One of the core documents comprising the **International Bill of Human Rights**.

International humanitarian law: Part of international law that applies in times of armed conflict; creates protected status for certain persons including civilians, help for victims, and limits to methods of warfare to minimize destruction, loss of life and unnecessary human suffering. Includes the Geneva Conventions of 1949, among other treaties.

International Labour Organization (ILO): An **intergovernmental organization** established in 1919 as part of the Versailles Peace Treaty to improve working conditions and promote social justice; the ILO became a Specialized Agency of the UN in 1946.

Interrelated: Refers to the concept that human rights are complementary and affect each other.

Inquiry Procedure: A procedure allowing a **treaty body** to initiate an inquiry into grave or systemic human rights treaty violations. Such procedures result in non-binding findings and/or recommendations.

Legal capacity: Concept recognizing someone as a person before the law, ensuring that people are legally considered persons and not just objects or the property of others; and including the capacity to act, ensuring that people are able to exercise their legal capacity, for example regarding financial matters.

Medical Model of Disability: Understanding of disability as a narrow, medical problem that needs to be “fixed” or an illness that needs to be “cured.” This perspective implies that a person with a disability is somehow “broken” or “sick” and requires fixing or healing. The CRPD has created a paradigm shift away from the medical model in favour of the social model of disability.

Non-binding: A document, like a **declaration**, that carries no formal legal obligations. It may, however, carry moral obligations or, over time, attain the force of law as customary international law.

Non-governmental organization (NGO): An organization formed by people outside of government. NGOs monitor the proceedings of human rights bodies such as the **Human Rights Committee**. Some are large and international (e.g., the Red Cross/Crescent, Amnesty International); others may be small and local (e.g., an organization to advocate for people with a particular kind of disability in a particular city). NGOs play a major role in influencing UN policy; many of them have official consultative status at the UN.

Office of the High Commissioner for Human Rights (OHCHR): An office of the United Nations Secretariat mandated to promote and protect all rights established in international human rights laws and **treaties**. Located in Geneva, the OHCHR works to prevent human rights violations, secure respect for all human rights, promote international cooperation to protect human rights, and coordinate related activities throughout the United Nations.

Optional Protocol: Separate treaty that provides **States Parties** to the parent treaty with the opportunity to participate or “opt in” with regard to procedures set forth in the optional protocol or additional obligations not found in the parent treaty.

Positive discrimination: See **Affirmative Action**.

Progressive Realization: Doctrine that recognizes that States have different economic capacities, that full enjoyment of human rights cannot occur overnight and the implementations of economic, social and cultural rights may take time to achieve. The doctrine allows States to take steps to the maximum extent possible with regard to their available resources but it does not mean that immediate steps toward implementation can be delayed.

Protect: The obligation to “protect” human rights means that the State is required to protect everyone, including persons with disabilities, against abuses by non-State actors, such as individuals, businesses, institutions, or other private organizations.

Ratification, Ratify: Process by which the legislative body of a state confirms a government’s action in signing a **treaty**; formal procedure by which a state becomes bound to a treaty after acceptance.

Reasonable accommodation: Necessary and appropriate modifications or adjustment to a practice, program, or physical environment so that it is accessible, appropriate, and usable for a person with disabilities on an equal basis with others. Under the CRPD, the failure to provide reasonable accommodation constitutes discrimination. In addition, such modifications should be reasonable and not involve undue hardship.

Rehabilitation: Effective and appropriate measures aimed at helping people attain and maintain maximum independence; full physical, mental, social, and vocational ability; and full inclusion and participation in all aspects of life as a result of acquiring a disability or a change in one's disability or circumstances. By contrast, habilitation refers to helping people who are born with a disability or acquire one at an early age attain and maintain maximum independence and full inclusion.

Respect for human rights: The obligation to “respect” human rights means that States must not interfere with the exercise and enjoyment of the rights of persons with disabilities. They must refrain from any action that violates human rights. They must also eliminate laws, policies, and practices that are contrary to human rights.

Reverse discrimination: See **affirmative action**.

Shadow Report: Advocacy method undertaken by human rights organizations to supplement or present alternative information to the periodic government reports that **State Parties** are required to submit to **treaty bodies** under the core human rights conventions.

Social Model of Disability: Understanding of disability that focuses on eliminating the barriers created by the social and physical environment and that inhibit the ability of persons with disabilities to exercise their human rights. This perspective is reflected in the CRPD.

Special Procedures: General name given to the mechanisms established by the **Human Rights Council** to address either specific country situations or thematic issues in all parts of the world. The **Office of the High Commissioner for Human Rights** provides these mechanisms with personnel, policy, research, and logistical support for the discharge of their mandates.

Special Rapporteur: Title given to individual experts working on behalf of the United Nations generally, though not exclusively, within the scope of its **Special Procedures** who bear a specific mandate from the United Nations **Human Rights Council**. In 1993 the **Standard Rules** established a Special Rapporteur on Disability, who reports annually on the implementation of the Standard Rules and whose mandate is subject to periodic renewal.

Signing, sign: In human rights the first step in **ratification** of a **treaty**; to sign a **Convention**, or one of the **Covenants** constitutes a promise to refrain from undermining the principles in the document and to honour its spirit.

Standard Rules: See **UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities**.

State: Often synonymous with “country” or “nation state”; a group of people permanently occupying a fixed territory having common laws and government and capable of conducting international affairs.

State Party (plural States Parties): Those countries that have **ratified** a **Covenant** or a **Convention** and are thereby bound to conform to its provisions.

Treaty: Formal agreement between state that defines and modifies their mutual duties and obligations; used synonymously with **Convention** and **Covenant**. By signing a treaty, a country is making a commitment to follow the principles in the treaty and to begin the ratification process, but the treaty is not legally binding on a country until it is ratified.

Treaty Body: Committee composed of independent experts responsible for monitoring compliance with human rights treaty obligations, such as the **CRPD Committee**.

United Nations Charter: Initial document of the UN setting forth its goals, functions, and responsibilities; adopted in San Francisco in 1945.

UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities (standard Rules): Adopted by the General Assembly in 1993, this **non-binding** instrument represents a strong moral and political commitment of governments to take action to attain equalization of opportunities for persons with disabilities. Its 22 rules cover all aspects of life for persons with disabilities and serve as a basis for policy-making and technical and economic cooperation.

Universal: Human rights apply to every person in the world, regardless of their race, colour, sex, ethnic or social origin, religion, language, nationality, age, sexual orientation, disability, or other status. They apply equally and without discrimination to each and every person. The only requirement for having human rights is to be human.

Universal Periodic Review (UPR): Unique process of review created in 2006 which involves a review of the human rights records of all 192 UN Member States once every four years. The UPR is a State-driven process, under the auspices of the **Human Rights Council**, which provides the opportunity for each State to declare what actions they have taken to improve the human rights situations in their countries and to fulfil their human rights obligations.

Universal Declaration of Human Rights (UDHR) (Adopted by the UN General Assembly on December 10, 1948): Primary UN document establishing human rights standards and norms. All UN Member States have agreed to uphold the UDHR. Although the UDHR was intended to be **non-binding**, through time its various provisions have become so respected by states that it can now be said to be customary international law. One of the core documents comprising the **International Bill of Rights**.

Universal design: The design of products, environments, programmes, and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. A curb cut, for example, serves many people (parents with strollers, people with rolling luggage, wheelchair users, persons who are blind, cyclists, and many others).

World Health Organization (WHO): An intergovernmental organization under the auspices of the United Nations that works to promote health worldwide.

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