

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

### UN 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 background information and exercises 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 people with disabilities to participate in political 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)
- Highlight possible advocacy strategies to advance the right of people with disabilities to participate in decision-making, including in political and public life.



## GETTING STARTED: THINKING ABOUT PARTICIPATION IN POLITICAL AND PUBLIC LIFE

People 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 people 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 disabled person has no access to transportation, she or he 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 her. Discriminatory laws may permanently deny people with disabilities of their legal rights and thus deny them their legal capacity, as in the case of processes that strip the rights of persons with psycho-social disabilities to make decisions about medical interventions. These examples demonstrate how human rights are **indivisible, interdependent, and interconnected**.

The right to political participation may be denied to people with disabilities for a variety of reasons. Discriminatory laws may restrict or even prohibit altogether the right to vote, particularly for people with a psycho-social or intellectual disabilities. Stereotypes about disability may also serve to exclude people with disabilities from being included in public outreach by political parties or for consideration as candidates for public office. Lack of access to information, such as when public meetings are held or voting requirements, can also be a barrier to participation. Communication barriers frequently exclude people 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 people 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 people with disabilities in political and public life, and, more generally, 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 people with disabilities in decision-making processes
- Lack of accessible information about public meetings and consultations, political parties, voting, and registration
- Lack of transportation to public meetings, registration, and polling stations
- Physical barriers to public buildings, including courts, voting registration centers, and polling stations
- Polling stations in rooms too small to accommodate people 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 and/or exclusion of people with psycho-social disability and intellectual disabilities in decision-making processes
- Lack of alternative voting devices or accessible voting methods for people with sensory disabilities
- Lack of mobile voting mechanisms for people who cannot leave their homes or who are currently residing in hospitals/institutions.

### 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

#### 1. Review:

Divide participants into small groups and assign each group different parts of Article 29, such as Articles 29(a)(i) and 29(b). Ask each group to work together to:

- paraphrase their assigned section in common, clearly understandable language, and
- give some examples of how that right could be enjoyed and make a difference for people with disabilities.

#### 2. 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.

After each section ask for examples of how that right could be implemented and make a difference for people with disabilities.



### 3. 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?

## WHAT DOES HUMAN RIGHTS LAW HAVE TO 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).<sup>1</sup> 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.*<sup>2</sup>

The CRPD elaborates on the right of people 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 disabled persons to participate in decision-making processes where their interests are affected, on an equal basis with others. Specifically, Article 29 guarantees the right of people with disabilities:

- to vote, on a non-discriminatory basis, in elections
- 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
- 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
- to form and join disabled peoples organizations at all levels.

States Parties to the CRPD are required to ensure the right to participate in political processes, including voting, and to provide, *by means of positive State action*, that citizens with disabilities actually have the opportunity to exercise their political rights. The CRPD makes participation a fundamental principle in Article 3 (General Principles) and calls for “[f]ull and effective participation and inclusion in society.” Article 4 states a general obligation for 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.” Together with Article 29, Article 3 (General Principles) and Article 4 (General Obligations) specify one of the clearest expressions in international human rights law of the right to participation in decision-making when one’s interests are affected.

1 See <http://www.unhchr.ch/udhr>

2 See [http://www.unhchr.ch/html/menu3/b/a\\_ccpr.htm](http://www.unhchr.ch/html/menu3/b/a_ccpr.htm)

In summary, States have the obligation to *respect, protect, and fulfill* the rights of people with disabilities to participate in political and public life and decision-making more generally where their interests are affected. In meeting their obligation to *respect* the rights of people with disabilities to participation in political and public life, States must refrain from limiting or interfering with the access of people with disabilities to exercise their right to participation. States must also refrain from enforcing discriminatory practices as a State policy and abstain from imposing discriminatory practices relating to participation. Obligations to *protect* include, along other things, the duties of States to adopt all appropriate legislative, administrative and other measures to facilitate the enjoyment of participation rights. This may include, for example, introducing accessible voting procedures and facilities, ensuring equal access to political rights. Finally, the obligation to *fulfill* participation rights requires States to, among other things, adopt policies that detail plans for realization of these rights. States Parties to CRPD must, for example, ensure the appropriate training of election officials and support information campaigns that are accessible to people with disabilities. The obligation to fulfill further requires States to adopt positive measures that enable and assist people with disabilities to enjoy their political participation rights.

### **Measures to Enhance Participation in Political Life and Decision-making by People with Disabilities**

- Training of elected representatives on disability issues (e.g., Parliamentarians, local council members)
- Capacity building among organizations for persons with disabilities to enhance their role in public decision-making processes of all types
- Disability awareness campaigns
- Outreach campaigns highlighting the right of people 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 people with disabilities in civil and voter education materials
- Development of Tactile Ballot Guides for blind voters, allowing their votes to be cast independently and in secret
- Training of election officials on accessibility
- Inclusion of people with disabilities in election observation and inclusion of access issues on all election observation forms
- Participation in the planning of development programs and lobbying development organizations for inclusion
- Encouragement of government ratification of the UN Convention on the Rights of Persons with Disabilities.<sup>3</sup>

3 “Global Initiative to Enfranchise People with Disabilities.” *International Foundation For Election Systems (IFES)*. <http://www.electionaccess.org>



## **PARTICIPATION IN VOTING AND OTHER ELECTORAL PROCESSES**

The CRPD provides that people with disabilities have the right to vote, which means that they have the right to register to vote, to receive voting information, and to cast their ballot on election day. States are required to provide procedures and facilities for voter registration and polling that are accessible to people 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 people, 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. Other disqualifications may be based on a declaration of legal incompetence or incapacity by a court, which often impacts people with intellectual and psycho-social disabilities. 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. In practice, disqualifications relating to mental capacity are much abused; they are applied arbitrarily and without court declarations. In this context, therefore, education of voters, registration and polling officials, and people with disabilities themselves is particularly important.

Voting procedures and facilities must be accessible to people 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 people who use wheelchairs or have mobility impairments and can also present dangers to blind voters and voters with visual impairments. 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 people with disabilities to allow for their secret voting, especially for blind voters. Blind voters 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 blind voters with the right to vote in secret. (See text box below).

### **Tactile Ballot Guides for Blind Voters**

In the 2005 Liberian elections, the National Elections Commission, together with the International Foundation for Election Systems (IFES), printed Tactile Ballot Guides to enable blind voters 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 blind voters wishing to use them. A coalition of organizations for persons with disabilities held voter education sessions throughout Liberia in which they explained to blind voters how to use the guides. IFES has facilitated the introduction of Tactile Ballot Guides in many countries, including Armenia, Ghana, and Yemen.

People 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, organizations for persons with disabilities 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 persons with disabilities 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 realizing the right of people with disabilities to exercise their right to vote. Electoral processes also present opportunities for disabled people's organizations to work with other civil society groups on voter awareness and education and on observation and monitoring. In this way, organizations for persons with disabilities can connect with other civil society groups to share information and advocacy goals and to learn the advocacy strategies and priorities of other groups.

### EXERCISE 3.2: Voting Access for People with Disabilities

**Objective:** To consider how voting processes can ensure the participation of people with disabilities

**Time:** 45 minutes

**Materials:** Chart paper and markers or blackboard and chalk

#### 1. 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 people with different kinds of disabilities (e.g., physical, sensory, and psycho-social):

- What barriers do you think might exist in exercising rights to political participation in your community (e.g., 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 people with disabilities in voting?

#### 2. 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.

#### 3. 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 people with psycho-social disabilities in voting?
- How could you increase the visibility of people 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 disabled voters in voter awareness programs?



**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 people with disabilities and their allies can monitor and evaluate election procedures

**Time:** 45 minutes

**Materials:** Chart paper and markers or blackboard and chalk

**1. Explain:**

Emphasize to the group that people with disabilities can play a significant role in election observation, ensuring the transparency of an election, as well as identifying barriers to voting. Election observers observe and monitor the balloting process and the counting of results.

Observation includes, among other issues:

- location of polling stations and their accessibility to the population which includes:
  - a. the opening and closing of polling stations at stated times
  - b. the arrangement of voting booths
  - c. the orderly movement of voters
- the presence of well-trained and competent officials who are knowledgeable about the procedures and responsive to requests for assistance
- an established procedure for identification and verification of voters
- secrecy of the act of balloting such as
  - a. the marking of ballot papers out of the sight of officials and observers
  - b. provision for secret balloting for blind voters
- security of the ballot box and integrity of the counting process and results, such as
  - a. ensuring that ballot boxes are empty before voting begins and secure and sealed when polling stations are closed and during any transit procedure
  - b. ensuring that votes are tallied in a process that inspires confidence.

**2. 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 people with disabilities.

**3. 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.

#### **4. Take Action:**

Use the tool you have created, participate in election observation, help train observers, and report on your election observation!

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

People 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.

People 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 representative at international levels such as the United Nations. Indeed, a number of disabled elected representatives as well as 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 people with disabilities.

In some countries, disabled peoples organisations 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, a certain number of parliamentary seats may be appointed by the executive. This policy has resulted in the presidential appointment of representatives with disabilities to Parliament, in Namibia for example. In other cases, people with disabilities may have representation through a Disability Advisor linked to the Executive, 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.

### **RIGHT TO FORM AND JOIN ORGANIZATIONS**

The CRPD recognizes the right of people with disabilities to form and join disabled peoples organizations 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.

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



## Parliamentary Participation and People with Disabilities

**Canada:** Following the election of a disabled person to the House of Commons, modifications were made to the House's Standing Orders 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. Disabled MPs are now allowed to be accompanied by an assistant on the floor of the House.

**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 disabled woman and one disabled man to every village, parish sub-county, and district council. The 47,000 representatives sitting on directly elected bodies are easily the largest group of disabled politicians anywhere in the world. Disabled MPs have served on a variety of Parliamentary committees, including Presidential Appointments, Rules and Privileges, Legal and Parliamentary Affairs, Commissions, Statutory Authorities and State Enterprises, Social Services, as well as Public Service, Gender, and Local Government. Serving in the Parliament is easier now that rules have been changed to permit guide dogs and sign language interpreters in meeting and parliamentary sessions.

**Sri Lanka:** Section 23(2) of Sri Lanka's constitution has a section titled "Specific Inclusion of People with Disabilities" that states: "No person with a disability shall, on the ground of such disability, be subject to any liability, restriction or condition with regard to access to, or use of, any building or place which any other member of the public has access or is entitled to use, whether on the payment of any fee or not."

Article 89 of the Sri Lankan constitution titled "Exclusion Based on Mental Disability" states:

*No person shall be qualified to be an elector at an election of the President, or of the Members of Parliament or to vote at any Referendum, if he is subject to any of the following disqualifications, namely... (c) if he is under any law in force in Sri Lanka found or declared to be of unsound mind..." Article 91, subsection (1) states: "No person shall be qualified to be elected as a Member of Parliament or to sit and vote in Parliament (a) if he is or becomes subject to any of the disqualifications specified in article 89..."*

**Tanzania:** Margaret Agnes Mkanga is a MP representing women and people with disability in the national legislature in Tanzania. Her major task is to mediate, discuss and advise the government on how it can improve the welfare of people with disability through formulation of better policy. As the only MP representing people with disability, Ms. Mkanga travels around the country to participate in consultations with different organizations working on disability issues, visiting groups of people with disabilities in rural and urban communities.

**South Africa:** Eleven MPs in the South African parliament have disabilities. Prior to the 1994 elections, activists with disabilities looked for the political base to advance their cause. They used the Disability Rights Charter that 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.

## EXERCISE 3.4: Making a Commitment to Promote Participation Rights

Emphasize that human rights involve both rights and responsibilities.

- Ask if after learning about the human right of people with disabilities to participate in political and public life, and other decision-making processes the group is ready to think about taking concrete action.
- Acknowledge that although there is still much planning and information gathering to do, commitment to creating change is also very important.
- Explain that you would like to ask each participant to name one individual action, however small, that she or he is willing and able to take in the next month to promote the human right of people with disability to participate in political and public life.

For planning advocacy for the human rights of people with disabilities, see Part 3, “Advocacy! Taking Action for the Human Rights of People with Disabilities,” p. 229.

### USEFUL RESOURCES ON PARTICIPATION IN POLITICAL AND PUBLIC AFFAIRS

- *Americans with Disabilities Act Checklist for Polling Places*. Civil Rights Division, Disability Rights Section, U.S. Department of Justice, February 2004: <http://www.ada.gov/votingck.htm>
- Global Initiative to Enfranchise People with Disabilities, International Foundation For ElectionSystems (IFES): <http://www.electionaccess.org>
- Goodwin-Gill, Guy S., *Free and Fair Elections*. Inter-Parliamentary Union, 2006.

