

The UN Convention on the Rights  
of Persons with Disabilities as a  
new tool for addressing  
Discrimination on grounds of  
Disability

# The CRPD Timeline

- Adoption by the United Nations General Assembly - 13 December 2006
- Opened for signature - 30 March 2007
- Entry into force – 3 May 2008
- Signed by all the EU Member States
- Ratified by the European Union as a whole – 23 December 2010

# Why a Convention?

- A response to an overlooked development challenge: approximately 10% of the world's population are persons with disabilities (over 650 million persons).
- A response to the fact that although pre-existing human rights conventions offer considerable potential to promote and protect the rights of persons with disabilities, this potential was not being tapped. Persons with disabilities continued being denied their human rights and were kept on the margins of society in all parts of the world.
- The CRPD sets out the legal obligations on States to promote and protect the rights of persons with disabilities. It does not create new rights.

# CRPD Structure

Preamble

1. Purpose

2. Definitions

3. General principles

4. General obligations

5. Equality and non-discrimination

6. Women with disabilities

7. Children with disabilities

8. Awareness-raising

9. Accessibility

10. Right to life

11. Situations of risk and humanitarian emergencies

12. Equal recognition before the law

13. Access to justice

14. Liberty and security of the person

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

16. Freedom from exploitation, violence and abuse

17. Protecting the integrity of the person

18. Liberty of movement and nationality

19. Living independently and being included in the community

# CRPD Structure

- |                                                                  |                                                                   |
|------------------------------------------------------------------|-------------------------------------------------------------------|
| 20. Personal mobility                                            | 29. Participation in political and public life                    |
| 21. Freedom of expression and opinion, and access to information | 30. Participation in cultural life, recreation, leisure and sport |
| 22. Respect for privacy                                          | 31. Statistics and data collection                                |
| 23. Respect for home and the family                              | 32. International cooperation                                     |
| 24. Education                                                    | 33. National implementation and monitoring                        |
| 25. Health                                                       | 34 to 40. International monitoring mechanism                      |
| 26. Habilitation and rehabilitation                              | 41 to 50. Final clauses                                           |
| 27. Work and employment                                          | Optional protocol                                                 |
| 28. Adequate standard of living and social protection            |                                                                   |

# Purpose of CRPD (Article 1)

“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”.

# General Principles (Article 3)

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

# Rights in the CRPD

- **Equality before the law without discrimination (article 5)**
- Right to life, liberty and security of the person (articles 10 & 14)
- **Equal recognition before the law and legal capacity (article 12)**
- Freedom from torture (article 15)
- Freedom from exploitation, violence and abuse (article 16)
- Right to respect physical and mental integrity (article 17)
- Freedom of movement and nationality (article 18)
- **Right to live in the community (article 19)**
- Freedom of expression and opinion (article 21)
- Respect for privacy (article 22)
- Respect for home and the family (article 23)
- Right to education (article 24)
- Right to health (article 25)
- Right to work (article 27)
- Right to adequate standard of living (article 28)
- Right to participate in political and public life (article 29)
- Right to participation in cultural life (article 30)



# CRPD Bodies

- **Conference of States Parties**
  - meets in order to consider any matter with regard to the implementation of the Convention (biennially or upon decision by the Conference)
- **Committee on the Rights of Persons with Disabilities**
  - a body of independent experts serving in their personal capacity
  - tasked with reviewing States' implementation of the Convention.
  - initially comprises 12 independent experts; rises to 18 members after an additional 60 ratifications or accessions to the Convention.

# National Monitoring and Implementation

- National focal points & coordination mechanisms within governments
  - Multisectoral involvement of all government ministries
  - Outreach to other national stakeholders (civil society organizations, academic/scientific institutions, private sector)

# Optional Protocol

- Creates additional functions for the Committee on the Rights of Persons with Disabilities:
  - **Individual communications:** Committee considers communications from individuals or group of individuals claiming to be victims of a violation of the provisions of the Convention by a State Party of the party to the Protocol
  - **Inquiries:** Committee member may conduct an inquiry on a State Party, following information received indicating grave or systemic violations of the Convention by State Party

# What is unique about the CRPD ?

- A paradigm shift
- Human Rights as Goals
- Reassessing States obligations under the Convention

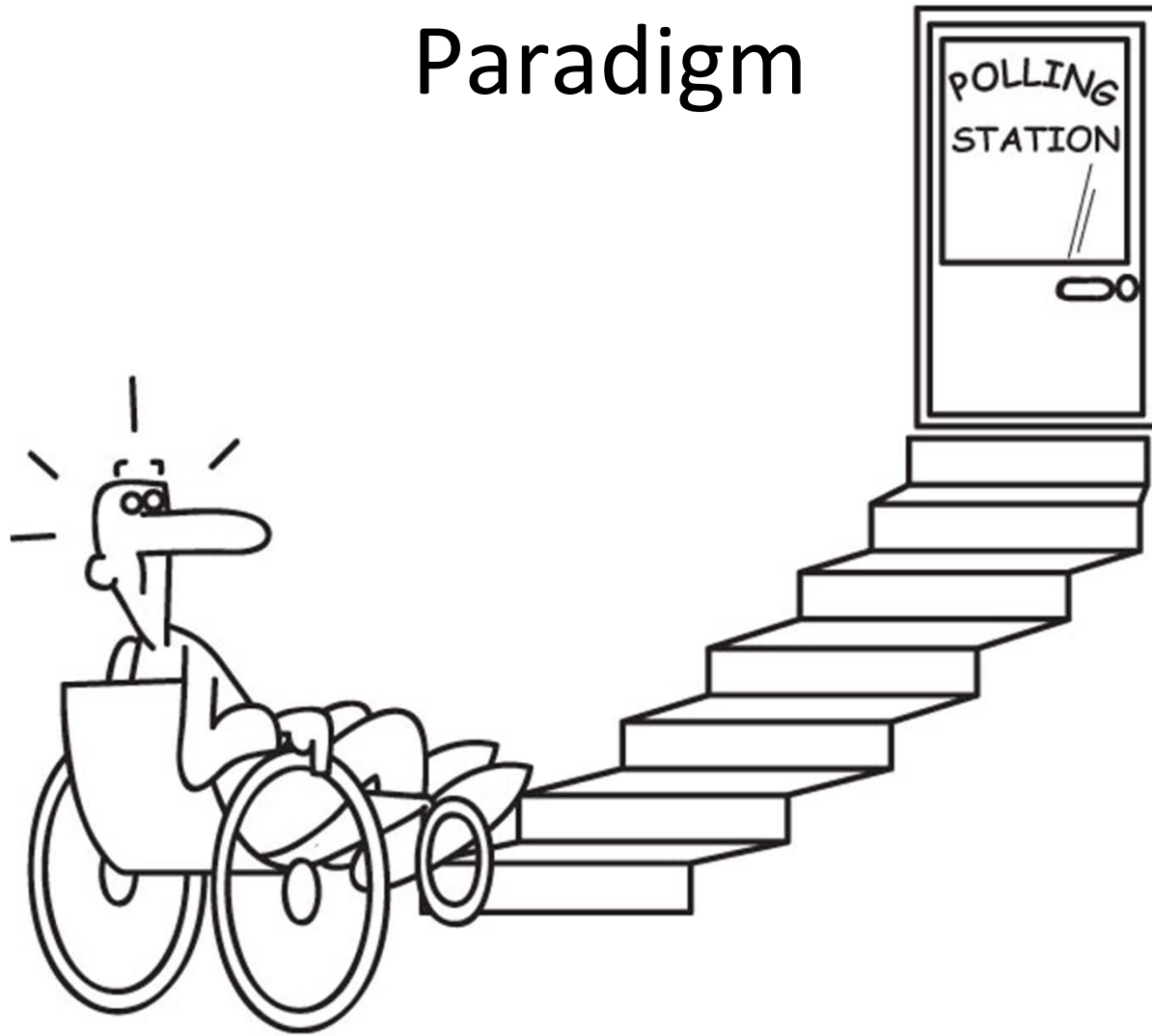
# A Paradigm Shift

- The CRPD marks a 'paradigm shift' in attitudes and approaches to persons with disabilities.
- Persons with disabilities are not viewed as "objects" of charity, medical treatment and social protection; rather as "subjects" with rights, who are capable of claiming those rights and making decisions for their lives based on their free and informed consent as well as being active members of society.

# What is meant by “new paradigm” ?

- The set of experiences, implicit or explicit beliefs and values that affect the way we perceive the reality and respond to that perception
- A "paradigm shift" describes the notion of a major change in a certain thought-pattern — a radical change in common beliefs, complex systems or organisations, replacing the former way of thinking or organising with a radically different way of thinking or organising

# Understanding the New Disability Paradigm



..different ways to perceive the  
problem

- The individual is paralysed
- The individual cannot climb the steps
- The building is not accessible
- The individual cannot vote



# Typology of Approaches of Disability

(Marcia Rioux)

## The individual model

*Disability as an individual pathology (locating the problem inside the individual)*

- Medical approach
- Functional approach

## The social model

*Disability as a social pathology (locating the problem outside the individual )*

- Environmental approach
- Human rights approach

# Policy implications of the medical approach

- Focus on prevention measures and curing by medical and technological means
- Society's responsibility to eradicate or cure disability
- Expertise : doctors
- Locus of responsibility : Department of Health

# Policy implications of the functional approach

- Focus on functional and vocational rehabilitation programmes - technical aids - benefits
- Society's responsibility to improve and support individuals by means of compensatory measures
- Experts : rehabilitation professionals, social workers
- Locus of responsibility : Departments of Welfare and Labour

# Policy implications of the environmental approach

- Focus on inclusive, accessible and adaptive environments through design for all, awareness and normalization measures
- Society's responsibility to identification and elimination of cultural, social and architectural barriers
- Expertise : consumers, managers, architects, designers
- Locus of responsibility : horizontal issue

# Policy implications of the human rights approach

- Focus on rights, empowerment and representation of disabled people
- Society's responsibility to identify and eradicate prejudices, stereotypes and discrimination
- Expertise : advocacy groups , legal experts
- Locus of responsibility : human rights and equality bodies

# Impacts of the new paradigm

	"Old"	"New"
Definition of disability	An individual is limited by his/her impairment	An individual with an impairment requires an accomodation to participate
Strategy to Address Disability	Fix the individual, correct the deficit	Remove barriers, access through public awareness, accomodation and universal design
Methods to Address Disability	Provision of medical, vocational or psychological rehabilitation services	Provision of supports, e.g., assistive technology, personal assistance services, job coach
Sources of Interventions	Specialised professionals, clinicians and other rehabilitation providers	Peers, mainstream service providers
Provisions	Specific benefits, labelling as dependents or unemployable (Passive income supports)	Civil rights (including reasonable accomodation), identification of wc skills (active measures)
Role of Disabled People	Patients, beneficiarries, recipients, dependents	Citizens, consumers or customers, decision-makers
Domain of Disability	A medical "problem" involving public health and social policies	A socio-environmental issue involving equity and joined up policies

# The new paradigm in the CRPD

- Definition of disability
- Non discrimination
- Accessibility
- Equality before the law
- Community living
- Participation

# Definition of Disability

- *“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” (Preamble)*
- *“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 1).*



# Non-discrimination

- Includes direct and indirect discrimination
- **Reasonable accommodation** must be made for persons with disabilities
  - reasonable accommodation: *‘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’*

# Accessibility

- Both a general principle and a stand-alone article (article 9)
- Access must be ensured to:
  - Justice (article 13)
  - Living independently and being included in the community (article 19)
  - Information and communication services (article 21)
  - Education (article 24)
  - Health (article 25)
  - Habilitation and rehabilitation (article 26)
  - Work and employment (article 27) - human resource policies and practices
  - Adequate standard of living and social protection (article 28)
  - Participation in political and social life (article 29)
  - Participation in cultural life, recreation, leisure and sport (article 30)

# Legal Capacity

- Article 12 of the CRPD recognizes that persons with disabilities have legal capacity on an equal basis with others
- *“States must put in place appropriate measures which support persons with disabilities in exercising their legal capacity”.*  
*“Safeguards must also be put in place to prevent abuse occurring within the exercise of legal capacity”.*
- *“The first thing that a political authority should look to do is to put in the supports to enable individuals to make decisions, rather than take away this opportunity and do the easier thing of letting another person make the decision for them.*  
*(G. Quinn)*

# Community living

- Article 3 (General principles): Freedom to make one's own choices
- Article 19 : Persons with disabilities should have:
  - *the opportunity to choose their place of residence and where and with whom they live and are not obliged to live in a particular living arrangement.*
  - *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*
- “Separate is not equal”

# Participation

- The full and effective participation of persons with disabilities is recognized in the Convention as:
  - A general principle (article 3)
  - A general obligation (article 4)
  - A right (articles 29 and 30)
- The right to participation is central to a human rights approach because it underpins the realization of other rights. It represents a pivotal means of recognizing the dignity of persons with disabilities because it is saying that their voice counts, that they have something to contribute

# Impact of the CRPD on EC Law

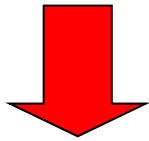
- Disability discrimination in the Council  
Directive 2000/78/EC of 27 November 2000
- The current case law of the ECJ
- The provisions of the CRPD as a guidance for the ECJ in interpreting the scope of community law
- The example of the European Court of Human Rights : *Glor v Switzerland*

# The CRPD as a key instrument for law reform and policy change

- The CRPD does not only endorse the principle of equality by outlawing disability discrimination but it also demands more than equal treatment for persons with disabilities
- The Convention's affirmative message urges that social institutions be examined to determine if and how they have a tendency to exclude
- The CRPD attaches as much importance to the process than as to the outcomes. It requires services, supports, programs, and funding allocations to have **participatory, inclusive aims and principles** built into their designs.

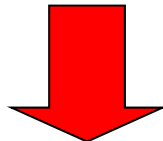
## Typology of duties imposed on the States by the Convention

### Respect



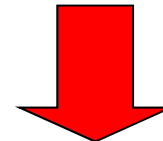
Do not interfere with the enjoyment of human rights: States should refrain from deprive people with disabilities of their liberty unlawfully or arbitrarily. The existence of a disability shall in no case justify a deprivation of liberty.

### Protect

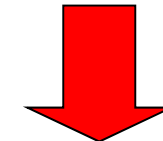


Take steps to ensure that third parties do not interfere with the enjoyment of human rights. States must protect people with disabilities from exploitation, violence and abuse

### Fulfill



**To facilitate:**  
take measures to promote the design, development, production and distribution of accessible information and communications technologies and systems



**To provide :**  
entitle people with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons



# Reassessing States obligations under the Convention

- Assessing :
  - The existence of laws, policies and programmes
  - The state's efforts (inputs) to meet its obligations
  - The programmes performance (outputs, outcomes)
  - The programmes principles and process : do they foster dignity, autonomy and independence, full and effective participation and inclusion in society...

*“Very few laws reflect the CRPD’s language and very few (if any) are fully consistent with the Convention reflection of the time when they were drafted”*

*Andrew Byrnes*