

# 'Accessibility': a right & an obligation under the UN CRPD

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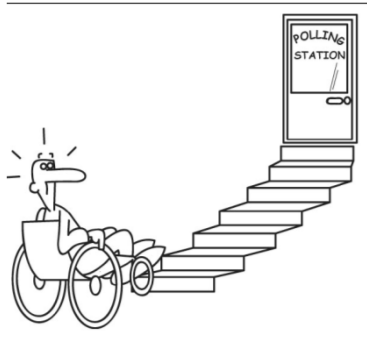
## Location of the right & obligation

- A dedicated substantive provision (Article 9).
- Explicit references in other substantive provisions (eg. Articles 12, 13, 19, 20 and 21), as well as two of the 'implementation' provisions (Articles 31 and 32).
- Included as one of the eight General Principles in the Convention (Article 3f).
- Included in the preamble (paragraph V).

## Nature of the right & obligation

- A general principle that informs all rights and obligations in the Convention.
  - Paragraph V of the preamble: “Recognizing the importance of accessibility ... in enabling persons with disabilities to fully enjoy all human rights and fundamental freedoms.”
  - Applies to both ‘civil & political’ and ‘social & economic’ type rights.
- A right & obligation that encapsulates the underlying goal of the Convention, namely, achieving ‘substantive’ equality for people with disabilities.
- Inter-relationship with Article 5 in particular.

## The challenge: **changing mindsets**



Securing a better fit between the individual, their physical, organisational, administrative and legal environments as well as the goods, services and facilities they interact with ('design for all').

## Changing mindsets

- (Un)willingness to adapt lies in human nature.
  - Who moved my cheese!?!
    - A challenge for most, if not all, of us especially when the impairment is 'invisible' or, conversely, when physical or mental differences appear to offer a convenient excuse not to change.
- A continuous challenge necessitating an on-going commitment to barrier prevention & removal.
- Demanding a holistic approach to barrier identification and an integrated response to barrier removal (such barriers are not always conveniently divided up into policy sectors that reflect national ministries).

## The meaning of 'accessibility': five core components

- Taking 'accessibility' seriously means:
  1. The removal and prevention of directly and indirectly discriminatory 'rules and practices' that have an exclusionary or limiting effect on the participation of disabled people in relation to goods, facilities and services and all matters concerning all forms of employment, employment opportunities and all national and local policy programmes.
- And ensuring:
  2. the 'physical' accessibility of goods, facilities & services (both as regards the design of the product and its geographic location - e.g. ensuring that essential services are within physical reach of urban and rural areas).

## The meaning of 'accessibility' (cont.)

- And ensuring (cont.):
  3. the 'economic' accessibility of goods facilities & services (in other words 'affordability', noting the link between disability and poverty).
  4. 'information and communication' accessibility (including the right to seek, receive and impart information & ideas).
  5. 'legal & procedural' accessibility (including access to justice concerns and public procurement obligations).

## Achieving 'accessibility'

- The value and use of 'standards'.
  - Effective through proper consultation; enforceable through clear timelines, written explanations, sanctions and monitoring mechanisms.
  - The differences from, and similarities with, the 'reasonable accommodation duty' (*barrier pre-emption, group level standard setting, better management of horizontal impact across policy domains*).
  - Filling the 'guidance gap'.
- Promoting the 'design for all' principle.
- Disability awareness training, disability action plans and accessibility reports.
- Public procurement.

## The 'facilitators' & 'mechanisms'

- The CRPD Committee (General Comments; Reviews & Recommendations and the Optional Protocol).
- The national authorities (policy maker, legislator and adjudicator).
  - Article 4 (National implementation).
  - Article 33 (Domestic Institutional Architecture – 'focal point', 'coordination mechanism' within Government and 'designated independent body or bodies').
- The EU system (policy maker, legislator and adjudicator).
  - The internal market; the Disability Declaration; the Notification Directive (98/34); Article 19 TFEU; incentive measures; public procurement & state aid; the Open Method of Cooperation.
- International Cooperation & Conference of State Parties under the CRPD (Articles 32 and 40, respectively).