

UN Convention on the Rights of Persons with Disabilities: Background, Definitions, General Principles and General Obligations

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OVERVIEW

Development
Purpose
General Principles
General Obligations
Significance

DEVELOPMENT

Other UN human rights treaties

International Covenant on Economic, Social and Cultural Rights, 1966
International Covenant on Civil and Political Rights, 1966
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984
Convention on the Elimination of Racial Discrimination, 1965
Convention on the Elimination of Discrimination Against Women, 1979
Convention on the Rights of the Child, 1989
Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990
Convention for the Protection of all Persons from Enforced Disappearance, 2006

Pre-CRPD UN Disability Activity

Declaration on the Rights of Mentally Retarded Persons 1971
Declaration on the Rights of Disabled Persons 1975
World Programme of Action 1982
UN Decade 1982-1992
Principles on the Protection of Persons with Mental Illness
Standard Rules 1993
General Comment No 5, CESCR, 1994

Arguments for elaborating the CRPD

Visibility
Specificity and implementation guidance
Clarity and catalyst
Data generation

Momentum

Beijing Declaration on the Rights of Persons with Disabilities in the New Century 2000

G Quinn and T Degener (eds) *Human Rights and Disability - the current use and future potential of United Nations Human Rights Instruments in the Context of Disability* (Geneva: UN, 2002)
Resolution to establish an Ad Hoc Committee to consider proposals for a Convention, December 2001
Ad Hoc Committee, 8th Session, August 2006 - text agreed

Emergence

13 December 2006 – adopted by General Assembly
31 March 2007 – opened for signature
3 May 2008 – entry into force

Role of Disabled People's Organisations

Ad Hoc Committee, 1st Session, August 2002
Ad Hoc Committee, subsequent sessions
International Disability Caucus

Structure

Preamble
Articles 1-9 – cross-cutting
Articles 10-30 Substantive
Articles 31-50 Implementation and monitoring
Optional Protocol

PURPOSE

Article 1

Promote, protect and ensure
Full and equal enjoyment of human rights
Persons with disabilities

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.

GENERAL PRINCIPLES – Article 3

Respect for the dignity, autonomy and independence of individuals

Link to:

- legal capacity, in Article 12
- Access to justice, in Article 13
- Personal integrity, in Article 17
- living independently in the community, in Article 19
- accessibility and personal mobility, in Articles 9 and 20
- education and rehabilitation, in Articles 24 and 26

Respect for difference and human diversity

Link to:

-Women with disabilities, Article 6
Children with disabilities, Article 7
Other intersectionalities, preamble

Non-discrimination and equality of opportunity

Link to:

-Non-discrimination requirement, Article 5
-Definition of discrimination and reasonable accommodation, Article 2

Accessibility

Link to:

-Accessibility obligation, Article 9
Freedom of expression, Article 21
Independent living, Article 19

Full participation and inclusion in society

Link to all Articles!

GENERAL AND IMPLEMENTATION-RELATED OBLIGATIONS

Ensuring and Promoting Full Realisation of Rights – Article 4(1)

Legislative, administrative and other measures

Mainstreaming

Refraining from inconsistent measures

Eliminating disability discrimination

Research and development of new technologies and universally designed goods, services, equipment and facilities

Providing accessible information about aids, technologies and services

Promoting training of professionals

Involvement - Article 4(3)

Closely consult and actively involve

Link to:

-political participation, Article 29
-National implementation and monitoring mechanisms, Article 33

Awareness and Data

Awareness raising, Article 8

Data collection and dissemination, Article 31

International co-operation

Article 32

SIGNIFICANCE

For disabled people?
For non-disabled people?
For human rights law?

References

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Kayess, R and French, P 'Out of Darkness into Light: Introducing the Convention on the Rights of Persons with Disabilities' [2008] *Human Rights Law Review* 1

Megret, F 'The Disabilities Convention: Towards a Holistic Concept of Rights' (2008) 12 *International Journal of Human Rights* 261

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UN Enable Negotiation Archive,

Quinn, G and L Waddington (eds) *European Yearbook of Disability Law, volumes 1-4*