

**SPECIFIC SUBSTANTIVE OBLIGATIONS
UNDER THE UNCRPD: Education, Health,
Participation, Work and Employment,
Standard of living, social protection.**

Focus on Participation issues.

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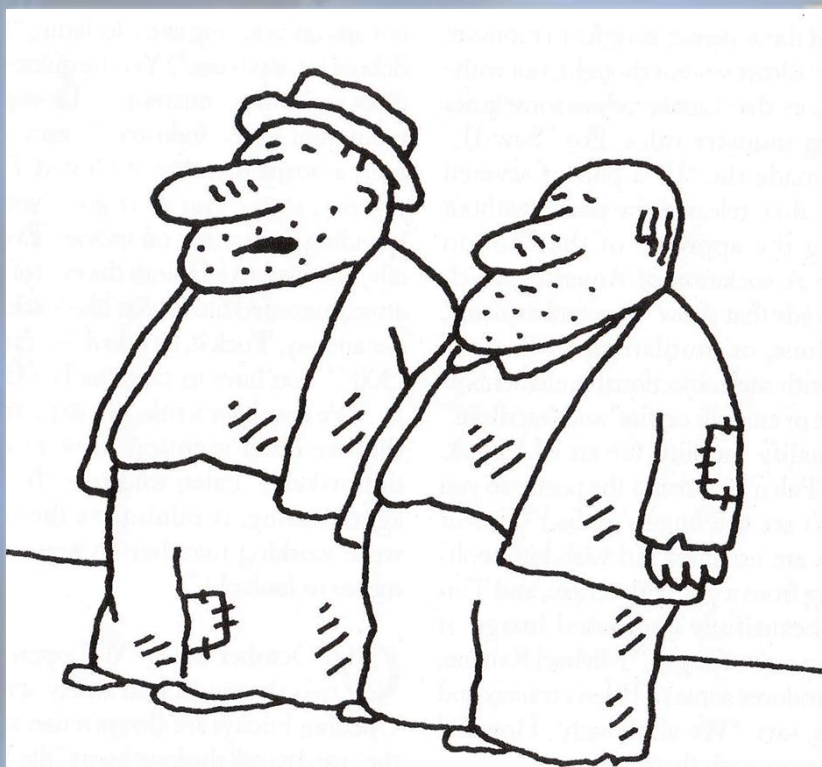
Presentation Structure

Focus on Participation in the Convention

Civil and Political Rights

Economic Social and Cultural Rights

Paradigm Shift



“Good news—I hear the paradigm is shifting.”

- Persons with disabilities are not “objects” of charity, medical treatment and social protection; rather as “subjects” with rights, rights to equality, participation and inclusion.

UN CRPD – A response!

- American's with Disabilities Act, 1990
- Member State actions
- Framework Employment Directive 2000/78/EC
- EU Disability Action Plan 2003-2010 (COM/2003/650)
- EU Disability Strategy (COM/2010/636)
- A response to the ground swell of pressure from organisations of and for people with disabilities

Nothing about us without us

- High participation levels during the negotiations
- Ongoing necessity for partnership with
 - State Parties and
 - United Nations

UNCRPD

- Imposes duties on the State
- Does not bestow individual rights
- Participatory role enshrined within the Convention

General Principles Article 3

- Respect for inherent dignity ...
- 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;

Article 4(3)

- States are obligated to consult and involve persons with disabilities in:
 - Development and implementation of
 - Legislation
 - Policies
 - Decision making
 - Relating to the Convention or PWD
- See also Article 33(3) and 34(4).

Participation within the CRPD

- Full and effective participation and inclusion in society is recognised in the Convention as:
 - A general principle – Article 3
 - A general obligation – Article 4
 - A Right – Articles 29 and 30
 - Part of the monitoring and implementation process – Article 33.

General Principles apply to the range of Rights

- Civil and Political
 - Articles 10-23 and 29
- Economic, Social and Cultural
 - Articles 24-28 and 30

Civil and Political Rights

- Traditionally viewed as rights that protect the individual's freedom from unwarranted State infringement
- Often described as
 - Negative State obligations
 - Minimal Cost implications
 - Capable of immediate enforcement

Economic, Social and Cultural Rights

- These rights are described as positive rights that require State action, thought to have significant cost implications. As a result the legal obligations is often of a different nature, States have a duty to:
 - Respect, protect and fulfill
 - Progressive realization

Progressive Realization

- Article 4(2)
- To take measures to the maximum of their available resources ... with a view to achieving progressively the full realization of these rights
- Some obligations have immediate effect

- *Autism International v. France*

ICESCR - General Comment No. 3

- Full realization may be achieved progressively
- “Steps towards that goal must be taken within a reasonably short time after the Covenant’s entry into force for the States concerned. Such steps should be deliberate, concrete and targeted as clearly as possible towards meeting the obligations recognized in the Covenant.”

Eide's formulation

- Ensure
- Protect
- Promote

Civil and Political Rights

- Privacy
- **Participation** in political and public life
- **Participation** in cultural life

Respect for privacy – Article 22

- Regardless of where a person lives or their living arrangements they should not be subject to:
 - Arbitrary or unlawful interference with privacy
 - Unlawful attacks on honour or reputation
 - Right to protection from same
- State parties will protect privacy of personal, health, and rehabilitation information on an equal basis with others.

Participation in political and public life – Article 29

- State parties shall guarantee ...
 - Right to vote and be elected
 - Voting procedures are accessible
 - Protect secret ballot
 - Voting assistance
- Actively promote participation ...
 - Non-governmental organizations
 - Forming and joining organizations of persons with disabilities

Participation in Cultural Life, Recreation, Leisure and Sport

- This right contains a number of elements:
 - Access to cultural materials
 - Access to television, film,
 - Access to theatre, museums, libraries ... as far as possible
- The opportunity to develop and utilize Persons with disabilities own creative and artistic abilities
- Address the issue of intellectual property rights

Participation in Cultural Life, Recreation, Leisure and Sport (2)

- Recognition of Linguistic identity
- State Parties shall
 - Promote mainstream sporting activities
 - Disability specific sporting activities
 - Access to sporting, recreational venues
 - Children with disabilities have equal access and participation rights
 - Access to services

Economic, Social and Cultural Rights

- Education
- Health
- Adequate standard of living and social protection

Education – Article 24

- Focus is on inclusive education directed to;
 - The full development of human potential
 - The development by persons with disabilities of their personality, talents ... to their fullest potential;
 - Enabling persons with disabilities to **participate** effectively in a free society

Education (2)

- State Parties shall ensure that Persons with Disabilities are not:
 - **Excluded** from the general education system, particularly from **free and compulsory** primary education
 - **Access** quality **inclusive** education system equally with others
 - Reasonable accommodation provided
 - Receive support required ... to facilitate education

Education (3)

- Life and social development skills to facilitate **full and equal participation ...**
 - Braille and alternative methods
 - Sign language
 - Education in the most appropriate setting for blind, deaf and deafblind
 - This provision provides a challenge to the notion of mainstreaming

Health – Article 25

- State Parties, recognize the right to attainable standard of health without discrimination
 - Same range, quality and standard of free or affordable health care
 - Provide disability specific services such as early intervention
 - Services close to peoples home
 - Requirement on health professionals
 - Prohibit and prevent discrimination

Adequate standard of living and social protection – Article 28

- Adequate standard of living including:
 - Food
 - Clothing
 - Housing
- Social Protection including:
 - Clean water
 - Appropriate and affordable services
 - Respite, training, counseling ...
 - Housing

Conclusion

- UN CRPD imbued with the concepts of:
 - Equality
 - Inclusion
 - Participation
- Nothing about us without us ...