

Introduction to the UN Convention on the Rights of Persons with Disabilities: development and purpose of the UNCRPD, general principles and obligations for the contracting States

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“Paradigm Shift”

- Persons with Disabilities have traditionally been addressed through:
 - Charity
 - Paternalism and
 - Social Policy
- The underlying presumption within the UN CRPD is on ensuring respect for human rights, regardless of the difference of disability.

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)
- Proposed New Equal Treatment Directive (COM/2008/426)

UN CRPD

- Adopted by UN General Assembly – 13 December 2007
- Opened for signature - 30 March 2007
- Entry into force – 03 May 2008
 - Convention - 113 signed 106 parties
 - Optional protocol - 90 signed 63 parties
- Ratified by the European Union – 23 December 2010

Why the necessity for a Convention?

- Estimated 10% of world's population have a disability.
- Existing human rights conventions were not responding to the needs of people with disabilities.
- CRPD does not create new rights, instead focusing existing human rights to the needs of people with disabilities.

“Paradigm Shift” – What is it?

- The shift is from the medical model of disability to the social model of disability.
- Focus on societal barriers as opposed to the individual and their perceived limitations.
- There is a distinction between “impairment” and “disability”

Article 1 – UNCRPD - Disability

- 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.

UN CRPD

- 25 paragraphs in the preamble
- Article 1 – The purpose of the convention
- Article 2 – Key definitions
- Article 3-9 – Articles of general application
- Articles 10-30 – Substantive rights
- Articles 41-50 – Implementation and monitoring

CRPD

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

CRPD (2)

19. Living independently and being included in the community
 20. Personal mobility
 21. Freedom of expression and opinion, and access to information
 22. Respect for Privacy
 23. Respect for home and family
 24. Education
 25. Health
 26. Habilitation and rehabilitation
 27. Work and employment
 28. Adequate standard of living and social protection
 29. Participation in political and public life
 30. Participation in cultural life, recreation, leisure and sport
 31. Statistics and data collection
 32. International cooperation
 33. National implementation and monitoring
- Articles 34-50 provide for Implementation and monitoring
Optional Protocol

Purpose of the CRPD – Article 1

- Promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by persons with disabilities, and to promote respect for their inherent dignity.

Discrimination – Article 2

- means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation

Reasonable Accommodation – Article 2

- means 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;

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;

General Principles (2)

- 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.

General Obligations – Article 4

Include:

- To adopt all appropriate legislative ...
- To take all appropriate measures, including modifying, abolishing existing laws ...
- To protect and promote human rights for persons with disabilities in all activities
- To take appropriate measures to eliminate discrimination
- To take various actions to ensure accessibility

General Obligations (2)

- Economic, Social and Cultural Rights
- Commitment to progressive realization
 - Minimum Core obligations
 - Some with immediate effect
 - Progressive realization measurement indicators
 - (Respect, Protect, Fulfill)

- Duty to consult and involve people with disabilities

Equality and non-discrimination

- All equal before and under the law

- State Parties shall prohibit all discrimination and guarantee ... equal and effective legal protection

- State Parties shall ensure reasonable accommodation is provided

- Positive action permissible

Awareness-raising – Article 8

- Adopt immediate, effective and appropriate measures to:
 - Raise awareness
 - Foster respect
 - Combat stereotypes
 - Promote positive awareness

Awareness raising – Article 8(2)

- Measures to include:
 - Initiating and maintaining public awareness campaigns
 - Nurture receptiveness
 - Promote positive perceptions
- Foster respect for the rights of persons with disabilities

- Impact in particular on the right to Public and Cultural Life, and the right to Education

Accessibility – Article 9

- To enable persons with disabilities to live independently and participate fully in all aspects of life, State Parties shall take appropriate measures
 - Ensure that the ‘environment’ is accessible
 - Identify and eliminate obstacles and barriers to accessibility

- Terms are broadly defined.

Structural Importance

- Articles 3-9 are cross-cutting principles to be applied in all aspects and rights contained in the convention
- Broadly speaking:
 - Articles 10-23 and 29 are civil and political rights
 - Articles 24-28 and 30 are economic, social and cultural rights.

Implementation and Monitoring

- **Conference of States Parties**
 - Meet to consider matters with regard to implementation of the Convention
 - 4th meeting held in September 2011
- **Committee on the Rights of Persons with Disabilities**
 - Body of independent experts which monitor implementation of the Convention by States Parties
 - States parties are obliged to submit regular reports to the Committee on how the rights are being implemented.
 - Optional Protocol

Optional Protocol

- This gives the Committee on the Rights of Persons with Disabilities to examine individual complaints of alleged violations of the the Convention.
- Committee members may also conduct inquiries into allegations of grave or systemic violations of the Convention.

National Monitoring and Implementation – Article 33

- National focal points within government for the implementation of the Convention
- Maintain or develop independent mechanisms to “promote, protect and monitor,” the implementation of the convention.
- Involve civil society, particularly persons with disabilities ...