



Disability Rights Promotion International - Canada

A Guide to Economic, Social, and Cultural Rights in I.C.E.S.C.R. related to disability

**FACILITATOR
VERSION**

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Facilitator Information

Human Rights Education

Human rights education is an important way to understand and implement strategies and practices that uphold the rights and freedoms all people are entitled to. Throughout this training guide you will find human rights issues explored in relation to disability using a **participatory learning approach**. Unlike a regular class where a teacher shares knowledge with a group, as the facilitator you will help to guide the discussion. In this way all participants are able to bring and share their knowledge and experience; everyone is learning from and teaching each other.

Some ways a human rights approach can address disability issues:

- Allows for many voices to be heard
- Provides a way to speak about our own experiences
- Identifies levels of responsibility for implementing and upholding rights
- Supports the creation of collaborative approaches to important issues
- Promotes different ways of seeing issues and approaches
- Encourages putting human rights concepts into action in our own lives

Adapted from: Mertus & Flowers (2008). Local Action, Global Change

Train-the-Trainer Approach

In a human rights context the role of the facilitator is to uphold the human rights principles of dignity, autonomy, non-discrimination and equality, participation, inclusion and accessibility, and respect for difference. The Disability Rights Promotion International (D.R.P.I.) training approach is a train-the-trainer model. Based on the concept of “Nothing about us without us”, this model recognizes the value of having people with disabilities use their knowledge and expertise to train others on Economic, Social and Cultural (ESC) rights and other disability issues. We have chosen this method with the hope of creating networks of trainers across communities of both people with disabilities and their allies. Trainers, from a variety of backgrounds, will present their knowledge and skills about human rights issues in their communities with the goal of providing this important information to an ever growing number of people.

Tips on Facilitating a Participatory Group

- **A key to participatory learning is active engagement**

The process of active engagement ensures that everyone has the opportunity to participate and contribute to the process of learning. Everyone learns, teaches and discovers together, using a hands-on approach.

- **Bring your own life experience, respect your experience and the experiences of others**

Because people can learn from what happens in their own lives and the lives of others, sharing this information can be very helpful to the learning of the whole group. It helps to discuss your own experiences. What you bring to the discussion may help others to be more comfortable sharing their own information. It also shows how you connect to a problem.

- **Participants and facilitators are equals**

This training is meant to be a shared process. The facilitator and participants are here to learn together from each other's experience and knowledge. The facilitator's role is not to teach but to help the group to build knowledge together through discussion.

- **Explore ideas cooperatively**

If group members have conflicting opinions, try to consider where the conflict is coming from. In doing so, remember to focus on the conflict of opinion rather than individuals. Try to establish an understanding of what ways different perspectives relate to disability rights (access, discrimination, education, social rights, goods and services). Responses to these issues may clarify a person's point of view and discover how important different viewpoints are to the group. Working together can help to bring out new and innovative ideas.

Adapted from: Mertus & Flowers (2008). Local Action, Global Change and Doris Marshall Institute for Education and Action (1991). As cited in Training for Human Rights Trainers – Book 1 Facilitator's Manual, Canadian Human Rights Foundation

Keys to Successful Learning

1) Cooperative Learning

- The most effective learning is from shared experience
- Participants learn from each other and facilitators learn from participants

2) Doing

- Learning through each other's experiences, using that information in the activities provided can locate individual and group experiences more clearly within the human rights framework

3) Feedback

- Effective learning requires feedback that is supportive
- Positive feedback generates positive feelings which are an important step to successful learning
- Feedback provided in a constructive way promotes sharing of responsibility for learning and action

Source: Training for Human Rights Trainers – Book 1 Facilitators Manual, Canadian Human Rights Foundation

Using Your Guide

This Facilitator Version of the training guide was created to assist you to facilitate a training. It provides a suggested framework for facilitating. Here you will find a step-by-step guide with a sequence of topics, materials, activities and timeframes. Each section provides:

- Outline of objectives and goals
- Suggested time frame for each section
- Information required on the topic
- Guide for quick reference
- Related activity

The Facilitator Version contains the same information as the Participant Version, with the addition of clearly indicated Facilitator Overview and Information pages. In each section, these pages are marked as 'Facilitator Information' to help provide additional direction and structure throughout the sessions.

NOTE

Facilitator instructions are meant to serve as guidelines. Don't forget to be flexible if you need to. If you feel that it is necessary to change parts of the workshop in order to present the material better or to accommodate your participants please do.

Understanding Facilitator Information Sections

Facilitator Instructions are presented like this:

Title of Upcoming Module or Section

Facilitator Overview / Information

In the Facilitator Version of the training guide, each module begins with a Facilitator Overview of the module placed before the Participant Overview. More specific instructions for each section of the module follow and are marked as Facilitator Information.

Each Facilitator Overview is broken down into the following two parts:

Introduction

An overview of what is discussed in the section

Description

A breakdown of the module into smaller sections, giving specific instructions and timelines for activities

Time

The approximate time that each section should take to complete

 ***page 23***

Page numbers are included like this throughout the Facilitator Version of the training guide to indicate the corresponding page in the Participant Version. Because you have additional information in your Facilitator Version, page numbers will be different.

Understanding Participant Overview Sections

Each module of the Participant Version of the training guide starts with an outline of the objectives and activities in that section. This information is provided at the start of each section so the facilitator can review the objectives, activities and time frames with participants so that they know what will be coming up. The overviews are all formatted in the same way, like the example below.

Module Title

Objectives

A description of the main goals to be achieved in each section.

Description

An overview of the main parts of each section.

Time

The approximate time that each section should take to complete.

Getting Started / Introductions

Facilitator Overview

Introduction

- 1) When participants arrive, introduce yourself briefly and provide them with prepared name cards.
- 2) When it is time to start, introduce yourself more fully explaining: your background, how you became involved in the project and what made you want to become engaged in this area.
- 3) Review housekeeping items including the location of washrooms, elevators and stairways, parking areas and transit locations.
- 4) Give the training guides to participants. Explain how the guide and materials will be used during the training as well as the format of the guide and any accommodations that will be provided.

Description

- **Training Schedule:** Show participants the training schedule briefly reviewing the activities of the next two days and answering any questions people might have.
- **Introductory Information:** Use the information provided to introduce what D.R.P.I. is and why human rights are central to improving the lives of people with disabilities.
- **Program Goals and Objectives:** Outline the goals and objectives of this two day training as provided.
- **Individual Introductions:** Using the questions provided ask participants to introduce themselves to the group.

Time: 60 minutes



Participant Overview

Getting Started / Introductions

Objectives

To introduce everyone to each other and find out what will happen over the two days of the training.

Description

- **Training Schedule:** A training schedule briefly outlining the activities of the next two days
- **Introductory Information:** An introduction to D.R.P.I. and why human rights are central to improving the lives of people with disabilities
- **Program Goals and Objectives:** The goals and objectives of this two day training
- **Individual Introductions**

Time: 60 minutes



Training Schedule

Dates: _____

Day 1	
Time	Activity
60 min	Getting Started / Introductions
60 min	Human Rights and Disability
45 min	International Human Rights Instruments
60 min	Lunch Break
15 min	Introduction to Economic, Social and Cultural Rights
90 min	Social Rights
20 min	Break
80 min	Economic Rights
60 min	Dinner

Day 2	
Time	Activity
80 min	Cultural Rights
60 min	Human Rights Monitoring
60 min	Domestic and International Monitoring Mechanisms
60 min	Lunch Break
60 min	Break-out Group Activity and Reporting
60 min	Final Discussion

NOTE

These timelines are only suggestions. You can change them based on the knowledge of the group and other factors.



Introductory Information

This guide was prepared by Disability Rights Promotion International Canada (D.R.P.I -Canada.). D.R.P.I. is a project working with people with disabilities, their organizations and allies, to build a sustainable global disability rights monitoring system.

The lives of people with disabilities are changing. Around the world, people are beginning to understand that disability is a human rights issue. People with disabilities and their families should enjoy the same rights – civil, political, economic, social and cultural – as everyone else.

Governments of countries around the world are signing on to and ratifying the United Nations *Convention on the Rights of Persons with Disabilities*. It is now time to make sure that the rights guaranteed to people with disabilities on paper are enjoyed in reality. Understanding the individual human rights of people with disabilities will help to secure that goal. This guide, along with the training program it supports, will help to provide the tools needed to influence social change and raise awareness in these areas. Participants will be able to review their own roles in the promotion of Economic, Social and Cultural rights and work towards developing strategies to put these rights to use.



A small body of determined spirits fired by an unquenchable faith in their mission can alter the course of history...

- Mahatma Gandhi



Program Goals and Objectives

Goals

The goal of this training program is to give participants the opportunity to share and build knowledge and skills surrounding economic, social and cultural rights for people with disabilities. Based on this training, Canadians, with and without disabilities, will have the tools to influence social change, to raise awareness about human rights issues and to make informed decisions in their own lives.

Objectives

To enable participants to:

- Understand disability as a human rights issue
- Address issues of disadvantage and inequality for people with disabilities based on economic, social and cultural rights
- Look at why these rights are important to people with disabilities
- Create effective knowledge in the community to be passed on, working towards a culture where rights are understood, valued and upheld by all citizens
- Gain the skills to respond sensitively to the experiences and living conditions of people with disabilities
- Build solidarity with other participants and people in the community who are interested in disability rights



Individual Introductions

As part of the introductions you will be asked to share your answers to the following questions with the group:

A) What is your name? _____

B) What has brought you to this training? What you hope to get out of the training?

C) Who is someone in your life who has inspired you? Why?

D) What do human rights mean to you?

Module 1: Human Rights and Disability

Facilitator Overview

Introduction

This module looks at the role that human rights play in the lives of people with disabilities.

Description

- 1.1 Defining Human Rights (10 minutes)
- 1.2 Disability and Human Rights (20 minutes)
- 1.3 General Human Rights Principles (20 minutes)
- 1.4 Universality and Indivisibility of Rights (10 minutes)

Time: 60 minutes



page 6



Participant Overview

Module 1: Human Rights and Disability

Objectives

In this module, you will have the opportunity to gain an understanding of general human rights principles, and to discuss the role these rights can play in the lives of people with disabilities. By the end of this section you should be able to:

- Understand human rights principles and be able to recognize how they apply to disability
- Know about some of the laws, policies, programs and processes protecting, promoting and fulfilling disability rights

Description

- 1.1 Defining Human Rights **(10 minutes)**
- 1.2 Disability and Human Rights **(20 minutes)**
- 1.3 General Human Rights Principles **(20 minutes)**
- 1.4 Universality and Indivisibility of Rights **(10 minutes)**

Time: 60 minutes

Section 1.1 – Defining Human Rights

Facilitator Information

- Explore the four groups of rights: Economic, Social, Cultural, Civil and Political with the group.
- Outline the human rights model and the tips about recognizing people with disabilities as rights-holders
- Let participants know that the broad groups of rights will be discussed again later in the training.

Time: 10 minutes



Human rights can be divided into four broad groups:

Social rights:

Social rights improve the well-being and standard of living of all members of society. They give people security as they live together in families, schools, and communities. Some examples include:

- the right to the highest attainable standard of physical and mental health
- the right to adequate housing, food, clothing and water
- the right to inclusive and accessible education

Economic rights:

Economic rights deal with income-generating activities or income supports that allow one to secure the necessities of life. Some examples include:

- the right to own property
- the right to social security including social insurance
- the right to earn a living from work that is freely chosen
- the right to equal pay for equal work
- the right to access technical and vocational training programs

Cultural rights:

Cultural rights deal with protecting, developing and enjoying one's cultural identity. Some examples include:

- the right to participate in inclusive culture, arts, recreation, leisure and sport
- the right to create a unique disability culture
- the right to cultural materials in accessible formats
- the right to access places of cultural performances

Civil and Political rights:

Civil and political rights allow people to have equal citizenship. Some examples include:

- the right to life, liberty and security of person

- the right to freedom of opinion
- the right to protection from torture and violence
- the right to vote and run for political office

Human rights are **indivisible** and **interdependent**. No one type of right is more important than another. For people to be free from fear and want, they must be able to enjoy both their economic, social and cultural rights as well as their civil and political rights.

NOTE

Rights advocates and analysts classify specific rights in different categories. For example, some people prefer to combine social and economic rights into a single category of socio-economic rights. All of the rights listed could fit into several different categories; however, to simplify matters, this guide has separated rights into the above groups. This division is intended to make the process of learning about rights and engagement with them easier to understand.

HUMAN RIGHTS MODEL

Disability = dimension of human culture / part of the human tapestry

Person with Disability = individual with differences entitled to the rights enjoyed by others

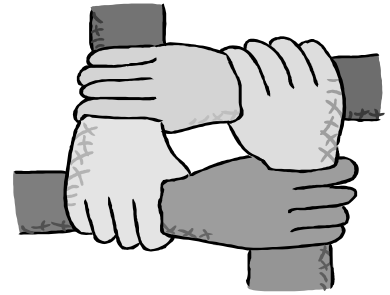
Experts = people with disabilities

Solutions = recognize that people with disabilities have the same rights as everyone else meaning that human variation must be taken into account by making laws and policies that include everyone

Tips: Recognition of People with Disabilities as Rights Holders Requires that:

- The needs of people with disabilities are not “special”. If someone owns a car and wants to drive on a highway, we don’t say they have a “special” need for a highway. In the same way, if someone has a wheelchair and needs a sidewalk without potholes to move on, that should not be considered a “special” need.
- The issues are politicized. Discrimination and injustice are at work when people with disabilities can’t go to school, don’t get jobs and live in poverty.
- Separate but equal is not equal. Services that limit a person’s freedom or self-determination do not support a person’s autonomy, dignity and rights as a human being.

- People with disabilities have to be recognized as decision-makers. They are not simply the recipients of what others think is good for them. They are independent people who know best what they need and want.



Section 1.2 – Disability and Human Rights

Facilitator Information

- Review the instructions of the activity, ask each participant to complete the chart based on their understanding of the different areas in which people with disabilities are denied human rights.
- Have participants break into small groups to discuss the effects of these denials. As a group complete the chart on how these denials reflect attitudes and systems. Encourage discussion of different ideas.
 - What determines who has access to a right?
 - How do issues become politicized?
 - What do we mean by “equal”?
 - Who is responsible for this kind of decision making?
- Review key areas of the chart at the end of the section entitled 'Key Areas of Disadvantage for People with Disabilities in Canada'

Time: 20 minutes

Activity: Denial of Human Rights

Part 1

Work Individually: List some examples of where people with disabilities are commonly denied their rights.

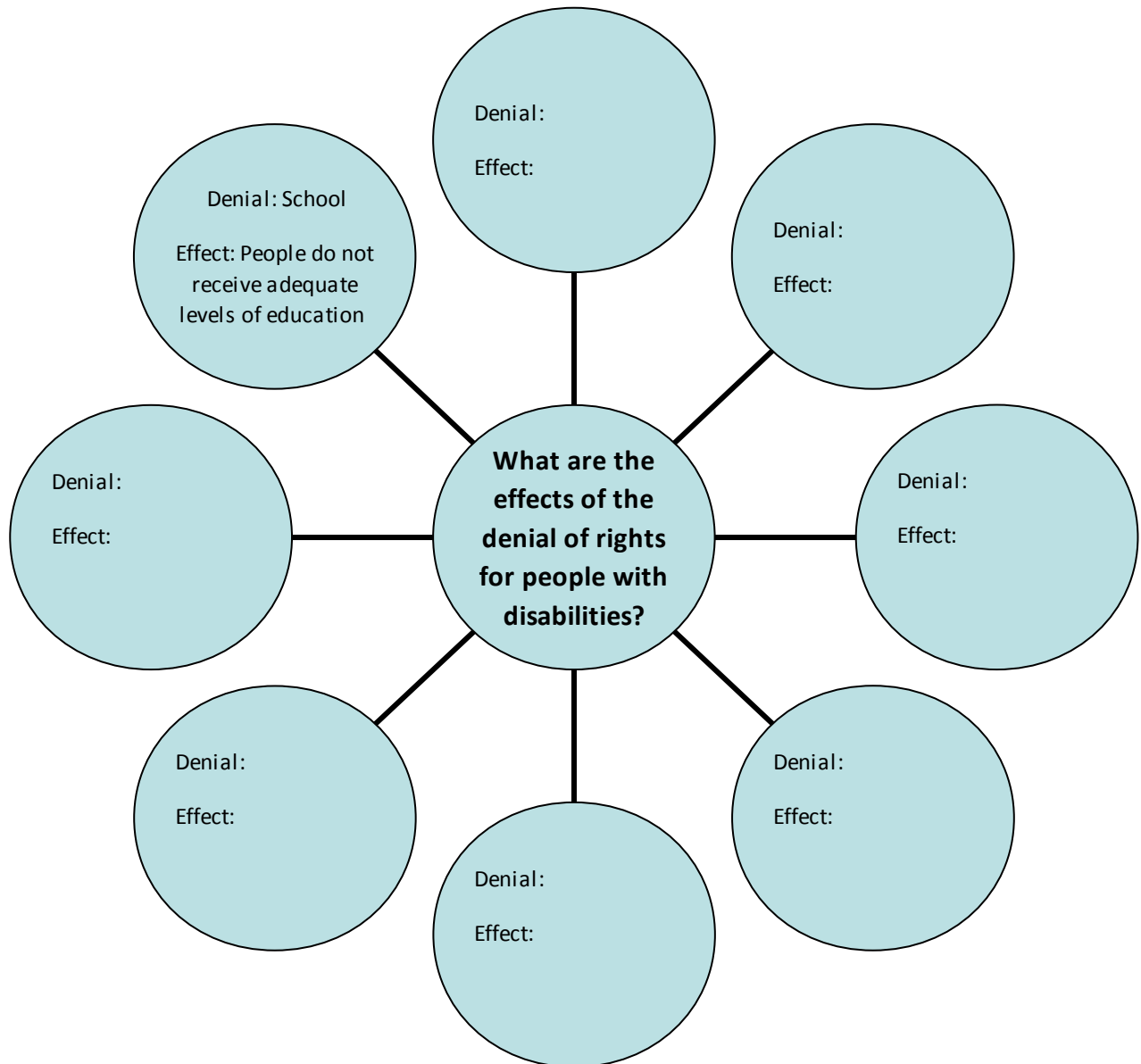
Example:

- Schools – people with disabilities are often denied their right to education when they are excluded from classrooms and from participating in learning environments with their peers

Where else are people with disabilities commonly denied their rights?

Part 2

Work in small groups: On the chart below using the areas of rights you have identified on the previous page, discuss the effects that this lack of rights may have on people with disabilities.

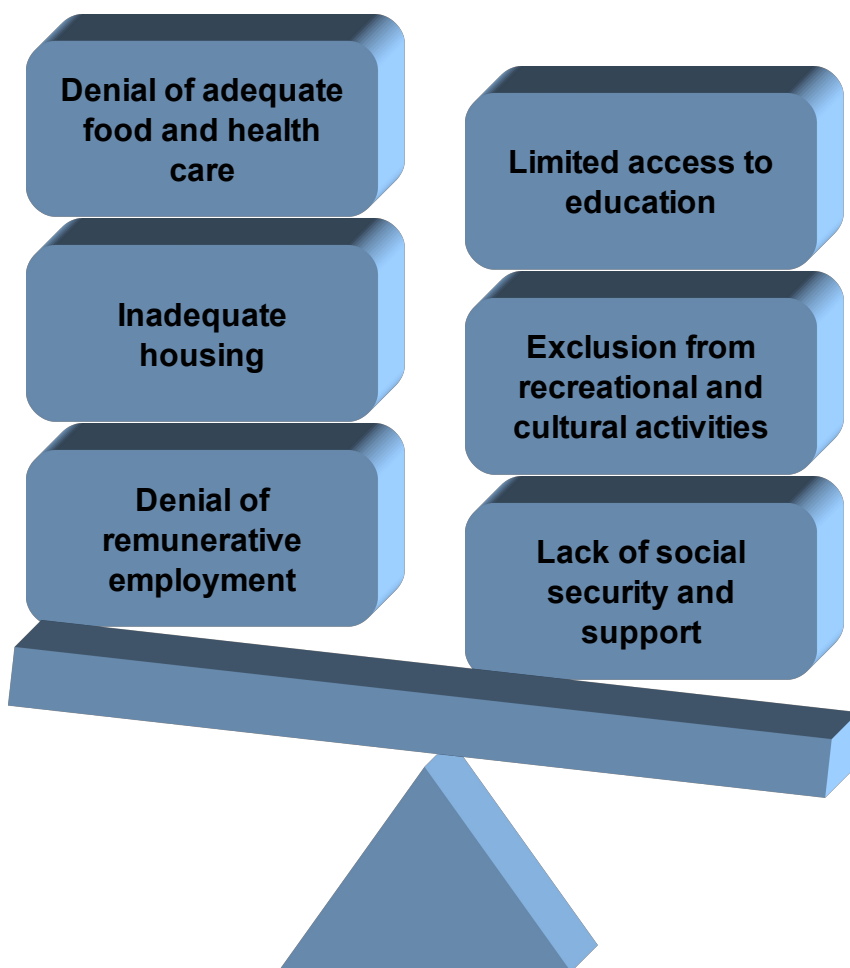


All human rights apply equally to all persons -- including people with disabilities. However, people with disabilities continue to experience systemic discrimination throughout the world.

Human rights have rarely been implemented in ways that are meaningful to persons with disabilities or ways that reflect their experiences. In the areas of economic social and cultural rights, discrimination against persons with disabilities is common. Persons with disabilities frequently have limited or no access to education, live in severely inadequate housing, are denied adequate necessities such as food and health care, and are often excluded from participation in recreation, cultural activities, and the social life of their communities.

Part 3

Group Discussion: Using the identified barriers below discuss the questions on the right



What do these barriers tell us about attitudes toward disability?

What do the barriers tell us about how systems are organized? (for example the way that government services are provided)

Living Conditions for Persons with Disabilities

Persons with disabilities often have limited or no access to certain rights in their lives, for example: education, housing, necessities such as food and health care, and participation in recreation, cultural activities, and the social life of their communities. Key areas of disadvantage are shown in the table below.

Key Areas of Disadvantage for People with Disabilities in Canada	
Employment	<ul style="list-style-type: none">• 49% of people with disabilities are unemployed or not working compared to 25% of the population without disabilities• People with disabilities have perceived employment discrimination in: job interviews, promotions, amount of responsibility given, denied accommodations, paid less than other workers, denied benefits• Perceived discrimination increases with severity of disability
Income	<ul style="list-style-type: none">• People with disabilities live in poverty with average annual incomes of \$26 640.00• Women with disabilities make on average significantly less than men with disabilities
Education	<ul style="list-style-type: none">• 31.1% of families believe that their child is not being accommodated and have unmet educational needs• People with disabilities remain more likely than those without to drop out of high school
Transportation	<ul style="list-style-type: none">• People with disabilities have increased difficulty with public transportation, 17% reporting some difficulty, and 4% who are not able to use public transportation• 19% of people with disabilities reported having difficulty travelling by car• 8% of people with disabilities reported being prevented from travelling long distance, and 32% found it difficult.

Source: Participation Activity Limitation Survey (PALS), 2001,2006 Statistics Canada

Section 1.3 – General Human Rights Principles

Facilitator Information

- Briefly outline the five principles of Human Rights (Dignity, Autonomy, Participation, Inclusion & Accessibility, Non-discrimination & Equality and Respect for Difference)
- Ask participants to start to think about what these words mean to them
- Review the instructions of the activity
- Have participants complete the chart in small groups

Time: 20 minutes

In addition to setting out specific rights like “the right to health”, human rights instruments also include general principles that should be considered when applying the instrument. Here are the general human rights principles stated in the *Convention on the Rights of Persons with Disabilities* and other international human rights instruments that are important to people with disabilities:

a) Dignity

Dignity refers to the inherent worth of every person. Human rights are intended to protect and promote human dignity.

b) Autonomy

Autonomy is the right of an individual to make his or her own choices independently, with adequate and appropriate support where required. Autonomy is about the freedom of an individual to be in charge of his or her own life.

c) Participation, Inclusion & Accessibility

Inclusion involves organizing systems of society, both public and private, to enable all people to participate fully and effectively. To achieve full participation, an accessible, barrier-free physical and social environment is necessary.

d) Non-Discrimination & Equality

Non-discrimination means that all rights are guaranteed to everyone, without distinction, exclusion or restriction based on disability or race, sex, language, religion, political or other opinion, national or social origin, property, birth, age, or any other status.

Equality, in the context of disability, does not mean being the same, but requires creating societal conditions that allow for difference while addressing disadvantage, in order to guarantee the equal participation and inclusion of people with disabilities in all aspects of society.

e) Respect for Difference

Respect for difference involves acceptance of persons with disabilities as part of human diversity and humanity. Despite some visible or apparent differences, all people have the same rights and dignity.

NOTE

Also see General Comment No. 20 (on discrimination in Economic, Social and Cultural Rights) of the U.N. Committee on Economic, Social and Cultural Rights. Available from:
<http://www2.ohchr.org/english/bodies/cescr/comments.htm>

NOTE

Words that are marked with an asterisk (*) are defined in the Glossary found in Module 2.

Two additional concepts are crucial to the implementation of Economic, Social and Cultural Rights: a) Progressive Realisation of Rights and b) Maximum Available Resources.

The I.C.E.S.C.R. states in Article 2(1):

1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, **to the maximum of its available resources**, with a view **to achieving progressively** the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures. [emphasis added]

This provision recognizes that countries may not be able to realize all of the rights in the I.C.E.S.C.R. right away because of a lack of financial resources. Instead, countries can aim to realize certain rights on a step-by-step basis, or “progressively”.

But, the provision does not allow countries to continue to delay in implementing rights. There is a requirement that countries implement some obligations in the Covenant right away, regardless of the country’s financial situation (e.g. non-discrimination based on sex, race and other grounds, etc.). Also, countries must always continue to make some progress toward realizing rights, that is, continuously taking some steps until the right is fully realized. In addition, once a country’s implementation of rights has reached a certain level, it cannot move backward.

Activity: Human Rights in Your Life

Write down an example from your own life in each area where these human rights principles have been demonstrated

A) Dignity

EXAMPLE OF DIGNITY

Mirela has a psychiatric disability. She has had difficulty holding a job and is very poor. She is not forced to live in an institution or beg for money. Instead, the government provides her with the income support she requires to meet her basic needs.

B) Autonomy

EXAMPLE OF AUTONOMY

Robert has speech that is difficult to understand. He is provided with the services of a communication assistant when visiting the doctor so that he can ask questions and make decisions about his treatment.

C) Participation

EXAMPLE OF PARTICIPATION, INCLUSION & ACCESSIBILITY

Priyanga who is blind is able to attend the same school and classes as her brothers and sisters who are not blind.

D) Non-Discrimination and Equality

EXAMPLE OF NON-DISCRIMINATION AND EQUALITY

Taylor, a woman with dyslexia, is admitted to university based on her qualifications and not over-looked because of her disability.

E) Respect for Difference

EXAMPLE OF RESPECT FOR DIFFERENCE

Eghosa has a disability that requires him to walk with a cane. In order to remain mobile and self-sufficient, his community transit system is essential. The bus driver on Eghosa's regular route recognizes his needs and allows him time to walk from the bench where he waits to the bus. In addition, the driver allows Eghosa the extra few seconds it takes to reach his seat before starting to move the bus.

Section 1.4 – Universality and Indivisibility of Rights

Facilitator Information

- Explain the meaning of universality
- Review the instructions of the activity; ask participants to work in pairs to complete the chart looking at whether human rights are universal in practice?
- Review the Indivisibility of Rights. Ask participants:
 - What does indivisibility mean to you?
 - How can you see rights overlapping?

Time: 10 minutes

Universality of Rights

Human rights are universal; they apply to everyone equally. It is important to note that human rights are the same everywhere regardless of culture, religion, customs or ideology.

- All rights and entitlements are interrelated and interdependent based on one principle: human dignity
- No rights have priority over other rights. For example economic rights do not have priority over political rights nor political over economic rights.

Source:

http://www.equitas.org/english/ed-manuals/downloads/fac_eng_2007/Stream_4_2007_FACENG.pdf

Activity: Universality of Rights

In pairs answer the following question in the chart below. How might Culture, Economics, and Religion influence understandings of the ways that rights are applied to everyone equally?

- A) **Culture** (understandings of gender roles and the equal rights of men and women):

- B) **Economics** (ideas about who should receive social assistance and how much):

- C) **Religion** (religious beliefs about disability, for example, that persons with disabilities should receive charity):

Indivisibility of Rights

Awareness of the indivisibility and interdependence of rights is important for an understanding of cultural, economic and social rights. Each type of right is linked with other rights. For example:

- Social rights have important cultural dimensions. The right to food [a social right], for example, has many elements that are related to a person's culture, such as the choice of food, agricultural practices, preparation methods, and how the food is eaten.
- The right to education [a social right] has a close connection to culture since education plays a significant role in the continuation of a culture and in teaching cultural values.
- Economic rights relate to adequate housing [a social right] and can involve cultural elements including: location of housing (urban or rural), types of housing structures (apartment, house, single family/ multi-family).
- Health facilities and services must be respectful of medical ethics and culturally appropriate. Traditional health practices [a social right] are also part of cultural identity. Human rights advocacy strategies must pay close attention to the cultural context.

Notes

Module 2: International Human Rights Instruments

Facilitator Overview

Introduction

This module will provide a basic overview of international human rights instruments allowing participants to understand their application.

Description

- 2.1 Glossary of Terms **(5 minutes)**
- 2.2 International Human Rights Standards and Treaties **(10 minutes)**
- 2.3 International Human Rights Standards and Instruments **(15 minutes)**
 - Rights in Action Activity
- 2.4 National and Provincial Human Rights Instruments **(15 minutes)**

Time: 45 minutes



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Participant Overview

Module 2: International Human Rights Instruments

Objectives

This module will provide a basic overview of international human rights instruments allowing participants to understand their application. By the end of this section participants should:

- Have a basic understanding of the human rights instruments that protect the rights of people with disabilities and the ways that they can be applied
- Be familiar with some ways disability rights are protected and promoted both in Canada and by the United Nations

Description

- 2.1 Glossary of Terms **(5 minutes)**
- 2.2 International Human Rights Standards and Treaties **(10 minutes)**
- 2.3 International Human Rights Standards and Instruments **(15 minutes)**
 - Rights in Action Activity
- 2.4 National and Provincial Human Rights Instruments **(15 minutes)**

Time: 45 minutes

Section 2.1 – Glossary of Terms

Facilitator Information

- Point out the glossary section which defines terms used throughout this section.
- Discuss the meaning of terms as they arise throughout the module.

Time: 5 minutes

Glossary of Terms

NOTE

When a word is marked with an asterisk (*) it is defined in this glossary.

accession: when a State ratifies* a treaty* that has already entered into force*.

adoption: the formal approval or acceptance of an agreement, such as a treaty*, that has been negotiated within an inter-governmental organization (e.g. the U.N. General Assembly). Formal approval may be through a majority vote or consensus without a vote. After adoption, the treaty* is opened for signature* and ratification* by States.

compliance: fulfillment or conformity (e.g. compliance with the terms of a treaty*).

convention: an agreement between States requiring them to abide by the agreed upon terms. This term is used interchangeably with 'treaty*' and 'covenant*'. A convention is the term normally used in United Nations practice to designate a treaty* involving more than two countries.

covenant: a covenant is a written agreement between two or more States requiring them to abide by the agreed upon terms. It is used interchangeably with "treaty*" and "convention*".

customary international law: rules of international law that are based on the consistent practice or 'custom' of States (i.e. what States actually do) and which require States to continue to act in this way.

declaration: a resolution or statement of a body of an inter-governmental organization, accepted by a majority vote or consensus without a vote, setting out important principles or commitments to which the member States have agreed. In the context of human rights, a declaration is normally a text adopted by an organization setting out standards or norms which are not in themselves binding under international law.

Sometimes states make "declarations" about their understanding of an issue or the interpretation of a particular provision in a treaty*. Unlike reservations*, which are discussed below, declarations only clarify the state's position and are not intended to exclude or modify the legal effect of a treaty*. Declarations* are usually made when a state signs* or ratifies* a treaty*.

entry into force: process by which a legal instrument* comes to have legal force and effect. Usually, a provision in the instrument* will state the conditions that have to be met. For example, Article 45 of the C.R.P.D. states: "The present Convention* shall enter into force on the thirtieth day after the deposit of the twentieth instrument* of ratification* or accession*." - that is 30 days after the 20th country has ratified the treaty.

general comments or general recommendations: documents produced by treaty* monitoring bodies* to clarify and provide detail on procedures related to a treaty* monitoring body's work and also to explain the content of specific rights guaranteed under the treaty*. These statements are not legally

binding on countries that have ratified the treaty in the way that convention* provisions are but they serve as very authoritative interpretations of the different aspects of conventions that they address.

individual complaints procedure: a procedure by which individual persons or groups of individuals lodge a complaint alleging that a State has failed to respect the rights guaranteed by the treaty*.

legal instrument (or, instrument): is a legal term used to refer to any legal written document passed by a competent legislative body in domestic or international law.

legally binding: an instrument that is legally binding potentially has the force of law. These instruments can be called covenants*, conventions* or treaties* and are signed between states.

monitoring: tracking and/or gathering of information on government practices and actions related to human rights; sometimes used interchangeably with “fact finding” and “investigation”.

not legally binding: an instrument* that is not legally binding cannot be used as the only basis for an action in a court of law; but, it is still important because it lays out principles and objectives agreed to by governments and carries moral weight.

protocol: a treaty* that modifies another treaty* usually by adding extra procedures or substantive provisions.

ratify, ratification: process by which a State confirms its consent to be bound to a treaty* after signing* of the treaty*.

reservation: a reservation is a statement made by a State through which the State intends to exclude or alter the legal effect of one or more provisions of a treaty* in their application to that State. A reservation enables a State to accept a treaty* as a whole while still avoiding the application of certain provisions with which it does not want to comply. Reservations can be made when the treaty* is signed*, ratified* or acceded* to. Reservations must not be incompatible with the object and the purpose of the treaty*. Furthermore, a treaty* might prohibit reservations or only allow for certain reservations to be made.

shadow report (also, parallel report): a document that is prepared by a non-governmental organization* to report on government’s progress in implementing human rights treaty* obligations. Shadow or parallel reports are presented to treaty* monitoring bodies* for review at the same time as the government’s report (see “State reporting procedure” below).

signature: where a human rights treaty* is subject to ratification, a State can sign the treaty* but not be legally bound* to its terms. Signature expresses the willingness of the state to continue the treaty*-making process and qualifies the state to proceed to ratify* the treaty*. Signature also creates an obligation to refrain, in good faith, from acts that would defeat the object and the purpose of the treaty*.

State reporting procedure: the procedure by which a State party* periodically reports to the treaty* monitoring body* about the action it has taken to comply with a treaty*.

State party: a country that has indicated its willingness to be bound by the provisions of a treaty*, normally by ratification* or accession* to the treaty*.

treaty: an international agreement between States in written form and governed by international law, whether the written agreement is embodied in a single instrument* or in two or more related instruments; treaties define rights and entitlements and reflect both what States have agreed to do and what individuals or groups can claim.

treaty monitoring body: the committee responsible for supervising the compliance* of State parties* with a treaty*. For the I.C.E.S.C.R., it is the Committee on Economic, Social and Cultural Rights. For the C.R.P.D., it is the Committee on the Rights of Persons with Disabilities.

Section 2.2 – International Human Rights Standards and Treaties

Facilitator Information

- Ask a participant to volunteer to read the Lindqvist quote at the bottom of the page. Ask participants, why understanding these human rights instruments will be helpful for people with disabilities.
- Review the chart on the following page outlining how a treaty comes into force

Time: 10 minutes



International Human Rights Standards & Instruments Negotiated by the Countries of the United Nations

Human rights standards are statements of rights and entitlements that have been agreed to by governments internationally, regionally and/or nationally. They are found in human rights documents or “instruments*” such as treaties*, covenants* and conventions*. Human rights standards are developed to protect people's human rights against violations by individuals, groups or nations. Human rights standards outline what individuals and groups can claim and make governments more accountable to people.

“To take advantage of the new opportunities for disability rights advocacy, one must be familiar with the key international instruments that will support advocacy efforts. Internationally accepted human rights standards, as found in international treaties and declarations*, are useful tools for disability advocacy and for responding to injustice.”

- Bengt Lindqvist, Co-Director D.R.P.I. and U.N. Special Rapporteur on Disability (1994-2002)

How a Treaty* Comes into Force

HOW A TREATY ENTERS INTO FORCE and STATES BECOME PARTIES

ADOPTION

Text of the treaty* and any optional protocol(s)* are adopted* by the UN General Assembly

OPENING FOR SIGNATURE AND RATIFICATION

Treaty* and any optional protocol(s)* opened for signature* and ratification* by states* are...

ADVOCACY POINT

Can call for states to take a leading role by signing on the day that the treaty opens for signature (e.g. 44 states, including Canada, signed the CRPD when it was opened for signature on 30 May, 2007)

SIGNATURE

States decide whether they want to sign* a treaty and any optional protocol(s). States can decide to sign the optional protocol(s) at a later time

RATIFICATION (RESERVATION, DECLARATION)

After signing, States decide whether they want to ratify* the treaty and any optional protocol(s). A state can decide to ratify only the treaty but not the optional protocol(s). States can decide to ratify the optional protocol(s) at a later time. When ratifying, the State can decide whether or not to file any reservations* or declarations*. Reservations and declarations can be withdrawn by the State at a later time. After ratifying, States are considered parties* to the treaty.

ADVOCACY POINTS

Call for states to ratify the treaty AND any optional protocol(s) as soon as possible
 Call for states to ratify without any reservations. Note that declarations can be desirable, reinforcing positive aspects of the treaty.
 If a state enters a reservation, call for the state to withdraw it.
 If a state ratifies the treaty but not the optional protocol(s), continue efforts to have the state ratify the optional protocol(s)

ENTRY INTO FORCE

The treaty will stipulate the number of ratifications required before the treaty enters into force*. For example, the CRPD required 20 countries to ratify.

ADVOCACY POINT

Before the treaty comes into force, can argue that state should take a leading role, being one of the first "x" states to ratify

ACCESSION

States that ratify the treaty after it comes into force are said to accede* to the treaty.

ADVOCACY POINT

After the treaty comes into force, continue to call for states that have not yet ratified to ratify

Section 2.3 – International Human Rights Standards and Instruments

Facilitator Information

- Briefly describe each human rights instrument and how it applies to disability, advise participants to read sections more thoroughly in the future to get a better understanding of these instruments.
- Ask participants to discuss one of the three questions in the Activity over the break and report back to the group.

Time: 15 minutes

Applying to all Persons with Disabilities:

At the international level, there are many human rights instruments* of importance to people with disabilities but there are two instruments* that were created to apply specifically to people with disabilities.

a) *Convention on the Rights of Persons with Disabilities (C.R.P.D.)*

The *Convention on the Rights of Persons with Disabilities (C.R.P.D.)* was adopted* by the U.N. General Assembly in 2006 and came into force* in May, 2008. The C.R.P.D. is legally binding* on all states that have ratified* it. People with disabilities, disability organizations and their allies played an active role in drafting the C.R.P.D..

The C.R.P.D. does not create new rights for persons with disabilities. Instead, it explains what existing civil, cultural, economic, political and social rights mean in the context of disability. The C.R.P.D. calls for more attention to be paid to people with disabilities within the international human rights system, by governments and by society.

Canada has ratified the C.R.P.D.. A copy of the C.R.P.D. is found in **Appendix E**.

A continuously updated list of the countries that have ratified* the C.R.P.D. can be found at: http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-15&chapter=4&lang=en

b) *Standard Rules for the Equalization of Opportunity for People with Disabilities (Standard Rules)*

In 1993, the U.N. General Assembly adopted* the Standard Rules. There are 22 main rules and additional subrules and guidelines outlining a policy of integration and participation. Coming before the C.R.P.D., the Standard Rules played an important role in shifting the understanding of disability from a problem of the individual to something created by society and an issue of human rights.

The Standard Rules provide direction to governments and address government responsibility. While not legally binding*, they hold moral weight.

A full copy of the Standard Rules can be found at:

<http://www1.umn.edu/humanrts/instreet/disabilitystandards.html>

Applying to Everyone (including persons with disabilities):

There are also a number of important human rights instruments* agreed to by the countries of the United Nations that recognize and protect the right of all people, including marginalized groups like people with disabilities, to the full enjoyment of all human rights. These are:

c) *Universal Declaration of Human Rights (U.D.H.R)*

The Universal Declaration of Human Rights (U.D.H.R) was adopted* by the General Assembly of the United Nations in 1948. It was the first listing of universal human rights ever agreed to by states. The U.D.H.R declares that everyone has equal and undeniable entitlement to all types of rights - economic, social, cultural, civil and political. While not legally binding*, the U.D.H.R holds significant moral weight. Some experts consider that it is now part of customary international law*. Many laws and legal documents in countries around the world are based on the principles set forth in the U.D.H.R.

A copy of the U.D.H.R can be found at: <http://www.un.org/Overview/rights.html>

d) *International Covenant on Economic, Social and Cultural Rights (I.C.E.S.C.R.)*

The International Covenant on Economic, Social and Cultural Rights (I.C.E.S.C.R.) was adopted* by the U.N. General Assembly in 1966 and entered into force* in 1976. The I.C.E.S.C.R. is legally binding* on all states that have ratified* it. The Covenant* further develops the economic, social and cultural rights set out in the U.D.H.R.

The body that is responsible for monitoring* compliance* with the I.C.E.S.C.R. is the Committee on Economic, Social and Cultural Rights. In 1994, the Committee issued its **General Comment* No. 5** which reviews and emphasizes some of the ways in which issues concerning persons with disabilities arise in connection with the obligations contained in the I.C.E.S.C.R.. General Comment No. 5 explicitly refers to the *Standard Rules on the Equalization of Opportunities for Persons with Disabilities* as a “valuable reference guide”. (para. 7) (See the section above on the *Standard Rules*.) The C.R.P.D. had not yet been enacted. The General Comment includes an explicit requirement that “States Parties ensure the full participation of persons with disabilities.” The General Comment says that “disability-based discrimination may be defined as including any distinction, exclusion, restriction or preference, or denial of reasonable accommodation based on disability which has the effect of nullifying or impairing recognition, enjoyment or exercise of economic, social and cultural rights.” (para. 15)

Canada has been a party to the I.C.E.S.C.R. since 1976.

A copy of the I.C.E.S.C.R. is found in **Appendix B**. A copy of General Comment No. 5. is found in **Appendix D**.

The Committee on Economic, Social and Cultural Rights states that:

The obligation in the case of such a vulnerable and disadvantaged group is to **take positive action to reduce structural disadvantages and to give appropriate preferential treatment to people with disabilities** in order to achieve the objectives of full participation and equality within society for all persons with disabilities. This almost invariably means that additional resources will need to be made available for this purpose and that a wide range of specially tailored measures will be required. (para. 9)

NOTE

Also see General Comment No. 20 (Right to non-discrimination in Economic, Social and Cultural Rights) (para 28) of the U.N. Committee on Economic, Social and Cultural Rights. Available from:
<http://www2.ohchr.org/english/bodies/cescr/comments.htm>

e) *International Covenant on Civil and Political Rights (I.C.C.P.R.)*

The *International Covenant* on Civil and Political Rights* (I.C.C.P.R.) was adopted* by the U.N. General assembly in 1966 and entered into force* in 1976. The I.C.C.P.R. is legally binding* on all states that have ratified* it. The I.C.C.P.R. further develops the civil and political rights set out in the U.D.H.R.

Canada has been a party to the I.C.C.P.R. since 1976.

A copy of the I.C.C.P.R. can be found at: <http://www2.ohchr.org/english/law/ccpr.htm>

Many of the world's countries have agreed to the U.D.H.R, I.C.C.P.R. and I.C.E.S.C.R., making these instruments* very important. All three instruments* apply to all people, including people with disabilities. Sometimes the three instruments* are referred to as the "International Bill of Rights".

f) *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment (C.A.T.)*

The C.A.T. was adopted* by the U.N. General Assembly and entered into force* in 1984. It is legally binding* on all states that have ratified* it. People with disabilities and especially those who live in institutionalized settings, are particularly vulnerable to torture and other forms of cruel, inhuman or degrading treatment.

Canada has been a party to the C.A.T. since 1987.

A copy of the C.A.T. can be found at: http://www.unhchr.ch/html/menu3/b/h_cat39.htm

g) *International Convention for the Protection of all Persons from Enforced Disappearance (Convention against Enforced Disappearance)* (not yet in force*)

The Convention against Enforced Disappearance was adopted by the U.N. General Assembly in 2006. It will come into force* when it is ratified* by 20 States. The Convention aims to prevent enforced disappearances, establish the truth when this crime occurs, punish the perpetrators and provide reparations to the victims and their families. It applies to all people, including people with disabilities.

Canada has not signed or ratified the Convention against Enforced Disappearance yet.

A copy of the Convention against Enforced Disappearance can be found at:
<http://www2.ohchr.org/english/law/disappearance-convention.htm>

Applying to all Women and Girls (including women and girls with disabilities):

h) Convention on the Elimination of All Forms of Discrimination Against Women (C.E.D.A.W.)

The *Convention on the Elimination of All Forms of Discrimination Against Women* (C.E.D.A.W.) was adopted* by the U.N. General Assembly in 1979 and came into force* in 1981. It applies to all women and girls, including women and girls with disabilities and covers all categories of rights – economic, social, cultural, civil and political. The C.E.D.A.W. is legally binding* on all states that have ratified* it.

General Comment No. 5 of the Committee on Economic, Social and Cultural rights recognizes that the situation of women with disabilities is often neglected and needs to be given high priority in the future implementation of economic, social and cultural rights-related programmes (para. 19)

While the C.E.D.A.W. does not explicitly refer to women with disabilities, the body that monitors* the C.E.D.A.W., that is, the Committee on the Elimination of Discrimination Against Women, has issued **General Recommendation No. 18** regarding women with disabilities. The Committee:

Recommends that States parties provide information on disabled women in their periodic reports, and on measures taken to deal with their particular situation, including special measures to ensure that they have equal access to education and employment, health services and social security, and to ensure that they can participate in all areas of social and cultural life.

Canada has been a party to the C.E.D.A.W. since 1981.

A copy of the full Convention can be found at: <http://www2.ohchr.org/english/law/cedaw.htm>.

A copy of General Recommendation No. 18 can be found at:
<http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom18>

Applying to all Children (Girls and Boys) (including children with disabilities):

i) Convention of the Rights of the Child (C.R.C.)

The Convention on the Rights of the Child (C.R.C.) was adopted by the U.N. General Assembly in 1989 and entered into force in 1990. The C.R.C. is legally binding* on all states that have ratified* it.

Children with disabilities are entitled to equal enjoyment of all rights found in the C.R.C.. The convention* covers all categories of rights – economic, social, cultural, civil and political. The equal application of C.R.C. rights without discrimination is guaranteed in Article 2 and includes

an explicit prohibition of discrimination on the basis of disability. In Article 23, the C.R.C. explicitly refers to children with disabilities stating that States must ensure each child with a disability has “effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities.” Children with disabilities are frequently denied these rights because of physical barriers and lack of supports.

Canada has been a party to the C.R.C. since 1991.

A copy of the C.R.C. can be found at: <http://www1.umn.edu/humanrts/instree/k2crc.htm>

NOTE

Also see Committee on the Rights of the Child – General Comment No. 9 for further discussion of this convention. Available from: <http://www2.ohchr.org/english/bodies/crc/comments.htm>

Applying to all Members of Racial Groups and/or Minorities (including members of racial groups and minorities with disabilities):

j) *International Convention on the Elimination of All Forms of Racial Discrimination (C.E.R.D.)*

The C.E.R.D. was adopted* by the U.N. General Assembly in 1965 and entered into force* in 1969. The C.E.R.D. is legally binding* on all states that have ratified* it. It is applicable to people with disabilities who suffer discrimination as members of a racial group or minority, that is, double discrimination based on race and disability.

Canada has been a party to the C.E.R.D. since 1970.

A copy of the C.E.R.D. is available at: http://www.unhchr.ch/html/menu3/b/d_icerd.htm

Applying to all Migrant Workers and their Families (including all migrant workers and their family members who have disabilities):

k) *International Convention on the Protection of the Rights of All Migrant Workers and their Families (C.R.M.W.)*

The C.R.M.W. was adopted* by the U.N. General Assembly in 1990 and entered into force* in 2003. The C.R.M.W. is legally binding* on all states that have ratified* it. It is applicable to persons with disabilities who are migrant workers or who are family members of migrant workers.

Canada has not signed or ratified the C.R.M.W. yet.

A copy of the C.R.M.W. is available at: http://www.unhchr.ch/html/menu3/b/m_mwctoc.htm

Activity: Rights in Action

Part A: Small Group Discussion

A) Choose one of the Conventions* above and discuss how the rights it guarantees apply in your own life?

B) Choose one of the Conventions* above. Discuss how you see the Convention relating to the broad groups of rights and human rights principles: Social Rights, Economic Rights, Cultural Rights, Civil Rights, Political Rights.

C) Choose one of the Conventions* above discuss how you see the Convention relating to the human rights principles: Dignity, Autonomy, Participation, Inclusion & Accessibility, Non-discrimination & Equality, Respect for difference.

Section 2.4 – National and Provincial Human Rights Instruments

Facilitator Information

- Briefly review how, in Canada, human rights protections are found in the Constitution, legislation, regulations and policies.
- Ask participants to discuss and answer questions about the case study in small groups, over the break, and report back.

Time: 15 minutes

National Human Rights Instruments

When a country agrees to a human rights instrument* like the C.R.P.D., they promise to make sure that the laws of their country respect the rights set out in the instrument*.

In some cases, human rights protections are found in a country's **constitution**. For example, in Canada, human rights guarantees are set out in the *Canadian Charter of Rights and Freedoms* (1982) (Charter) which forms part of the country's constitution. The Charter guarantees certain civil and political rights to all people in Canada, including people with disabilities, restricting the policies and actions of all levels of government. A way in which the Charter extends into the realm of economic, social and cultural rights is through its Article 15 equality rights provision which states:

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or *mental or physical disability*.

(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or *mental or physical disability*.

In addition to the protection from discrimination provided by section 15, the Charter also guarantees a number of other important rights to all people in Canada, including people with disabilities. These rights include:

Section 2: freedom of conscience, freedom of religion, freedom of thought, freedom of belief, freedom of expression, freedom of the press and of other media of communication, freedom of peaceful assembly, and freedom of association

Section 3: right to vote and to be eligible to serve as member of a legislature.

Section 6: right to enter and leave Canada, and to move to and take up residence in any province, or to reside outside Canada.

Section 7: right to life, liberty, and security of the person.

Section 10: right to legal counsel and the guarantee of habeas corpus.

Section 12: right not to be subject to cruel and unusual punishment.

Section 14: rights to an interpreter in a court proceeding.

Section 28: all Charter rights are guaranteed equally to men and women.

A full copy of the Charter can be found at <http://laws.justice.gc.ca/en/charter>.

Human rights provisions are also found in **legislation, regulations** and/or **policies** enacted by different levels of government. A common form of legislation is a human rights **code** or **act**, focusing specifically on human rights protections. Some examples of human rights legislation in Canada includes:

- **Federal human rights legislation** such as the **Canadian Human Rights Act** which prohibits discrimination by the federal government (e.g. all federal legislation, regulations, departments, agencies and Crown corporations) and federally regulated businesses and industries (e.g. banks, national airlines, interprovincial telephone companies and interprovincial transportation companies). “Disability” is included in Article 3 as a prohibited ground of discrimination.
- **Provincial human rights acts or codes** which include prohibitions of discrimination on the ground of disability. Some examples include:
 - **Ontario Human Rights Code** provides protection from discrimination based “disability” including past, present and perceived conditions and in the areas of services, accommodation, employment and vocational associations.
 - **BC Human Rights Code** prohibits discrimination on the ground of “physical or mental disability” in the areas of accommodation, employment, membership in trade unions and associations, public services/facilities, purchase of property, tenancy and protection from hate publications.
 - **Manitoba Human Rights Code** prohibits discrimination based on “physical or mental disability or related characteristics or circumstances, including reliance on a dog guide or other animal assistant, a wheelchair, or any other remedial appliance or device” in the areas of services, accommodation, facilities, goods, rights, licences, benefits, programs or privileges available or accessible to the public or to a section of the public, employment, membership in trade unions and associations, contracts, provision of insurance, accommodation, purchase of property and protection from hate publications.
 - **Newfoundland and Labrador Human Rights Code** provides protection from discrimination based on “physical disability” and “mental disability” in the areas of public services, accommodation, employment and protection from hate publications. (Note that this Code is being reviewed by the provincial government during 2009.)

Examples of other national acts include:

- **Disability Discrimination Act** (UK- 1995) promotes protects people with disabilities from discrimination in the areas of education, employment, access to goods, facilities and services, buying and renting property and public transportation.
- **Americans with Disabilities Act** (USA – 1990), prohibits discrimination against on the ground of disability in the areas of employment, public services, including public transportation, operated either by government or by private entities (e.g. restaurant, hotel, theatre, store, etc.).

Activity: Applying the Charter

Discuss and answer the following case study and questions in small groups:

Description of Case: Eldridge v. British Columbia (Attorney General)

In 1997 the Supreme Court of Canada affirmed that British Columbia must provide sign-language interpreters in provincial hospitals to people who are deaf in order to comply with equality rights guarantees in section 15(1) of the Canadian Charter of Rights and Freedoms.

Questions:

A) What does equality mean to you?

B) How does providing sign language interpreters contribute to being treated as equal/unequal?

C) Why do you think this case is important to disability rights?

Notes

Module 3: Social, Cultural and Economic Rights

Facilitator Overview

Introduction

This module will provide participants with an understanding of the roles of Economic, Social and Cultural Rights in the lives of people with disabilities

Description

At the beginning of each section, a quick guide has been provided at the beginning of the section outlining specific rights, disability related questions connected to those rights, what is provided by the rights and policy relating to them.

- 3.1 Introduction to Economic, Social and Cultural Rights **(15 minutes)**
- 3.2 Social Rights **(90 minutes)**
- 3.3 Economic Rights **(80 minutes)**
- 3.4 Cultural Rights **(80 minutes)**

Time: 4 hours, 25 minutes



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Participant Overview

Module 3: Economic, Social and Cultural Rights

Objectives

To gain an understanding of the roles of Economic, Social and Cultural Rights in the lives of people with disabilities. This will help to provide the tools needed to influence social change and raise awareness in these areas. Participants will be able to review their own roles in the promotion of Economic, Social and Cultural rights and work towards developing strategies to put them to use.

Description

After your introduction to human rights and international human rights instruments, the rest of the training will focus on rights based on the I.C.E.S.C.R. and related articles and the ways that these rights relate to people with disabilities.

- 3.1 Introduction to Economic, Social and Cultural Rights (**15 minutes**)
- 3.2 Social Rights (**90 minutes**)
- 3.3 Economic Rights (**80 minutes**)
- 3.4 Cultural Rights (**80 minutes**)

Time: 4 hours, 25 minutes

Section 3.1 – Introduction to Economic, Social and Cultural Rights

Facilitator Information

- Review the Quick Guide on Economic, Social and Cultural Rights with the group.

Time: 15 minutes

Quick Guide: Economic, Social and Cultural Rights

International Covenant on Economic, Social and Cultural Rights (I.C.E.S.C.R.) – 1976

Rights Protected:

- Right to self-determination (article 1)
- Ensuring equal rights of men and women (article 3)
- Right to work (article 6)
- Right to just and favourable working conditions (article 7)
- Right to form trade unions and the right to strike (article 8)
- Right to social security (article 9)
- Right to an adequate standard of living (article 11)
- Right to education (article 13)
- Right to take part in cultural life, to enjoy the benefits of scientific progress and its applications and to benefit from the protection of the moral and material interests resulting from any scientific literary or artistic production of which s/he is the author (article 15)

State Obligations:

- Ensure enjoyment of minimum essential levels of human rights (the ‘minimum core’ of rights) in all but very limited circumstances. In order for a State party to be able to attribute its failure to meet at least its minimum core obligations to a lack of available resources it must demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations.
- Minimum core requirements:
 - The minimum essential food which is sufficient, nutritionally adequate and safe
 - Essential primary health care
 - Basic shelter and housing
 - Basic forms of education

Overarching Obligations:

The Committee on Economic, Social and Cultural Rights has employed the following analytical framework in setting out state obligations. This is sometimes known as the 'tripartite typology'. According to the Committee, states parties have the following obligations:

- Respect – the obligation to respect requires governments to refrain from interfering directly or indirectly with enjoyment of ESC rights itself
- Protect – the obligation to protect requires governments to prevent third parties, such as corporations or paramilitaries from interfering in any ways with the enjoyment of ESC rights
- Fulfill – the obligation to fulfill requires governments to adopt the necessary measures to achieve the full realization of ESC rights)

Adapted from: Equitas Workshop Manual: Asia-Pacific Regional Workshop on Women's Economic, Social and Cultural Rights

Notes

Section 3.2 – Social Rights

Facilitator Information

Introduction to Social Rights

- Introduce Social Rights. Describe to participants that each right will be discussed in detail.

Quick Guide: Social Rights (10 minutes)

- Review the Social Rights Quick Guide.

Understanding Specific Social Rights (50 minutes)

- Review each specific right, asking some of the group discussion questions provided as time permits. (20 minutes)
- Following the discussion questions are the applicable human rights instruments (I.C.E.S.C.R., General Comment No. 5, C.R.P.D.) which support each right. (30 minutes)

Social Rights Activity (30 minutes)

- Break participants into small groups to review the two Court decisions and answer the discussion questions. If time is limited, you may want to assign half of the class to each case. Upon completion of the questions, have participants come back to the larger group to discuss the role of social rights based on these cases.

Participant Overview

Section 3.2 – Social Rights

Objectives

This section will explore in greater depth Social Rights in the lives of people with disabilities with specific reference to the International Covenant of Economic, Social and Cultural Rights (I.C.E.S.C.R.), General Comment No. 5 of the U.N. Committee on Economic, Social and Cultural Rights and the Convention on the Rights of Disabled Persons (C.R.P.D.).

Description

The previous section provided a general background of the importance of Economic, Social and Cultural rights in the lives of people with disabilities. This section will look more closely at Social Rights and the particular rights that can be identified under this category.

- Introduction to Social Rights
- Social Rights Quick Guide
- Understanding Specific Social Rights
- Social Rights Activity

Time: 90 minutes

Introduction to Social Rights

Generally, social rights contribute to the well-being of individuals and society, enhancing the overall standard of living. Specific social rights include:

- Right to adequate housing
- Right to live independently and to be fully included in the community
- Right to adequate food and water
- Right to education
- Right to the highest attainable standard of health and rehabilitation
- Right to guardianship, wardship, trusteeship and the adoption of children

Each of these rights will be discussed below:



Quick Guide: Social Rights

Right	Included in Right:	Disability Specific Issues	Applicable Human Rights Instruments
Right to adequate housing	<ul style="list-style-type: none">• Food• Clothing• Housing, including access to public housing• Continuous improvement of living conditions	<ul style="list-style-type: none">• What is adequate?• How can choice be determined?• Are institutions and hospitals 'adequate' housing?• What is adequate privacy?• Who sets standards for habitability?	I.C.E.S.C.R. (article 11) General Comment No. 4, 5, 9 C.R.P.D. (article 28) C.E.D.A.W. (article 14) C.R.C. (article 22)

Right	Included in Right:	Disability Specific Issues	Applicable Human Rights Instruments
<p>Right to live independently and to be fully included in the community</p>	<ul style="list-style-type: none"> • Independent choice about living arrangements • Required support services to live in chosen arrangement and participate fully in the community • Ability to live and work in the community • Treatment in least restrictive environment, provision of community supports and services 	<ul style="list-style-type: none"> • What differentiates participation vs. service provision? • How is choice and autonomy defined? • What ways can social institutions be democratized? (nothing about us without us) • What support is available to live independently? 	<p>Standard Rules (#4) C.R.P.D. (article 19)</p>

Right	Included in Right:	Disability Specific Issues	Applicable Human Rights Instruments
Right to Education	<ul style="list-style-type: none"> • Recognition of education in an integrated, general education system • Promotion of understanding, tolerance and inclusion • Compulsory and free primary education for all • Opportunity for life-long learning • Enhancing opportunity to participate effectively in free society • Reasonable accommodation • Trained qualified teachers 	<ul style="list-style-type: none"> • How might this influence presumptions about capacity to learn? • What is the purpose of education? • What makes special education different from inclusive education? • How does teacher education need to be adapted to provide more inclusive classrooms? 	<p>I.C.E.S.C.R. (Article 13(1)) General Comment No 5, 13</p> <p>C.R.P.D. (article 24)</p> <p>C.E.D.A.W. (Article 10)</p> <p>C.R.C. (Article 28 & 29)</p> <p>Standard Rules (Rule #6)</p>

Right	Included in Right:	Disability Specific Issues	Applicable Human Rights Instruments
Right to the Highest Attainable Standard of Health and Rehabilitation	<ul style="list-style-type: none"> • Same level of medical care • Highest attainable standard to physical and mental health • Prevention and treatment of disease, occupational hazards and still birth • Access to medical service including orthopaedic devices to increase access • Prevention of discriminatory denial of health care, services, food or fluid • Earliest intervention possible • Promotion of knowledge and use of assistive devices and technologies 	<ul style="list-style-type: none"> • What is the right to treatment? Does it include the right to refuse treatment? Does it include the right to be provided with treatment necessary to ensure survival’? • What is therapy? • How do we determine free and informed choice? • In what ways do people with disabilities face a lack of access to health care? 	<p>I.C.E.S.C.R.(Article 12(1)) General Comment No 5 and 14 C.R.P.D. (article 25, 26) C.R.C. (Article 24(1)) C.R.C. (General Comment #4) Standard Rules #2, #3</p>

Right	Included in Right:	Disability Specific Issues	Applicable Human Rights Instruments
Right to Guardianship, Wardship, Trusteeship and Adoption of Children	<ul style="list-style-type: none"> • Guarantee that people have the option to live with their families if they wish • Right/choice to marriage and to have own family • Protection and support relating to motherhood and pregnancy • Protection from sterilization and abortion without informed consent • Opportunity for sexuality, sexual relationships and parenthood 	<ul style="list-style-type: none"> • How prevalent is involuntary sterilization? • In what ways do marriage laws discriminate? • What presumptions about sexuality do people with disabilities face? • Do concepts of “best interest” reflect paternalism? • How might the tension between self-determination and legal capacity be balanced? • What are some of the issues that accompany guardianship and supported decision making? 	I.C.E.S.C.R. (Article 10(1)) General Comment No. 5 C.R.P.D. (article 23) C.E.D.A.W. (Article 16(1)) Standard Rules (#9)

Understanding Specific Social Rights

Each right provided in the Quick Guide is discussed in detail below:

Part A:

- A description of the specific right
- Discussion questions surrounding each right

Part B:

- A list and explanation of relevant rights instruments which support/uphold each right described

1) Right to Adequate Housing

EXAMPLE OF RIGHTS IN ACTION

Lisa is a 30 year old woman who works as a youth counselor. She has Muscular Dystrophy and uses a wheelchair. She has been able to obtain accessible, government-subsidized, affordable housing on a transit route so that she is able to get to her job without incurring extra expense or undue hardship.

Part A: Group Discussion

The right to adequate housing addresses dignity, physical security and personal privacy and also ensures a place for social events and nurturing family and community relationships.

- A) How does adequate housing reflect human rights principles (dignity, autonomy, participation, inclusion and accessibility, respect for difference, and non-discrimination and equality)?

Part B: Relevant Human Rights Instruments

a) I.C.E.S.C.R.

The I.C.E.S.C.R. outlines the importance of housing and shelter for all people. Implementing this right impacts other areas related to housing including food and clothing, and shelter for the family.

Also see General Comment No. 4 (Right to Adequate Housing). Available from:
<http://www2.ohchr.org/english/bodies/cescr/comments.htm>

b) General Comment No. 5

This interpretation of the I.C.E.S.C.R. specifically referring to disability refers to both basic material need and things required to increase independence including such areas as:

- particular types of clothing required to function
- appropriate levels of personal assistance
- accessible housing

c) C.R.P.D.

The C.R.P.D. outlines the right of people with disabilities and their families to an adequate standard of living. This includes food, clothing, housing and the improvement of living conditions. These rights are safeguarded by ensuring:

- Equal access to clean water
- Equal, appropriate and affordable services
- Protection programmes against poverty, especially for women and girls
- Access to public housing
- Access to retirement benefits and programmes

2) Right to Live Independently and to be fully Included in the Community

Part A: Group Discussion

A) In your experience, in what ways do you think people with disabilities could be better supported in this right?

Part B: Relevant Human Rights Instruments

a) I.C.E.S.C.R. & General Comment No. 5

Though this right does not appear specifically in the I.C.E.S.C.R. it is connected to the right to housing and reflective of the spirit of this Covenant. “Living independently” does not necessarily refer to living alone or separated from family, but refers to independent choice about living arrangements. In too many cases, people with disabilities have been segregated from their communities and housed in institutions where they are vulnerable to human rights abuses. People with disabilities must have equal opportunities to choose their place of residence and living arrangements.

For some people with disabilities, support services may be required for them to live in freely chosen living arrangements and to participate fully in their communities. Rule 4 of the *Standard Rules* calls on States to “ensure the development and supply of support services, including assistive devices for persons with disabilities, to assist them to increase their level of independence in their daily living and to exercise their rights”.

b) C.R.P.D.

The C.R.P.D. identifies the right of people with disabilities to live in the community with equal choice and inclusion ensuring:

- The opportunity to choose where and with whom they live
- Access to in-home, residential and community services
- Equal provision of services, responsive to individual needs

3) Rights to Adequate Food and Water

Part A: Group Discussion

The rights to adequate food and water are also part of maintaining an adequate standard of living and being able to live a life of dignity and comfort.

- A) What do the rights to adequate food and water mean to you in your life and the lives of your friends who have a disability?

- B) How important is being able to choose what you eat for your meals?

Part B: Relevant Human Rights Instruments

a) I.C.E.S.C.R.

The I.C.E.S.C.R. outlines the importance of having enough food as part of an adequate standard of living.

b) General Comment No. 5

General Comment No. 5 outlines the need for physical access and barrier removal for people with disabilities to maintain adequate food and other basic material needs enabling individuals to increase independence and ensure the ability to exercise rights.

Also see General Comment No. 12, 15 (right to adequate food and water) of the U.N. Committee on Economic, Social and Cultural Rights. Available from: <http://www2.ohchr.org/english/bodies/cescr/comments.htm>

c) C.R.P.D.

The C.R.P.D. recognizes the role social protection plays through the provision of basic needs including food and clean water and the State's role in providing these necessities.

4) Right to Education

Part A: Group Discussion

The right to education has been recognized by the Covenant as an important tool of equal participation, linked to the promotion of freedom of thought and expression as well as individual political participation.

A) What does inclusive education mean to you? How does it relate to equality?

B) How does one's literacy level (the ability to read and write) impact the ability to participate?

Part B: Relevant Human Rights Instruments

a) I.C.E.S.C.R.

The Covenant recognizes the right of everyone to education contributing to the development of the human personality and increasing dignity, respect for human rights and fundamental freedoms. It also recognizes that education promotes a free society, understanding, tolerance and friendship. Education is guaranteed to all.

Also see General Comment No. 12 (right to education). Available from:
<http://www2.ohchr.org/english/bodies/cescr/comments.htm>

b) General Comment No. 5

Looking at education in the context of disability, this interpretation shows inclusive education as the best place to receive schooling for people with disabilities, noting the importance of training teachers in regular schools to support accessible education for students with disabilities. Accessibility has 3 components (Quinn & Bruce):

- Non-discrimination
- Physical accessibility
- Economic accessibility

c) C.R.P.D.

The C.R.P.D. recognizes the important role of the State in guaranteeing the equal opportunity for education for people with disabilities. Some of the benefits of inclusive education are:

- The development of full human potential, sense of dignity and respect for human rights
- Development of talents and creativity, mental and physical abilities
- Effective participation in free society

EXAMPLE OF RIGHTS IN ACTION

Joyce is a single mother with a disability, who lives in a rural community. Because she does not drive, it is difficult for Joyce to seek medical attention and receive the services that she requires.

Joyce is able to have home-care to meet many of her day-to-day needs and uses publicly provided transportation for people with disabilities to attend her appointments.

5) Right to the Highest Attainable Standard of Health and Rehabilitation

Discriminatory practices threaten physical and mental health and deny people access to care, and appropriate therapies or relegate them to inferior care; in extreme circumstances, devaluing them as human beings.



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Part A: Group Discussion

A) In your own experience of health care and rehabilitation, what could have been improved to realize the principles of non-discrimination and equality?

THE WORLD HEALTH ORGANIZATION (WHO) STATES THAT:

...good health is a state of complete physical, social and mental well-being, and not merely the absence of disease or infirmity. Health is a resource for everyday life, not the object of living, and is a positive concept emphasizing social and personal resources as well as physical capabilities. Health is a fundamental human right, recognized in the Universal Declaration of Human Rights (1948).



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Part B: Relevant Human Rights Instruments

a) I.C.E.S.C.R.

The I.C.E.S.C.R. calls for realization of the highest standards of physical and mental health including reducing rates of infant mortality, improving working conditions, preventing and treating disease, and ensuring medical services and attention to those who require them.

Also see General Comment No. 14 (right to highest attainable standard of health).
Available from: <http://www2.ohchr.org/english/bodies/cescr/comments.htm>

b) General Comment No. 5

General Comment No. 5 interprets this right to be of particular importance to people with disabilities, especially in the context of providing babies and children with disabilities with the same level of medical care as would be provided to others. This access to equal care is also demonstrated through the right to access and benefit from the same medical services as others including such areas as orthopaedic devices, which may enable people with disabilities to be more independent and socially integrated.

c) C.R.P.D.

The C.R.P.D. identifies the role that health plays in the enjoyment of rights. States are required, through this convention, to ensure access to free or affordable health services for people with disabilities. Services need to be provided within the community, urban or rural, in a timely fashion.

6) Right to Guardianship, Wardship, Trusteeship and Adoption of Children

Though this is often viewed as a civil or political right, in many cases the right to guardianship, wardship, trusteeship and adoption of children can also be included as a social right because people with disabilities are often denied equal rights to form a family and care for children.

EXAMPLE OF RIGHTS IN ACTION

Katie and her husband Lee are both individuals with disabilities. They have been married for four years and live in their own apartment. Both Katie and Lee require assistance with some of the tasks of daily living and with support from both family and government subsidized services the couple is able to live independently and are preparing to have a child.

Part A: Group Discussion

A) How might people with disabilities experience access to family and family life differently than people without disabilities? In what ways would the experiences be similar?

Part B: Relevant Human Rights Instruments

a) I.C.E.S.C.R.

While there is no specific article in the I.C.E.S.C.R. addressing rights to guardianship, wardship, trusteeship and adoption of children, in Article 10(1) State parties recognize that:

“The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children...”

b) General Comment No. 5

General Comment No. 5 recognizes that the rights of people with disabilities to marry and have their own families are frequently ignored or denied. It also notes that women with disabilities have the same rights to protection and support in relation to motherhood and pregnancy as women without disabilities and that this right must be upheld. (para. 31)

c) Standard Rules

Rule 9 of the *Standard Rules* elaborates on the issue of family life for persons with disabilities, calling on states to “ensure that laws do not discriminate against persons with disabilities with respect to sexual relationships, marriage and parenthood”. (p.38)

d) C.R.P.D.

The C.R.P.D. recognizes the importance of state-based enforcement of rights relating to people with disabilities in the area of home and family. Marriage, family, parenthood and relationships are identified as requiring protection. This protection also applies to decisions regarding family planning, guardianship, wardship, trusteeship, and adoption.

Activity: Social Rights

In small groups, read the cases below and answer the questions based on what you have learned so far:

Description of Case #1: Eve (Mrs) v. Eve

"Mrs. E." applied to the Supreme Court of Prince Edward Island for permission to give consent to the sterilization of "Eve", her adult daughter who had an intellectual disability and had a condition that made it difficult for her to communicate with others. Mrs. E. feared Eve might become pregnant without understanding the consequences of her sexual behaviour or what having a baby might mean. Mrs. E., who was widowed and approaching sixty, argued that she did not want to assume the parenting and child care responsibility for her grandchild.

Source: <http://scc.lexum.umontreal.ca/en/1986/1986rcs2-388/1986rcs2-388.html>

Questions

In this case:

A) What are the human rights issues in this case?

B) What does this case say about whether persons with disabilities enjoy equal rights?

C) Whose responsibility is it to uphold the rights of persons with disabilities?

Description of Case #2: Eaton v. Brant County Board of Education

In 1997 the Supreme Court ruled that the Brant County Board of Education had not violated Section 15 when they placed Emily Eaton, a child with an intellectual disability, in a special education class. Although Emily had been taught in a regular classroom for three years, the Board decided a segregated education would be more suitable for her. The Court, while stating that inclusion should be the normal practice, accepted segregation as a way to accommodate a child with an intellectual disability. It was stated “In some cases, special education is a necessary adaptation of the mainstream world which enables some disabled pupils access to the learning environment they need in order to have an equal opportunity in education.”

Source: http://www.communityinclusion.ca/site/Community_Inclusion_21/pdf/supremeCourt_newsletter.pdf

Questions:

A) What are the human rights issues in this case?

B) What rights could be used to fight this decision?

C) Whose responsibility is it to uphold the rights of people with disabilities?

Notes

Section 3.3 – Economic Rights

Facilitator Information

Introduction to Economic Rights

- Introduce Economic Rights. Describe to participants that each right will be discussed in detail, in the same way as was done with Social Rights

Quick Guide: Economic Rights (10 minutes)

- Review the Economic Rights Quick Guide

Understanding Specific Economic Rights (40 minutes)

- Review each specific right asking some of the group discussion using the questions provided as time permits (20 minutes)
- Following the discussion question are the applicable human rights instruments (I.C.E.S.C.R., General Comment No. 5, C.R.P.D.) which support each right. (20 minutes)

Economic Rights Activity (30 minutes)

- With the whole group, review the chart outlining the ways in which people with disabilities are affected by economic factors
- Break participants into small groups and ask them to complete the chart on the next pages, reporting back on their findings

Participant Overview

3.3 – Economic Rights

Objectives

This section will explore in greater depth Economic Rights in the lives of people with disabilities with specific reference to the International Covenant of Economic, Social and Cultural Rights (I.C.E.S.C.R.), General Comment No. 5 of the U.N. Committee on Economic, Social and Cultural Rights and the Convention on the Rights of People with Disabilities (C.R.P.D.).

Description

The previous section provided a general background of the importance of Social Rights in the lives of people with disabilities. This section will look more closely at the role of Economic Rights and the particular rights that can be identified under this category.

- Introduction to Economic Rights
- Economic Rights Quick Guide
- Understanding Specific Economic Rights
- Economic Rights Activity

Time: 80 minutes

Introduction to Economic Rights

Economic rights are connected with both social and cultural rights, but they refer particularly to rights concerning the locations and opportunities for people to earn income and/or have property under fair and just conditions. These rights affect whether people with disabilities are fully included in society.

Specific Economic Rights include:

- Right to earn a livelihood in fair and just conditions
- Right to own, possess and manage property
- Right to social security
- Right to access technical and vocational training programs

These rights will be discussed below:

Group Discussion

A) What is the most important thing for you to do with your money (e.g. buy food, collect savings, pay bills)?

B) How important is having a job or access to social assistance? Do you think these are two separate issues or part of the same issue?

C) Do you think that people with disabilities face difficulties when moving to a different province/territory? What human rights principle might this fall under?



Quick Guide: Economic Rights

Right	Included in Right:	Disability Specific Issues	Applicable Human Rights Instruments
Right to earn a livelihood in fair and just conditions	<ul style="list-style-type: none">• Right to freely chosen work• Right to enjoyment of favourable conditions of work• Right to form and join trade unions• Ability to live and work in the community• Prohibition of discrimination in employment	<ul style="list-style-type: none">• Is this right included in sheltered employment or inclusive, integrated employment?• How can choice be determined?• What are the parameters around training & work?	<p>I.C.E.S.C.R. (article 6, 7, 8)</p> <p>ComESCR General Comment No 5 and 18</p> <p>C.R.P.D. (article 27)</p> <p>International Labour Organization (Convention 159, 99)</p> <p>Standard Rules 7 & 8</p>
Right to own, possess and manage property	<ul style="list-style-type: none">• Right to freely dispose of natural wealth and resources• Own property either alone or with others	<ul style="list-style-type: none">• Who provides choice and autonomy?• Who has control over wealth?	<p>Universal Declaration of Human Rights</p>

Right	Included in Right:	Disability Specific Issues	Applicable Human Rights Instruments
Right to Social Security and Social Assistance	<ul style="list-style-type: none"> • Adequate income based on temporary loss, reduction or denial of income based on disability • Support of assistants, predominantly female who care for people with disabilities • Recognition that institutionalization is not an adequate substitute for social security 	<ul style="list-style-type: none"> • What is the role of adequate financial support? • Does institutional care/group homes/nursing homes provide security? • What kinds of increased expenses often associated with disability? • What is the role of individuals who care for people with disabilities? 	<p>I.C.E.S.C.R. (article 9) General Comment No 5 and 19</p> <p>C.R.P.D. (article 28)</p> <p>Standard Rule #8, #24</p>
Right to access technical and vocational training programs	<ul style="list-style-type: none"> • Removal of artificial barriers • Technical and vocational guidance and training programs • Reasonable accommodation 	<ul style="list-style-type: none"> • What kinds of barriers to employment exist through restricted access? • What kinds of training are being provided, inclusive or segregated? 	<p>I.C.E.S.C.R. (article 6) General Comment No 5 and 13</p> <p>C.R.P.D. (article 27)</p>

Understanding Specific Economic Rights

1) Right to earn a livelihood in fair and just conditions

This right is connected with many factors including poverty, (which contributes to conditions such as malnutrition, unhealthy living environments, and participation in dangerous work, increased stress levels and is often connected with disability), the location where individuals are working (in the open labour market or in sheltered workshops), the availability and accessibility of trade unions and the role of accessibility of work environments are also relevant. (Mohit, Pillai, Rungta, National Human Rights Commission, India: Rights of the Disabled)

Part A: Group Discussion

A) What are some of the barriers faced by people with disabilities when trying to earn a livelihood?

Part B: Relevant Human Rights Instruments

a) I.C.E.S.C.R.

The I.C.E.S.C.R. outlines the important recognition of the right to work in freely chosen occupations, and the enjoyment of just and favourable working conditions which includes:

- Fair wages
- Equal pay for equal work
- The provision of a decent living standard
- Safe and healthy working conditions
- Equal opportunity for everyone to be promoted
- Adequate rest and leisure and limited working hours
- The right to form and join trade unions and to strike

b) General Comment No. 5

General Comment No. 5 shows employment as an area where people with disabilities have often faced discrimination. Unemployment rates are 2 to 3 times higher in this population than unemployment rates for people without disabilities. When people with disabilities are employed, this is often in low-paid positions with limited or no benefits or security, or in segregated situations.

Also see General Comment No. 18 (right to work). Available from:
<http://www2.ohchr.org/english/bodies/cescr/comments.htm>

c) C.R.P.D.

Article 27 of the C.R.P.D. upholds the right to work and to employment. The right to employment includes the opportunity to find work in an open, inclusive and accessible environment. The role of the State in protecting this right includes:

- Prohibiting discrimination
- Equal opportunities across sectors (private, public, self-employment)
- Equal pay for equal work
- Safe and healthy working conditions
- Promotion of activities towards open market labour force participation (work-experience, retention and return-to-work programs, appropriate accommodation)

EXAMPLE OF RIGHTS IN ACTION

Reuben has been living in a community home for most of his adult life. Reuben has a steady job and has money in his savings account. With the help of a community-based organization which helped him with the support and the financing that he will need, he will be able to purchase an apartment which he will share with a roommate to cover costs.

EXAMPLE OF RIGHTS IN ACTION: IMPORTANT EMPLOYMENT FACTORS TO CONSIDER

Sheltered facilities or employment in confined occupations are not considered to be meeting the standards of freely chosen work. Forced or exploitative work in institutions also goes against the guideline of the Covenant.

Workers with disabilities cannot not be discriminated against in terms of **wages or working conditions** if their work is of equal worth to that of workers without disabilities (General Comment No. 5, para 25).

Trade unions apply equally to workers with disabilities regardless of whether their employment is in special facilities or in the open market. Article 8 also determines the right of people with disabilities to form their own organizations to promote the protection of social and economic interests (General Comment No. 5, para 26).

Widespread accessibility to employment increases the likelihood of finding suitable, integrated employment. Accessibility can include housing, accessible workplaces, flexible and alternative work arrangements and education and vocational training (General Comment No. 5, para 22 re: Standard Rules). Transportation is also an important issue in the ability to seek and maintain meaningful employment and to have equal opportunities, in either rural or urban areas.



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2) Right to own, possess and manage property

Part A: Group Discussion

- A) Why is the right to own, possess and manage property important for people with disabilities? What are some of the barriers people with disabilities face when trying to realize this right?

Part B: Relevant Human Rights Instruments

a) General Comment No. 5

The right to own, possess and manage property is not specifically identified within this Comment but has been identified as an important part of human rights, leading to the enjoyment of rights and upholding obligations of non-discrimination. This includes the role

of the State to “respect the free use of resources owned by, or at the disposal of the individual, alone or in any form of association with others, including the household, joint partnership or community for the purpose of rights related needs (Rungta, 119, 2005).

This standard is reflective of the right put forth by the Universal Declaration of Human Rights stating:

- *Everyone has the right to own property alone as well as in association with others.*
- *No one shall be arbitrarily deprived of his property.*



3) Right to social security

Part A: Group Discussion

Social security can be seen as an important way used to ensure adequate income, and to uphold adequate standards of living for people with disabilities and their care givers.

A) What types of things can make a person with disabilities have a low standard of living?

Part B: Relevant Human Rights Instruments

a) I.C.E.S.C.R.

This right is recognized by the role of the state in providing protection and assistance through social security and insurance.

b) General Comment No. 5

The Covenant recognizes the ability to maintain income and social security is of paramount importance for people with disabilities. This is pointed out in Standard Rule #24, to be especially applicable based on the temporary loss or reduction in income, or denial of employment based on disability. Social security covers areas such as assistance and other disability associated needs including the support of individuals caring for people with disabilities. Institutions, importantly, cannot be substituted for social security and income support rights unless necessary for other reasons.

In addition to this, Standard Rule #8 says that states should ensure that general social welfare schemes do not exclude or discriminate against persons with disabilities and that social security systems should include incentives to restore income-earning capacities and

provide or support vocational training and placement services and incentives to seek employment.

Also see General Comment No. 19 (right to social security). Available from:
<http://www2.ohchr.org/english/bodies/cescr/comments.htm>

c) C.R.P.D.

The role of the State to provide and protect the right to an adequate standard of living also reflects the right to social security. That protection includes equal access by persons with disabilities to retirement benefits and more generally to poverty reduction programmes.

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4) Right to access technical and vocational training programs

Part A: Group Discussion

A) In your life, or the lives of your friends and family with disabilities have you tried to enrol in technical or vocational education? What kinds of barriers did you face?

Part B: Relevant Human Rights Instruments

a) I.C.E.S.C.R.

Within the context of the right to work, the Covenant recognizes the role of technical and vocational guidance in the achievement of productive employment leading to economic and political freedom.

Also see General Comment No. 13 (para 15-16) (right to education). Available from:
<http://www2.ohchr.org/english/bodies/cescr/comments.htm>

b) General Comment No. 5

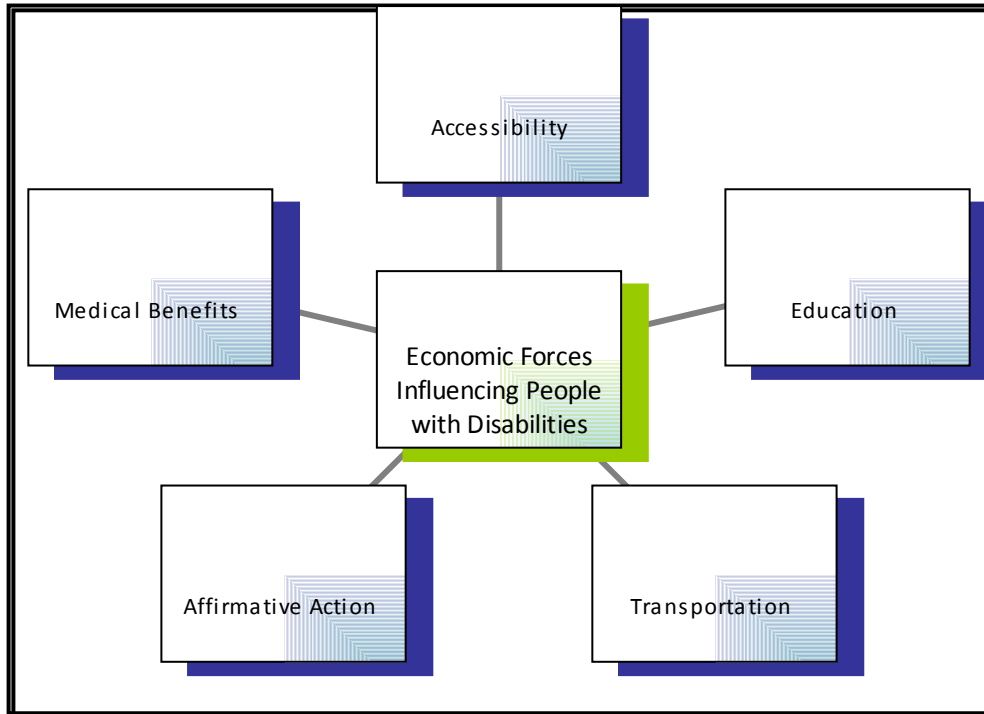
Consistent with the right to education and to an adequate standard of living, the right to access technical and vocational training programs is also described in an integrated context, with the participation of disabled persons in both the planning and implementation of such training.

c) C.R.P.D.

Included in the right to education is the protected assurance of the right to access general technical and vocational guidance programmes, placement services and vocational and continuing training.

Activity: Economic Rights

Organize into small groups. Using the examples below complete the chart on the next page with your group identifying how people with disabilities are affected by economic factors and rights.



Factors influencing economic participation	How do these factors affect people with disabilities individually?	What are some of the bigger systemic issues addressed through the protection of economic participation?
Accessible Education	Example: People with disabilities remain twice as likely to drop out of high school. Lack of education makes it more difficult to participate in the open labour market.	Example: There is an increasing need for experience and credentials in the workplace which requires higher levels of education. Lack of education may result in unemployment which leads to poverty, creating low standard of living and lack of confidence. Protecting the right to accessible education increases the ability of people with disabilities to take part in the credential based workforce.
Accessible Workplaces	Example: Inaccessible locations create barriers limiting the availability of jobs for people with physical disabilities.	
Medical Benefits and Access to Healthcare		

Factors influencing economic participation	How do these factors affect people with disabilities individually?	What are some of the bigger systemic issues addressed through the protection of economic participation?
Public Transportation		
Affirmative Action		
What Else?		

Notes

Section 3.4 – Cultural Rights

Facilitator Information

Introduction to Cultural Rights

- Introduce Cultural Rights

Quick Guide: Cultural Rights (10 minutes)

- Review Cultural Rights Quick Guide

Understanding Specific Cultural Rights (40 minutes)

- Review each specific right asking some of the group discussion questions provided, as time permits (20 minutes)
- Following the discussion questions are the applicable human rights instruments (I.C.E.S.C.R., General Comment No. 5, C.R.P.D.) which support each right. (20 minutes)

Cultural Rights Activity (30 minutes)

- Using the questions provided, facilitate a group discussion on the presentation of people with disabilities by media.
- Ask participants to independently complete the questions about the role of people with disabilities in media.

Participant Overview

3.4 – Cultural Rights

Objectives

This section will explore in greater depth Cultural Rights in the lives of disabled persons with specific reference to the International Covenant of Economic, Social and Cultural Rights (I.C.E.S.C.R.), General Comment No. 5 of the U.N. Committee on Economic, Social and Cultural Rights and the Convention on the Rights of People with Disabilities (C.R.P.D.).

Description

After having gone over both social and economic rights, we now look more closely at the role of Cultural Rights and the particular rights that can be identified under this category.

- Introduction to Cultural Rights
- Understandings of Culture
- Cultural Rights Quick Guide
- Understanding Specific Cultural Rights
- Cultural Rights Activity

Time: 80 minutes

Introduction to Cultural Rights

While culture has a variety of meanings, cultural rights generally refer to rights to take part in cultural life and to freely exercise cultural customs and beliefs.

EXAMPLE OF RIGHTS IN ACTION

Kevin is a middle-aged man who enjoys reading fiction. He has developed a visual impairment over the course of his adult life. Kevin can read Braille, though he finds it slow and prefers to use auditory materials. Kevin's local library carries up-to-date audio books along with the text versions.

Specific Cultural Rights include:

- Access to places of education, sports and culture and participation in culture
- Linguistic rights
- Access to media, telecom and broadcasting and promotion of a positive image
- To enjoy the benefits of scientific progress and its applications

Each of these will be discussed below:

Group Discussion: Understandings of Culture

A) What does the word culture mean to you?

B) In what ways do you think people with disabilities have created a group/cultural identity?

C) Based on your experience or the experiences of people you know with disabilities why do you think cultural representations (i.e. art, music, literature) are important in the pursuit of disability identity and autonomy? Why or why not?



Quick Guide: Cultural Rights

Right	Included in Right:	Disability Specific Issues	Applicable Human Rights Instruments
Right to Participate in Culture	<ul style="list-style-type: none"> • Right to take part in cultural life including using creative, artistic and intellectual potential • Elimination of communication barriers • Government to inform the general public about disability to dispel prejudice or superstitious beliefs • Education of general public of right to use restaurants, hotels, recreation centres and cultural venues 	<ul style="list-style-type: none"> • What ways can be used to make art accessible? • How is disability pride and culture created? • How important is integrating sport or disabled sport? Special Olympics? • What is the difference between disability art and art created by people with disabilities? 	<p>I.C.E.S.C.R. (Article 15)</p> <p>General Comment No 5 and 21</p> <p>C.R.P.D. (Article 29,30)</p> <p>C.E.D.A.W. (Article 13 (c))</p> <p>C.R.C. (Article 31)</p> <p>Standard Rules (#10-cultural life, #11-sports and recreation)</p>

Right	Included in Right:	Disability Specific Issues	Applicable Human Rights Instruments
Language Rights	<ul style="list-style-type: none"> • Uphold right of minority groups to enjoy own culture, practice own religion, and use own language • Expression of cultural and linguistic identity • Freedom of expression in own language, including sign language • Promoting access to alternative communication and availability of information in accessible formats 	<ul style="list-style-type: none"> • In what ways do alternate forms of communication uphold language rights? • How does Deafness as culture represent cultural and linguistic identity? 	<p>C.R.P.D. (Article 30)</p> <p>I.C.C.P.R. (Article 27)</p> <p>Standard Rules (#5)</p>

Right	Included in Right:	Disability Specific Issues	Applicable Human Rights Instruments
Right to access media/ broadcasting & promotion of a positive image	<ul style="list-style-type: none"> • States should encourage the media to make services accessible to people with disabilities • Ensure developments in information technology address needs of people with disabilities 	<ul style="list-style-type: none"> • How common are negative images of disability? Positive images? • What kinds of stories are presented about people with disabilities? • What is the “rights” image? • In what ways have charity campaigns/fundraising been influential in creating images of people with disabilities? 	C.R.P.D. (Article 30) Standard Rules (#5)
Right to enjoy benefit of scientific progress	<ul style="list-style-type: none"> • The elimination of communication barriers • Education of the general public about disability and accessibility 	<ul style="list-style-type: none"> • In what ways can people with disabilities benefit from scientific progress? • How do rights promote equal access to scientific developments? • What is the role of communication technology? • How has adapted entertainment increased inclusion and participation? 	I.C.E.S.C.R. (Article 15) General Comment No. 5 C.R.P.D. (Article 21, 30)

Understanding Specific Cultural Rights

1) Right to Participate in Culture

Part A: Group Discussion

A) In your experience or the experiences of people you know, how are people with disabilities included in culture?

B) In what ways are people with disabilities excluded from culture?

C) How do people with disabilities express their own culture in creative and artistic ways?

D) In what ways have sport and recreation contributed to cultural life? In what ways might this be important in the development of disability culture?

Part B: Relevant Human Rights Instruments

a) I.C.E.S.C.R.

This article recognizes the rights of every individual to participate in cultural life.

b) General Comment No. 5

The comment discusses the necessity of an assurance for people with disabilities to have the opportunity to use their creative, artistic and intellectual potential, for the benefit of their own lives and that of the community. Included in this discussion is accessibility to cultural performances, services, and places of recreation, sports and tourism.

Access to cultural materials includes:

- Talking books
- Papers written in simple language with clear format and colours
- Adapted television and theatre

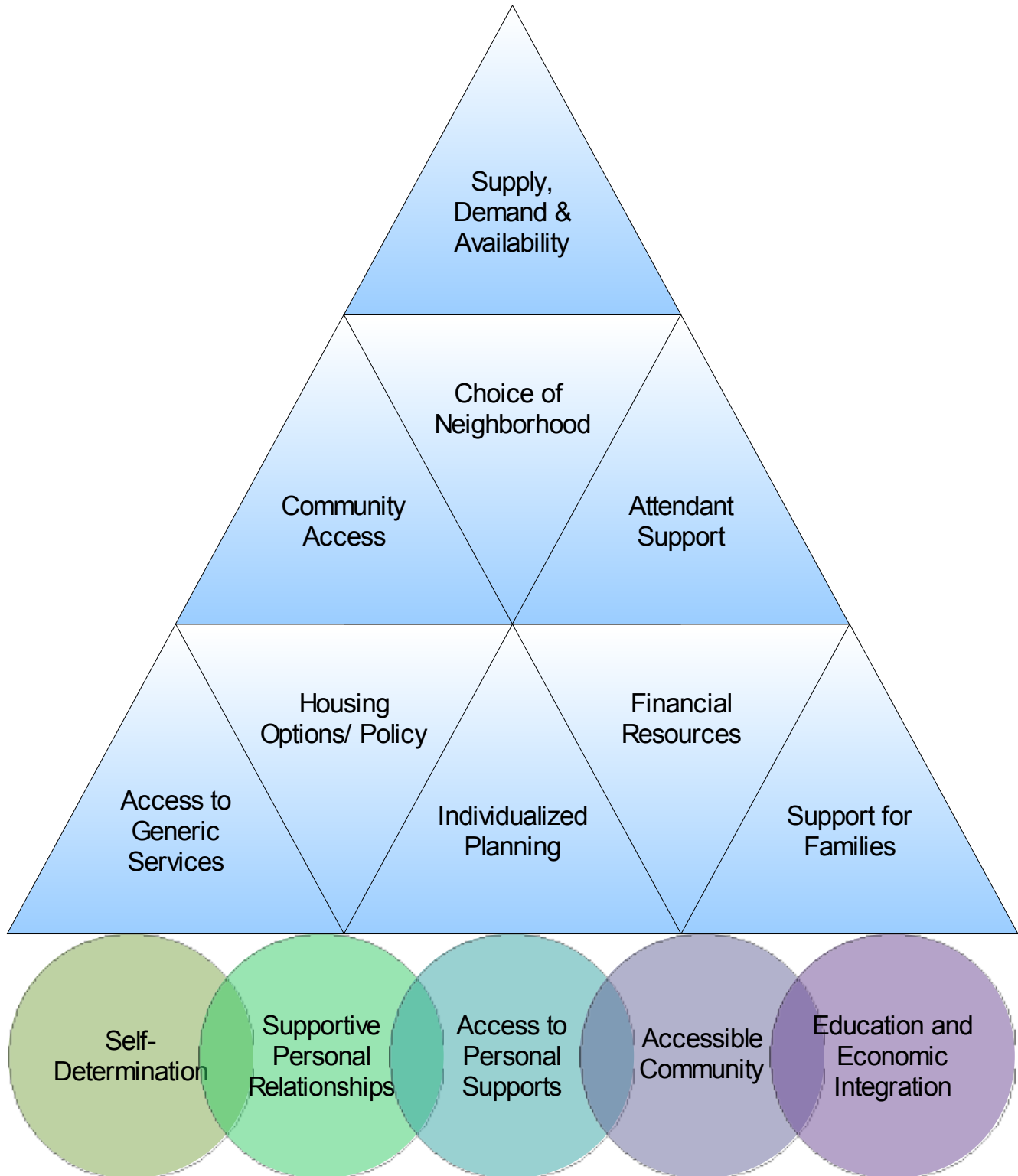
Educating the general public about disability, prejudice and superstition and the fact that people with disabilities have the same rights as others in terms of the use of restaurants, hotels, recreation centres and cultural venues is also discussed as an important component of cultural participation. (Quinn & Bruce).

Also see General Comment No. 21 (right to take part in cultural life). Available from:
<http://www2.ohchr.org/english/bodies/cescr/comments.htm>

c) C.R.P.D.

The C.R.P.D. upholds the rights of people with disabilities both to participate in political and public life and to participate in cultural life, recreation, leisure and sport. This participation includes the State enforcing the ability to vote, hold office, to promote the inclusion of people with disabilities to participate in non-governmental organizations concerned with political and public life, and to form and join organizations of people with disabilities. Participation in cultural life includes accessibility for people with disabilities in areas including sporting and recreational activities, as well as the opportunity to develop creative, artistic and intellectual potential.

Elements Essential to Community Inclusion



2) Linguistic Rights

Part A: Group Discussion

Language is an important element of the right to culture.

- A) List an example from your life where you have been excluded from participating by others because they didn't understand your language.

- B) How could this exclusion have been lessened or avoided?

Part B: Relevant Human Rights Instruments

a) I.C.E.S.C.R., General Comment No. 21 and I.C.C.P.R.

While linguistic rights are not mentioned in the I.C.E.S.C.R., Article 27 of the International Covenant on Civil and Political Rights states that: where ethnic, religious or linguistic minorities exist, “persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language”. General Comment No. 21 of the U.N. Committee on Economic, Social and Cultural Rights also points out the importance of decisions “whether or not to exercise the right to take part in cultural life individually, or in association with others” as “... a cultural choice and, as such, should be recognized, respected and protected on the basis of equality” (para 7).

This is particularly relevant to people with disabilities who have developed a specific cultural and linguistic identity. Freedom to express oneself in one's own language or communication system is a linguistic right. Protection and promotion of linguistic rights involves promoting this freedom, promoting access to different forms of alternative communication, and promoting the availability of information in accessible formats.

b) Standard Rules

Rule 5 of the Standard Rules addresses accessibility of information and communication, with specific reference to information in various alternative formats. Rule 5 also calls for the consideration of the use of sign language in the education of deaf children and the availability of sign language interpretation.

c) C.R.P.D.

The C.R.P.D. points to the obligation of the State to take all appropriate measures to ensure that cultural materials are in accessible formats. For people with disabilities, the recognition and support of specific cultural and linguistic identities is put forth as an important area of rights to be upheld.



3) Right to access media and broadcasting *and promotion of a positive image*

Part A: Group Discussion

Access to media, telecom and broadcasting is essential to promote the broader social awareness and acceptance of disability which is needed to achieve equality opportunities for people with disabilities. In many societies, attitudes are closely linked to popular media and culture. Access to media and broadcasting increases the visibility of persons with disabilities in popular media and promotes a positive image.

A) Where have you seen people with disabilities in the media (news, TV, blogs, movies, etc.)?

B) Why do you think that it is important to have people with disabilities working in media?

Part B: Relevant Human Rights Instruments

a) C.R.P.D.

Under the right to participation in cultural life, the C.R.P.D. identifies the role of government in ensuring access to media, including television, film, theatre and other cultural activities, in accessible formats. This also includes cultural performances, tourism, and sites of national cultural importance.

b) Standard Rules

Rule 5 of the *Standard Rules* calls on States to “encourage the media, especially television, radio and newspapers, to make their services accessible” to persons with disabilities. Quinn and Degener note the importance of the right to culture in enabling persons with disabilities “to influence the way in which they are portrayed”. (p. 110).

Computer and information technologies are an important media for persons with disabilities. Access to computer technology has significantly increased the social integration of many persons with disabilities. On the international level, the World Summit on the Information Society has recognized the need to ensure that developments in information technology address the needs of persons with disabilities.

EXAMPLE OF RIGHTS IN ACTION

Jin Hee is an actress and enjoys performing with a disability theatre group. This performance group, which used to perform mainly for other people with disabilities, is now gaining popularity in the wider community as both an artistic and political venture.

Activity: Cultural Rights

Part A: General Overview

People with disabilities have often been presented in a negative light in the media, highlighting negative stereotypes based on deficits rather than focusing on what a person is able to do.

A) When you see people with disabilities on the news, what kind of stories do you see?

B) What do you think of media coverage of the Para-Olympics? What about the Special Olympics (for persons with intellectual disabilities)? Has there been a change in media coverage over time? Why or why not?

Part B: Individual Activity

1. Think of a popular film or a television show that you have watched that has portrayed a character with a disability and answer the questions below:

Name of the film or television show: _____

Name of the character: _____

A) Is the character depicted as a stereotype or does he or she have a fully developed character?

Notes

Module 4: Human Rights Monitoring

Facilitator Overview

Introduction

This module explores what is meant by disability rights monitoring and how understanding and collecting information about how well disability rights are being realized can achieve a better life for people with disabilities.

Description

- 4.1 Defining Monitoring
Go over the definition of human rights monitoring and discuss with the group why it is important to monitor. **(10 min)**
- 4.2 Focus Areas for Disability Rights Monitoring
Review the different types of monitoring and ask participants to create a role play showing how monitoring might take place in a real situation. Discuss as a group the importance of each category. **(30 min)**
- 4.3 Important Goals for Human Rights Monitoring
Review with participants the goals of human rights monitoring and the ways in which each goal relates to the economic, social and cultural rights of people with disabilities. **(10 min)**
- 4.4 Holistic Approach
Using the information provided, discuss with the group the role of a holistic approach to disability rights monitoring. **(10 min)**

Time: 60 minutes



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Participant Overview

Module 4: Human Rights Monitoring

Objectives

This module explores what is meant by disability rights monitoring and how understanding disability rights can be used to achieve a better life for people with disabilities.

Description

So far, the training has explored the meaning of rights and the ways in which rights can be applied. This part of the training will look at the ways in which rights can be monitored to ensure that they are being implemented.

- 4.1 Defining Human Rights Monitoring **(10 minutes)**
- 4.2 Focus Areas for Disability Rights Monitoring **(30 minutes)**
 - Monitoring Activity
- 4.3 Important Goals for Human Rights Monitoring **(10 minutes)**
- 4.4 Holistic Approach **(10 minutes)**

Time: 60 minutes



Section 4.1 – Defining Monitoring

“Monitoring” has been described as “the active collection, verification, and immediate use of information to address human rights problems. Human rights monitoring includes gathering information about incidents, observing events, visiting sites and holding discussions with government authorities to obtain information and to pursue remedies.”

In other words, “monitoring” is:

- Finding out what is going on
- Fact-finding
- Asking questions
- Collecting information
- Using indicators to measure progress (An indicator can be qualitative or quantitative in nature; providing specific information on an event, activity or an outcome)
- Measuring progress toward justice for people with disabilities
- Identifying violations
- Obligations

Section 4.2 – Focus Areas for Disability Rights Monitoring

When collecting information about disability rights, there are three important sources of information:

- a) Individual Experiences of Persons with Disabilities
- b) Systemic Measures (Laws, Policies and Programs)
- c) Societal Attitudes about Disability (as depicted through the media)

a) Individual Experiences

Life experiences shared by people with disabilities regarding the barriers and challenges they have faced, experiences when they have been left out, treated badly or prevented from participating because of their disability, provide information about the actual human rights situation faced by people with disabilities. Quite often, people with disabilities do not see the point in reporting mistreatment or they fear further abuse as a result of reporting. Documenting and reporting individual cases of ill-treatment in both public and private spheres is important in raising awareness and in getting support to make change. It also makes it difficult for governments to inaccurately claim that citizens' rights are being respected.

There are many reasons why it is important to collect information about life stories and experiences of people with disabilities including:

- To raise awareness of how the rights of people with disabilities are denied
- To translate rights guarantees on paper into reality
- To expose instances and patterns of human rights violations
- To ensure that governments and other authorities are doing their job to protect, promote and fulfill human rights
- To guide public policy in promoting and protecting human rights
- To prevent violations of human rights

Human rights monitoring can uncover a country's failures but it can also highlight situations in which governments are doing a good job to promote, protect and fulfill human rights obligations. Disability rights monitoring can be a benchmark for measuring governments' progress in making the lives of people with disabilities better. We can learn a lot from both the bad examples and the good ones and this information can be shared across countries.

b) Systems Measures (Laws, Policies and Programs)

Laws and policies must be reviewed and compared to U.N. and regional standards to see whether they meet the country's obligations to respect, protect and promote human rights and to progressively implement those rights. While laws and policies may protect human rights, they may also be used in ways that create inequality and actually violate the human rights of persons with disabilities. It is important to review how laws are implemented in order to accurately assess their impact on the enjoyment of rights.

Legal cases and decisions are sometimes just as important as the written laws of a country when protecting and promoting human rights. A law can say one thing but be interpreted by courts and tribunals in a different way, leading to significant impacts on individual and group enjoyment of human rights.

Government programs, services and practices often have the greatest impact on the daily lives of persons with disabilities. Addressing the ways that government makes budgetary decisions around disability as well as documenting programs, services and practices that violate human rights – either directly or indirectly – provides evidence needed for change.

c) Societal Attitudes

Negative societal attitudes toward disability and persons with disabilities can significantly impact the enjoyment of rights. The media both reflects and plays a very important role in influencing public opinion. It has a tremendous impact on how people around the world think about persons with disabilities and disability issues in general. Disability imagery and coverage is tracked in print, broadcast and internet-based media to learn about societal attitudes about disability and people with disabilities. This information can be used to put individual human rights experiences and systemic measures in context and determine the efforts that should be made to combat negative stereotypes.

Activity: Role Play

Divide into 3 small groups, with each group focusing on one of the 3 sources of disability rights monitoring information:

- Individual Experiences
- Systemic Measures
- Societal Attitudes

Over 20 minutes, each group will prepare a role play based on the source of monitoring information chosen. The role play should try to demonstrate an effective way to monitor the human rights of people with disabilities. Some examples are provided below.

Area	Possible Roles to play	Possible Outcomes?
Individual Experience	You are a group responsible for interviewing people with disabilities about their experiences in Toronto. What kinds of questions would you ask? What information might be important to gather?	
Systemic (law, policy, court cases, government services)	You are an advocacy group creating a report for your provincial government about the role of social assistance for people with disabilities. What kind of information do you want to collect? How is understanding social policy important to rights monitoring?	
Societal Attitudes	You are researchers planning a research project about the portrayal of disability in the newspaper. What kind of information do you want to collect? Why is the newspaper an important source of information?	

Section 4.3 – Important Goals of Human Rights Monitoring

- 1) A sustainable human rights framework recognizes that:
 - disability is a result of social, legal and economic status
 - a broad set of factors contribute to exclusion and loss of human rights
 - respect for diversity contributes to well-being
 - people must be supported to exercise their rights
 - people need a sense of fairness in their communities and societies
- 2) There is a need to politicize disability by:
 - rejecting the assumption that an individual has to conform
 - shifting from seeing the individual as the cause of his or her place in life
 - recognizing the part played by social, economic and political structures
 - acknowledging ways that people are included and excluded by society
 - critically analyzing the wealth and power structures in society
 - opposing unjust distributions of wealth and power
- 3) The realization that rights (not the provision of services) must be the goal of policy and practice:
 - building inclusion into the design of services, supports, programs and funding allocations
 - recognizing that services, supports, programs and funding allocations are not ends in themselves but are ways to achieve social & economic integration of people with disabilities and the realization of political, civil, economic, social and cultural rights.
- 4) There is a need to change the underlying beliefs about disability and rights by:
 - ensuring that “they” become part of “us”
 - recognizing and respecting people’s differences
 - seeing difference as the basis for making everything accessible

- acknowledging that citizenship means entitlement
- supporting the fundamental shift from classification, segregation, and obligation to human dignity, community, protection of rights and equality and inclusion

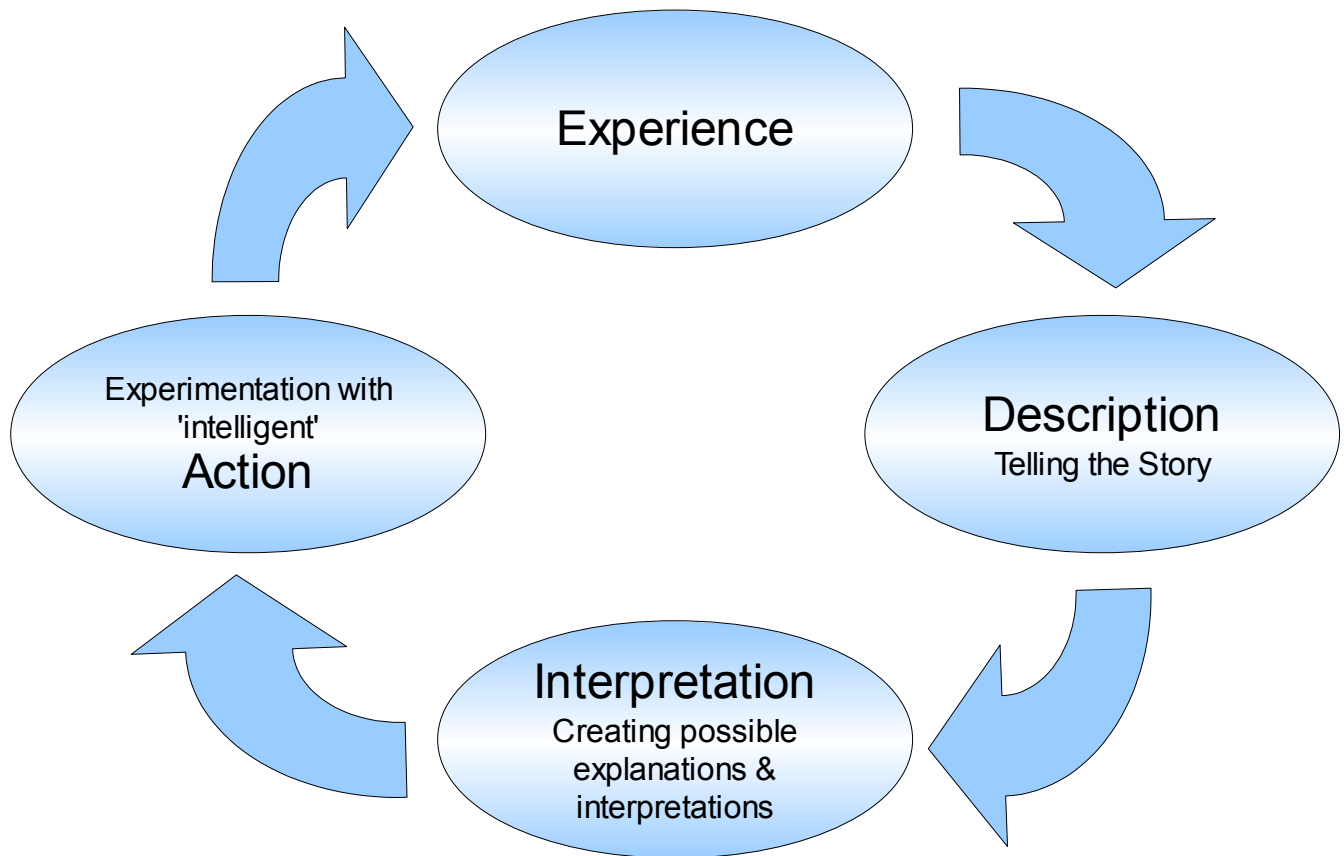
5) Changes in services and support should reflect:

- rights rather than charity
- choice rather than imposed best interests
- empowerment rather than disempowerment
- citizen participation in decision making rather than professional control
- individual need rather than “easy” labelling
- support rather than service

6) An overall inclusive framework emphasizes:

- social justice (that is, fair distribution of resources and inclusion)
- valuing diversity (recognition and respect; valuing the contributions of everyone)
- opportunities for choice
- entitlement to rights and services
- working together, using common interests as a basis for action

7) Making the Changes:



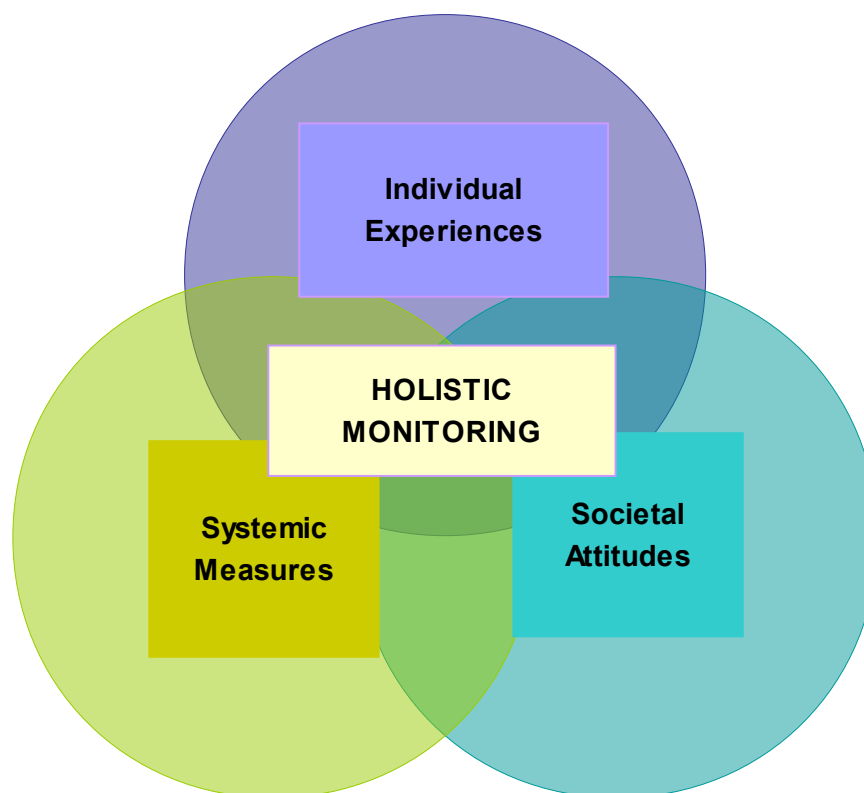
Section 4.4 – Holistic Approach to Disability Rights Monitoring

Looking at each of the sources of types of monitoring information (individual experiences, systemic measures, societal attitudes) separately, provides important information about the human rights situation of people with disabilities in a particular place. But, each each type of information independently is not enough. A holistic approach that examines each of the types of monitoring information in conjunction with the other two provides a more comprehensive understanding of human rights situations and takes advantage of how the areas overlap.

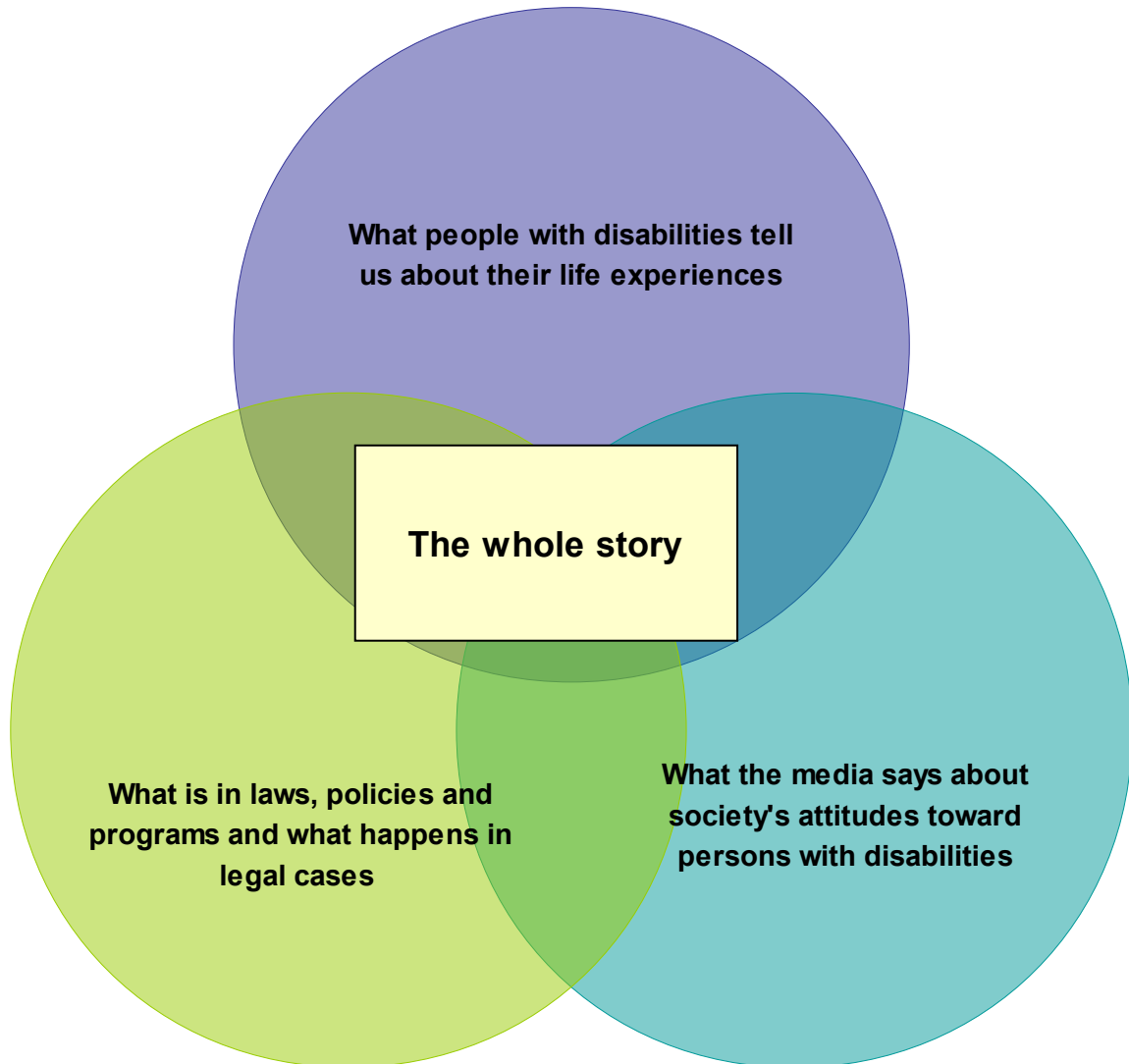
For example, individual experiences of people with disabilities can provide evidence of the failure of particular laws and policies to protect and promote human rights and may be impacted positively or negatively by media coverage of particular issues.

The three sources of monitoring information also suggest the multidimensional nature of a global disability rights monitoring project and the need to establish and promote communication networks not only geographically, but in other relevant sectors, such as universities, government and the general community.

DIAGRAM: Holistic Approach to Disability Rights Monitoring



Individually, each element tells us one piece of the story. Together, they give us the whole story.



Notes

Module 5: United Nations Human Rights Monitoring Mechanisms for Economic, Social and Cultural Rights

Facilitator Overview

Introduction

This module will familiarize participants with monitoring mechanisms at the national and international (United Nations) levels and how to use them to achieve positive change.

Description

- 5.1 Introduction to National Action **(10 min)**
 - Introduce methods of national action
- 5.2 Types of Action Available at the National Level in Canada **(20 min)**
 - Review the types of action available at the national level in Canada, discuss the highlighted cases provided as concrete examples of action. Show participants the links to provincial human rights codes.
- 5.3 Referring to International Human Rights Standards in Actions at the National Level **(10 min)**
 - Briefly describe the process of using international human rights processes in a Canadian context
- 5.4 Taking Action Internationally **(10 min)**
 - Discuss how action can be taken internationally including a discussion about the use of shadow reports
- 5.5 Final Points Regarding International Action **(10 min)**
 - Review final points

Time: 60 minutes



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Participant Overview

Module 5: National and International Monitoring Mechanisms for Economic, Social and Cultural Rights

Objectives

To become familiar with monitoring mechanisms at the national and international (United Nations) levels and how to use them to achieve positive change.

Description

Previous modules discussed international human rights standards; how to frame issues as violations of rights and how to progressively address these issues. This module will address the ways in which you can both bring attention to, and seek redress for, violations of the rights of persons with disabilities.

- 5.1 Introduction to National Action **(10 minutes)**
- 5.2 Types of Action Available at the National Level in Canada **(20 minutes)**
- 5.3 Referring to International Human Rights Standards in Actions at the National Level **(10 minutes)**
- 5.4 Taking Action Internationally (10 minutes)
- 5.5 Final Points Regarding International Action **(10 minutes)**

Time: 60 minutes

Section 5.1 – Introduction to National Action

The main goal of any action to bring attention to, or seek redress for, human rights violations is to achieve positive change in the lives of persons with disabilities. As a result, action strategies should begin at the national level, with attempts to influence the behaviour of domestic government officials and other individuals and groups with the power to influence the enjoyment of rights by people with disabilities (e.g. employers, owners of private businesses, educators, etc.).

In addition to these formal procedures, people with disabilities and their representative organizations can **lobby** national political officials to effect change.

The procedures available to bring attention to, and seek redress for, violations of human rights at the national level will vary depending on the country's legal and political system. They may include:

- courts of law
- national human rights institutions or national disability rights institutions
- other administrative tribunals

Each of these procedures will be discussed in the Canadian context in the next section.

The *Convention on the Rights of Persons with Disabilities* (C.R.P.D.) addresses the need for national implementation and monitoring of the rights of people with disabilities. Article 33 requires each member country to establish:

- Focal points within government for matters relating to implementation of the C.R.P.D. and
- A framework to promote, protect and monitor implementation of the C.R.P.D., including one or more independent procedures.

Article 33 also requires that “persons with disabilities and their representative organizations be involved and participate fully in the monitoring process.”

Section 5.2 – Types of Action Available at the National Level in Canada

The following section examines the types of action available in Canada, at the national (or domestic) level.

a) Court Cases – “Charter Challenges”

In Canada, the main way that a case regarding a violation of the rights of persons with disabilities can be launched in a court is by claiming a violation of the *Charter of Rights and Freedoms* (Charter) which forms part of the Canadian constitution. The Charter can be used, for example, to have a law that violates the rights of people with disabilities struck down or to force the government to provide compensation to an individual or group whose rights have been violated. In each case, the court hearing the case decides what is fair and appropriate.

One of the most important grounds for court challenges under the Charter is the section 15 equality provision which states:

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

The following chart outlines a number of leading cases in which the Supreme Court of Canada found violations of the section 15 guarantee. In each case, the court found both a violation of section 15 and that the violation was not saved by the Charter, section 1 provision which allows the government to argue that a given violation can be justified within “reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society”.

Case	Challenge	Discrimination Issue	Result
Eldridge v. British Columbia (Attorney General) [1997]	failure to provide sign language interpretation to hearing-impaired patients as medically required service	disability	refusal of hospitals and Commission to provide sign language interpretation where it was necessary for effective communication violated Charter, section 15 and is not saved by section 1
Miron v. Trudel [1995]	denial of accident benefits to common law spouses	marital status	marital status recognized as prohibited ground of discrimination under the Charter, section 15; found violation of section 15 that is not saved by section 1.
Canada (Attorney General) v. Hislop 2007	differential treatment in availability of Canada Pension Plan (CPP) survivor benefits to same-sex surviving spouses	sexual orientation	distinctions in legislation that restrict eligibility by same-sex spouses to access arrears of Canada Pension Plan survivor benefits violates Charter, section 15 and is not saved by section 1.

Adapted from <http://www.parl.gc.ca/information/library/PRBpubs/bp402-e.htm#section15>

NOTE

The Charter cannot be used to challenge every possible violation of disability rights. The Charter controls laws made by government (at all levels – federal, provincial, municipal) and all other actions by government officials (including for example, the police and school boards). If a private individual, organization or company violates your rights, you may have to use one of the other human rights procedures discussed below to pursue your claim.

b) National Human Rights Institutions – Federal and provincial human rights commissions/tribunals

In Canada, there are human rights institutions at both the federal and provincial/ territorial levels.

Federal Level – Canadian Human Rights Commission & Canadian Human Rights Tribunal

As noted in Module 2 (section 2.6), the *Canadian Human Rights Act* prohibits discrimination by the federal government (e.g. all federal legislation, regulations, departments, agencies and Crown corporations) and federally regulated businesses and industries (e.g. banks, national airlines, interprovincial telephone companies and interprovincial transportation companies). “Disability” is included in Article 3 as a prohibited ground of discrimination.

People who have complaints regarding violations of the *Canadian Human Rights Act* should contact the **Canadian Human Rights Commission** (<http://www.chrc-ccdp.ca/default-en.asp>). The Commission will screen the case to determine whether it should be resolved through another administrative process (see next section below), dealt with by a mediator or be further investigated.

Ultimately, the Commission may ask the **Canadian Human Rights Tribunal** (http://www.chrt-tcdp.gc.ca/index_e.asp) to hear the case and come to a determination. The Tribunal is similar to a court of law but is less formal and only hears cases related to human rights violations.

Provincial / Territorial Level

Each of Canada’s provinces and territories also have human rights codes or acts, some of which are mentioned in Module 2 (section 2.6). This legislation prohibits some types of discrimination within the relevant province or territory and establishes mechanisms to hear complaints about violations. The legislation does not cover discrimination falling under the *Canadian Human Rights Act*. Each provincial and territorial code or act and complaint resolution process is different so it is important to understand those that apply to the area where you live.

The following provides links to websites for the provincial and territorial human rights complaints mechanisms in Canada:

- **Alberta** Human Rights and Citizenship Commission (process also involves: Chief Commissioner and Panel appointed by Chief Commissioner): <http://www.albertahumanrights.ab.ca/>
- **British Columbia** Human Rights Tribunal: <http://www.bchrt.bc.ca/>
- **Manitoba** Human Rights Commission: <http://www.gov.mb.ca/hrc/>

- **New Brunswick** Human Rights Commission (process also involves: Board of Inquiry): <http://www.gnb.ca/hrc-cdp/index-e.asp>
- **Newfoundland and Labrador** Human Rights Commission (process also involves: Board of Inquiry): <http://www.justice.gov.nl.ca/hrc/>
- **Northwest Territories** Human Rights Commission (process also involves: Director of Human Rights and NWT Human Rights Adjudication Panel): <http://www.nwthumanrights.ca/>
- **Nova Scotia** Human Rights Commission (process also involves: Board of Inquiry): <http://www.gov.ns.ca/humanrights/default.htm>
- **Nunavut** Human Rights Tribunal (located in Coral Harbour, currently does not have a website)
- Human Rights Tribunal of **Ontario**: <http://www.hrto.ca/NEW/home.asp>
- **Prince Edward Island** Human Rights Commission (process also involves: Executive Director and Human Rights Panel): <http://www.gov.pe.ca/humanrights/>
- **Quebec** Commission des droits de la personne et les droits de la jeunesse (process also involves: arbitration): <http://www.cdpcj.qc.ca/en/home?noeud1=0&noeud2=0&cle=0>
- **Saskatchewan** Human Rights Commission (process also involves: Chief Commissioner and Saskatchewan Human Rights Tribunal): <http://www.shrc.gov.sk.ca/>
- **Yukon** Human Rights Commission (process also involves: Human Rights Board of Adjudication): <http://www.yhrc.yk.ca/>

c) Other Administrative Tribunals

In some cases, human rights complaints can be raised before administrative procedures other than human rights commissions and tribunals. Some examples include proceedings before a labour arbitrator (e.g. failure to accommodate a disability in the workplace) and adjudication under employment standards legislation (e.g. disability-based discrimination leading to the termination of an employee who is not in a union).

d) Lobbying Government Officials

In some cases, rather than filing a complaint about a specific human rights violation, persons with disabilities and their organizations may prefer a strategy that involves lobbying national government officials. “Lobbying” involves trying to influence the actions of public officials, especially legislators to make changes. Possible changes could include the repeal or amendment of existing legislation or the passage of new legislation.

Section 5.3 – Referring to International Human Rights Standards in Actions at the National Level

When bringing actions before courts and administrative tribunals, in addition to relying on a violation of the Charter or human rights legislation, it is important to also mention in your argument any violations of international human rights standards (treaties). While the fact that Canada has violated an international human rights treaty obligation may not be binding on the court or administrative tribunal hearing the case, they can take it into consideration. It is also important to highlight violations of international human rights law when lobbying for legislative changes. Citing a violation of international law can give added weight to your argument before adjudicators, government officials, the media and the general public. Citing alleged violations of international standards can also help to pave the road for filing an international complaint – as will be discussed below.

Some examples of cases before the Supreme Court of Canada where arguments were raised regarding violations of international human rights obligations include:

Canada (Justice) v Khadr [2008] S.C.R. 28: dealing with the right to challenge the legality of detention. Here, Canada's international obligations cited by the court included the *Geneva Conventions*.

Suresh v Canada (Minister of Citizenship and Immigration) [2002] 1 S.C.R. 3: dealing with deportation to a country where the deportee will be tortured. Here, Canada's international obligations cited by the court included the *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*, *Geneva Conventions*, *International Covenant on Civil and Political Rights* and *Universal Declaration of Human Rights*.

Section 5.4 – Taking Action Internationally

The goal of using international (United Nations) monitoring mechanisms is to influence the behaviour of governments and other actors in domestic sphere.

Possible mechanisms include:

1) Treaty Monitoring Bodies

Each of the major United Nations human rights instruments has a group of experts that has been given responsibility to oversee whether countries are meeting their human rights obligations. These groups of experts are called “treaty monitoring bodies”. The experts come from countries around the world.

The following chart shows which body monitors each international human rights instrument:

TREATY BODY		INSTRUMENT
Committee on Economic, Social and Cultural Rights	MONITORS→	I.C.E.S.C.R.
Committee on the Rights of Persons with Disabilities	MONITORS→	C.R.P.D.
Human Rights Committee	MONITORS→	I.C.C.P.R.
Committee on the Elimination of Discrimination Against Women	MONITORS→	C.E.D.A.W.
Committee on the Rights of the Child	MONITORS→	C.R.C.
Committee on the Elimination of Racial Discrimination	MONITORS→	C.E.R.D.
Committee against Torture	MONITORS→	C.A.T.
Committee on Migrant Workers	MONITORS→	C.R.M.W.

I.C.E.S.C.R. = International Covenant on Economic, Social and Cultural Rights

C.R.P.D. = Convention on the Rights of Persons with Disabilities

I.C.C.P.R. = International Covenant on Civil and Political Rights

C.E.D.A.W. = Convention against All Forms of Discrimination against Women

C.R.C. = Convention on the Rights of the Child

C.E.R.D. = Convention on the Elimination of all Forms of Racial Discrimination

C.A.T. = Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

C.R.M.W. = Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

2) Periodic State Reporting

All of the major international human rights treaties require that the countries that have ratified the instrument provide regular reports to the treaty bodies explaining the steps they have taken to make sure that people within their jurisdiction are enjoying the human rights protected by the treaty. These are called “State Reports”.

Opportunities for Action

- **Writing Shadow Reports**

Organizations of people with disabilities and other non-governmental organizations (N.G.O.s) can play an important role in the state reporting process by submitting *shadow* or *parallel reports* regarding the progress (or lack of progress) of the country whose human rights record is being reviewed. Shadow reports provide the treaty bodies with additional information that may not be mentioned in the State’s reports – including areas where the State is violating its human rights obligations. The treaty bodies can use the additional information included in the shadow reports to question and challenge claims made by states.

- **Influencing the Questions asked by the Treaty Body**

Organizations can also try to influence the questions posed by the treaty body when reviewing the State’s report, encouraging the treaty monitoring body to raise certain contentious or important issues.

- **Following-up Concluding Obligations**

After considering the State’s written and oral reports and any shadow reports that have been submitted, the treaty monitoring body writes its own report called “Concluding Observations”. The Concluding Observations talk about areas where the country should make new laws, policies or practice in order to meet its human rights obligations. People with disabilities, disability organizations and allies can use the information contained in the Concluding Observations to pressure governments to make changes.

Possible Outcomes

Generally, the State reporting process results in “naming and publicly shaming” the state being reviewed by asking the state to explain a particular action or omission during public hearings and/or mentioning particular issues in its Concluding Observations.

All reports submitted to and made by the treaty bodies are posted on the United Nations website. However, it is also important that N.G.O.s ensure that the domestic media are alerted to any criticisms made, that recommendations are mentioned in any relevant domestic litigation and are followed-up in domestic lobbying efforts.

Activity: Understanding Shadow Reports

In small groups, discuss and answer the following:

- A) Based on your own experience, what role do you think “shadow reports” put together by organizations of people with disabilities can play in realizing the human rights of persons with disabilities?

3) Complaints and Communications Mechanisms

Under all of the human rights instruments except the *Convention on the Rights of the Child*, individuals and/or groups can bring complaints to the treaty body claiming that their rights under the convention have been violated. Sometimes these complaints are called “communications”.

Opportunities for Action

Before filing a complaint, a number of conditions must be met:

- The state you are complaining about must have ratified the human rights treaty in question and also its complaints mechanism. Complaints mechanisms are sometimes found within an Optional Protocol to the treaty rather than in the main body of the treaty (e.g. the C.R.P.D., I.C.C.P.R., I.C.E.S.C.R. and C.E.D.A.W. all have Optional Protocols). Where the mechanism is in the main body of the treaty (e.g. C.A.T., C.E.R.D. and C.R.M.W.), it is necessary for the State to specifically declare its intention to be bound to the complaints mechanism when it ratifies that treaty.
- The Complainant must first “exhaust” all domestic options. This means that the complainant must first file the case at that national level (before a court or administrative tribunal as described above). The case must be heard at the national level and all possible appeals be pursued before the case can be brought before an international treaty body. Some common exceptions to this are that:
 - no remedy exists at the domestic level;
 - the remedy that exists is not effective; OR

- the case has been unreasonably prolonged at the domestic level, through no fault of the complainant
- Finally, the same matter cannot be considered by more than one international mechanism at the same time.

More information on these procedures can be found at: www.bayefsky.com

Possible Outcomes

Complainants can request that interim measures be taken pending a final decision on the merits, where such measures are necessary to ensure that irreparable harm is not done to the victim in the course of the treaty bodies' consideration of the complaint. Note that irreparable harm does not include damage which can be compensated by a financial award.

Upon determination that a violation has taken place (in an 'Opinion'), the treaty monitoring body may recommend that the State Party take remedial action. Such action frequently takes the form of financial compensation. The treaty body may also recommend release, investigation, re-trial, commutation of a death sentence, etc. The State has a moral obligation to implement the decision but they are not legally bound to do so. This means that the implementation of the treaty body's decision is at the State's discretion. As a result, it is important for N.G.O.s to widely publicize treaty body findings of violations and award of remedies at the national level, using these international results to pressure for domestic change. When writing shadow reports, N.G.O.s should also provide information to the relevant treaty-monitoring body on cases in which its Opinions have not been given effect by the state.

4) General Comments / Recommendations

All of the treaty monitoring bodies also write General Comments or Recommendations. These documents explain what the rights set out in the human rights instrument monitored by the treaty body mean. For example, General Comment No. 5 issued by the Committee on Economic, Social and Cultural Rights provides important information regarding what the rights set out in the I.C.E.S.C.R. mean in the context of disability.

Opportunities for Action

N.G.O.s can call for treaty bodies to write General Comments or Recommendations regarding issues in the treaty that require further clarification. N.G.O.s can contribute to this process by making submissions regarding what should be written e.g. "educating the experts".

Possible Outcomes

General Comments and Recommendations play an important role in the interpretation of the rights guaranteed in human rights treaties, bringing greater specificity to the obligations set out therein. Securing a favourably worded General Comment or Recommendation can have a

lasting positive effect on the interpretation of the rights contained in the treaty.

5) Human Rights Council - Universal Periodic Review

The United Nations has recently started a new monitoring procedure called the Universal Periodic Review. Once every four years, the U.N. Human Rights Council (made up of 47 U.N. member countries), reviews how well each country is meeting its human rights obligations and commitments under *all* of the U.N. human rights instruments ratified by that country and the *Universal Declaration of Human Rights*. Countries submit a written report (State Report) and answer questions from Council members during an oral hearing. This new process is intended to work along side rather than repeat the work of the treaty bodies.

The Universal Periodic Review process differs from periodic state reporting overseen by the treaty monitoring bodies, because the members of the Human Rights Council represent States rather than being independent experts. This means that the process is more openly influenced by geo-political considerations, offering a different way to influence state action.

The two processes also differ in their scope. All member states of the United Nations are subject to the Universal Periodic Review procedure whereas only countries that have ratified a particular human rights treaty are subject to its periodic state reporting mechanism.

Opportunities for Action

- **Contributing to Written Reports**

Organizations of people with disabilities and other non-governmental organizations (N.G.O.s) can play an important role by providing information for the report compiled by the U.N. Office of the High Commissioner for Human Rights including information that extends and/or critiques the State Report and provides information that the Human Rights Council can use to question and challenge claims made by countries.

- **Influencing the Questions asked by the Human Rights Council**

N.G.O.s can also attempt to meet the members of the Human Rights Council leading the review of a particular state in order to encourage them to raise particular issues with the state during the oral hearing.

- **Following-up Concluding Obligations**

After considering the State's written and oral reports and other reports submitted to it, the Human Rights Committee writes its own report that highlights areas where the country should make new laws, policies or practice in order to meet its human rights obligations. People with disabilities, disability organizations and allies can use the information contained in the Human Rights Committee's Report to pressure governments to make changes.

Possible Outcomes

Generally, this process will result in “naming and publicly shaming” the state being reviewed by asking the state to explain a particular action or omission during public hearings and/or mentioning particular issues in its Concluding Observations and Recommendations.

All reports submitted to and made by the Human Rights Council are posted on the United Nations website. However, it is also important that N.G.O.s ensure that the domestic media are alerted to any criticisms made, that recommendations are mentioned in any relevant litigation and followed-up in lobbying efforts. February 2009: Canada’s Record was Reviewed by the Human Rights Council

Canada was specifically asked Human Rights Council members about the steps it has taken to improve the rights of persons with disabilities. The Council recommended that Canada ratify the Convention on the Rights of Persons with Disabilities.

The full report can be found at:
<http://www.ohchr.org/EN/HRBodies/UPR%5CPAGES%5CCASession4.aspx>

Navanethem Pillay is the U.N. High Commissioner for Human Rights and serves as the principal human rights official of the United Nations. The High Commissioner spearheads the United Nations' human rights efforts which work to offer leadership, education and action to empower individuals and assist States in upholding human rights.

6) Special Procedures

In addition to the treaty bodies, individuals may be appointed by the United Nations to investigate particular human rights issues or national human rights situations. These individuals can be referred to as either “Special Rapporteurs” or “Independent Experts”. Some examples include:

- *Special Rapporteurs* who report on:
 - Implementation of the Standard Rules on Disability
 - The Right to Food
 - The Right to Education
 - Violence Against Women, Its Causes and Consequences
 - The Right to the Highest Attainable Standard of Physical and Mental Health

- The Right to Adequate Housing
- *Independent Experts* who report on:
 - The Question of Human Rights and Extreme Poverty
 - The Right to Development
 - The Sale of Children, Child Prostitution and Child Pornography

A list of the people who hold current thematic/special procedures mandates from the U.N. Human Rights Council can be found at:

http://www2.ohchr.org/english/bodies/chr/special/docs/Mandate_Holders_2009.xls

Independent Experts and Special Rapporteurs gather facts, interview victims, visit locations of alleged abuses and make recommendations on steps that should be taken to better protect, promote, respect and fulfill human rights. They investigate situations in specific countries and conduct thematic studies on such issues as torture, religious intolerance, racism, the sale of children and violence against women. Each year they send thousands of urgent cables to governments requesting actions such as the release of prisoners or stopping torture.

Opportunities for Action

NGOs can participate in the work of the special procedures by submitting reports regarding human rights violations relevant to their procedure's mandates.

Possible Outcomes

Thematic/special procedures mandate holders may issue reports in which they find that a state has violated particular human rights guarantees. They can also send urgent communications to governments requesting immediate action.

Again, the aim of raising these national human rights violations at the international level is to engage in public "naming and shaming" and influence the state to take action domestically to avoid further international criticism.

Section 5.5 – Final Points regarding International Action

Always keep in mind that the purpose of engaging in action at the international level is to effect change at the national level. As a result, it is very important for NGOs to:

- Make sure that any statements or decisions by international monitoring bodies (e.g. treaty bodies, Human Rights Council, Special Rapporteurs and Independent Experts) are brought to the attention of domestic media, politicians (e.g. opposition parties) and other interested pressure groups.
- Wherever possible, refer to statements and findings made by international bodies when pursuing cases before domestic courts or administrative procedures.
- In Canada, lobby for the government to ratify the Optional Protocol to the C.R.P.D. (containing the complaint mechanism) and the Optional Protocol to the I.C.E.S.C.R. (containing the complaint mechanism) so that these international mechanisms can be used by Canadian disability rights activists.

Notes

Module 6: Break Out Group Activity

Facilitator Overview

Introduction

This module will allow participants to implement the information learned about human rights monitoring into situations that are important to the group.

Description

- Assist participants to break into small groups based on interest in an economic, social or cultural rights issue to be reported to the U.N.. Each group can brainstorm ways which they could bring their identified issue to the U.N., using both personal experience and the information provided through the guide. (30 minutes)
- Ask groups to report to the larger group with their conclusions, discussing the kinds of strategies they have developed for reporting. Reporting can be followed with discussion to provide further information and insight. (30 minutes)

Time: 60 minutes



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Participant Overview

Module 6: Break-out Group Activity

Objectives

This module will allow participants to implement the information learned about human rights monitoring into situations that are important to the group.

Description

The break-out group activity will give you the opportunity to apply the information learned so far in a context that is meaningful to you.

- Break-out group activity
- Group Reporting

Time: 60 minutes

Notes

Module 7: Final Discussion

Facilitator Overview

Introduction

This module provides participants with an opportunity to review what has been learned during the training.

Description

- Summarizing the activities of the last two days, ask participants to complete the questions below, and then discuss participant's answers with the group. You may also want to answer the questions yourself, sharing what you have learned with and from the group.
- Discuss any remaining questions, issues, concerns.

Time: 60 minutes



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Participant Overview

Module 7: Final Discussion

Objectives

To review what has been learned during the training.

Description

In considering what has been learned during the training, participants will have the opportunity to ask questions and engage in a final group discussion.

Time: 60 minutes

Activity: Summarizing What We Have Learned

Answer the following questions individually. Responses will be discussed in the larger group.

A) What have you heard here that you will remember as particularly important?

B) What have you learned here that you can take back to your community?

C) What have you learned that you think you will be able to use in your everyday life?

D) Is there something that you would still like to know or are confused about?

“No one gives us rights. We win them in struggle. They exist in our hearts before they exist on paper. Yet intellectual struggle is one of the most important areas of the battle of rights. It is through concepts that we link our dreams to the acts of daily life”.
(Albie Sachs, *Protecting Human Rights in South Africa*, p.vii, 1990)

Resources

A) Economic, Social and Cultural Rights Resources

1. Amnesty International - <http://www.amnesty.org/en/economic-social-and-cultural-rights>
2. Centre for Economic and Social Rights - <http://cesr.org/>
3. International Network for Economic, Social and Cultural Rights - <http://escr-net.org/>
4. National Human Rights Institutions at Work: Asia-Pacific Regional Workshop on Women's Economic, Social and Cultural Rights - http://equitas.org/english/ed-manuals/downloads/WS_Manual_WESCR_January06_EQUITAS_CHRP_Revised.pdf
5. National Economic and Social Rights Initiative - <http://www.nesri.org/>
6. National Human Rights Commission (2005). Disability Manual, New Delhi, India
7. Office of the High Commissioner for Human Rights (OHCHR):
 - a) Committee of Economic, Social and Cultural Rights (CESCR) (monitor implementation of International Covenant on Economic, Social and Cultural Rights) - <http://www2.ohchr.org/english/bodies/cescr/>
 - b) International Covenant on Economic, Social and Cultural Rights - <http://www2.ohchr.org/english/law/cescr.htm>
 - c) CESCR – General Comments - <http://www2.ohchr.org/english/bodies/cescr/comments.htm>
8. Thesaurus of Economic, Social and Cultural Rights - <http://shr.aaas.org/thesaurus/>

B) General human rights resources

1. International Human Rights Instruments - <http://www2.ohchr.org/english/>
 - a) Human Rights Treaty Ratifications List - <http://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&lang=en>
2. Human rights monitoring mechanisms
 - a) Treaty bodies (monitor implementation of the core international human rights treaties)
 - i. Human Rights Committee (CCPR) (monitor implementation of International Covenant on Civil and Political Rights) - <http://www2.ohchr.org/english/bodies/hrc/index.htm>
 - ii. International Covenant on Civil and Political Rights - <http://www2.ohchr.org/english/law/ccpr.htm>

- iii. Committee Against Torture (C.A.T.) (monitor implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) - <http://www2.ohchr.org/english/bodies/cat/index.htm>
 - iv. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment - <http://www2.ohchr.org/english/law/cat.htm>
 - v. Committee on Migrant Workers (CMW) (monitor implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families) - <http://www2.ohchr.org/english/bodies/cmw/index.htm>
 - vi. International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families - <http://www2.ohchr.org/english/law/cmw.htm>
 - vii. Committee on the Elimination of Racial Discrimination (C.E.R.D.) (monitor implementation of the Convention on the Elimination of All Forms of Racial Discrimination) - <http://www2.ohchr.org/english/bodies/cerd/>
 - viii. Convention on the Elimination of All Forms of Racial Discrimination - <http://www2.ohchr.org/english/law/cerd.htm>
 - ix. Committee on the Elimination of Discrimination against Women (C.E.D.A.W.) (monitor implementation of the Convention on the Elimination of All Forms of Discrimination against Women) - <http://www2.ohchr.org/english/bodies/cedaw/index.htm>
 - x. Convention on the Elimination of All Forms of Discrimination against Women - <http://www2.ohchr.org/english/>
 - xi. Committee on the Rights of Persons with Disabilities) (CRPD (monitor implementation of the Convention on the Rights of Persons with Disabilities) - <http://www2.ohchr.org/english/>
 - xii. Convention on the Rights of Persons with Disabilities - <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/Convention.aspx>
 - xiii. CRPD ratification list - http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-15&chapter=4&lang=en
 - xiv. Committee on the Rights on the Child (C.R.C.) (monitor implementation of the Convention on the Rights of the Child) - <http://www2.ohchr.org/english/bodies/crc/>
 - xv. Convention on the Rights of the Child - <http://www2.ohchr.org/english/law/crc.htm>
- b) Universal Periodic Review - <http://www2.ohchr.org/english/>
- c) Canadian Human Rights Bodies
- i. Canadian Human Rights Commission - <http://www.chrc-ccdp.ca/default-en.asp>

- ii. Canadian Human Rights Tribunal - <http://www.chrt-tcdp.gc.ca/>
- iii. Alberta Human Rights and Citizenship Commission (process also involves: Chief Commissioner and Panel appointed by Chief Commissioner) - <http://www.albertahumanrights.ab.ca/>
- iv. British Columbia Human Rights Tribunal - <http://www.bchrt.bc.ca/>
- v. Manitoba Human Rights Commission - <http://www.gov.mb.ca/hrc/>
- vi. New Brunswick Human Rights Commission (process also involves: Board of Inquiry) - <http://www.gnb.ca/hrc-cdp/index-e.asp>
- vii. Newfoundland and Labrador Human Rights Commission (process also involves: Board of Inquiry) - <http://www.justice.gov.nl.ca/hrc/>
- viii. Northwest Territories Human Rights Commission (process also involves: Director of Human Rights and NWT Human Rights Adjudication Panel) - <http://www.nwthumanrights.ca/>
- ix. Nova Scotia Human Rights Commission - <http://gov.ns.ca/humanrights/>
- x. Nunavut Human Rights Tribunal (no website) Toll-free 1-866-413-6478
- xi. Human Rights Tribunal of Ontario - <http://www.hrto.ca/>
- xii. Prince Edward Island Human Rights Commission - <http://www.gov.pe.ca/humanrights/>
- xiii. Quebec Commission des droits de la personne et les droits de la jeunesse - <http://www.cdpcj.qc.ca/en/home.asp?noeud1=0&noeud2=0&cle=0>
- xiv. Saskatchewan Human Rights Commission - <http://www.shrc.gov.sk.ca/>
- xv. Yukon Human Rights Commission - <http://www.yhrc.yk.ca/>

3. Other human rights resources

- a) Canadian Human Rights Foundation - <http://orgs.tigweb.org/canadian-human-rights-foundation>
- b) Disability Rights Promotion International - <http://www.yorku.ca/drpi/>
- c) Equitas International Centre for Human Rights Education - <http://equitas.org/english/ed-manuals/ed-manuals.php>
- d) International Disability Rights Monitor - <http://www.idrmnet.org/>
- e) Mertus J. and Flowers N. Local Action/Global Change: Learning About the Human Rights of Women and Girls, ISBN: 0-912917-01-6

f) University of Minnesota Human Rights Library - <http://www1.umn.edu/humanrts/>

Notes

Appendix A: Basic Primer on ESC Rights

Source: Centre for Economic and Social Rights, <http://cesr.org/basic>

What are Economic, Social, and Cultural rights?

Economic, social, and cultural rights include the human right to work, the right to an adequate standard of living, including food, clothing, and housing, the right to physical and mental health, the right to social security, the right to a healthy environment, and the right to education.

ESCR are part of a larger body of human rights law that developed in the aftermath of World War II. Human rights law includes all economic and social rights, plus civil and political rights like the right to free speech and the right to a fair trial. These rights are deeply intertwined: for example, the right to speak freely means little without a basic education. Similarly, the right to work means little if you are not allowed to meet and assemble in groups to discuss work conditions.

The most important human rights law is in the **International Bill of Human Rights**, which includes the **Universal Declaration of Human Rights** (1948), the **International Covenant on Civil and Political Rights**, and the **International Covenant on Economic, Social and Cultural Rights**. Economic and social rights are also included in numerous other human rights legal instruments. Among the most important are:

1. Convention on the Rights of the Child (C.R.C.)
2. Convention on the Elimination of Discrimination Against Women (C.E.D.A.W.)
3. Convention on the Elimination of All Forms of Racial Discrimination (C.E.R.D.)
4. Vienna World Conference on Human Rights Declaration and Plan of Action
5. Conventions of the International Labour Organization

The U.N. human rights system is rooted in the International Bill of Rights, but also includes additional human rights treaties. Each of the treaties is governed by a Treaty Body that provides authoritative interpretations of its terms. The Treaty Bodies also publish General Comments, which elaborate on specific articles of the treaties.

Why are they called "rights"?

All the world's great religious and moral traditions, philosophers, and revolutionaries, recognize that human beings deserve to live in freedom, justice, dignity and economic security. The International Bill of Rights grew out of these traditions, and calls for all governments to make sure their citizens have human rights -- civil, political, economic, social and cultural. Referring to economic, social and cultural

issues as "rights" uses the legal framework developed under international law, and gives individuals legitimate claims against state and non-state actors for protection and guarantees.

During the Cold War and trickle-down economics theory, ESCR were frequently mislabelled as "benefits," meaning individuals had no basic claim to things like food and shelter. After the Covenant came into force in 1976, jurisprudence around economic and social rights began to develop and great progress following the formation of the United Nations Committee on Economic, Social, and Cultural Rights.

Economic and social rights require governments and other powerful actors to ensure that people have access to basic needs, and that people have a voice in decisions affecting their well-being. Poverty and injustice are neither inevitable nor natural, but arise from deliberate decisions and policies, and the human rights legal framework provides a way to hold public officials accountable for development policies and priorities.

What are the minimum requirements?

States are bound to ensure minimum human rights regardless of their resource constraints. For ESC rights, minimum core requirements include **available foodstuffs for the population, essential primary health care, basic shelter and housing, and the most basic forms of education**. The Committee on Economic, Social, and Cultural Rights elaborated on state obligations under **General Comment 3: The Nature of States Parties Obligations**

How do states fulfill their minimum requirements?

Every government in the world has certain responsibilities regarding its citizens. The human rights legal framework spells out those responsibilities with the following three obligations:

- *Respect* – the obligation to respect requires governments to refrain from interfering directly or indirectly with the enjoyment of ESCR
- *Protect* – the obligation to protect requires governments to prevent third parties, such as corporations, from interfering in any way with the enjoyment of ESCR
- *Fulfill* – the obligation to fulfill requires governments to adopt the necessary measures to achieve the full realization of ESCR

What about non-state actors?

Human rights treaties are signed by governments, and are the duty of governments to enforce. However, this does not mean that non-state actors are free to violate people's human rights. There are three main ways to apply human rights standards to non-state actors. First, governments have the primary responsibility to protect human rights, including from violations by non-state actors. Second, individuals may enforce their basic rights through judicial action. Finally, non-state actors are bound to respect human rights standards through the universal protection of human dignity. For more information on the role and responsibility of non-state actors, see Chris Jochnick's article, *Confronting the Impunity of Non-State Actors: New Fields for the Promotion of Human Rights*.

How are these rights enforced?

At the international level, the most effective enforcement mechanism for all international human rights is political pressure. Those states that have ratified the I.C.E.S.C.R. are required to submit regular reports, every five years, to the Committee on Economic and Social Rights that detail their human rights standards. When these reports are reviewed it provides an excellent opportunity for civil society and the international community at large to put pressure on a country to adhere to its legal obligations...

...For those countries that haven't ratified the I.C.E.S.C.R., there are other international venues that apply political pressure. For example, a country may be a party to the C.R.C. or C.E.D.A.W., both of which include ESCR. Larger bodies, like the Commission on Human Rights, can also be used to apply political pressure. Additionally, petitions in regional human rights commissions can also be effective in highlighting an issue and seeking remedy.

At the domestic level, there are political and legal remedies for many ESC violations. Although these remedies are still far from comprehensive, they do demonstrate that economic and social rights are fundamentally justiciable. For example, a core part of every ESCR is a prohibition on discrimination, whether for employment, housing, or food. Anti-discrimination laws exist in most countries, and are fully enforceable in a court of law.

Appendix B: Summary of the International Covenant on Economic, Social and Cultural Rights

Source: Canadian Human Rights Foundation, *International Human Rights Training Program Manual*, 2005.

Overview

The International Covenant on Economic, Social and Cultural Rights (I.C.E.S.C.R.) was adopted by U.N. General Assembly on December 16, 1966 and entered into force on January 3, 1976. As of 26 January 2006, 152 States have become parties to the Covenant (6 States are remaining signatories);

<http://www.ohchr.org/english/countries/ratification/3.htm>

Unlike civil and political rights, economic, social and cultural rights are often viewed with 'suspicion, caution and scepticism'. At times even 'treated with an air of triviality'. In the human rights field, ESC rights are most often accorded secondary status by governments and NGOs.

However, ESC rights are an indivisible part of human rights. First, ESC rights have intrinsic value. They expand the freedom to lead a life that people value. The potential of the human person may be expressed through civil and political rights, but the realization of these potentialities requires adequate social and economic circumstances. The concept of human dignity is the foundation for all civil, political, economic, social and cultural rights. These rights can neither be given nor taken away. Human dignity is denied when civil and political rights, as well as ESC rights are not guaranteed. Two common elements mediate both sets of rights - security and equality. Security of the person includes socio-economic security and equality before the law encompasses equality of opportunities.

The development of international human rights law has shown the indivisibility of the civil, political and economic, social and cultural rights. For example, the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of the Child incorporate the protection of both sets of rights.

Violations of Economic, Social and Cultural Rights

The notion of violation applied vigorously to civil and political rights is normally not used regarding ESC rights. The Committee on Economic, Social and Cultural Rights has developed the concept of 'minimum core obligations'. The Committee developed this concept mainly to refute the argument that lack of resources hinders fulfilment of obligations. The Committee has stated that every State has a minimum core obligation to satisfy minimum essential levels of each of the rights in the Covenant. The Committee has clarified that a State party 'in which any significant number of individuals is deprived of essential foodstuffs, of essential primary health care, of basic shelter and housing, or of the most basic forms of education is prima facie, failing to discharge its obligations under the Covenant'.

Thus, it can be construed that failure to fulfill minimum core obligations will be a violation of the rights enshrined in the Covenant. However, the notion of violation of ESC rights needs to be further developed. A group of distinguished experts in international law have developed principles known as the Limburg Principles. These principles provide some basic framework to develop the notion of violation of ESC rights. According to the Limburg Principles, 'A failure by a State party to comply with an obligation contained in the Covenant is, under international law, a violation of the Covenant.'

In determining what amounts to a failure to comply, it must be borne in mind that the Covenant affords to a State party a margin of discretion in selecting the means for carrying out its objectives, and that factors beyond its reasonable control may adversely affect its capacity to implement particular rights.

A State party will be in violation of the Covenant, *inter alia*, if:

- It fails to take a step which it is required to take by the Covenant;
- It fails to remove promptly obstacles which it is under a duty to remove to permit the immediate fulfilment of a right;
- It fails to implement without delay a right which it is required by the Covenant to provide immediately;
- It wilfully fails to meet a generally accepted international minimum standard of achievement, which is within its powers to meet;
- It applies a limitation to a right recognized in the Covenant other than in accordance with the Covenant;
- It deliberately retards or halts the progressive realization of a right, unless it is acting within a limitation permitted by the Covenant or it does so due to a lack of available resources or force majeure;
- It fails to submit reports as required under the Covenant.'

Monitoring Mechanism

The Committee on Economic, Social and Cultural Rights was established in 1985 and is comprised of 18 members who are independent experts and serve in their personal capacity, not as representatives of Governments.

The primary function of the Committee is to monitor the implementation of the Covenant by States parties. Under articles 16 and 17 of the Covenant, States parties undertake to submit periodic reports to the Committee (within two years of the entry into force of the Covenant for a particular State party, and thereafter once every five years) outlining the legislative, judicial, policy and other measures which they have taken to ensure the enjoyment of the rights contained in the Covenant. States parties are also requested to provide detailed data on the degree to which the rights are implemented and areas where particular difficulties have been faced in this respect. The Committee has assisted the reporting process by providing States parties with a detailed 22-page set of reporting guidelines

specifying the types of information the Committee requires in order to monitor compliance with the Covenant effectively (available at the U.N.'s web site: www.unhchr.ch).

The Committee can also assist Governments in fulfilling their obligations under the Covenant by issuing specific legislative, policy and other suggestions and recommendations such that ESC rights are more effectively secured. The Committee decided in 1988 to prepare "General Comments" on the rights and provisions contained in the Covenant with a view to assisting States parties in fulfilling their reporting obligations and to provide greater interpretative clarity as to the intent, meaning and content of the Covenant. The most recent General Comments issued by the Committee relate to the right to work (General Comment no. 18), intellectual property rights (General Comment no. 17) and the equal right of men and women to the enjoyment of all ESC rights (General Comment no. 16).

The Committee was the first treaty body to provide non-governmental organizations (NGOs) with the opportunity to submit written statements and make oral submissions dealing with issues relating to the enjoyment or non-enjoyment of the rights contained in the Covenant in specific countries.

Provisions

Articles 2(2) and 3: Non-discrimination

Article 2 (2) and Article 3 deal with the non-discrimination aspect. Article 2 (2) is similar to other instruments in stating that the rights should be enjoyed without discrimination on the grounds of 'race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.'

Article 3, on the other hand is more specific. It provides for the 'equal right of men and women to the enjoyment of rights...set forth in the Covenant.'

The concept of 'progressive realization' is not applicable to the non-discrimination clause and the obligation to ensure equal rights of men and women. The obligation is to ensure it immediately and not progressively.

The obligation to ensure the equal rights of men and women includes affirmative action to eliminate conditions that contribute to discrimination.

The Committee has followed the practice that discrimination is not restricted to those grounds identified under the Covenant and includes discrimination based on age, health status, or disability. The non-discriminatory clause of the Covenant covers discriminatory acts of both public authorities and private individuals.

Article 4: Limitations

Article 4, of the Covenant deals with the limitation clause. The I.C.E.S.C.R. does not recognize any particular right to be non-derogable in the manner it is done under the International Covenant on Civil and Political Rights. However, Article 4, states that limitations imposed on the enjoyment of rights should be 'determined by law' and should be done solely for the purpose of 'promoting the general welfare in a democratic society.'

Article 2 (1): Obligation of States

Article 2 (1) of the Covenant deals with the obligation of States parties under the Covenant. According to the Committee on Economic, Social and Cultural Rights, 'Article 2 is of particular importance to a full understanding of the Covenant and must be seen as having a dynamic relationship with all of the other provisions of the Covenant. It describes the nature of the general legal obligations undertaken by States parties to the Covenant.'

Article 2 (1) of the Covenant states that, 'Each State party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.'

Thus, obligations of States parties are expressed through the use of terms 'undertakes to take steps,' 'to the maximum available resources,' 'achieving progressively the full realization,' and 'by all appropriate means including particularly the adoption of legislative measures.'

In contrast, these terms are not used in the civil and political rights Covenant. The Article 2 (1) of the I.C.C.P.R. states that, 'Each State Party to the present Covenant undertakes to respect and to ensure to all individuals... the rights recognized in the present Covenant....' It is normally argued that the I.C.E.S.C.R. does not belong to the same genre as that of the civil and political rights. Hence, it is important to understand the meaning of terms used in Article 2(1) of the I.C.E.S.C.R. to comprehend the obligations of states under the Covenant.

Obligation of Conduct and Obligation of Result

The Committee on Economic, Social and Cultural Rights has made it clear that the obligations of States parties include both obligation of conduct and obligation of result. The International Law Commission has formulated these two categories and the Committee has referred to it to elaborate on the obligations of States parties under the Covenant.

Obligation of conduct means that, a State has to undertake a specific step. For example, prohibiting forced labour is an act of conduct. *Obligation of result* means attaining a particular outcome through active implementation of policies and programmes. However, conduct and result cannot be separated. The concepts of obligation of conduct and result provides an effective tool for monitoring the implementation of ESC rights. It also shows that realization of ESC rights is a dynamic process involving both immediate and long-term intervention.

Meaning of 'Undertakes to Take Steps'

The use of the term 'Each State Party . . . undertakes to take steps,' in Article 2 (1) of the I.C.E.S.C.R. is normally construed as implying progressive implementation of the Covenant. However, it should be noted that a similar term is used in Article 2 (2) of the I.C.C.P.R. and in Article 2 (1) of the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment. Thus, the term cannot be construed to imply progressive implementation. In fact, the Committee on Economic, Social and Cultural Rights has clarified that, 'while the full realization of the relevant rights 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.'

Meaning of 'By All Appropriate Means, Including Particularly the Adoption of Legislative Measures'

The Committee on Economic, Social and Cultural Rights has recognized that States must decide the appropriate means and it may depend on the right that is being implemented. However, the Committee has stated that, 'States parties reports should indicate not only the measures that have been taken but also the basis on which they are considered to be the most "appropriate" under the circumstances.'

It is clear from the interpretation given by the Committee that the term 'all appropriate means' is linked to both conduct and result. A State party cannot avoid its obligations by merely saying that its policies are aimed at economic development and that poverty or illiteracy will be eradicated eventually.

As for the term 'adoption of legislative measures,' the Committee has stated that it by no means exhausts the obligation of States parties. A mere existence of laws is not sufficient to prove that a State party is carrying out its obligation under the Covenant.

For example, while considering the Canadian report, a member of the Committee commented that, 'When reports focused too narrowly on legal aspects, the suspicion naturally arose that there might be some gap between law and practice.'

In addition to laws, the Committee has also stressed the need for 'provision of judicial remedies with respect to rights which may, in accordance with the national legal system, be considered justifiable.'

Meaning of 'Achieving Progressively'

It is normally assumed that due to the resources required for the realization of ESC rights, they are incapable of immediate implementation. On the other hand, the Committee has stated that,

'The fact that realization over time, or in other words progressively, is foreseen under the Covenant should not be misinterpreted as depriving the obligation of all meaningful content. It is on the one hand a necessary flexibility device, reflecting the realities of the real world and the difficulties involved for any country in ensuring full realization of economic, social and cultural rights. On the other hand, the phrase must be read in the light of the overall objective, indeed the raison d'être, of the Covenant that is to establish clear obligations for States parties in respect of the full realization of the rights in question. It thus imposes an obligation to move as expeditiously and effectively as possible towards that goal.'

The Committee has made it clear that 'progressive realization' is not an escape clause. Such an interpretation provides activists an important conceptual perspective against the notion of 'gradualism' in economic policies. It means that ensuring social welfare is a gradual long-term process where the growth of the economy will benefit everyone. However, most often growth becomes an end in itself

whether it is socially desirable or not. The position of the Committee seems to be that the process of economic growth should be combined with the realization of human rights.

The Committee has also concluded that 'progressive realization' includes not only continuous improvement but also the obligation to ensure that there are no regressive developments. The Committee has stated that, 'any deliberately retrogressive measures . . . would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum of available resources.'

Meaning of 'To the Maximum of Its Available Resources'

The notion that economic resources are essential for the implementation of ESC rights has been the major justification for considering it secondary to civil and political rights. The Committee has acknowledged the importance of resources in fulfilling the rights but does not consider that resource availability as an escape clause. For example, it has stated that 'in cases where significant numbers of people live in poverty and hunger, it is for the State to show that its failure to provide for the persons concerned was beyond its control.'

The Committee developed the idea of 'minimum core obligations' to refute the argument that lack of resources hinders fulfilment of obligations. The Committee has observed that every State has a minimum core obligation to satisfy minimum essential levels of each of the rights of the Covenant. It has clarified that a State party 'in which a significant number of individuals is deprived of essential foodstuffs, of essential primary health care, of basic shelter and housing, or of the most basic forms of education is prima facie, failing to discharge its obligations under the Covenant.... In order for a State party to be able to attribute its failure to meet at least its minimum core obligations to a lack of available resources it must demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations.'

The Committee has made it clear that, 'even where the available resources are demonstrably inadequate, the obligations remains for a State party to ensure the widest possible enjoyment of the relevant rights under the prevailing circumstances.' In addition, the Committee has also stated that, 'even in times of severe resource constraints . . . vulnerable members of society can and indeed must be protected by the adoption of relatively low-cost targeted programmes...

...

Rights Under the Covenant

- Article 1: The right to self-determination
- Article 6: The right to work
- Article 7: The right to enjoyment of just and favourable conditions of work
- Article 8: The right to form and join trade unions
- Article 9: The right to social security

- Article 10: Protection of the family
- Article 11: The right to an adequate standard of living (food, housing, clothing)
- Article 12: The right to enjoyment of the highest attainable standard of health (physical and mental)
- Article 13: The right to education
- Article 15: Cultural rights, intellectual property rights

Appendix C: International Covenant on Economic, Social and Cultural Rights

Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966

Entry into force 3 January 1976, in accordance with article 27

Preamble

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

PART I

Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

PART II

Article 2

1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.
2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

Article 4

The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein, or at their limitation to a greater extent than is provided for in the present Covenant.
2. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III

Article 6

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.
2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Article 7

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

- (a) Remuneration which provides all workers, as a minimum, with:
 - i. Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;
 - ii. A decent living for themselves and their families in accordance with the provisions of the present Covenant;
- (b) Safe and healthy working conditions;
- (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;
- (d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays

Article 8

1. The States Parties to the present Covenant undertake to ensure:
 - (a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
 - (b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;

- (c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
 - (d) The right to strike provided that it is exercised in conformity with the laws of the particular country.
2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.
 3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

Article 9

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

Article 10

The States Parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.
2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.
3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

Article 11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.
[http://www.unhchr.ch/tbs/doc.nsf/\(symbol\)/CESCR+General+Comment+7.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(symbol)/CESCR+General+Comment+7.En?OpenDocument)

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:
 - (a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;
 - (b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

Article 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
 - (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
 - (b) The improvement of all aspects of environmental and industrial hygiene;
 - (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
 - (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Article 13

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.
2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:
 - (a) Primary education shall be compulsory and available free to all;
 - (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;

- (c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;
 - (d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;
 - (e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.
3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.
 4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 14

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

Article 15

1. The States Parties to the present Covenant recognize the right of everyone:
 - (a) To take part in cultural life;
 - (b) To enjoy the benefits of scientific progress and its applications;
 - (c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.
3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.

4. The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

PART IV

Article 16

1. The States Parties to the present Covenant undertake to submit in conformity with this part of the Covenant reports on the measures which they have adopted and the progress made in achieving the observance of the rights recognized herein.
2.
 - (a) All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit copies to the Economic and Social Council for consideration in accordance with the provisions of the present Covenant;
 - (b) The Secretary-General of the United Nations shall also transmit to the specialized agencies copies of the reports, or any relevant parts there from, from States Parties to the present Covenant which are also members of these specialized agencies in so far as these reports, or parts there from, relate to any matters which fall within the responsibilities of the said agencies in accordance with their constitutional instruments.

Article 17

1. The States Parties to the present Covenant shall furnish their reports in stages, in accordance with a programme to be established by the Economic and Social Council within one year of the entry into force of the present Covenant after consultation with the States Parties and the specialized agencies concerned.
2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Covenant.
3. Where relevant information has previously been furnished to the United Nations or to any specialized agency by any State Party to the present Covenant, it will not be necessary to reproduce that information, but a precise reference to the information so furnished will suffice.

Article 18

Pursuant to its responsibilities under the Charter of the United Nations in the field of human rights and fundamental freedoms, the Economic and Social Council may make arrangements with the specialized agencies in respect of their reporting to it on the progress made in achieving the observance of the provisions of the present Covenant falling within the scope of their activities. These reports may include particulars of decisions and recommendations on such implementation adopted by their competent organs.

Article 19

The Economic and Social Council may transmit to the Commission on Human Rights for study and general recommendation or, as appropriate, for information the reports concerning human rights submitted by States in accordance with articles 16 and 17, and those concerning human rights submitted by the specialized agencies in accordance with article 18.

Article 20

The States Parties to the present Covenant and the specialized agencies concerned may submit comments to the Economic and Social Council on any general recommendation under article 19 or reference to such general recommendation in any report of the Commission on Human Rights or any documentation referred to therein.

Article 21

The Economic and Social Council may submit from time to time to the General Assembly reports with recommendations of a general nature and a summary of the information received from the States Parties to the present Covenant and the specialized agencies on the measures taken and the progress made in achieving general observance of the rights recognized in the present Covenant.

Article 22

The Economic and Social Council may bring to the attention of other organs of the United Nations, their subsidiary organs and specialized agencies concerned with furnishing technical assistance any matters arising out of the reports referred to in this part of the present Covenant which may assist such bodies in deciding, each within its field of competence, on the advisability of international measures likely to contribute to the effective progressive implementation of the present Covenant.

Article 23

The States Parties to the present Covenant agree that international action for the achievement of the rights recognized in the present Covenant includes such methods as the conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance and the holding of regional meetings and technical meetings for the purpose of consultation and study organized in conjunction with the Governments concerned.

Article 24

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

Article 25

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

PART V

Article 26

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a party to the present Covenant.
2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.
5. The Secretary-General of the United Nations shall inform all States which have signed the present Covenant or acceded to it of the deposit of each instrument of ratification or accession.

Article 27

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.
2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 28

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

Article 29

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.
3. When amendments come into force they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

Article 30

Irrespective of the notifications made under article 26, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph 1 of the same article of the following particulars:

- (a) Signatures, ratifications and accessions under article 26;
- (b) The date of the entry into force of the present Covenant under article 27 and the date of the entry into force of any amendments under article 29.

Article 31

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 26.

Appendix D: I.C.E.S.C.R. General Comment No. 5

<http://www.unhcr.ch/tbs/doc.nsf/0/4b0c449a9ab4ff72c12563ed0054f17d>

Persons with disabilities

(Eleventh session, 1994)*

1. The central importance of the International Covenant on Economic, Social and Cultural Rights in relation to the human rights of persons with disabilities has frequently been underlined by the international community^{1/}. Thus a 1992 review by the Secretary-General of the implementation of the World Programme of Action concerning Disabled Persons and the United Nations Decade of Disabled Persons concluded that "disability is closely linked to economic and social factors" and that "conditions of living in large parts of the world are so desperate that the provision of basic needs for all - food, water, shelter, health protection and education - must form the cornerstone of national programmes"^{2/}. Even in countries which have a relatively high standard of living, persons with disabilities are very often denied the opportunity to enjoy the full range of economic, social and cultural rights recognized in the Covenant.
2. The Committee on Economic, Social and Cultural Rights, and the working group which preceded it, have been explicitly called upon by both the General Assembly^{3/} and the Commission on Human Rights^{4/} to monitor the compliance of States parties to the Covenant with their obligation to ensure the full enjoyment of the relevant rights by persons with disabilities. The Committee's experience to date, however, indicates that States parties have devoted very little attention to this issue in their reports. This appears to be consistent with the Secretary-General's conclusion that "most Governments still lack decisive concerted measures that would effectively improve the situation" of persons with disabilities^{5/}. It is therefore appropriate to review, and emphasize, some of the ways in which issues concerning persons with disabilities arise in connection with the obligations contained in the Covenant.
3. There is still no internationally accepted definition of the term "disability". For present purposes, however, it is sufficient to rely on the approach adopted in the Standard Rules of 1993, which state:

"The term 'disability' summarizes a great number of different functional limitations occurring in any population ... People may be disabled by physical, intellectual or sensory impairment, medical conditions or mental illness. Such impairments, conditions or illnesses may be permanent or transitory in nature"^{6/}.

4. In accordance with the approach adopted in the Standard Rules, this General Comment uses the term "persons with disabilities" rather than the older term "disabled persons". It has been suggested that the latter term might be misinterpreted to imply that the ability of the individual to function as a person has been disabled.
5. The Covenant does not refer explicitly to persons with disabilities. Nevertheless, the Universal Declaration of Human Rights recognizes that all human beings are born free and equal in dignity and rights and, since the Covenant's provisions apply fully to all members of society, persons with disabilities are clearly entitled to the full range of rights recognized in the Covenant. In addition, in so far as special treatment is necessary, States parties are required to take appropriate measures, to the maximum extent of their available resources, to enable such persons to seek to overcome any disadvantages, in terms of the enjoyment of the rights specified in the Covenant, flowing from their disability. Moreover, the requirement contained in article 2 (2) of the Covenant that the rights "enunciated ... will be exercised without discrimination of any kind" based on certain specified grounds "or other status" clearly applies to discrimination on the grounds of disability.
6. The absence of an explicit, disability-related provision in the Covenant can be attributed to the lack of awareness of the importance of addressing this issue explicitly, rather than only by implication, at the time of the drafting of the Covenant over a quarter of a century ago. More recent international human rights instruments have, however, addressed the issue specifically. They include the Convention on the Rights of the Child (art. 23); the African Charter on Human and Peoples' Rights (art. 18 (4)); and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (art. 18). Thus it is now very widely accepted that the human rights of persons with disabilities must be protected and promoted through general, as well as specially designed, laws, policies and programmes.
7. In accordance with this approach, the international community has affirmed its commitment to ensuring the full range of human rights for persons with disabilities in the following instruments:
 - (a) the World Programme of Action concerning Disabled Persons, which provides a policy framework aimed at promoting "effective measures for prevention of disability, rehabilitation and the realization of the goals of 'full participation' of [persons with disabilities] in social life and development, and of 'equality'" ^{7/} ;
 - (b) the Guidelines for the Establishment and Development of National Coordinating Committees on Disability or Similar Bodies, adopted in 1990;^{8/}
 - (c) the Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care, adopted in 1991;^{9/}
 - (d) the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (hereinafter referred to as the "Standard Rules"), adopted in 1993, the purpose of which is to ensure that all persons with disabilities "may exercise the same rights and obligations as others". ^{10/} The Standard Rules are of major importance and constitute a particularly

valuable reference guide in identifying more precisely the relevant obligations of States parties under the Covenant.

I. GENERAL OBLIGATIONS OF STATES PARTIES

8. The United Nations has estimated that there are more than 500 million persons with disabilities in the world today. Of that number, 80 per cent live in rural areas in developing countries. Seventy per cent of the total are estimated to have either limited or no access to the services they need. The challenge of improving the situation of persons with disabilities is thus of direct relevance to every State party to the Covenant. While the means chosen to promote the full realization of the economic, social and cultural rights of this group will inevitably differ significantly from one country to another, there is no country in which a major policy and programme effort is not required. ^{11/}
9. The obligation of States parties to the Covenant to promote progressive realization of the relevant rights to the maximum of their available resources clearly requires Governments to do much more than merely abstain from taking measures which might have a negative impact on persons with disabilities. The obligation in the case of such a vulnerable and disadvantaged group is to take positive action to reduce structural disadvantages and to give appropriate preferential treatment to people with disabilities in order to achieve the objectives of full participation and equality within society for all persons with disabilities. This almost invariably means that additional resources will need to be made available for this purpose and that a wide range of specially tailored measures will be required.
10. According to a report by the Secretary-General, developments over the past decade in both developed and developing countries have been especially unfavourable from the perspective of persons with disabilities:

"... current economic and social deterioration, marked by low-growth rates, high unemployment, reduced public expenditure, current structural adjustment programmes and privatization, have negatively affected programmes and services ... If the present negative trends continue, there is the risk that [persons with disabilities] may increasingly be relegated to the margins of society, dependent on ad hoc support." ^{12/}

As the Committee has previously observed (General Comment No. 3 (Fifth session, 1990), para. 12), the duty of States parties to protect the vulnerable members of their societies assumes greater rather than less importance in times of severe resource constraints.

11. Given the increasing commitment of Governments around the world to market-based policies, it is appropriate in that context to emphasize certain aspects of States parties' obligations. One is the need to ensure that not only the public sphere, but also the private sphere, are, within appropriate limits, subject to regulation to ensure the equitable treatment of persons with disabilities. In a context in which arrangements for the provision of public services are increasingly being privatized and in which the free market is being relied on to an ever greater extent, it is essential that private employers, private suppliers of goods and services, and other

non-public entities be subject to both non-discrimination and equality norms in relation to persons with disabilities. In circumstances where such protection does not extend beyond the public domain, the ability of persons with disabilities to participate in the mainstream of community activities and to realize their full potential as active members of society will be severely and often arbitrarily constrained. This is not to imply that legislative measures will always be the most effective means of seeking to eliminate discrimination within the private sphere. Thus, for example, the Standard Rules place particular emphasis on the need for States to "take action to raise awareness in society about persons with disabilities, their rights, their needs, their potential and their contribution".^{13/}

12. In the absence of government intervention there will always be instances in which the operation of the free market will produce unsatisfactory results for persons with disabilities, either individually or as a group, and in such circumstances it is incumbent on Governments to step in and take appropriate measures to temper, complement, compensate for, or override the results produced by market forces. Similarly, while it is appropriate for Governments to rely on private, voluntary groups to assist persons with disabilities in various ways, such arrangements can never absolve Governments from their duty to ensure full compliance with their obligations under the Covenant. As the World Programme of Action concerning Disabled Persons states, "the ultimate responsibility for remedying the conditions that lead to impairment and for dealing with the consequences of disability rests with Governments". World Programme of Action concerning Disabled Persons (see note 3 above), para. 3.^{14/}

II. MEANS OF IMPLEMENTATION

13. The methods to be used by States parties in seeking to implement their obligations under the Covenant towards persons with disabilities are essentially the same as those available in relation to other obligations (see General Comment No. 1 (Third session, 1989)). They include the need to ascertain, through regular monitoring, the nature and scope of the problems existing within the State; the need to adopt appropriately tailored policies and programmes to respond to the requirements thus identified; the need to legislate where necessary and to eliminate any existing discriminatory legislation; and the need to make appropriate budgetary provisions or, where necessary, seek international cooperation and assistance. In the latter respect, international cooperation in accordance with articles 22 and 23 of the Covenant is likely to be a particularly important element in enabling some developing countries to fulfil their obligations under the Covenant.
14. In addition, it has been consistently acknowledged by the international community that policy-making and programme implementation in this area should be undertaken on the basis of close consultation with, and involvement of, representative groups of the persons concerned. For this reason, the Standard Rules recommend that everything possible be done to facilitate the establishment of national coordinating committees, or similar bodies, to serve as a national focal point on disability matters. In doing so, Governments should take account of the 1990 Guidelines for the Establishment and Development of National Coordinating Committees on Disability or Similar Bodies.^{15/}

III. THE OBLIGATION TO ELIMINATE DISCRIMINATION ON THE GROUNDS OF DISABILITY

15. Both de jure and de facto discrimination against persons with disabilities have a long history and take various forms. They range from invidious discrimination, such as the denial of educational opportunities, to more "subtle" forms of discrimination such as segregation and isolation achieved through the imposition of physical and social barriers. For the purposes of the Covenant, "disability-based discrimination" may be defined as including any distinction, exclusion, restriction or preference, or denial of reasonable accommodation based on disability which has the effect of nullifying or impairing the recognition, enjoyment or exercise of economic, social or cultural rights. Through neglect, ignorance, prejudice and false assumptions, as well as through exclusion, distinction or separation, persons with disabilities have very often been prevented from exercising their economic, social or cultural rights on an equal basis with persons without disabilities. The effects of disability-based discrimination have been particularly severe in the fields of education, employment, housing, transport, cultural life, and access to public places and services.
16. Despite some progress in terms of legislation over the past decade, ^{16/}the legal situation of persons with disabilities remains precarious. In order to remedy past and present discrimination, and to deter future discrimination, comprehensive anti-discrimination legislation in relation to disability would seem to be indispensable in virtually all States parties. Such legislation should not only provide persons with disabilities with judicial remedies as far as possible and appropriate, but also provide for social-policy programmes which enable persons with disabilities to live an integrated, self-determined and independent life.
17. Anti-discrimination measures should be based on the principle of equal rights for persons with disabilities and the non-disabled, which, in the words of the World Programme of Action concerning Disabled Persons, "implies that the needs of each and every individual are of equal importance, that these needs must be made the basis for the planning of societies, and that all resources must be employed in such a way as to ensure, for every individual, equal opportunity for participation. Disability policies should ensure the access of [persons with disabilities] to all community services". ^{17/}
18. Because appropriate measures need to be taken to undo existing discrimination and to establish equitable opportunities for persons with disabilities, such actions should not be considered discriminatory in the sense of article 2 (2) of the International Covenant on Economic, Social and Cultural Rights as long as they are based on the principle of equality and are employed only to the extent necessary to achieve that objective.

IV. SPECIFIC PROVISIONS OF THE COVENANT

A. Article 3 - Equal rights for men and women

19. Persons with disabilities are sometimes treated as genderless human beings. As a result, the double discrimination suffered by women with disabilities is often neglected. ^{18/} Despite frequent calls by the international community for particular emphasis to be placed upon their situation, very few efforts have been undertaken during the Decade. The neglect of women with disabilities is mentioned several times in the report of the Secretary-General on the implementation of the World Programme of Action. ^{19/} The Committee therefore urges States parties to address the situation of women with disabilities, with high priority being given in future to the implementation of economic, social and cultural rights-related programmes.

B. Articles 6-8 - Rights relating to work

20. The field of employment is one in which disability-based discrimination has been prominent and persistent. In most countries the unemployment rate among persons with disabilities is two to three times higher than the unemployment rate for persons without disabilities. Where persons with disabilities are employed, they are mostly engaged in low-paid jobs with little social and legal security and are often segregated from the mainstream of the labour market. The integration of persons with disabilities into the regular labour market should be actively supported by States.
21. The "right of everyone to the opportunity to gain his living by work which he freely chooses or accepts" (art. 6 (1)) is not realized where the only real opportunity open to disabled workers is to work in so-called "sheltered" facilities under substandard conditions. Arrangements whereby persons with a certain category of disability are effectively confined to certain occupations or to the production of certain goods may violate this right. Similarly, in the light of principle 13 (3) of the Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care, ^{20/} "therapeutical treatment" in institutions which amounts to forced labour is also incompatible with the Covenant. In this regard, the prohibition on forced labour contained in the International Covenant on Civil and Political Rights is also of potential relevance.
22. According to the Standard Rules, persons with disabilities, whether in rural or urban areas, must have equal opportunities for productive and gainful employment in the labour market ^{21/} . For this to happen it is particularly important that artificial barriers to integration in general, and to employment in particular, be removed. As the International Labour Organisation has noted, it is very often the physical barriers that society has erected in areas such as transport, housing and the workplace which are then cited as the reason why persons with disabilities cannot be employed ^{22/} . For example, as long as workplaces are designed and built in ways that make them inaccessible to wheelchairs, employers will be able to "justify" their failure to employ wheelchair users. Governments should also develop policies which promote and

regulate flexible and alternative work arrangements that reasonably accommodate the needs of disabled workers.

23. Similarly, the failure of Governments to ensure that modes of transportation are accessible to persons with disabilities greatly reduces the chances of such persons finding suitable, integrated jobs, taking advantage of educational and vocational training, or commuting to facilities of all types. Indeed, the provision of access to appropriate and, where necessary, specially tailored forms of transportation is crucial to the realization by persons with disabilities of virtually all the rights recognized in the Covenant.
24. The "technical and vocational guidance and training programmes" required under article 6 (2) of the Covenant should reflect the needs of all persons with disabilities, take place in integrated settings, and be planned and implemented with the full involvement of representatives of persons with disabilities.
25. The right to "the enjoyment of just and favourable conditions of work" (art. 7) applies to all disabled workers, whether they work in sheltered facilities or in the open labour market. Disabled workers may not be discriminated against with respect to wages or other conditions if their work is equal to that of non-disabled workers. States parties have a responsibility to ensure that disability is not used as an excuse for creating low standards of labour protection or for paying below minimum wages.
26. Trade union-related rights (art. 8) apply equally to workers with disabilities and regardless of whether they work in special work facilities or in the open labour market. In addition, article 8, read in conjunction with other rights such as the right to freedom of association, serves to emphasize the importance of the right of persons with disabilities to form their own organizations. If these organizations are to be effective in "the promotion and protection of [the] economic and social interests" (art. 8 (1) (a)) of such persons, they should be consulted regularly by government bodies and others in relation to all matters affecting them; it may also be necessary that they be supported financially and otherwise so as to ensure their viability.
27. The International Labour Organization has developed valuable and comprehensive instruments with respect to the work-related rights of persons with disabilities, including in particular Convention No. 159 (1983) concerning vocational rehabilitation and employment of persons with disabilities.^{23/} The Committee encourages States parties to the Covenant to consider ratifying that Convention.

C. Article 9 - Social security

28. Social security and income-maintenance schemes are of particular importance for persons with disabilities. As stated in the Standard Rules, "States should ensure the provision of adequate income support to persons with disabilities who, owing to disability or disability-related factors, have temporarily lost or received a reduction in their income or have been denied employment opportunities".^{24/} Such support should reflect the special needs for assistance and other expenses often associated with disability. In addition, as far as possible, the support provided

should also cover individuals (who are overwhelmingly female) who undertake the care of a person with disabilities. Such persons, including members of the families of persons with disabilities, are often in urgent need of financial support because of their assistance role. ^{25/}

29. Institutionalization of persons with disabilities, unless rendered necessary for other reasons, cannot be regarded as an adequate substitute for the social security and income-support rights of such persons.

D. Article 10 - Protection of the family and of mothers and children

30. In the case of persons with disabilities, the Covenant's requirement that "protection and assistance" be rendered to the family means that everything possible should be done to enable such persons, when they so wish, to live with their families. Article 10 also implies, subject to the general principles of international human rights law, the right of persons with disabilities to marry and have their own family. These rights are frequently ignored or denied, especially in the case of persons with mental disabilities. ^{26/} In this and other contexts, the term "family" should be interpreted broadly and in accordance with appropriate local usage. States parties should ensure that laws and social policies and practices do not impede the realization of these rights. Persons with disabilities should have access to necessary counselling services in order to fulfil their rights and duties within the family. ^{27/}
31. Women with disabilities also have the right to protection and support in relation to motherhood and pregnancy. As the Standard Rules state, "persons with disabilities must not be denied the opportunity to experience their sexuality, have sexual relationships and experience parenthood". ^{28/} The needs and desires in question should be recognized and addressed in both the recreational and the procreational contexts. These rights are commonly denied to both men and women with disabilities worldwide. ^{29/} Both the sterilization of, and the performance of an abortion on, a woman with disabilities without her prior informed consent are serious violations of article 10 (2).
32. Children with disabilities are especially vulnerable to exploitation, abuse and neglect and are, in accordance with article 10 (3) of the Covenant (reinforced by the corresponding provisions of the Convention on the Rights of the Child), entitled to special protection.

E. Article 11 - The right to an adequate standard of living

33. In addition to the need to ensure that persons with disabilities have access to adequate food, accessible housing and other basic material needs, it is also necessary to ensure that "support services, including assistive devices" are available "for persons with disabilities, to assist them to increase their level of independence in their daily living and to exercise their rights". ^{30/} The right to adequate clothing also assumes a special significance in the context of persons with disabilities who have particular clothing needs, so as to enable them to function fully and effectively in society. Wherever possible, appropriate personal assistance should also be

provided in this connection. Such assistance should be undertaken in a manner and spirit which fully respect the human rights of the person(s) concerned. Similarly, as already noted by the Committee in paragraph 8 of General Comment No. 4 (Sixth session, 1991), the right to adequate housing includes the right to accessible housing for persons with disabilities.

F. Article 12 - The right to physical and mental health

34. According to the Standard Rules, "States should ensure that persons with disabilities, particularly infants and children, are provided with the same level of medical care within the same system as other members of society". ^{31/} The right to physical and mental health also implies the right to have access to, and to benefit from, those medical and social services - including orthopaedic devices - which enable persons with disabilities to become independent, prevent further disabilities and support their social integration.^{32/} Similarly, such persons should be provided with rehabilitation services which would enable them "to reach and sustain their optimum level of independence and functioning". ^{33/} All such services should be provided in such a way that the persons concerned are able to maintain full respect for their rights and dignity.

G. Articles 13 and 14 - The right to education

35. School programmes in many countries today recognize that persons with disabilities can best be educated within the general education system. ^{34/} Thus the Standard Rules provide that "States should recognize the principle of equal primary, secondary and tertiary educational opportunities for children, youth and adults with disabilities, in integrated settings". ^{35/} In order to implement such an approach, States should ensure that teachers are trained to educate children with disabilities within regular schools and that the necessary equipment and support are available to bring persons with disabilities up to the same level of education as their non-disabled peers. In the case of deaf children, for example, sign language should be recognized as a separate language to which the children should have access and whose importance should be acknowledged in their overall social environment.

H. Article 15 - The right to take part in cultural life and enjoy the benefits of scientific progress

36. The Standard Rules provide that "States should ensure that persons with disabilities have the opportunity to utilize their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of their community, be they in urban or rural areas. ... States should promote the accessibility to and availability of places for cultural performances and services ... ". ^{36/} The same applies to places for recreation, sports and tourism.
37. The right to full participation in cultural and recreational life for persons with disabilities further requires that communication barriers be eliminated to the greatest extent possible. Useful measures in this regard might include "the use of talking books, papers written in simple

language and with clear format and colours for persons with mental disability, [and] adapted television and theatre for deaf persons". ^{37/}

38. In order to facilitate the equal participation in cultural life of persons with disabilities, Governments should inform and educate the general public about disability. In particular, measures must be taken to dispel prejudices or superstitious beliefs against persons with disabilities, for example those that view epilepsy as a form of spirit possession or a child with disabilities as a form of punishment visited upon the family. Similarly, the general public should be educated to accept that persons with disabilities have as much right as any other person to make use of restaurants, hotels, recreation centres and cultural venues.

Notes

* Contained in document E/1995/22.

1/ For a comprehensive review of the question, see the final report prepared by Mr Leandro Despouy, Special Rapporteur, on human rights and disability (E/CN.4/Sub.2/1991/31).

2/ See A/47/415, para. 5.

3/ See para. 165 of the World Programme of Action concerning Disabled Persons, adopted by the General Assembly by its resolution 37/52 of 3 December 1982 (para. 1).

4/ See Commission on Human Rights resolutions 1992/48, para. 4 and 1993/29, para. 7.

5/ See A/47/415, para. 6.

6/ Standard Rules on the Equalization of Opportunities for Persons with Disabilities, annexed to General Assembly resolution 48/96 of 20 December 1993 (Introduction, para. 17).

7/ World Programme of Action concerning Disabled Persons (see note 3 above), para. 1.

8/ A/C.3/46/4, annex I. Also contained in the Report on the International Meeting on the Roles and Functions of National Coordinating Committees on Disability in Developing Countries, Beijing, 5-11 November 1990 (CSDHA/DDP/NDC/4). See also Economic and Social Council resolution 1991/8 and General Assembly resolution 46/96 of 16 December 1991.

9/ General Assembly resolution 46/119 of 17 December 1991, annex.

10/ Standard Rules, (see note 6 above), Introduction, para. 15.

11/ See A/47/415, passim.

12/ Ibid., para. 5.

13/ Standard Rules, (see note 6 above) Rule 1.

- 14/ World Programme of Action concerning Disabled Persons (see note 3 above), para. 3.
- 15/ See note 8 above.
- 16/ See A/47/415, paras. 37-38.
- 17/ World Programme of Action concerning Disabled Persons (see note 3 above), para. 25.
- 18/ See E/CN.4/Sub.2/1991/31 (see note 1 above), para. 140.
- 19/ See A/47/415, paras. 35, 46, 74 and 77.
- 20/ See note 9 above.
- 21/ Standard Rules (see note 6 above), Rule 7.
- 22/ See A/CONF.157/PC/61/Add.10, p. 12.
- 23/ See also Recommendation No. 99 (1955) concerning vocational rehabilitation of the disabled, and Recommendation No. 168 (1983) concerning vocational rehabilitation and employment of persons with disabilities.
- 24/ Standard Rules (see note 6 above) Rule 8, para. 1.
- 25/ See A/47/415, para. 78.
- 26/ See E/CN.4/Sub.2/1991/31 (see note 1 above), paras. 190 and 193.
- 27/ See the World Programme of Action concerning Disabled Persons (see note 3 above) para. 74.
- 28/ Standard Rules (see note 6 above), Rule 9, para. 2.
- 29/ See E/CN.6/1991/2, paras. 14 and 59-68.
- 30/ Standard Rules (see note 6 above), Rule 4.
- 31/ Ibid., Rule 2, para. 3.
- 32/ See the Declaration on the Rights of Disabled Persons (General Assembly resolution 3447 (XXX) of 9 December 1975), para. 6; and the World Programme of Action concerning Disabled Persons (see note 3 above), paras. 95-107.
- 33/ Standard Rules (see note 6 above), Rule 3.
- 34/ See A/47/415 para. 73.
- 35/ Standard Rules (see note 6 above), Rule 6.
- 36/ *ibid.*, Rule 10, paras.1-2
- 37/ See A/47/415 para. 79

Appendix E: Convention on the Rights of Persons with Disabilities

<http://www.un.org/disabilities/documents/convention/convoptprot-e.pdf>

Preamble

The States Parties to the present Convention,

- (a) *Recalling* the principles proclaimed in the Charter of the United Nations which recognize the inherent dignity and worth and the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world,
- (b) *Recognizing* that the United Nations, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, has proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind,
- (c) *Reaffirming* the universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms and the need for persons with disabilities to be guaranteed their full enjoyment without discrimination,
- (d) *Recalling* the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,
- (e) *Recognizing* that 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,
- (f) *Recognizing* the importance of the principles and policy guidelines contained in the World Programme of Action concerning Disabled Persons and in the Standard Rules on the Equalization of Opportunities for Persons with Disabilities in influencing the promotion, formulation and evaluation of the policies, plans, programmes and actions at the national, regional and international levels to further equalize opportunities for persons with disabilities,

- (g) *Emphasizing* the importance of mainstreaming disability issues as an integral part of relevant strategies of sustainable development,
- (h) *Recognizing also* that discrimination against any person on the basis of disability is a violation of the inherent dignity and worth of the human person,
- (i) *Recognizing further* the diversity of persons with disabilities,
- (j) *Recognizing* the need to promote and protect the human rights of all persons with disabilities, including those who require more intensive support,
- (k) *Concerned* that, despite these various instruments and undertakings, persons with disabilities continue to face barriers in their participation as equal members of society and violations of their human rights in all parts of the world,
- (l) *Recognizing* the importance of international cooperation for improving the living conditions of persons with disabilities in every country, particularly in developing countries,
- (m) *Recognizing* the valued existing and potential contributions made by persons with disabilities to the overall well-being and diversity of their communities, and that the promotion of the full enjoyment by persons with disabilities of their human rights and fundamental freedoms and of full participation by persons with disabilities will result in their enhanced sense of belonging and in significant advances in the human, social and economic development of society and the eradication of poverty,
- (n) *Recognizing* the importance for persons with disabilities of their individual autonomy and independence, including the freedom to make their own choices,
- (o) *Considering* that persons with disabilities should have the opportunity to be actively involved in decision-making processes about policies and programmes, including those directly concerning them,
- (p) *Concerned* about the difficult conditions faced by persons with disabilities who are subject to multiple or aggravated forms of discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age or other status,
- (q) *Recognizing* that women and girls with disabilities are often at greater risk, both within and outside the home, of violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation,
- (r) *Recognizing* that children with disabilities should have full enjoyment of all human rights and fundamental freedoms on an equal basis with other children, and recalling obligations to that end undertaken by States Parties to the Convention on the Rights of the Child,
- (s) *Emphasizing* the need to incorporate a gender perspective in all efforts to promote the full enjoyment of human rights and fundamental freedoms by persons with disabilities,

- (t) *Highlighting* the fact that the majority of persons with disabilities live in conditions of poverty, and in this regard recognizing the critical need to address the negative impact of poverty on persons with disabilities,
- (u) *Bearing in mind* that conditions of peace and security based on full respect for the purposes and principles contained in the Charter of the United Nations and observance of applicable human rights instruments are indispensable for the full protection of persons with disabilities, in particular during armed conflicts and foreign occupation,
- (v) *Recognizing* the importance of accessibility to the physical, economic, social and cultural environment, to health and education and to information and communication, in enabling persons with disabilities to fully enjoy all human rights and fundamental freedoms,
- (w) *Realizing* that the individual, having duties to other individuals and to the community to which he or she belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the International Bill of Human Rights,
- (x) *Convinced* that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State, and that persons with disabilities and their family members should receive the necessary protection and assistance to enable families to contribute towards the full and equal enjoyment of the rights of persons with disabilities,
- (y) *Convinced* that a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities will make a significant contribution to redressing the profound social disadvantage of persons with disabilities and promote their participation in the civil, political, economic, social and cultural spheres with equal opportunities, in both developing and developed countries,

Have agreed as follows:

Article 1

Purpose

The purpose of the present Convention is 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. 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 2

Definitions

For the purposes of the present Convention:

- “Communication” includes languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, human-reader and

augmentative and alternative modes, means and formats of communication, including accessible information and communication technology;

- “Language” includes spoken and signed languages and other forms of non spoken languages;
- “Discrimination on the basis of disability” 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” 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;
- “Universal design” means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. “Universal design” shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.

Article 3

General principles

The principles of the present Convention shall be:

- (a) Respect for inherent dignity, individual autonomy including the freedom to make one’s own choices, and independence of persons;
- (b) Non-discrimination;
- (c) Full and effective participation and inclusion in society;
- (d) Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- (e) Equality of opportunity;
- (f) Accessibility;
- (g) Equality between men and women;
- (h) Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

Article 4

General obligations

1. States Parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability. To this end, States Parties undertake:
 - (a) To adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention;
 - (b) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities;
 - (c) To take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes;
 - (d) To refrain from engaging in any act or practice that is inconsistent with the present Convention and to ensure that public authorities and institutions act in conformity with the present Convention;
 - (e) To take all appropriate measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise;
 - (f) To undertake or promote research and development of universally designed goods, services, equipment and facilities, as defined in article 2 of the present Convention, which should require the minimum possible adaptation and the least cost to meet the specific needs of a person with disabilities, to promote their availability and use, and to promote universal design in the development of standards and guidelines;
 - (g) To undertake or promote research and development of, and to promote the availability and use of new technologies, including information and communications technologies, mobility aids, devices and assistive technologies, suitable for persons with disabilities, giving priority to technologies at an affordable cost;
 - (h) To provide accessible information to persons with disabilities about mobility aids, devices and assistive technologies, including new technologies, as well as other forms of assistance, support services and facilities;
 - (i) To promote the training of professionals and staff working with persons with disabilities in the rights recognized in the present Convention so as to better provide the assistance and services guaranteed by those rights.
2. With regard to economic, social and cultural rights, each State Party undertakes to take measures to the maximum of its available resources and, where needed, within the framework of international cooperation, with a view to achieving progressively the full realization of these

rights, without prejudice to those obligations contained in the present Convention that are immediately applicable according to international law.

3. In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.
4. Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of persons with disabilities and which may be contained in the law of a State Party or international law in force for that State. There shall be no restriction upon or derogation from any of the human rights and fundamental freedoms recognized or existing in any State Party to the present Convention pursuant to law, conventions, regulation or custom on the pretext that the present Convention does not recognize such rights or freedoms or that it recognizes them to a lesser extent.
5. The provisions of the present Convention shall extend to all parts of federal States without any limitations or exceptions.

Article 5

Equality and non-discrimination

1. States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.
2. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.
3. In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.
4. Specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention.

Article 6

Women with disabilities

1. States Parties recognize that women and girls with disabilities are subject to multiple discrimination, and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms.
2. States Parties shall take all appropriate measures to ensure the full development, advancement and empowerment of women, for the purpose of guaranteeing them the exercise

and enjoyment of the human rights and fundamental freedoms set out in the present Convention.

Article 7

Children with disabilities

1. States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.
2. In all actions concerning children with disabilities, the best interests of the child shall be a primary consideration.
3. States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right.

Article 8

Awareness-raising

1. States Parties undertake to adopt immediate, effective and appropriate measures:
 - (a) To raise awareness throughout society, including at the family level, regarding persons with disabilities, and to foster respect for the rights and dignity of persons with disabilities;
 - (b) To combat stereotypes, prejudices and harmful practices relating to persons with disabilities, including those based on sex and age, in all areas of life;
 - (c) To promote awareness of the capabilities and contributions of persons with disabilities.
2. Measures to this end include:
 - (a) Initiating and maintaining effective public awareness campaigns designed:
 - i. To nurture receptiveness to the rights of persons with disabilities;
 - ii. To promote positive perceptions and greater social awareness towards persons with disabilities;
 - iii. To promote recognition of the skills, merits and abilities of persons with disabilities, and of their contributions to the workplace and the labour market;
 - (b) Fostering at all levels of the education system, including in all children from an early age, an attitude of respect for the rights of persons with disabilities;
 - (c) Encouraging all organs of the media to portray persons with disabilities in a manner consistent with the purpose of the present Convention;

- (d) Promoting awareness-training programmes regarding persons with disabilities and the rights of persons with disabilities.

Article 9

Accessibility

1. To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:
 - (a) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;
 - (b) Information, communications and other services, including electronic services and emergency services.
2. States Parties shall also take appropriate measures:
 - (a) To develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;
 - (b) To ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities;
 - (c) To provide training for stakeholders on accessibility issues facing persons with disabilities;
 - (d) To provide in buildings and other facilities open to the public signage in Braille and in easy to read and understand forms;
 - (e) To provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public;
 - (f) To promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information;
 - (g) To promote access for persons with disabilities to new information and communications technologies and systems, including the Internet;
 - (h) To promote the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost.

Article 10

Right to life

States Parties reaffirm that every human being has the inherent right to life and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others.

Article 11

Situations of risk and humanitarian emergencies States Parties shall take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.

Article 12

Equal recognition before the law

1. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.
2. States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.
3. States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.
4. States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body. The safeguards shall be proportional to the degree to which such measures affect the person's rights and interests.
5. Subject to the provisions of this article, States Parties shall take all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and shall ensure that persons with disabilities are not arbitrarily deprived of their property.

Article 13

Access to justice

1. States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.
2. In order to help to ensure effective access to justice for persons with disabilities, States Parties shall promote appropriate training for those working in the field of administration of justice, including police and prison staff.

Article 14

Liberty and security of person

1. States Parties shall ensure that persons with disabilities, on an equal basis with others:
 - (a) Enjoy the right to liberty and security of person;
 - (b) Are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the existence of a disability shall in no case justify a deprivation of liberty.
2. States Parties shall ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of the present Convention, including by provision of reasonable accommodation.

Article 15

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

1. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his or her free consent to medical or scientific experimentation.
2. States Parties shall take all effective legislative, administrative, judicial or other measures to prevent persons with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman or degrading treatment or punishment.

Article 16

Freedom from exploitation, violence and abuse

1. States Parties shall take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects.
2. States Parties shall also take all appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring, inter alia, appropriate forms of gender- and age-sensitive assistance and support for persons with disabilities and their families and caregivers, including through the provision of information and education on how to avoid, recognize and report instances of exploitation, violence and abuse. States Parties shall ensure that protection services are age-, gender- and disability-sensitive.
3. In order to prevent the occurrence of all forms of exploitation, violence and abuse, States Parties shall ensure that all facilities and programmes designed to serve persons with disabilities are effectively monitored by independent authorities.
4. States Parties shall take all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disabilities who become victims of any form of exploitation, violence or abuse, including through the provision of protection services. Such recovery and reintegration shall take place in an environment that fosters the health, welfare, self-respect, dignity and autonomy of the person and takes into account gender- and age-specific needs.
5. States Parties shall put in place effective legislation and policies, including women- and child-focused legislation and policies, to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted.

Article 17

Protecting the integrity of the person

Every person with disabilities has a right to respect for his or her physical and mental integrity on an equal basis with others.

Article 18

Liberty of movement and nationality

1. States Parties shall recognize the rights of persons with disabilities to liberty of movement, to freedom to choose their residence and to a nationality, on an equal basis with others, including by ensuring that persons with disabilities:
 - (a) Have the right to acquire and change a nationality and are not deprived of their nationality arbitrarily or on the basis of disability;

- (b) Are not deprived, on the basis of disability, of their ability to obtain, possess and utilize documentation of their nationality or other documentation of identification, or to utilize relevant processes such as immigration proceedings, that may be needed to facilitate exercise of the right to liberty of movement;
 - (c) Are free to leave any country, including their own;
 - (d) Are not deprived, arbitrarily or on the basis of disability, of the right to enter their own country.
2. Children with disabilities shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by their parents.

Article 19

Living independently and being included in the community

States Parties to the present Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community, including by ensuring that:

- (a) Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement;
- (b) Persons with disabilities have 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, and to prevent isolation or segregation from the community;
- (c) Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.

Article 20

Personal mobility

States Parties shall take effective measures to ensure personal mobility with the greatest possible independence for persons with disabilities, including by:

- (a) Facilitating the personal mobility of persons with disabilities in the manner and at the time of their choice, and at affordable cost;
- (b) Facilitating access by persons with disabilities to quality mobility aids, devices, assistive technologies and forms of live assistance and intermediaries, including by making them available at affordable cost;

- (c) Providing training in mobility skills to persons with disabilities and to specialist staff working with persons with disabilities;
- (d) Encouraging entities that produce mobility aids, devices and assistive technologies to take into account all aspects of mobility for persons with disabilities.

Article 21

Freedom of expression and opinion, and access to information

States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice, as defined in article 2 of the present Convention, including by:

- (a) Providing information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost;
- (b) Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions;
- (c) Urging private entities that provide services to the general public, including through the Internet, to provide information and services in accessible and usable formats for persons with disabilities;
- (d) Encouraging the mass media, including providers of information through the Internet, to make their services accessible to persons with disabilities;
- (e) Recognizing and promoting the use of sign languages.

Article 22

Respect for privacy

1. No person with disabilities, regardless of place of residence or living arrangements, shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence or other types of communication or to unlawful attacks on his or her honour and reputation. Persons with disabilities have the right to the protection of the law against such interference or attacks.
2. States Parties shall protect the privacy of personal, health and rehabilitation information of persons with disabilities on an equal basis with others.

Article 23

Respect for home and the family

1. States Parties shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others, so as to ensure that:
 - (a) The right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognized;
 - (b) The rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children and to have access to age-appropriate information, reproductive and family planning education are recognized, and the means necessary to enable them to exercise these rights are provided;
 - (c) Persons with disabilities, including children, retain their fertility on an equal basis with others.
2. States Parties shall ensure the rights and responsibilities of persons with disabilities, with regard to guardianship, wardship, trusteeship, adoption of children or similar institutions, where these concepts exist in national legislation; in all cases the best interests of the child shall be paramount. States Parties shall render appropriate assistance to persons with disabilities in the performance of their child-rearing responsibilities.
3. States Parties shall ensure that children with disabilities have equal rights with respect to family life. With a view to realizing these rights, and to prevent concealment, abandonment, neglect and segregation of children with disabilities, States Parties shall undertake to provide early and comprehensive information, services and support to children with disabilities and their families.
4. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. In no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents.
5. States Parties shall, where the immediate family is unable to care for a child with disabilities, undertake every effort to provide alternative care within the wider family, and failing that, within the community in a family setting.

Article 24

Education

1. States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning directed to:

- (a) The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;
 - (b) The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;
 - (c) Enabling persons with disabilities to participate effectively in a free society.
2. In realizing this right, States Parties shall ensure that:
- (a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;
 - (b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;
 - (c) Reasonable accommodation of the individual's requirements is provided;
 - (d) Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;
 - (e) Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.
3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including:
- (a) Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;
 - (b) Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;
 - (c) Ensuring that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.
4. In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.

5. States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.

Article 25

Health

States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation. In particular, States Parties shall:

- (a) Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health and population-based public health programmes;
- (b) Provide those health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimize and prevent further disabilities, including among children and older persons;
- (c) Provide these health services as close as possible to people's own communities, including in rural areas;
- (d) Require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, inter alia, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care;
- (e) Prohibit discrimination against persons with disabilities in the provision of health insurance, and life insurance where such insurance is permitted by national law, which shall be provided in a fair and reasonable manner;
- (f) Prevent discriminatory denial of health care or health services or food and fluids on the basis of disability.

Article 26

Habilitation and rehabilitation

1. States Parties shall take effective and appropriate measures, including through peer support, to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life. To that end, States Parties shall organize, strengthen and extend comprehensive habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services, in such a way that these services and programmes:

- (a) Begin at the earliest possible stage, and are based on the multidisciplinary assessment of individual needs and strengths;
 - (b) Support participation and inclusion in the community and all aspects of society, are voluntary, and are available to persons with disabilities as close as possible to their own communities, including in rural areas.
2. States Parties shall promote the development of initial and continuing training for professionals and staff working in habilitation and rehabilitation services.
 3. States Parties shall promote the availability, knowledge and use of assistive devices and technologies, designed for persons with disabilities, as they relate to habilitation and rehabilitation.

Article 27

Work and employment

1. States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:
 - (a) Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;
 - (b) Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances;
 - (c) Ensure that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others;
 - (d) Enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training;
 - (e) Promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment;
 - (f) Promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business;

- (g) Employ persons with disabilities in the public sector;
 - (h) Promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures;
 - (i) Ensure that reasonable accommodation is provided to persons with disabilities in the workplace;
 - (j) Promote the acquisition by persons with disabilities of work experience in the open labour market;
 - (k) Promote vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities.
2. States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.

Article 28

Adequate standard of living and social protection

1. States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.
2. States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures:
 - (a) To ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs;
 - (b) To ensure access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection programmes and poverty reduction programmes;
 - (c) To ensure access by persons with disabilities and their families living in situations of poverty to assistance from the State with disability related expenses, including adequate training, counselling, financial assistance and respite care;
 - (d) To ensure access by persons with disabilities to public housing programmes;
 - (e) To ensure equal access by persons with disabilities to retirement benefits and programmes.

Article 29

Participation in political and public life

States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake:

- (a) To ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by:
 - i. Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;
 - ii. Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;
 - iii. Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice;
- (b) To promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:
 - i. Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties;
 - ii. Forming and joining organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.

Article 30

Participation in cultural life, recreation, leisure and sport

1. States Parties recognize the right of persons with disabilities to take part on an equal basis with others in cultural life, and shall take all appropriate measures to ensure that persons with disabilities:
 - (a) Enjoy access to cultural materials in accessible formats;
 - (b) Enjoy access to television programmes, films, theatre and other cultural activities, in accessible formats;

- (c) Enjoy access to places for cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, and, as far as possible, enjoy access to monuments and sites of national cultural importance.
2. States Parties shall take appropriate measures to enable persons with disabilities to have the opportunity to develop and utilize their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of society.
 3. States Parties shall take all appropriate steps, in accordance with international law, to ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials.
 4. Persons with disabilities shall be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including sign languages and deaf culture.
 5. With a view to enabling persons with disabilities to participate on an equal basis with others in recreational, leisure and sporting activities, States Parties shall take appropriate measures:
 - (a) To encourage and promote the participation, to the fullest extent possible, of persons with disabilities in mainstream sporting activities at all levels;
 - (b) To ensure that persons with disabilities have an opportunity to organize, develop and participate in disability-specific sporting and recreational activities and, to this end, encourage the provision, on an equal basis with others, of appropriate instruction, training and resources;
 - (c) To ensure that persons with disabilities have access to sporting, recreational and tourism venues;
 - (d) To ensure that children with disabilities have equal access with other children to participation in play, recreation and leisure and sporting activities, including those activities in the school system;
 - (e) To ensure that persons with disabilities have access to services from those involved in the organization of recreational, tourism, leisure and sporting activities.

Article 31

Statistics and data collection

1. States Parties undertake to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the present Convention. The process of collecting and maintaining this information shall:
 - (a) Comply with legally established safeguards, including legislation on data protection, to ensure confidentiality and respect for the privacy of persons with disabilities;

- (b) Comply with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles in the collection and use of statistics.
2. The information collected in accordance with this article shall be disaggregated, as appropriate, and used to help assess the implementation of States Parties' obligations under the present Convention and to identify and address the barriers faced by persons with disabilities in exercising their rights.
3. States Parties shall assume responsibility for the dissemination of these statistics and ensure their accessibility to persons with disabilities and others.

Article 32

International cooperation

1. States Parties recognize the importance of international cooperation and its promotion, in support of national efforts for the realization of the purpose and objectives of the present Convention, and will undertake appropriate and effective measures in this regard, between and among States and, as appropriate, in partnership with relevant international and regional organizations and civil society, in particular organizations of persons with disabilities. Such measures could include, inter alia:
 - (a) Ensuring that international cooperation, including international development programmes, is inclusive of and accessible to persons with disabilities;
 - (b) Facilitating and supporting capacity-building, including through the exchange and sharing of information, experiences, training programmes and best practices;
 - (c) Facilitating cooperation in research and access to scientific and technical knowledge;
 - (d) Providing, as appropriate, technical and economic assistance, including by facilitating access to and sharing of accessible and assistive technologies, and through the transfer of technologies.
2. The provisions of this article are without prejudice to the obligations of each State Party to fulfil its obligations under the present Convention.

Article 33

National implementation and monitoring

1. States Parties, in accordance with their system of organization, shall designate one or more focal points within government for matters relating to the implementation of the present Convention, and shall give due consideration to the establishment or designation of a coordination mechanism within government to facilitate related action in different sectors and at different levels.
2. States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more

independent mechanisms, as appropriate, to promote, protect and monitor implementation of the present Convention. When designating or establishing such a mechanism, States Parties shall take into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights.

3. Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process.

Article 34

Committee on the Rights of Persons with Disabilities

1. There shall be established a Committee on the Rights of Persons with Disabilities (hereafter referred to as “the Committee”), which shall carry out the functions hereinafter provided.
2. The Committee shall consist, at the time of entry into force of the present Convention, of twelve experts. After an additional sixty ratifications or accessions to the Convention, the membership of the Committee shall increase by six members, attaining a maximum number of eighteen members.
3. The members of the Committee shall serve in their personal capacity and shall be of high moral standing and recognized competence and experience in the field covered by the present Convention. When nominating their candidates, States Parties are invited to give due consideration to the provision set out in article 4, paragraph 3, of the present Convention.
4. The members of the Committee shall be elected by States Parties, consideration being given to equitable geographical distribution, representation of the different forms of civilization and of the principal legal systems, balanced gender representation and participation of experts with disabilities.
5. The members of the Committee shall be elected by secret ballot from a list of persons nominated by the States Parties from among their nationals at meetings of the Conference of States Parties. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
6. The initial election shall be held no later than six months after the date of entry into force of the present Convention. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit the nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating the State Parties which have nominated them, and shall submit it to the States Parties to the present Convention.
7. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election once. However, the term of six of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these six

members shall be chosen by lot by the chairperson of the meeting referred to in paragraph 5 of this article.

8. The election of the six additional members of the Committee shall be held on the occasion of regular elections, in accordance with the relevant provisions of this article.
9. If a member of the Committee dies or resigns or declares that for any other cause she or he can no longer perform her or his duties, the State Party which nominated the member shall appoint another expert possessing the qualifications and meeting the requirements set out in the relevant provisions of this article, to serve for the remainder of the term.
10. The Committee shall establish its own rules of procedure.
11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention, and shall convene its initial meeting.
12. With the approval of the General Assembly of the United Nations, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide, having regard to the importance of the Committee's responsibilities.
13. The members of the Committee shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

Article 35

Reports by States Parties

1. Each State Party shall submit to the Committee, through the Secretary-General of the United Nations, a comprehensive report on measures taken to give effect to its obligations under the present Convention and on the progress made in that regard, within two years after the entry into force of the present Convention for the State Party concerned.
2. Thereafter, States Parties shall submit subsequent reports at least every four years and further whenever the Committee so requests.
3. The Committee shall decide any guidelines applicable to the content of the reports.
4. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports, repeat information previously provided. When preparing reports to the Committee, States Parties are invited to consider doing so in an open and transparent process and to give due consideration to the provision set out in article 4, paragraph 3, of the present Convention.
5. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

Article 36

Consideration of reports

1. Each report shall be considered by the Committee, which shall make such suggestions and general recommendations on the report as it may consider appropriate and shall forward these to the State Party concerned. The State Party may respond with any information it chooses to the Committee. The Committee may request further information from States Parties relevant to the implementation of the present Convention.
2. If a State Party is significantly overdue in the submission of a report, the Committee may notify the State Party concerned of the need to examine the implementation of the present Convention in that State Party, on the basis of reliable information available to the Committee, if the relevant report is not submitted within three months following the notification. The Committee shall invite the State Party concerned to participate in such examination. Should the State Party respond by submitting the relevant report, the provisions of paragraph 1 of this article will apply.
3. The Secretary-General of the United Nations shall make available the reports to all States Parties.
4. States Parties shall make their reports widely available to the public in their own countries and facilitate access to the suggestions and general recommendations relating to these reports.
5. The Committee shall transmit, as it may consider appropriate, to the specialized agencies, funds and programmes of the United Nations, and other competent bodies, reports from States Parties in order to address a request or indication of a need for technical advice or assistance contained therein, along with the Committee's observations and recommendations, if any, on these requests or indications.

Article 37

Cooperation between States Parties and the Committee

1. Each State Party shall cooperate with the Committee and assist its members in the fulfilment of their mandate.
2. In its relationship with States Parties, the Committee shall give due consideration to ways and means of enhancing national capacities for the implementation of the present Convention, including through international cooperation.

Article 38

Relationship of the Committee with other bodies

In order to foster the effective implementation of the present Convention and to encourage international cooperation in the field covered by the present Convention:

- (a) The specialized agencies and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite specialized agencies and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;
- (b) The Committee, as it discharges its mandate, shall consult, as appropriate, other relevant bodies instituted by international human rights treaties, with a view to ensuring the consistency of their respective reporting guidelines, suggestions and general recommendations, and avoiding duplication and overlap in the performance of their functions.

Article 39

Report of the Committee

The Committee shall report every two years to the General Assembly and to the Economic and Social Council on its activities, and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.

Article 40

Conference of States Parties

1. The States Parties shall meet regularly in a Conference of States Parties in order to consider any matter with regard to the implementation of the present Convention.
2. No later than six months after the entry into force of the present Convention, the Conference of States Parties shall be convened by the Secretary-General of the United Nations. The subsequent meetings shall be convened by the Secretary-General biennially or upon the decision of the Conference of States Parties.

Article 41

Depositary

The Secretary-General of the United Nations shall be the depositary of the present Convention.

Article 42

Signature

The present Convention shall be open for signature by all States and by regional integration organizations at United Nations Headquarters in New York as of 30 March 2007.

Article 43

Consent to be bound

The present Convention shall be subject to ratification by signatory States and to formal confirmation by signatory regional integration organizations. It shall be open for accession by any State or regional integration organization which has not signed the Convention.

Article 44

Regional integration organizations

1. “Regional integration organization” shall mean an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by the present Convention. Such organizations shall declare, in their instruments of formal confirmation or accession, the extent of their competence with respect to matters governed by the present Convention. Subsequently, they shall inform the depositary of any substantial modification in the extent of their competence.
2. References to “States Parties” in the present Convention shall apply to such organizations within the limits of their competence.
3. For the purposes of article 45, paragraph 1, and article 47, paragraphs 2 and 3, of the present Convention, any instrument deposited by a regional integration organization shall not be counted.
4. Regional integration organizations, in matters within their competence, may exercise their right to vote in the Conference of States Parties, with a number of votes equal to the number of their member States that are Parties to the present Convention. Such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

Article 45

Entry into force

1. The present Convention shall enter into force on the thirtieth day after the deposit of the twentieth instrument of ratification or accession.
2. For each State or regional integration organization ratifying, formally confirming or acceding to the present Convention after the deposit of the twentieth such instrument, the Convention shall enter into force on the thirtieth day after the deposit of its own such instrument.

Article 46

Reservations

1. Reservations incompatible with the object and purpose of the present Convention shall not be permitted.

2. Reservations may be withdrawn at any time.

Article 47

Amendments

1. Any State Party may propose an amendment to the present Convention and submit it to the Secretary-General of the United Nations. The Secretary-General shall communicate any proposed amendments to States Parties, with a request to be notified whether they favour a conference of States Parties for the purpose of considering and deciding upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States Parties present and voting shall be submitted by the Secretary-General to the General Assembly of the United Nations for approval and thereafter to all States Parties for acceptance.
2. An amendment adopted and approved in accordance with paragraph 1 of this article shall enter into force on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment. Thereafter, the amendment shall enter into force for any State Party on the thirtieth day following the deposit of its own instrument of acceptance. An amendment shall be binding only on those States Parties which have accepted it.
3. If so decided by the Conference of States Parties by consensus, an amendment adopted and approved in accordance with paragraph 1 of this article which relates exclusively to articles 34, 38, 39 and 40 shall enter into force for all States Parties on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment.

Article 48

Denunciation

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. The denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

Article 49

Accessible format

The text of the present Convention shall be made available in accessible formats.

Article 50

Authentic texts

The Arabic, Chinese, English, French, Russian and Spanish texts of the present Convention shall be equally authentic. IN WITNESS THEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

The States Parties to the present Protocol have agreed as follows:

Article 1

1. A State Party to the present Protocol (“State Party”) recognizes the competence of the Committee on the Rights of Persons with Disabilities (“the Committee”) to receive and consider communications from or on behalf of individuals or groups of individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of the provisions of the Convention.
2. No communication shall be received by the Committee if it concerns a State Party to the Convention that is not a party to the present Protocol.

Article 2

The Committee shall consider a communication inadmissible when:

- (a) The communication is anonymous;
- (b) The communication constitutes an abuse of the right of submission of such communications or is incompatible with the provisions of the Convention;
- (c) The same matter has already been examined by the Committee or has been or is being examined under another procedure of international investigation or settlement;
- (d) All available domestic remedies have not been exhausted. This shall not be the rule where the application of the remedies is unreasonably prolonged or unlikely to bring effective relief;
- (e) It is manifestly ill-founded or not sufficiently substantiated; or when
- (f) The facts that are the subject of the communication occurred prior to the entry into force of the present Protocol for the State Party concerned unless those facts continued after that date.

Article 3

Subject to the provisions of article 2 of the present Protocol, the Committee shall bring any communications submitted to it confidentially to the attention of the State Party. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

Article 4

1. At any time after the receipt of a communication and before a determination on the merits has been reached, the Committee may transmit to the State Party concerned for its urgent consideration a request that the State Party take such interim measures as may be necessary to avoid possible irreparable damage to the victim or victims of the alleged violation.
2. Where the Committee exercises its discretion under paragraph 1 of this article, this does not imply a determination on admissibility or on the merits of the communication.

Article 5

The Committee shall hold closed meetings when examining communications under the present Protocol. After examining a communication, the Committee shall forward its suggestions and recommendations, if any, to the State Party concerned and to the petitioner.

Article 6

1. If the Committee receives reliable information indicating grave or systematic violations by a State Party of rights set forth in the Convention, the Committee shall invite that State Party to cooperate in the examination of the information and to this end submit observations with regard to the information concerned.
2. Taking into account any observations that may have been submitted by the State Party concerned as well as any other reliable information available to it, the Committee may designate one or more of its members to conduct an inquiry and to report urgently to the Committee. Where warranted and with the consent of the State Party, the inquiry may include a visit to its territory.
3. After examining the findings of such an inquiry, the Committee shall transmit these findings to the State Party concerned together with any comments and recommendations.
4. The State Party concerned shall, within six months of receiving the findings, comments and recommendations transmitted by the Committee, submit its observations to the Committee.
5. Such an inquiry shall be conducted confidentially and the cooperation of the State Party shall be sought at all stages of the proceedings.

Article 7

1. The Committee may invite the State Party concerned to include in its report under article 35 of the Convention details of any measures taken in response to an inquiry conducted under article 6 of the present Protocol.
2. The Committee may, if necessary, after the end of the period of six months referred to in article 6, paragraph 4, invite the State Party concerned to inform it of the measures taken in response to such an inquiry.

Article 8

Each State Party may, at the time of signature or ratification of the present Protocol or accession thereto, declare that it does not recognize the competence of the Committee provided for in articles 6 and 7.

Article 9

The Secretary-General of the United Nations shall be the depositary of the present Protocol.

Article 10

The present Protocol shall be open for signature by signatory States and regional integration organizations of the Convention at United Nations Headquarters in New York as of 30 March 2007.

Article 11

The present Protocol shall be subject to ratification by signatory States of the present Protocol which have ratified or acceded to the Convention. It shall be subject to formal confirmation by signatory regional integration organizations of the present Protocol which have formally confirmed or acceded to the Convention. It shall be open for accession by any State or regional integration organization which has ratified, formally confirmed or acceded to the Convention and which has not signed the Protocol.

Article 12

1. "Regional integration organization" shall mean an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by the Convention and the present Protocol. Such organizations shall declare, in their instruments of formal confirmation or accession, the extent of their competence with respect to matters governed by the Convention and the present Protocol. Subsequently, they shall inform the depositary of any substantial modification in the extent of their competence.
2. References to "States Parties" in the present Protocol shall apply to such organizations within the limits of their competence.
3. For the purposes of article 13, paragraph 1, and article 15, paragraph 2, of the present Protocol, any instrument deposited by a regional integration organization shall not be counted.
4. Regional integration organizations, in matters within their competence, may exercise their right to vote in the meeting of States Parties, with a number of votes equal to the number of their member States that are Parties to the present Protocol. Such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

Article 13

1. Subject to the entry into force of the Convention, the present Protocol shall enter into force on the thirtieth day after the deposit of the tenth instrument of ratification or accession.
2. For each State or regional integration organization ratifying, formally confirming or acceding to the present Protocol after the deposit of the tenth such instrument, the Protocol shall enter into force on the thirtieth day after the deposit of its own such instrument.

Article 14

1. Reservations incompatible with the object and purpose of the present Protocol shall not be permitted.
2. Reservations may be withdrawn at any time.

Article 15

1. Any State Party may propose an amendment to the present Protocol and submit it to the Secretary-General of the United Nations. The Secretary-General shall communicate any proposed amendments to States Parties, with a request to be notified whether they favour a meeting of States Parties for the purpose of considering and deciding upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a meeting, the Secretary-General shall convene the meeting under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States Parties present and voting shall be submitted by the Secretary-General to the General Assembly for approval and thereafter to all States Parties for acceptance.
2. An amendment adopted and approved in accordance with paragraph 1 of this article shall enter into force on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment. Thereafter, the amendment shall enter into force for any State Party on the thirtieth day following the deposit of its own instrument of acceptance. An amendment shall be binding only on those States Parties which have accepted it.

Article 16

A State Party may denounce the present Protocol by written notification to the Secretary-General of the United Nations. The denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

Article 17

The text of the present Protocol shall be made available in accessible formats.

Article 18

The Arabic, Chinese, English, French, Russian and Spanish texts of the present Protocol shall be equally authentic.

IN WITNESS THEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Protocol.

Appendix F: Convention on the Rights of Persons with Disabilities - Signatory Countries

As of: May 28th, 2010

http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-15&chapter=4&lang=en

Participant	Signature	Formal Confirmation (c), Accession(a), Ratification
Albania	Dec. 22, 2009	
Algeria	Mar. 30, 2007	Dec. 4, 2009
Andorra	Apr. 27, 2007	
Antigua and Barbuda	Mar. 30, 2007	
Argentina	Mar. 30, 2007	Sep. 2, 2008
Armenia	Mar. 30, 2007	
Australia	Mar. 30, 2007	Jul. 17, 2008
Austria	Mar. 30, 2007	Sep. 26, 2008
Azerbaijan	Jan. 9, 2008	Jan. 28, 2009
Bahrain	Jun. 25, 2007	
Bangladesh	May 9, 2007	Nov. 30, 2007
Barbados	Jul. 19, 2007	
Belgium	Mar. 30, 2007	Jul. 2, 2009
Benin	Feb. 8, 2008	
Bolivia	Aug. 13, 2007	Nov. 16, 2009

Participant	Signature	Formal Confirmation (c), Accession(a), Ratification
Bosnia Herzegovina	Jul. 29, 2009	
Brazil	Mar. 30, 2007	Aug. 1, 2008
Brunei Darussalam	Dec. 18, 2007	
Bulgaria	Sep. 27, 2007	
Burkina Faso	May 23, 2007	Jul. 23, 2009
Burundi	Apr. 26 2007	
Cambodia	Oct. 1, 2007	
Cameroon	Oct. 1, 2008	
Canada	Mar. 30, 2007	Mar. 11, 2010
Cape Verde	Mar. 30, 2007	
Central African Republic	May 9, 2007	
Chile	Mar. 30, 2007	Jul. 29, 2008
China	Mar. 30, 2007	Aug. 1, 2008
Colombia	Mar. 30, 2007	
Comoros	Sep. 26, 2007	
Congo	Mar. 30, 2007	
Cook Islands		May 8, 2009 a
Costa Rica	Mar. 30, 2007	Oct. 1, 2008
Côte d'Ivoire	Jun. 7, 2007	
Croatia	Mar. 30, 2007	Aug. 15, 2007
Cuba	Apr. 26, 2007	Sep. 6, 2007

Participant	Signature	Formal Confirmation (c), Accession(a), Ratification
Cyprus	Mar. 30, 2007	
Czech Republic	Mar. 30, 2007	Sep. 28, 2009
Denmark	Mar. 30, 2007	Jul. 24, 2009
Dominica	Mar. 30, 2007	
Dominican Republic	Mar. 30, 2007	Aug. 18, 2009
Ecuador	Mar. 30, 2007	Apr. 3, 2008
Egypt	Apr. 4, 2007	Apr. 14, 2008
El Salvador	Mar. 30, 2007	Dec. 14, 2007
Estonia	Sep. 25, 2007	
Ethiopia	Mar. 30, 2007	
European Union	Mar. 30, 2007	
Finland	Mar. 30, 2007	
France	Mar. 30, 2007	Feb. 18, 2010
Gabon	Mar. 30, 2007	Oct. 1, 2007
Georgia	Jul. 10, 2009	
Germany	Mar. 30, 2007	Feb. 24, 2009
Ghana	Mar. 30, 2007	
Greece	Mar. 30, 2007	
Guatemala	Mar. 30, 2007	Apr. 7, 2009
Guinea	May 16, 2007	Feb. 8, 2008
Guyana	Apr. 11, 2007	

Participant	Signature	Formal Confirmation (c), Accession(a), Ratification
Haiti		Jul. 23, 2009 a
Honduras	Mar. 30, 2007	Apr. 14, 2008
Hungary	Mar. 30, 2007	Jul. 20, 2007
Iceland	Mar. 30, 2007	Iceland
India	Mar. 30, 2007	Oct. 1, 2007
Indonesia	Mar. 30, 2007	
Iran (Islamic Republic of)		Oct. 23, 2009
Ireland	Mar. 30, 2007	
Israel	Mar. 30, 2007	
Italy	Mar. 30, 2007	May 15, 2009
Jamaica	Mar. 30, 2007	Mar. 30, 2007
Japan	Sep. 28, 2007	
Jordan	Mar. 30, 2007	Mar. 31, 2008
Kazakhstan	Dec. 11, 2008	
Kenya	Mar. 30, 2007	May 19, 2008
Lao People's Democratic Republic	Jan. 15, 2008	Sep. 25, 2009
Latvia	Jul. 18, 2008	Mar. 1, 2010
Lebanon	Jun. 14, 2007	
Lesotho		Dec. 2, 2008 a
Liberia	Mar. 30, 2007	
Libyan Arab Jamahiriya	May 1, 2008	

Participant	Signature	Formal Confirmation (c), Accession(a), Ratification
Lithuania	Mar. 30, 2007	
Luxembourg	Mar. 30, 2007	
Madagascar	Sep. 25, 2007	
Malawi	Sep. 27, 2007	Aug. 27, 2009
Malaysia	Apr. 8, 2008	
Maldives	Oct. 2, 2007	Apr. 5, 2010
Mali	May 15, 2007	Apr. 7, 2008
Malta	Mar. 30, 2007	
Mauritius	Sep. 25, 2007	Jan. 8, 2010
Mexico	Mar. 30, 2007	Dec. 17, 2007
Monaco	Sep. 23, 2009	
Mongolia		May 13, 2009 a
Montenegro	Sep. 27, 2007	
Morocco	Mar. 30, 2007	Apr. 8, 2009
Mozambique	Mar. 30, 2007	
Namibia	Apr. 25, 2007	Dec. 4 2007
Nepal	Jan. 3, 2008	
Netherlands	Mar. 30, 2007	
New Zealand	Mar. 30, 2007	Sep. 25, 2008
Nicaragua	Mar. 30, 2007	Dec. 7, 2007
Niger	Mar. 30, 2007	Jun 24, 2008

Participant	Signature	Formal Confirmation (c), Accession(a), Ratification
Nigeria	Mar. 30, 2007	
Norway	Mar. 30, 2007	
Oman	Mar. 17, 2008	Jan. 6, 2009
Pakistan	Sep. 25, 2008	
Panama	Mar. 30, 2007	Aug. 7, 2007
Paraguay	Mar. 30, 2007	Sep. 3, 2008
Peru	Mar. 30, 2007	Jan. 30, 2008
Philippines	Sep. 25, 2007	Apr. 15, 2008
Poland	Mar. 30, 2007	
Portugal	Mar. 30, 2007	Sep. 23, 2009
Qatar	Jul. 9, 2007	May 13, 2008
Republic of Korea	Mar. 30, 2007	Dec. 11, 2008
Republic of Moldova	Mar. 30, 2007	
Romania	Sep. 26, 2007	
Russian Federation	Sept. 24, 2008	
Rwanda		Dec. 15, 2008 a
San Marino	Mar. 30, 2007	Feb. 22, 2008
Saudi Arabia		Jun. 24, 2008 a
Senegal	Apr. 25, 2007	
Serbia	Dec. 17, 2007	Jul. 31, 2009
Seychelles	Mar. 30, 2007	Oct. 2, 2009

Participant	Signature	Formal Confirmation (c), Accession(a), Ratification
Sierra Leone	Mar. 30, 2007	
Slovakia	Sep. 26, 2007	
Slovenia	Mar. 30, 2007	Apr. 24, 2008
Solomon Islands	Sep. 23, 2008	
South Africa	Mar. 30, 2007	Nov. 30, 2007
Spain	Mar. 30, 2007	Dec. 13, 2007
Sri Lanka	Mar. 30, 2007	
Sudan	Mar. 30, 2007	Apr. 24, 2009
Suriname	Mar. 30, 2007	
Swaziland	Sep. 25, 2007	
Sweden	Mar. 30, 2007	Dec. 15, 2008
Syrian Arab Republic	Mar. 30, 2007	Jul. 10, 2009
Thailand	Mar. 30, 2007	Jul. 29, 2008
The Former Yugoslav Republic of Macedonia	Mar. 30, 2007	
Togo	Sep. 23, 2008	
Tonga	Nov. 15, 2007	
Trinidad and Tobago	Sep. 27, 2007	
Tunisia	Mar. 30, 2007	Apr. 2, 2008
Turkey	Mar. 30, 2007	Sep. 28, 2009
Turkmenistan		Sep. 4, 2008 a
Uganda	Mar. 30, 2007	Sep. 25, 2008

Participant	Signature	Formal Confirmation (c), Accession(a), Ratification
Ukraine	Sep. 24, 2008	Feb. 4, 2010
United Arab Emirates	Feb. 8, 2008	Mar. 19, 2010
United Kingdom of Great Britain and Northern Ireland	Mar. 30, 2007	Jun. 8, 2009
United Republic of Tanzania	Mar. 30, 2007	Nov. 10, 2009
United States of America	Jul. 30, 2009	
Uruguay	Apr. 3, 2007	Feb. 11, 2009
Uzbekistan	Feb. 27, 2009	
Vanuatu	May 17, 2007	Oct. 23, 2008
Vietnam	Oct. 22, 2007	
Yemen	Mar. 30, 2007	Mar. 26, 2009
Zambia	May 9, 2008	Feb. 1, 2010

Appendix G: United Nations Convention on the Rights of the Child

GENERAL COMMENT No. 9 (2006)

The rights of children with disabilities

I. Introduction

A. Why a General Comment on children with disabilities?

1. It is estimated that there are 500-650 million persons with disabilities in the world, approximately 10 % of the world population, 150 million of whom are children. More than 80 % live in developing countries with little or no access to services. The majority of children with disabilities in developing countries remain out of school and are completely illiterate. It is recognized that most of the causes of disabilities, such as war, illness and poverty, are preventable which also prevent and/or reduce the secondary impacts of disabilities, often caused by the lack of early/timely intervention. Therefore, more should be done to create the necessary political will and real commitment to investigate and put into practice the most effective actions to prevent disabilities with the participation of all levels of society.
2. The past few decades have witnessed positive focus on persons with disabilities in general and children in particular. The reason for this new focus is explained partly by the fact that the voice of persons with disabilities and of their advocates from national and international non governmental organizations (N.G.O.) is being increasingly heard and partly by the growing attention paid to persons with disabilities within the framework of the human rights treaties and the United Nations human rights treaty bodies. These treaty bodies have considerable potential in advancing the rights of persons with disabilities but they have generally been underused. When adopted in November 1989 the Convention on the Rights of the Child (hereafter “the Convention”) was the first human rights treaty that contained a specific reference to disability (article 2 on non-discrimination) and a separate article 23 exclusively dedicated to the rights and needs of children with disabilities. Since the Convention has entered into force (2 September 1990), the Committee on the Rights of the Child (thereafter “the Committee”) has paid sustained and particular attention to disability based discrimination¹ while other human rights treaty bodies have paid attention to disability based discrimination under “other status” in the context of articles on non-discrimination of their relevant Convention. In 1994 the Committee on Economic, Social and Cultural Rights issued its general comment No. 5 on persons with disabilities and stated in paragraph 15 that “The effects of disability-based discrimination have been particularly severe in the fields of education,

¹See Wouter Vandenhoele, *Non-Discrimination and Equality in the View of the U.N. Human Rights Treaty Bodies*, p.170-172, Antwerpen/Oxford, Intersentia 2005.

employment, housing, transport, cultural life, and access to public places and services.” The Special Rapporteur on disability of the United Nations Commission for Social Development was first appointed in 1994 and mandated to monitor of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities, adopted by the General Assembly at its forty-eighth session in 1993 (A/RES/48/96, Annex), and to advance the status of persons with disabilities throughout the world. On 6 October 1997 the Committee devoted its day of general discussion to children with disabilities and adopted a set of recommendations (C.R.C./C/66, paragraphs 310-339), in which it considered the possibility of drafting a general comment on children with disabilities. The Committee notes with appreciation the work of the Ad-Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities, and that it adopted at its eighth session, held in New York on 25 August 2006, a draft convention on the rights of persons with disabilities to be submitted to the General Assembly at its sixty-first session (A/AC.265/2006/4, Annex II).

3. The Committee, in reviewing State party reports, has accumulated a wealth of information on the status of children with disabilities worldwide and found that in the overwhelming majority of countries some recommendations had to be made specifically to address the situation of children with disabilities. The problems identified and addressed have varied from exclusion from decision-making processes to severe discrimination and actual killing of children with disabilities. Poverty being both a cause and a consequence of disability, the Committee has repeatedly stressed that children with disabilities and their families have the right to an adequate standard of living, including adequate food, clothing and housing, and to the continuous improvement of their living conditions. The question of children with disabilities living in poverty should be addressed by allocating adequate budgetary resources as well as by ensuring that children with disabilities have access to social protection and poverty reduction programmes.
4. The Committee has noted that no reservations or declarations have been entered specifically to article 23 of the Convention by any State party.
5. The Committee also notes that children with disabilities are still experiencing serious difficulties and facing barriers to the full enjoyment of the rights enshrined in the Convention. The Committee emphasizes that the barrier is not the disability itself but rather a combination of social, cultural, attitudinal and physical obstacles which children with disabilities encounter in their daily lives. The strategy for promoting their rights is therefore to take the necessary action to remove those barriers. Acknowledging the importance of articles 2 and 23 of the Convention, the Committee states from the outset that the implementation of the Convention with regards to children with disabilities should not be limited to these articles.
6. The present general comment is meant to provide guidance and assistance to States parties in their efforts to implement the rights of children with disabilities, in a comprehensive manner which covers all the provisions of the Convention. Thus, the Committee will first make some observations related directly to articles 2 and 23, then it will elaborate on the necessity of paying particular attention to and including explicitly children with disabilities within the

framework of general measures for the implementation of the Convention. Those observations will be followed by comments on the meaning and the implementation of the various articles of the Convention (clustered in accordance with the Committee's practice) for children with disabilities.

B. Definition

7. According to article 1, paragraph 2, of the draft convention on the rights of 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." (A/AC.265/2006/4, Annex II)

II. The key provisions for children with disabilities (arts. 2 and 23)

A. Article 2

8. Article 2 requires States parties to ensure that all children within their jurisdiction enjoy all the rights enshrined in the Convention without discrimination of any kind. This obligation requires States parties to take appropriate measures to prevent all forms of discrimination, including on the ground of disability. This explicit mention of disability as a prohibited ground for discrimination in article 2 is unique and can be explained by the fact that children with disabilities belong to one of the most vulnerable groups of children. In many cases forms of multiple discrimination - based on a combination of factors, i.e. indigenous girls with disabilities, children with disabilities living in rural areas and so on - increase the vulnerability of certain groups. It has been therefore felt necessary to mention disability explicitly in the non-discrimination article. Discrimination takes place – often de facto – in various aspects of the life and development of children with disabilities. As an example, social discrimination and stigmatization leads to their marginalization and exclusion, and may even threaten their survival and development if it goes as far as physical or mental violence against children with disabilities. Discrimination in service provision excludes them from education and denies them access to quality health and social services. The lack of appropriate education and vocational training discriminates against them by denying them job opportunities in the future. Social stigma, fears, overprotection, negative attitudes, misbeliefs and prevailing prejudices against children with disabilities remain strong in many communities and lead to the marginalization and alienation of children with disabilities. The Committee shall elaborate on these aspects in the paragraphs below.
9. In general, States parties in their efforts to prevent and eliminate all forms of discrimination against children with disabilities should take the following measures:
 - (a) Include explicitly disability as a forbidden ground for discrimination in constitutional provisions on non-discrimination and/or include specific prohibition of discrimination on the ground of disability in specific anti-discrimination laws or legal provisions.

- (b) Provide for effective remedies in case of violations of the rights of children with disabilities, and ensure that those remedies are easily accessible to children with disabilities and their parents and/or others caring for the child.
 - (c) Conduct awareness-raising and educational campaigns targeting the public at large and specific groups of professionals with a view to preventing and eliminating de facto discrimination against children with disabilities.
10. Girls with disabilities are often even more vulnerable to discrimination due to gender discrimination. In this context, States parties are requested to pay particular attention to girls with disabilities by taking the necessary measures, and when needed extra measures, in order to ensure that they are well protected, have access to all services and are fully included in society.

B. Article 23

11. Paragraph 1 of article 23 should be considered as the leading principle for the implementation of the Convention with respect to children with disabilities: the enjoyment of a full and decent life in conditions that ensure dignity, promote self reliance and facilitate active participation in the community. The measures taken by States parties regarding the realization of the rights of children with disabilities should be directed towards this goal. The core message of this paragraph is that children with disabilities should be included in the society. Measures taken for the implementation of the rights contained in the Convention regarding children with disabilities, for example in the areas of education and health, should explicitly aim at the maximum inclusion of those children in society.
12. According to paragraph 2 of article 23 States parties to the Convention recognize the right of the child with disability to special care and shall encourage and ensure the extension of assistance to the eligible child and those responsible for his or her care. The assistance has to be appropriate to the child's condition and the circumstances of the parents or others caring for the child. Paragraph 3 of article 23 gives further rules regarding the costs of specific measures and precisions as to what the assistance should try to achieve.
13. In order to meet the requirements of article 23 it is necessary that States parties develop and effectively implement a comprehensive policy by means of a plan of action which not only aims at the full enjoyment of the rights enshrined in the Convention without discrimination but which also ensures that a child with disability and her or his parents and/or others caring for the child do receive the special care and assistance they are entitled to under the Convention.
14. Regarding the specifics of paragraphs 2 and 3 of article 23, the Committee makes the following observations:
- (a) The provision of special care and assistance is subject to available resources and free of charge whenever possible. The Committee urges States parties to make special care and assistance to children with disabilities a matter of high priority and to invest to the maximum extent of available resources in the elimination of discrimination against children with disabilities and towards their maximum inclusion in society.

(b) Care and assistance shall be designed to ensure that children with disabilities have effective access to and benefit from education, training, health care services, recovery services, preparation for employment and recreation opportunities. The Committee when dealing with specific articles of the Convention will elaborate on the measures necessary to achieve this.

15. With reference to article 23, paragraph 4, the Committee notes that the international exchange of information between States parties in the areas of prevention and treatment is quite limited. The Committee recommends that States parties take effective, and where appropriate targeted, measures for an active promotion of information as envisaged by article 23, paragraph 4, in order to enable States parties to improve their capabilities and skills in the areas of prevention and treatment of disabilities of children.
16. It is often not clear how and to which degree the needs of developing countries are taken into account as required by article 23, paragraph 4. The Committee strongly recommends States parties to ensure that, within the framework of bilateral or multilateral development assistance, particular attention be paid to children with disabilities and their survival and development in accordance with the provisions of the Convention, for example, by developing and implementing special programmes aiming at their inclusion in society and allocating earmarked budgets to that effect. States parties are invited to provide information in their reports to the Committee on the activities and results of such international cooperation.

III. General measures of implementation

(arts. 4, 42 and 44 (6))²

A. Legislation

17. In addition to the legislative measures recommended with regard to nondiscrimination (see paragraph 9 above), the Committee recommends that States parties undertake a comprehensive review of all domestic laws and related regulations in order to ensure that all provisions of the Convention are applicable to all children, including children with disabilities who should be mentioned explicitly, where appropriate. National laws and regulations should contain clear and explicit provisions for the protection and exercise of the specific rights of children with disabilities, in particular those enshrined in article 23 of the Convention.

B. National plans of action and policies

18. The need for a national plan of action that integrates all the provisions of the Convention is a well-recognized fact and has often been a recommendation made by the Committee to States parties. Plans of action must be comprehensive, including plans and strategies for children with disabilities, and should have measurable outcomes. The draft convention on the rights of

² In the present general comment the Committee focuses on the need to pay special attention to children with disabilities in the context of the general measures. For a more elaborated explanation of the content and importance of these measures, see the Committee's general comment No. 5 (2003) on general measures of implementation of the Convention on the Rights of the Child.

persons with disabilities, in its article 4, paragraph 1 c, emphasizes the importance of inclusion of this aspect stating that States parties undertake “to take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes” (A/AC.265/2006/4, annex II). It is also essential that all programmes be adequately supplied with financial and human resources and equipped with built-in monitoring mechanisms, for example, indicators allowing accurate outcome measurements. Another factor that should not be overlooked is the importance of including all children with disabilities in policies and programmes. Some States parties have initiated excellent programmes, but failed to include all children with disabilities.

C. Data and statistics

19. In order to fulfil their obligations, it is necessary for States parties to set up and develop mechanisms for collecting data which are accurate, standardized and allow disaggregation, and which reflect the actual situation of children with disabilities. The importance of this issue is often overlooked and not viewed as a priority despite the fact that it has an impact not only on the measures that need to be taken in terms of prevention but also on the distribution of very valuable resources needed to fund programmes. One of the main challenges in obtaining accurate statistics is the lack of a widely accepted clear definition for disabilities. States parties are encouraged to establish an appropriate definition that guarantees the inclusion of all children with disabilities so that children with disabilities may benefit from the special protection and programmes developed for them. Extra efforts are often needed to collect data on children with disabilities because they are often hidden by their parents or others caring for the child.

D. Budget

20. Allocation of budget: in the light of article 4 “...States parties shall undertake such measures to the maximum extent of their available resources...”. Although the Convention does not make a specific recommendation regarding the most appropriate percentage of the State budget that should be dedicated to services and programmes for children, it does insist that children should be a priority. The implementation of this right has been a concern to the Committee since many States parties not only do not allocate sufficient resources but have also reduced the budget allocated to children over the years. This trend has many serious implications especially for children with disabilities who often rank quite low, or even not at all, on priority lists. For example, if a State party is failing to allocate sufficient funds to ensure compulsory and free quality education for all children, it will be unlikely to allocate funds to train teachers for children with disabilities or to provide for the necessary teaching aids and transportation for children with disabilities. Decentralization and privatization of services are now means of economic reform. However, it should not be forgotten that it is the State Party’s ultimate responsibility to oversee that adequate funds are allocated to children with disabilities along with strict guidelines for service delivery. Resources allocated to children with disabilities should be sufficient --and earmarked so that they are not used for other purposes-- to cover all their needs, including programmes established for training professionals working with children with disabilities such as teachers, physiotherapists and policymakers; education campaigns; financial support for families; income maintenance; social security; assistive devices; and

related services. Furthermore, funding must also be ensured for other programmes aimed at including children with disabilities into mainstream education, inter alia by renovating schools to render them physically accessible to children with disabilities.

E. Coordination body: “Focal point for disabilities”

21. Services for children with disabilities are often delivered by various governmental and non-governmental institutions, and more often than not, these services are fragmented and not coordinated which result in overlapping of functions and gaps in provisions. Therefore, the setting up of an appropriate coordinating mechanism becomes essential. This body should be multisectoral, including all organizations public or private. It must be empowered and supported from the highest possible levels of Government to allow it to function at its full potential. A coordination body for children with disabilities, as part of a broader coordination system for the rights of the child or a national coordination system for persons with disabilities, would have the advantage of working within an already established system, provided this system is functioning adequately and capable of devoting the adequate financial and human resources necessary. On the other hand, a separate coordination system may help to focus attention on children with disabilities.

F. International cooperation and technical assistance

22. In order to make information among States parties freely accessible and to cultivate an atmosphere of knowledge-sharing concerning, inter alia, the management and rehabilitation of children with disabilities, States parties should recognize the importance of international cooperation and technical assistance. Particular attention should be paid to developing countries that need assistance in setting up and/or funding programmes that protect and promote the rights of children with disabilities. These countries are experiencing increasing difficulties in mobilizing the adequate resources to meet the pressing needs of persons with disabilities and would urgently need assistance in the prevention of disability, the provision of services and rehabilitation, and in the equalization of opportunities. However, in order to respond to these growing needs, the international community should explore new ways and means of raising funds, including substantial increase of resources, and take the necessary follow-up measures for mobilizing resources. Therefore, voluntary contributions from Governments, increased regional and bilateral assistance as well as contributions from private sources should also be encouraged. UNICEF and the World Health Organization (WHO) have been instrumental in helping developing countries set up and implement specific programmes for children with disabilities. The process of knowledge exchange is also valuable in sharing updated medical knowledge and good practices, such as early identification and community-based approaches to early intervention and support to families, and addressing common challenges.
23. Countries that have endured, or continue to endure, internal or foreign conflict, during which land mines were laid, face a particular challenge. States parties are often not privy to plans of the sites where the land mines and unexploded ordnance were planted and the cost of mine clearance is very high. The Committee emphasizes the importance of international cooperation in accordance with the 1997 Convention on the Prohibition of the Use, Stockpiling, Production

and Transfer of Anti-Personnel Mines and on their Destruction, in order to prevent injuries and deaths caused by landmines and unexploded ordnance that remain in place. In this regard the Committee recommends that States parties closely cooperate with a view to completely removing all landmines and unexploded ordnance in areas of armed conflict and/or previous armed conflict.

G. Independent monitoring

24. Both the Convention and the Standard Rules on the Equalization of Opportunities for Persons with Disabilities recognize the importance of the establishment of an appropriate monitoring system³. The Committee has very often referred to “the Paris Principles” (A/RES/48/134) as the guidelines which national human rights institutions should follow (see the Committee’s general comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child). National human rights institutions can take many shapes or forms such as an Ombudsman or a Commissioner and may be broad-based or specific. Whatever mechanism is chosen, it must be:

- (a) Independent and provided with adequate human and financial resources;
- (b) Well known to children with disabilities and their caregivers;
- (c) Accessible not only in the physical sense but also in a way that allows children with disabilities to send in their complaints or issues easily and confidentially; and
- (d) It must have the appropriate legal authority to receive, investigate and address the complaints of children with disabilities in a manner sensitive to both their childhood and to their disabilities.

H. Civil society

25. Although caring for children with disabilities is an obligation of the State, NGOs often carry out these responsibilities without the appropriate support, funding or recognition from Governments. States parties are therefore encouraged to support and cooperate with NGOs enabling them to participate in the provision of services for children with disabilities and to ensure that they operate in full compliance with the provisions and principles of the Convention. In this regard the Committee draws the attention of States parties to the recommendations adopted on its day of general discussion on the private sector as a service provider, held on 20 September 2002 (C.R.C./C/121, paras. 630-653).

I. Dissemination of knowledge and training of professionals

26. Knowledge of the Convention and its specific provisions devoted to children with disabilities is a necessary and powerful tool to ensure the realization of these rights. States parties are encouraged to disseminate knowledge by, inter alia, conducting systematic awareness-raising campaigns, producing appropriate material, such as a child friendly version of the Convention

³ See also the general comment No. 5 (1994) of the Committee on Economic, Social and Cultural Rights regarding persons with disabilities.

in print and Braille, and using the mass media to foster positive attitudes towards children with disabilities.

27. As for professionals working with and for children with disabilities, training programmes must include targeted and focused education on the rights of children with disabilities as a prerequisite for qualification. These professionals include but are not limited to policymakers, judges, lawyers, law enforcement officers, educators, health workers, social workers and media staff among others.

IV. General principles

Article 2 - Non-discrimination

28. See paragraphs 8-10 above.

Article 3 - Best interests of the child

29. “In all actions concerning children...the best interests of the child shall be a primary consideration”. The broad nature of this article aims at covering all aspects of care and protection for children in all settings. It addresses legislators who are entrusted with setting the legal framework for protecting the rights of children with disabilities as well as the decision-making processes concerning children with disabilities. Article 3 should be the basis on which programmes and policies are set and it should be duly taken into account in every service provided for children with disabilities and any other action affecting them.
30. The best interests of the child is of particular relevance in institutions and other facilities that provide services for children with disabilities as they are expected to conform to standards and regulations and should have the safety, protection and care of children as their primary consideration, and this consideration should outweigh any other and under all circumstances, for example, when allocating budgets.

Article 6 - Right to life, survival and development

31. The inherent right to life, survival and development is a right that warrants particular attention where children with disabilities are concerned. In many countries of the world children with disabilities are subject to a variety of practices that completely or partially compromise this right. In addition to being more vulnerable to infanticide, some cultures view a child with any form of disability as a bad omen that may “tarnish the family pedigree” and, accordingly, a certain designated individual from the community systematically kills children with disabilities. These crimes often go unpunished or perpetrators receive reduced sentences. States parties are urged to undertake all the necessary measures required to put an end to these practices, including raising public awareness, setting up appropriate legislation and enforcing laws that ensure appropriate punishment to all those who directly or indirectly violate the right to life, survival and development of children with disabilities.

Article 12 - Respect for the views of the child

32. More often than not, adults with and without disabilities make policies and decisions related to children with disabilities while the children themselves are left out of the process. It is essential that children with disabilities be heard in all procedures affecting them and that their views be respected in accordance with their evolving capacities. In order for this principle to be respected, children should be represented in various bodies such as parliament, committees and other forums where they may voice views and participate in the making of decisions that affect them as children in general and as children with disabilities specifically. Engaging children in such a process not only ensures that the policies are targeted to their needs and desires, but also functions as a valuable tool for inclusion since it ensures that the decision-making process is a participatory one. Children should be provided with whatever mode of communication they need to facilitate expressing their views. Furthermore, States parties should support the training for families and professionals on promoting and respecting the evolving capacities of children to take increasing responsibilities for decision-making in their own lives.
33. Children with disabilities often require special services in health and education to allow them to achieve their fullest potential and these are further discussed in the relevant paragraphs below. However it should be noted that spiritual, emotional and cultural development and well-being of children with disabilities are very often overlooked. Their participation in events and activities catering to these essential aspects of any child's life is either totally lacking or minimal. Furthermore, when their participation is invited, it is often limited to activities specifically designed for and targeted at children with disabilities. This practice only leads to further marginalization of children with disabilities and increases their feelings of isolation. Programmes and activities designed for the child's cultural development and spiritual well-being should involve and cater to both children with and without disabilities in an integrated and participatory fashion.

V. Civil rights and freedoms

(arts. 7, 8, 13-17, and 37 a)

34. The right to name and nationality, preservation of identity, freedom of expression, freedom of thought, conscience and religion, freedom of association and peaceful assembly, the right to privacy and the right not to be subjected to torture or other cruel inhuman or degrading treatment or punishment and not to be unlawfully deprived of liberty are all universal civil rights and freedoms which must be respected, protected and promoted for all, including children with disabilities. Particular attention should be paid here on areas where the rights of children with disabilities are more likely to be violated or where special programmes are needed for their protection.

A. Birth registration

35. Children with disabilities are disproportionately vulnerable to non-registration at birth. Without birth registration they are not recognized by law and become invisible in government statistics. Non-registration has profound consequences for the enjoyment of their human rights, including the lack of citizenship and access to social and health services and to education. Children with

disabilities who are not registered at birth are at greater risk of neglect, institutionalization, and even death.

36. In the light of article 7 of the Convention, the Committee recommends that States parties adopt all appropriate measures to ensure the registration of children with disabilities at birth. Such measures should include developing and implementing an effective system of birth registration, waiving registration fees, introducing mobile registration offices and, for children who are not yet registered, providing registration units in schools. In this context, States parties should ensure that the provisions of article 7 are fully enforced in conformity with the principles of non-discrimination (art. 2) and of the best interests of the child (art. 3).

B. Access to appropriate information and mass media

37. Access to information and means of communication, including information and communication technologies and systems, enables children with disabilities to live independently and participate fully in all aspects of life. Children with disabilities and their caregivers should have access to information concerning their disabilities so that they can be adequately educated on the disability, including its causes, management and prognosis. This knowledge is extremely valuable as it does not only enable them to adjust and live better with their disabilities, but also allows them to be more involved in and to make informed decisions about their own care. Children with disabilities should also be provided with the appropriate technology and other services and/or languages, e.g. Braille and sign language, which would enable them to have access to all forms of media, including television, radio and printed material as well as new information and communication technologies and systems, such as the Internet.
38. On the other hand, States parties are required to protect all children, including children with disabilities from harmful information, especially pornographic material and material that promotes xenophobia or any other form of discrimination and could potentially reinforce prejudices.

C. Accessibility to public transportation and facilities

39. The physical inaccessibility of public transportation and other facilities, including governmental buildings, shopping areas, recreational facilities among others, is a major factor in the marginalization and exclusion of children with disabilities and markedly compromises their access to services, including health and education. Although this provision may be mostly realized in developed countries, it remains largely un-addressed in the developing world. All States parties are urged to set out appropriate policies and procedures to make public transportation safe, easily accessible to children with disabilities, and free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child.
40. All new public buildings should comply with international specifications for access of persons with disabilities and existing public buildings, including schools, health facilities, governmental buildings, shopping areas, undergo necessary alterations that make them as accessible as possible.

VI. Family environment and alternative care

(arts. 5, 18 (1-2), 9-11, 19-21, 25, 27 (4), and 39)

A. Family support and parental responsibilities

41. Children with disabilities are best cared for and nurtured within their own family environment provided that the family is adequately provided for in all aspects. Such support to families includes education of parent/s and siblings, not only on the disability and its causes but also on each child's unique physical and mental requirements; psychological support that is sensitive to the stress and difficulties imposed on families of children with disabilities; education on the family's common language, for example sign language, so that parents and siblings can communicate with family members with disabilities; material support in the form of special allowances as well as consumable supplies and necessary equipment, such as special furniture and mobility devices that is deemed necessary for the child with a disability to live a dignified, self-reliant lifestyle, and be fully included in the family and community. In this context, support should also be extended to children who are affected by the disabilities of their caregivers. For example, a child living with a parent or other caregiver with disabilities should receive the support that would protect fully his or her rights and allow him or her to continue to live with this parent whenever it is in his or her best interests. Support services should also include different forms of respite care, such as care assistance in the home and day-care facilities directly accessible at community level. Such services enable parents to work, as well as relieve stress and maintain healthy family environments.

B. Violence, abuse and neglect

42. Children with disabilities are more vulnerable to all forms of abuse be it mental, physical or sexual in all settings, including the family, schools, private and public institutions, inter alia alternative care, work environment and community at large. It is often quoted that children with disabilities are five times more likely to be victims of abuse. In the home and in institutions, children with disabilities are often subjected to mental and physical violence and sexual abuse, and they are also particularly vulnerable to neglect and negligent treatment since they often present an extra physical and financial burden on the family. In addition, the lack of access to a functional complaint receiving and monitoring mechanism is conducive to systematic and continuing abuse. School bullying is a particular form of violence that children are exposed to and more often than not, this form of abuse targets children with disabilities. Their particular vulnerability may be explained inter alia by the following main reasons:

- (a) Their inability to hear, move, and dress, toilet, and bath independently increases their vulnerability to intrusive personal care or abuse;
- (b) Living in isolation from parents, siblings, extended family and friends increases the likelihood of abuse;
- (c) Should they have communication or intellectual impairments, they may be ignored, disbelieved or misunderstood should they complain about abuse;

- (d) Parents or others taking care of the child may be under considerable pressure or stress because of physical, financial and emotional issues in caring for their child. Studies indicate that those under stress may be more likely to commit abuse;
 - (e) Children with disabilities are often wrongly perceived as being non-sexual and not having an understanding of their own bodies and, therefore, they can be targets of abusive people, particularly those who base abuse on sexuality.
43. In addressing the issue of violence and abuse, States parties are urged to take all necessary measures for the prevention of abuse of and violence against children with disabilities, such as:
- (a) Train and educate parents or others caring for the child to understand the risks and detect the signs of abuse of the child;
 - (b) Ensure that parents are vigilant about choosing caregivers and facilities for their children and improve their ability to detect abuse;
 - (c) Provide and encourage support groups for parents, siblings and others taking care of the child to assist them in caring for their children and coping with their disabilities;
 - (d) Ensure that children and caregivers know that the child is entitled as a matter of right to be treated with dignity and respect and they have the right to complain to appropriate authorities if those rights are breached;
 - (e) Ensure that schools take all measures to combat school bullying and pay particular attention to children with disabilities providing them with the necessary protection while maintaining their inclusion into the mainstream education system;
 - (f) Ensure that institutions providing care for children with disabilities are staffed with specially trained personnel, subject to appropriate standards, regularly monitored and evaluated, and have accessible and sensitive complaint mechanisms;
 - (g) Establish an accessible, child-sensitive complaint mechanism and a functioning monitoring system based on the Paris Principles (see paragraph 24 above);
 - (h) Take all necessary legislative measures required to punish and remove perpetrators from the home ensuring that the child is not deprived of his or her family and continue to live in a safe and healthy environment;
 - (i) Ensure the treatment and re-integration of victims of abuse and violence with a special focus on their overall recovery programmes.
44. In this context the Committee would also like to draw States parties' attention to the report of the independent expert for the United Nations study on violence against children (A/61/299) which refers to children with disabilities as a group of children especially vulnerable to violence. The Committee encourages States parties to take all appropriate measures to implement the overarching recommendations and setting-specific recommendations contained in this report.

C. Family-type alternative care

45. The role of the extended family, which is still a main pillar of childcare in many communities and is considered one of the best alternatives for childcare, should be strengthened and empowered to support the child and his or her parents or others taking care of the child.
46. Recognizing that the foster family is an accepted and practiced form of alternative care in many States parties, it is nevertheless a fact that many foster families are reluctant to take on the care of a child with disability as children with disabilities often pose a challenge in the extra care they may need and the special requirements in their physical, psychological and mental upbringing. Organizations that are responsible for foster placement of children must, therefore, conduct the necessary training and encouragement of suitable families and provide the support that will allow the foster family to appropriately take care of the child with disability.

D. Institutions

47. The Committee has often expressed its concern at the high number of children with disabilities placed in institutions and that institutionalization is the preferred placement option in many countries. The quality of care provided, whether educational, medical or rehabilitative, is often much inferior to the standards necessary for the care of children with disabilities either because of lack of identified standards or lack of implementation and monitoring of these standards. Institutions are also a particular setting where children with disabilities are more vulnerable to mental, physical, sexual and other forms of abuse as well as neglect and negligent treatment (see paragraphs 42-44 above). The Committee therefore urges States parties to use the placement in institution only as a measure of last resort, when it is absolutely necessary and in the best interests of the child. It recommends that the States parties prevent the use of placement in institution merely with the goal of limiting the child's liberty or freedom of movement. In addition, attention should be paid to transforming existing institutions, with a focus on small residential care facilities organized around the rights and needs of the child, to developing national standards for care in institutions, and to establishing rigorous screening and monitoring procedures to ensure effective implementation of these standards.
48. The Committee is concerned at the fact that children with disabilities are not often heard in separation and placement processes. In general, decision-making processes do not attach enough weight to children as partners even though these decisions have a far-reaching impact on the child's life and future. Therefore, the Committee recommends that States parties continue and strengthen their efforts to take into consideration the views of children with disabilities and facilitate their participation in all matters affecting them within the evaluation, separation and placement process in out-of-home care, and during the transition process. The Committee also emphasizes that children should be heard throughout the protection measure process, before making the decision as well as during and after its implementation. In this context, the Committee draws the attention of the States parties to the Committee's recommendations adopted on its day of general discussion on children without parental care, held on 16 September 2005 (C.R.C./C/153, paragraphs 636-689).

49. In addressing institutionalization, States parties are therefore urged to set up programmes for de-institutionalization of children with disabilities, re-placing them with their families, extended families or foster care system. Parents and other extended family members should be provided with the necessary and systematic support/training for including their child back into their home environment.

E. Periodic review of placement

50. Whatever form of placement chosen for children with disabilities by the competent authorities, it is essential that a periodic review of the treatment provided to the child, and all other circumstances relevant to his or her placement, is carried out to monitor his or her well being.

VII. Basic health and welfare

(arts. 6, 18 (3), 23, 24, 26, and 27 (1-3))

A. Right to health

51. Attainment of the highest possible standard of health as well as access and affordability of quality healthcare is an inherent right for all children. Children with disabilities are often left out because of several challenges, including discrimination, inaccessibility due to the lack of information and/or financial resources, transportation, geographic distribution and physical access to health care facilities. Another factor is the absence of targeted health care programmes that address the specific needs of children with disabilities. Health policies should be comprehensive and address early detection of disabilities, early intervention, including psychological and physical treatment, rehabilitation including physical aids, for example limb prosthesis, mobility devices, hearing aids and visual aids.
52. It is important to emphasize that health services should be provided within the same public health system that provides for children with no disabilities, free of charge, whenever possible, and as updated and modernized as possible. The importance of community-based assistance and rehabilitation strategies should be emphasized when providing health services for children with disabilities. States parties must ensure that health professionals working with children with disabilities are trained to the highest possible standard and practice based on a child-centred approach. In this respect, many States parties would greatly benefit from international cooperation with international organizations as well as other States parties.

B. Prevention

53. Causes of disabilities are multiple and, therefore, the quality and level of prevention vary. Inherited diseases that often cause disabilities can be prevented in some societies that practice consanguineous marriages and under such circumstances public awareness and appropriate pre-conception testing would be recommended. Communicable diseases are still the cause of many disabilities around the world and immunization programmes need to be stepped up aiming to achieve universal immunization against all preventable communicable diseases. Poor nutrition has a long-term impact upon children's development and it can lead to disabilities, such as blindness caused by Vitamin A deficiency. The Committee recommends

that States parties introduce and strengthen prenatal care for children and ensure adequate quality of the assistance given during the delivery. It also recommends that States parties provide adequate post-natal health-care services and develop campaigns to inform parents and others caring for the child about basic child healthcare and nutrition. In this regard, the Committee also recommends that the States parties continue to cooperate and seek technical assistance with, among others, WHO and UNICEF.

54. Domestic and road traffic accidents are a major cause of disability in some countries and policies of prevention need to be established and implemented such as the laws on seat belts and traffic safety. Lifestyle issues, such as alcohol and drug abuse during pregnancy, are also preventable causes of disabilities and in some countries the fetal alcohol syndrome presents a major cause for concern. Public education, identification and support for pregnant mothers who may be abusing such substances are just some of the measures that may be taken to prevent such causes of disability among children. Hazardous environment toxins also contribute to the causes of many disabilities. Toxins, such as lead, mercury, asbestos, etc., are commonly found in most countries. Countries should establish and implement policies to prevent dumping of hazardous materials and other means of polluting the environment. Furthermore, strict guidelines and safeguards should also be established to prevent radiation accidents.
55. Armed conflicts and their aftermath, including availability and accessibility of small arms and light weapons, are also major causes of disabilities. States parties are obliged to take all necessary measures to protect children from the detrimental effects of war and armed violence and to ensure that children affected by armed conflict have access to adequate health and social services, including psychosocial recovery and social reintegration. In particular, the Committee stresses the importance of educating children, parents and the public at large about the dangers of landmines and unexploded ordnance in order to prevent injury and death. It is crucial that States parties continue to locate landmines and unexploded ordnance, take measures to keep children away from suspected areas, and strengthen their mine clearance activities and, when appropriate, seek the necessary technical and financial support within a framework of international cooperation, including from United Nations agencies. (See also paragraph 23 above on landmines and unexploded ordnance and paragraph 78 below on armed conflicts under special protection measures).

C. Early identification

56. Very often, disabilities are detected quite late in the child's life, which deprives him or her of effective treatment and rehabilitation. Early identification requires high awareness among health professionals, parents, teachers as well as other professionals working with children. They should be able to identify the earliest signs of disability and make the appropriate referrals for diagnosis and management. Therefore, the Committee recommends that States parties establish systems of early identification and early intervention as part of their health services, together with birth registration and procedures for following the progress of children identified with disabilities at an early age. Services should be both community- and home-based, and easy to access. Furthermore, links should be established between early intervention services, pre-schools and schools to facilitate the smooth transition of the child.

57. Following identification, the systems in place must be capable of early intervention including treatment and rehabilitation providing all necessary devices that enable children with disabilities to achieve their full functional capacity in terms of mobility, hearing aids, visual aids, and prosthetics among others. It should also be emphasized that these provisions should be offered free of cost, whenever possible, and the process of acquiring such services should be efficient and simple avoiding long waits and bureaucracies.

D. Multidisciplinary care

58. Children with disabilities very often have multiple health issues that need to be addressed in a team approach. Very often, many professionals are involved in the care of the child, such as neurologists, psychologists, psychiatrists, orthopaedic surgeons and physiotherapists among others. Ideally these professionals should collectively identify a plan of management for the child with disability that would ensure the most efficient healthcare is provided.

E. Adolescent health and development

59. The Committee notes that children with disabilities are, particularly during their adolescence, facing multiple challenges and risks in the area of establishing relationships with peers and reproductive health. Therefore, the Committee recommends that States parties provide adolescents with disabilities with adequate, and where appropriate, disability specific information, guidance and counselling and fully take into account the Committee's general comments No. 3 (2003) on HIV/AIDS and the rights of the child and No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child.

60. The Committee is deeply concerned about the prevailing practice of forced sterilisation of children with disabilities, particularly girls with disabilities. This practice, which still exists, seriously violates the right of the child to her or his physical integrity and results in adverse life-long physical and mental health effects. Therefore, the Committee urges States parties to prohibit by law the forced sterilisation of children on grounds of disability.

F. Research

61. Causes, prevention and management of disabilities do not receive the much needed attention on national and international research agendas. States parties are encouraged to award this issue priority status ensuring funding and monitoring of disability focused research paying particular attention to ethical implications.

VIII. Education and leisure

(arts. 28, 29 and 31)

A. Quality education

62. Children with disabilities have the same right to education as all other children and shall enjoy this right without any discrimination and on the basis of equal opportunity as stipulated in the

Convention⁴. For this purpose, effective access of children with disabilities to education has to be ensured to promote “the development of the child’s personality, talents and mental and physical abilities to their fullest potential (see articles 28 and 29 of the Convention and the Committee’s general comment No. 1 (2001) on the aims of education). The Convention recognizes the need for modification to school practices and for training of regular teachers to prepare them to teach children with diverse abilities and ensure that they achieve positive educational outcomes.

63. As children with disabilities are very different from each other, parents, teachers and other specialized professionals have to help each individual child to develop his or her ways and skills of communication, language, interaction, orientation and problem-solving which best fit the potential of this child. Everybody, who furthers the child’s skills, abilities and self-development, has to precisely observe the child’s progress and carefully listen to the child’s verbal and emotional communication in order to support education and development in a well-targeted and most appropriate manner.

B. Self-esteem and self-reliance

64. It is crucial that the education of a child with disability includes the strengthening of positive self-awareness, making sure that the child feels he or she is respected by others as a human being without any limitation of dignity. The child must be able to observe that others respect him or her and recognize his or her human rights and freedoms. Inclusion of the child with disability in the groups of children of the classroom can show the child that he or she has recognized identity and belongs to the community of learners, peers, and citizens. Peer support enhancing self-esteem of children with disabilities should be more widely recognized and promoted. Education also has to provide the child with empowering experience of control, achievement, and success to the maximum extent possible for the child.

C. Education in the school system

65. Early childhood education is of particular relevance for children with disabilities as often their disabilities and special needs are first recognized in these institutions. Early intervention is of utmost importance to help children to develop their full potential. If a child is identified as having a disability or developmental delay at an early stage, the child has much better opportunities to benefit from early childhood education which should be designed to respond to her or his individual needs. Early childhood education provided by the State, the community or civil society institutions can provide important assistance to the wellbeing and development of

⁴ *In this context the Committee would like to make a reference to the United Nations Millennium Declaration (A/RES/55/2) and in particular to the Millennium Development Goal No. 2 relating to universal primary education according to which Governments are committed to “ensure that, by 2015, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling and that girls and boys will have equal access to all levels of education”. The Committee would also like to refer to other international commitments which endorse the idea of inclusive education, inter alia, the Salamanca Statement and Framework for Action on Special Needs Education adopted by the World Conference on Special Needs Education: Access and Quality, Salamanca, Spain, 7-10 June 1994 (UNESCO and Ministry of Education and Science of Spain) and the Dakar Framework for Action, Education for All: Meeting our Collective Commitments, adopted by the World Education Forum, Dakar, Senegal, 26-28 April 2000.*

all children with disabilities (see the Committee's general comment No. 7 (2005) on implementing child rights in early childhood). Primary education, including primary school and, in many States parties, also secondary school, has to be provided for children with disabilities free of costs. All schools should be without communicational barriers as well as physical barriers impeding the access of children with reduced mobility. Also higher education, accessible on the basis of capacities, has to be accessible for qualified adolescents with disabilities. In order to fully exercise their right to education, many children need personal assistance, in particular, teachers trained in methodology and techniques, including appropriate languages, and other forms of communication, for teaching children with a diverse range of abilities capable of using childcentred and individualised teaching strategies, and appropriate and accessible teaching materials, equipment and assistive devices, which States parties should provide to the maximum extent of available resources.

D. Inclusive education

66. Inclusive education⁵ should be the goal of educating children with disabilities. The manner and form of inclusion must be dictated by the individual educational needs of the child, since the education of some children with disabilities requires a kind of support which may not be readily available in the regular school system. The Committee notes the explicit commitment towards the goal of inclusive education contained in the draft convention on the rights of persons with disabilities and the obligation for States to ensure that persons including children with disabilities are not excluded from the general education system on the basis of disability and that they receive the support required, within the general education system, to facilitate their effective education. It encourages States parties which have not yet begun a programme towards inclusion to introduce the necessary measures to achieve this goal. However, the Committee underlines that the extent of inclusion within the general education system may vary. A continuum of services and programme options must be maintained in circumstances where fully inclusive education is not feasible to achieve in the immediate future.
67. The movement towards inclusive education has received much support in recent years. However, the term inclusive may have different meanings. At its core, inclusive education is a set of values, principles and practices that seeks meaningful, effective, and quality education for all students, that does justice to the diversity of learning conditions and requirements not only of children with disabilities, but for all students. This goal can be achieved by different organizational means which respect the diversity of children. Inclusion may range from full-time placement of all students with disabilities into one regular classroom or placement into the regular class room with varying degree of inclusion, including a certain portion of special education. It is important to understand that inclusion should not be understood nor practiced as simply integrating children with disabilities into the regular system regardless of their

⁵ UNESCO's *Guidelines for Inclusion: Ensuring Access to Education for All (UNESCO 2005)* provides the following definition "Inclusion is seen as a process of addressing and responding to the diversity of needs of all learners through increasing participation in learning, cultures and communities, and reducing exclusion within and from education. It involves changes and modifications in content, approaches, structures and strategies, with a common vision which covers all children of the appropriate age range and a conviction that it is the responsibility of the regular system to educate all children...Inclusion is concerned with the identification and removal of barriers..." (p. 13 and 15)

challenges and needs. Close cooperation among special educators and regular educators is essential. Schools' curricula must be re-evaluated and developed to meet the needs of children with and without disabilities. Modification in training programmes for teachers and other personnel involved in the educational system must be achieved in order to fully implement the philosophy of inclusive education.

E. Career education and vocational training

68. Education for career development and transition is for all persons with disabilities regardless of their age. It is imperative to begin preparation at an early age because career development is seen as a process that begins early and continues throughout life. Developing career awareness and vocational skills as early as possible, beginning in the elementary school, enables children to make better choices later in life in terms of employment. Career education in the elementary school does not mean using young children to perform labour that ultimately opens the door for economic exploitation. It begins with students choosing goals according to their evolving capacities in the early years. It should then be followed by a functional secondary school curriculum that offers adequate skills and access to work experience, under systematic coordination and monitoring between the school and the work place.
69. Career development and vocational skills should be included in the school curriculum. Career awareness and vocational skills should be incorporated into the years of compulsory education. In countries where compulsory education does not go beyond the elementary school years, vocational training beyond elementary school should be mandatory for children with disabilities. Governments must establish policies and allocate sufficient funds for vocational training.

F. Recreation and cultural activities

70. The Convention stipulates in article 31 the right of the child to recreation and cultural activities appropriate to the age of the child. This article should be interpreted to include mental, psychological as well as the physical ages and capabilities of the child. Play has been recognized as the best source of learning various skills, including social skills. The attainment of full inclusion of children with disabilities in the society is realized when children are given the opportunity, places, and time to play with each other (children with disabilities and no disabilities). Training for recreation, leisure and play should be included for school-aged children with disabilities.
71. Children with disabilities should be provided with equal opportunities to participate in various cultural and arts activities as well as sports. These activities must be viewed as both medium of expression and medium of realizing self-satisfying, quality of life.

G. Sports

72. Competitive and non-competitive sports activities must be designed to include children with disabilities in an inclusive manner, whenever possible. That is to say, a child with a disability who is able to compete with children with no disability should be encouraged and supported to do so. But sports are an area where, because of the physical demands of the sport, children

with disabilities will often need to have exclusive games and activities where they can compete fairly and safely. It must be emphasized though that when such exclusive events take place, the media must play its role responsibly by giving the same attention as it does to sports for children with no disabilities.

IX. Special protection measures

(arts. 22, 38, 39, 40, 37 b-d, and 32-36)

A. Juvenile justice system

73. In the light of article 2 States parties have the obligation to ensure that children with disabilities who are in conflict with the law (as described in article 40, paragraph 1) will be protected not only by the provisions of the Convention which specifically relate to juvenile justice (arts. 40, 37 and 39) but by all other relevant provisions and guarantees contained in the Convention, for example in the area of health care and education. In addition, States parties should take where necessary specific measures to ensure that children with disabilities de facto are protected by and do benefit from the rights mentioned above.
74. With reference to the rights enshrined in article 23 and given the high level of vulnerability of children with disabilities, the Committee recommends – in addition to the general recommendation made in paragraph 73 above – that the following elements of the treatment of children with disabilities (allegedly) in conflict with the law be taken into account:
- (a) A child with disability who comes in conflict with the law should be interviewed using appropriate languages and otherwise dealt with by professionals such as police officers, attorneys/advocates/social workers, prosecutors and/or judges, who have received proper training in this regard;
 - (b) Governments should develop and implement alternative measures with a variety and a flexibility that allow for an adjustment of the measure to the individual capacities and abilities of the child in order to avoid the use of judicial proceedings. Children with disabilities in conflict with the law should be dealt with as much as possible without resorting to formal/legal procedures. Such procedures should only be considered when necessary in the interest of public order. In those cases special efforts have to be made to inform the child about the juvenile justice procedure and his or her rights therein;
 - (c) Children with disabilities in conflict with the law should not be placed in a regular juvenile detention centre by way of pre-trial detention nor by way of a punishment. Deprivation of liberty should only be applied if necessary with a view to providing the child with adequate treatment for addressing his or her problems which have resulted in the commission of a crime and the child should be placed in an institution that has the specially trained staff and other facilities to provide this specific treatment. In making such decisions the competent authority should make sure that the human rights and legal safeguards are fully respected.

B. Economic exploitation

75. Children with disabilities are particularly vulnerable to different forms of economic exploitation, including the worst forms of child labour as well as drug trafficking and begging. In this context, the Committee recommends that States parties which have not yet done so ratify the Convention No. 138 of the International Labour Organization (ILO) concerning the minimum age for admission to employment and ILO Convention No. 182 concerning the prohibition of and immediate action for the elimination of the worst forms of child labour. In the implementation of these conventions States parties should pay special attention to the vulnerability and needs of children with disabilities.

C. Street children

76. Children with disabilities, specifically physical disabilities, often end up on the streets for a variety of reasons, including economic and social factors. Children with disabilities living and/or working on the streets need to be provided with adequate care, including nutrition, clothing, housing, educational opportunities, life-skills training as well as protection from the different dangers including economic and sexual exploitation. In this regard an individualized approach is necessary which takes full account of the special needs and the capacities of the child. The Committee is particularly concerned that children with disabilities are sometimes exploited for the purpose of begging in the streets or elsewhere; sometimes disabilities are inflicted on children for the purpose of begging. States parties are required to take all necessary actions to prevent this form of exploitation and to explicitly criminalize exploitation in such manner and take effective measures to bring the perpetrators to justice.

D. Sexual exploitation

77. The Committee has often expressed grave concern at the growing number of child victims of child prostitution and child pornography. Children with disabilities are more likely than others to become victims of these serious crimes. Governments are urged to ratify and implement the Optional Protocol on the sale of children, child prostitution and child pornography (OPSC) and, in fulfilling their obligations to the Optional Protocol, States parties should pay particular attention to the protection of children with disabilities recognizing their particular vulnerability.

E. Children in armed conflict

78. As previously noted above, armed conflicts are a major cause of disabilities whether children are actually involved in the conflict or are victims of combat. In this context, Governments are urged to ratify and implement the Optional Protocol on the involvement of children in armed conflict (OPAC). Special attention should be paid to the recovery and social re-integration of children who suffer disabilities as a result of armed conflicts. Furthermore, the Committee recommends that States parties explicitly exclude children with disabilities from recruitment in armed forces and take the necessary legislative and other measures to fully implement that prohibition.

F. Refugee and internally displaced children, children belonging to minorities and indigenous children

79. Certain disabilities result directly from the conditions that have led some individuals to become refugees or internally displaced persons, such as human-caused or natural disasters. For example, landmines and unexploded ordnance kill and injure refugee, internally displaced and resident children long after armed conflicts have ceased. Refugee and internally displaced children with disabilities are vulnerable to multiple forms of discrimination, particularly refugee and internally displaced girls with disabilities, who are more often than boys subject to abuse, including sexual abuse, neglect and exploitation. The Committee strongly emphasizes that refugee and internally displaced children with disabilities should be given high priority for special assistance, including preventative assistance, access to adequate health and social services, including psychosocial recovery and social reintegration. The Office of the United Nations High Commissioner for Refugees (UNHCR) has made children a policy priority and adopted several documents to guide its work in that area, including the Guidelines on Refugee Children in 1988, which are incorporated into UNHCR Policy on Refugee Children. The Committee also recommends that States parties take into account the Committee's general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside of their country of origin.
80. All appropriate and necessary measures undertaken to protect and promote the rights of children with disabilities must include and pay special attention to the particular vulnerability and needs of children belonging to minorities and indigenous children who are more likely to be already marginalized within their communities. Programmes and policies must always be culturally and ethnically sensitive.

Appendix H: General Recommendations made by the Committee on the Elimination of Discrimination against Women

General Recommendation No. 19 (11th session, 1992)

Violence against women

Background

1. Gender-based violence is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men.
2. In 1989, the Committee recommended that States should include in their reports information on violence and on measures introduced to deal with it (General recommendation 12, eighth session).
3. At its tenth session in 1991, it was decided to allocate part of the eleventh session to a discussion and study on article 6 and other articles of the Convention relating to violence towards women and the sexual harassment and exploitation of women. That subject was chosen in anticipation of the 1993 World Conference on Human Rights, convened by the General Assembly by its resolution 45/155 of 18 December 1990.
4. The Committee concluded that not all the reports of States parties adequately reflected the close connection between discrimination against women, gender-based violence, and violations of human rights and fundamental freedoms. The full implementation of the Convention required States to take positive measures to eliminate all forms of violence against women.
5. The Committee suggested to States parties that in reviewing their laws and policies, and in reporting under the Convention, they should have regard to the following comments of the Committee concerning gender-based violence.

General comments

6. The Convention in article 1 defines discrimination against women. The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. Gender-based violence may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence.

7. Gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of article 1 of the Convention. These rights and freedoms include:
 - (a) The right to life;
 - (b) The right not to be subject to torture or to cruel, inhuman or degrading treatment or punishment;
 - (c) The right to equal protection according to humanitarian norms in time of international or internal armed conflict;
 - (d) The right to liberty and security of person;
 - (e) The right to equal protection under the law;
 - (f) The right to equality in the family;
 - (g) The right to the highest standard attainable of physical and mental health;
 - (h) The right to just and favourable conditions of work.
8. The Convention applies to violence perpetrated by public authorities. Such acts of violence may breach that State's obligations under general international human rights law and under other conventions, in addition to breaching this Convention.
9. It is emphasized, however, that discrimination under the Convention is not restricted to action by or on behalf of Governments (see articles 2(e), 2(f) and 5). For example, under article 2(e) the Convention calls on States parties to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise. Under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.

Comments on specific articles of the Convention

Articles 2 and 3

Articles 2(f), 5 and 10(c)

10. Articles 2 and 3 establish a comprehensive obligation to eliminate discrimination in all its forms in addition to the specific obligations under articles 5-16.
11. Traditional attitudes by which women are regarded as subordinate to men or as having stereotyped roles perpetuate widespread practices involving violence or coercion, such as family violence and abuse, forced marriage, dowry deaths, acid attacks and female circumcision. Such prejudices and practices may justify gender-based violence as a form of protection or control of women. The effect of such violence on the physical and mental integrity

of women is to deprive them the equal enjoyment, exercise and knowledge of human rights and fundamental freedoms. While this comment addresses mainly actual or threatened violence the underlying consequences of these forms of gender-based violence help to maintain women in subordinate roles and contribute to the low level of political participation and to their lower level of education, skills and work opportunities.

12. These attitudes also contribute to the propagation of pornography and the depiction and other commercial exploitation of women as sexual objects, rather than as individuals. This in turn contributes to gender-based violence.

Article 6

13. States parties are required by article 6 to take measures to suppress all forms of traffic in women and exploitation of the prostitution of women.
14. Poverty and unemployment increase opportunities for trafficking in women. In addition to established forms of trafficking there are new forms of sexual exploitation, such as sex tourism, the recruitment of domestic labour from developing countries to work in developed countries and organized marriages between women from developing countries and foreign nationals. These practices are incompatible with the equal enjoyment of rights by women and with respect for their rights and dignity. They put women at special risk of violence and abuse.
15. Poverty and unemployment force many women, including young girls, into prostitution. Prostitutes are especially vulnerable to violence because their status, which may be unlawful, tends to marginalize them. They need the equal protection of laws against rape and other forms of violence.
16. Wars, armed conflicts and the occupation of territories often lead to increased prostitution, trafficking in women and sexual assault of women, which require specific protective and punitive measures.

Article 11

17. Equality in employment can be seriously impaired when women are subjected to gender-specific violence, such as sexual harassment in the workplace.
18. Sexual harassment includes such unwelcome sexually determined behaviour as physical contact and advances, sexually coloured remarks, showing pornography and sexual demand, whether by words or actions. Such conduct can be humiliating and may constitute a health and safety problem; it is discriminatory when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment, including recruitment or promotion, or when it creates a hostile working environment.

Article 12

19. States parties are required by article 12 to take measures to ensure equal access to health care. Violence against women puts their health and lives at risk.

20. In some States there are traditional practices perpetuated by culture and tradition that are harmful to the health of women and children. These practices include dietary restrictions for pregnant women, preference for male children and female circumcision or genital mutilation.

Article 14

21. Rural women are at risk of gender-based violence because traditional attitudes regarding the subordinate role of women that persist in many rural communities. Girls from rural communities are at special risk of violence and sexual exploitation when they leave the rural community to seek employment in towns.

Article 16 (and article 5)

22. Compulsory sterilization or abortion adversely affects women's physical and mental health, and infringes the right of women to decide on the number and spacing of their children.
23. Family violence is one of the most insidious forms of violence against women. It is prevalent in all societies. Within family relationships women of all ages are subjected to violence of all kinds, including battering, rape, other forms of sexual assault, mental and other forms of violence, which are perpetuated by traditional attitudes. Lack of economic independence forces many women to stay in violent relationships. The abrogation of their family responsibilities by men can be a form of violence, and coercion. These forms of violence put women's health at risk and impair their ability to participate in family life and public life on a basis of equality.

Specific recommendation

24. In light of these comments, the Committee on the Elimination of Discrimination against Women recommends that:
- (a) States parties should take appropriate and effective measures to overcome all forms of gender-based violence, whether by public or private act;
 - (b) States parties should ensure that laws against family violence and abuse, rape, sexual assault and other gender-based violence give adequate protection to all women, and respect their integrity and dignity. Appropriate protective and support services should be provided for victims. Gender-sensitive training of judicial and law enforcement officers and other public officials is essential for the effective implementation of the Convention;
 - (c) States parties should encourage the compilation of statistics and research on the extent, causes and effects of violence, and on the effectiveness of measures to prevent and deal with violence;
 - (d) Effective measures should be taken to ensure that the media respect and promote respect for women;
 - (e) States parties in their reports should identify the nature and extent of attitudes, customs and practices that perpetuate violence against women and the kinds of violence that result. They should report on the measures that they have undertaken to overcome violence and the effect of those measures;

- (f) Effective measures should be taken to overcome these attitudes and practices. States should introduce education and public information programmes to help eliminate prejudices that hinder women's equality (recommendation No. 3, 1987);
- (g) Specific preventive and punitive measures are necessary to overcome trafficking and sexual exploitation;
- (h) States parties in their reports should describe the extent of all these problems and the measures, including penal provisions, preventive and rehabilitation measures that have been taken to protect women engaged in prostitution or subject to trafficking and other forms of sexual exploitation. The effectiveness of these measures should also be described;
- (i) Effective complaints procedures and remedies, including compensation, should be provided;
- (j) States parties should include in their reports information on sexual harassment, and on measures to protect women from sexual harassment and other forms of violence of coercion in the workplace;
- (k) States parties should establish or support services for victims of family violence, rape, sexual assault and other forms of gender-based violence, including refuges, specially trained health workers, rehabilitation and counselling;
- (l) States parties should take measures to overcome such practices and should take account of the Committee's recommendation on female circumcision (recommendation No. 14) in reporting on health issues;
- (m) States parties should ensure that measures are taken to prevent coercion in regard to fertility and reproduction, and to ensure that women are not forced to seek unsafe medical procedures such as illegal abortion because of lack of appropriate services in regard to fertility control;
- (n) States parties in their reports should state the extent of these problems and should indicate the measures that have been taken and their effect;
- (o) States parties should ensure that services for victims of violence are accessible to rural women and that where necessary special services are provided to isolated communities;
- (p) Measures to protect them from violence should include training and employment opportunities and the monitoring of the employment conditions of domestic workers;
- (q) States parties should report on the risks to rural women, the extent and nature of violence and abuse to which they are subject, their need for and access to support and other services and the effectiveness of measures to overcome violence;
- (r) Measures that are necessary to overcome family violence should include:
 - i. Criminal penalties where necessary and civil remedies in cases of domestic violence;

- ii. Legislation to remove the defence of honour in regard to the assault or murder of a female family member;
 - iii. Services to ensure the safety and security of victims of family violence, including refuges, counselling and rehabilitation programmes;
 - iv. Rehabilitation programmes for perpetrators of domestic violence;
 - v. Support services for families where incest or sexual abuse has occurred;
- (s) States parties should report on the extent of domestic violence and sexual abuse, and on the preventive, punitive and remedial measures that have been taken;
- (t) States parties should take all legal and other measures that are necessary to provide effective protection of women against gender-based violence, including, inter alia:
- i. Effective legal measures, including penal sanctions, civil remedies and compensatory provisions to protect women against all kinds of violence, including inter alia violence and abuse in the family, sexual assault and sexual harassment in the workplace;
 - ii. Preventive measures, including public information and education programmes to change attitudes concerning the roles and status of men and women;
 - iii. Protective measures, including refuges, counselling, rehabilitation and support services for women who are the victims of violence or who are at risk of violence;
- (u) States parties should report on all forms of gender-based violence, and such reports should include all available data on the incidence of each form of violence and on the effects of such violence on the women who are victims;
- (v) The reports of States parties should include information on the legal, preventive and protective measures that have been taken to overcome violence against women, and on the effectiveness of such measures.



Appendix I: Committee on Economic, Social and Cultural Rights (Disability-Related General Comments)

Full Copies of General Comments are available from: <http://www2.ohchr.org/english/bodies/cescr/comments.htm>

General Comment	Year	Right	Disability Specific Issues
20	2009	Non-Discrimination in Economic, Social and Cultural Rights (art. 2, para. 2)	(11) Discrimination in the private sphere (16) Membership in a group (28) Denial of reasonable accommodation

General Comment	Year	Right	Disability Specific Issues
19	2008	The right to social security (art. 9)	<p>(2) Social security without discrimination based on disability</p> <p>(14) Assurance of disability benefits for those with long periods of sickness</p> <p>(20) Provision of support in a dignified manner reflective of the special needs for assistance and other expenses often associated with disability</p>
18	2005	Right to Work (art. 6)	<p>(12bi) Equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination</p>
16	2005	The equal right of men and women to the enjoyment of all economic, social and cultural rights (art. 3)	<p>(5) Women are often denied equal enjoyment of their human rights, in particular by virtue of the lesser status ascribed to them by tradition and custom, or discrimination including the intersection of sex and disability</p> <p>(10) Differential treatment of a person or group of persons based on his/her or their particular status including disability</p>

General Comment	Year	Right	Disability Specific Issues
15	2002	The right to water (arts. 11 and 12)	(13) Guarantee the right of water without discrimination
14	2000	The right to the highest attainable standard of health (art 12)	(18) Bans discrimination in access to health care and underlying determinants of health, as well as to means and entitlements for their procurement, including disability.
6	1995	The economic, social and cultural rights of older persons	(5) Recognizes independence and participation and the principles that older persons should pursue opportunities for the full development of their potential Be free of exploitation and physical or mental abuse, should be treated fairly, regardless of disability
5	1994	Persons with disabilities	(2) Monitors the compliance of States parties to the Covenant with their obligation to ensure the full enjoyment of the relevant rights by persons with disabilities