

UNITED NATIONS CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

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Published on August 17, 2008

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Summary and History:

The Convention on the Rights of Persons with Disabilities is the newest convention to shake the world. People with disabilities have always been fighting for their rights to be stronger worldwide. The CRPD took their complaints and made sure that the unjust actions against people with disabilities could never take place again.

A convention is like a treaty, it is a legally binding document between two or more countries, and the Convention on the Rights of Persons with Disabilities is a “thematic treaty”, which means that it addresses human rights in a specific demographic, such as people with disabilities. The greatest convention of our time is the Convention on the Rights of Persons with Disabilities, or CRPD. The United Nations Convention on the Rights of Persons with Disabilities was adopted by the UN on December 13, 2006. The CRPD began as a resolution proposed by Mexico to the United Nations in 2001. At the time, it was not known as the CRPD but as the Ad Hoc Committee. This committee would consider proposals for a convention that would discuss and address the rights of people with disabilities. It took three years before the Ad Hoc Committee was strongly established. In 2004 it consisted of twenty-seven governments, twelve organizations of people with disabilities, and one human rights institution. Along with the Ad Hoc Committee, the convention also got help from the International Disability Caucus. IDC was created so that people with disabilities would work with the Ad Hoc during every step so the convention would show the views of those it was trying to help. After it was adopted by the UN in December, it was to be ratified in March 2007 where it had the highest number of signatories in UN history. It was the first human rights treaty in the 21st century.

The Convention was created to address the growing problem of the unfairly treated individuals with disabilities. It marked a change in human thought, whereas before disability

rights were considered social welfare issues, the convention considered it as a human rights problem. CRPD tries to promote and protect the physical and programming, personal mobility, health, education, employment, habilitation and rehabilitation, participation in politics, and non-discrimination. The Convention has over 20 articles that call on governments to give people with disabilities equal treatment in medical resources to equal recognition before the law. Governments who sign this treaty will help those with disabilities achieve more than previously allowed. So far 27 countries have endorsed the convention with more than 129 signatories endorsing the convention and the protocol that follows it. The countries that have signed the treaty must report regularly to the UN. If a citizen of a country that has signed the treaty feels that the country is not completing its end of the bargain, the citizen is protected by the Convention to appeal to the UN about the failure to follow the convention.

The CRPD covers many rights that people take for granted. The convention covers the right to make your own decision, the right to liberty, to live in the community, to respect for physical and mental integrity, to freedom from torture, violent exportation and abuse, to healthcare, to education, to vote, to participate in public and cultural life, and much more. The United States already has the Americans with Disabilities Act but it does not cover the basic human rights that people with disabilities are entitled to. The ADA leaves many articles up to people's own interpretation. It vaguely defines disability, reasonable accommodation, and basic nondiscrimination. The ADA is weakness cannot protect people with disabilities as well as the CRPD. Before the CRPD, all of the other international human rights treaty did not mention specifically people with disabilities. Because those treaties fail to mention people with disabilities, governments who sign the treaty fail to report about those with specific needs. But as

times changed, people with disabilities realized the government's shortcomings and have worked for a change. That change started the Ad Hoc Committee that led to the CRPD.

The CRPD has already changed many perspectives. The treaty carefully defines people with disabilities as "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." The CRPD also gives a new definition to the words communication, language, reasonable accommodation, universal design, and discrimination on the basis of disability. With these new definitions, people with all sorts of disabilities are included no matter the resources they have available.

Implementation and Impact:

Procedures and Protocol of the Convention:

There are seven core international human rights treaties (also called conventions) that exist in international law. Modeled after the Universal Declaration of Human Rights they are; the Convention on the Rights of the Child, the Convention Against Torture, Inhumane, and Degrading Punishment, Convention of Migrant Workers, the Convention on the Elimination of Racial Discrimination, Convention of the Elimination of All Forms of Discrimination against Women, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social, and Cultural Rights. There are currently two human rights treaties that are not yet operational, which are the International Convention for the Protection of all Persons from Enforced Disappearance and the Convention on the Rights of Persons with Disabilities.

A treaty is an agreement between states in the international system that creates international legal obligations with duties of compliance and preparation for change. Each of the core treaties has an oversight committee made up of independent experts that regulate the actions of the treaty. The expert committee is used to sometimes review compliance in various areas, make recommendations, and hear individual petitions concerning that particular treaty. The treaties also consist of separate rules and procedures for the expert committee to follow in implementing it. By ratifying a treaty, countries have an obligation to report to the independent body on a periodic basis to discuss how they are working towards compliance with the treaty. Compliance may involve changes in national legislation and the creation of new bodies to monitor and implement the provisions of the treaty in their country. Treaties do not become legally binding instruments until a specific number of countries have ratified the treaty “as is” or with “reservations.” A country can ratify a treaty on its whole and agree to compliance of all of the treaty, or a country may ratify most of the treaty but hold back on certain parts of it if they are either in disagreement or they see various collisions with their current strategies.

The Convention on the Rights of Persons with Disabilities (CRPD) acts much like the other core treaties, except that there is not a provision for individual petitioning or individual complaint mechanisms which is instead incorporated into an Optional Protocol. This protocol can be adopted and ratified independently of the Convention. The treaty entered into force on May 3rd 2008 after it received its 20th ratification from Jordan that compelled it to obligation on April 3rd of that year. The CRPD consists of a preamble, fifty articles, including Article 3 the General Principles and Article 4 the General Obligations. The outline of the eight General Principles in Article 3 include equality of men and women, accessibility, full inclusion and participation in society, non-discrimination, respect for inherent dignity and individual

autonomy, equality of opportunity, and respect for children with disabilities. Article 2 provides a list of definitions of such things as communication, language, reasonable accommodation, and universal design but does not define disability. In itself the entire treaty does not define the term “disability” in any way but calls for the increased awareness and attention of the basic human rights to that population around the world. Each resulting article speaks to the various aspects of the implementation of disability human rights, including provisions for accessibility, freedom of movement, equality and non-discrimination, women and children with disabilities, equality before the law, right to life, liberty and security of person, and many others.

The United States Current Status and Reservations:

Of all of the member states of the United Nations, eighty percent of those states have ratified four or more international treaties (see list of core treaties above). The United States is one of the states that populate the resulting twenty percent that have ratified less than four treaties. In United States history the country has signed and not ratified the women’s convention, the economic, social and cultural rights convention, and the Convention on the Rights of the Child. The US has also ratified but not signed the Covenant on Civil and Political Rights, the Convention Against Torture, and the Convention on the Elimination of Racial Discrimination. The United States has not yet ratified or signed the Convention on the Rights of Persons with Disabilities.

The ratification process of any treaty in the United States requires two thirds vote of the Senate and the signature of the President. There are various reservations that the United States holds on ratifying the CRPD in particular. One reservation that has been discussed about the treaty in other countries as well is that it is not a self-executing document, so it requires domestic

aid to ensure compliance. Countries that have little or no existing system or legislation for compliance with the treaty would be so obligated to drastically change much of their legal system to incorporate the treaty and its provisions, including rapidly producing new legislation and new implementing bodies that have never before existed and that take much attention, financial aid, and collaborative efforts nation-wide. There is also the argument that the United States in particular need not ratify the Convention because it already has such great legislation as the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973. Some even go further to suggest that by signing the Convention the United States would be signaling to the international community that no progress has been made in the incorporation of disability to human rights in the United States, which is seen to be a false conviction.

Twenty years ago, Honorary Richard Thornburgh, the United States Attorney General, testified before the House and Senate committees of Congress as principal spokesman for President Bush's Administration to advocate for the Americans with Disabilities Act. "On the ADA we were told that the climate in Congress just wasn't right; too expensive, ineffective, and impossible to enforce," he recalled at a conference. "We negotiated, researched, pleaded, and ultimately prevailed," he stated. He also called for the US to have an active, not passive role in disability advocacy. "This is worthy of our leadership. We have everything to gain and nothing to lose. We must ratify and sign the UN convention to fill that role," he exclaimed.

At a strategy session at American University on March 31, 2008, Tony Coelho, the chair of the Epilepsy Foundation board of directors and primary author and sponsor of the ADA, recommended that the United States first passes the Americans with Disabilities Restoration Act to gain some credibility and momentum and then take on the UN Convention. The new President of the United States International Council on Disability Marca Bristo, in the same

session, agreed with Coelho that there needs to be a reshaping of US public policy to make it more inclusive of people with disabilities, particularly in foreign assistance. He noted that when the United States began reconstruction in Iraq, they used the Americans with Disabilities Act accessibility measures as regulation. Bristo also noted that alerting grassroots campaigns can raise an equal effort on the international issues.

The current efforts of disability organizations and non-governmental organizations have reached out to various policymakers and stakeholders in the United States. While the current Bush Administration admits that it is doubtful it will ratify the Convention anytime soon, the possible administrations of Obama and Clinton can turn things around. Both candidates for election have submitted written statements promising their signatures on the Convention if they were to become the President of the United States.

Plans for Implementation:

The Convention on the Rights of Persons with Disabilities calls on state parties to “take all appropriate measures” to implement the Convention which may include the need “to adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention,” as stated in Article 4 of the General Obligations. The article further stipulates that the state parties should undertake research and development of various areas like universally designed goods, services, and facilities and new technologies (communication and assistive). The state should further promote accessible information and training of professionals to work with people with disabilities. In the areas of economic, social, and cultural rights, the states shall undertake all “measures to the maximum of its available resources.”

From the collaboration of various disability rights lawyers, professionals, stakeholders, and members of organizations, many strategies for compliance have been assembled. First there is a list of efforts that need to be carried out to prepare for implementation. It has been noticed that the Convention, in the preamble and throughout the articles, references many other treaties, like the Convention on the Rights of the Child. Therefore, the first effort that has been recognized by many disability rights advocates is the establishment of an international cooperation system to form cross-convention alliances. Alliances with various treaties will broaden the scope of the CRPD and create an expanded body of supporters. By working for rights of persons with disabilities alongside the rights of children, the rights of women, the rights against torture, and economic, civil, social, and cultural rights, all areas of life and liberty may be improved upon.

On a national level there is a call for promoting the establishment of fully inclusive disability people's organizations and coalitions of them, including some non-governmental organizations. At the local level DPOs can take individual petitions and create complaint mechanisms as well as raise awareness of issues and opportunities and provide essential services to people with disabilities. It has been suggested that DPOs and their allies also take on the role of primary monitoring bodies equipped with the essential capabilities and technologies. It has been observed that data and information of disability populations in many countries is lacking and comprehensive monitoring and close research is needed to give an accurate representation of the disability community as a whole.

Alongside accurate and sufficient monitoring is providing or improving the framework of legal systems within countries. In some countries like Tunisia, the legal system is organized in such a way that makes allegations and complaints hard to realize. With appropriate complaint

mechanisms and in revisiting the processes of measures taken with individual complaints, the system can work towards the needs of all citizens with disabilities. As Abdelkerim Chtourou from Tunisia explains, “our legal system, there is no appropriate way for people with disabilities to raise their allegation for discrimination. And also, a lot of people are not aware of their disabilities and the opportunities that they have in order to get access to their rights.” With the new measures it is also practical to raise awareness to the people of the country to their disability and the opportunities and rights that they are entitled to.

For further national implementation of the Convention, there is a need to go beyond the mere collection of information and monitoring of individuals with disabilities, but also disaggregating the data to address appropriately the areas that need the most attention. By breaking apart the information into its subject parts, more areas of implementation can be drawn upon and the information can be more widely used. In addition, the information collected and then disaggregated must also be widely spread throughout the disability population to ensure awareness of issues and opportunities.

In the local arena of CRPD implementation, special attention to local governments and legislatures can produce great results. Appealing to local representatives or legislating bodies can bring attention to various issues addressed in the Convention and lead ultimately to resolutions from those state governments and steps to a call for national ratification. The work of various non-governmental organizations is a great example of this, like RatifyNow’s *Local Initiatives Project* that encourages people with disabilities to approach their local governments, writing letters to representatives, providing testimonials, and raise local awareness to advocate for ratification in the United States.

After accomplishing the above steps, some activities proposed by the Expert Group to civil society in a statement in November 2007 were translating the Convention into national languages to be easily spread, develop thematic workshops on implementing the CRPD, develop resources on how to advocate for CRPD, and promote awareness raising and education campaigns. Civil society inclusion in the drafting and implementing of the CRPD legislation and activities is a large component to success on all levels, local, national, regional, and international.

Implementation of the Convention and its Impact:

Since the Convention on the Rights of Persons with Disabilities opened for signing March 30, 2007, 129 countries have signed the Convention and 27 have ratified it. In addition, 71 countries have signed and 16 countries have ratified the Optional Protocol. Various efforts have been raised around the world to implement the Convention. Recently, the Convention on the Rights of Persons with Disabilities was cited in defense of athlete Oscar Pistorius after he was denied access to the Olympics. Pistorius uses prosthetics on both legs and cited Article 30 of the Convention that states that ratifying countries must “encourage and promote the participation, to the fullest extent possible, of persons with disabilities in mainstream sporting activities at all levels.” He won the appeal against the International Association of Athletics Federation and the right to participate in the 2008 Olympics in Beijing, China.

Asia is home to 70% of the world’s population of people with disabilities (400 million of the 650 million in total). Despite the creation of the new light rail system in the Philippines, new subway system in Bangkok, the and new bus line in Beijing, China, accessibility issues face much of Asia. Ten percent or less of buildings in both Thailand and the Philippines are accessible. Education and employment access is also problematic, with 74% of people with

disabilities in India unemployed and 20% of children with disabilities in the Philippines never attending school.

The Biwako Millennium Framework of action for the new Asia Pacific Decade of 2003-2012 was a product of the First Asian Pacific Decade from 1993-2002. The BMF works toward an “inclusive, barrier-free, rights-based society for persons with disabilities in the Asia and the Pacific.” It has been noted as a shift from charity-based support and awareness to rights-based conception and is hailed to be one of the largest improvements in Asia and the Pacific as a whole, stimulating the establishment of Asia Pacific Development Center for Disability in 2002. The seven priority areas of the BMF are training and employment, accessibility and transportation, early detection, intervention and education, poverty alleviation, self-help organizations, and women with disabilities.

Other progress has been made in countries like Finland and Hungary where legislation is being passed through the government system. On the March 30, 2007 Finland signed the Convention and the Optional Protocol but it has yet to ratify the treaty and admits that it will take several years of national monitoring and legislative amendments before it is ratified. The Ministry of Social Affairs and Health is currently preparing an amendment required by Article 14 (liberty and security of person) of the Convention that will replace the use of coercion in special care of people with mental disabilities. There is also work being done on the Municipality of Residence Act to include Article 18 (liberty of movement and nationality) and Article 19 (living independently and inclusion).

Hungary ratified the Convention and the Optional Protocol on June 25, 2007. As a result an expert group was established to examine present national legislation and the provisions of the CRPD. Act No. 125 of 2003 gives equal treatment to all regardless of ethnic or racial origin,

gender, age, and disability. The Hungarian Association of People with Intellectual Disabilities organized a conference about the Convention on the Rights of Persons with Disabilities in 2007 along with a coalition of other organizations. The new National Programme on the Disabled Persons for 2006-2013 gives detailed provisions on actions and measures needed to promote rights and inclusion of people with disabilities in the coming years.

Various organizations have also become involved in the implementation of the Convention. The Disabled Peoples' International created both a Ratification Toolkit and an Implementation Toolkit that specifies the necessary measures needed to undertake successful compliance. Many publications, reports, rappatours, and journals correlated with disabled peoples' organizations pay much attention to the CRPD to raise awareness of the need for it and educate their respective communities on current disability issues and opportunities to get involved.

There is much more to be said on the subject of implementation and impact of the Convention on the Rights of Persons with Disabilities. While this is not a comprehensive list of the changes that have occurred worldwide due to this grand treaty, this gives the impression that it has been an effective document for international collaboration and validates our hopes that many more positive changes are to come.

Possibilities for Future Involvement and Advocacy

Individuals

As individuals with disabilities and advocates of people with disabilities, the most important step to involvement in advocacy is to become informed about current issues and

opportunities. Subscribing to journals, newsletters, and visiting websites and attending various informational seminars are great ways to learn about current legislation, steps towards future goals, and areas that appeal to personal interests to further involvement. It is also valuable to the disability community to participate in petitions in the local community and approach local governments and legislatures for appeal to resolutions. Writing letters and giving personal testimony to representatives and other stakeholders gives them more grounds for action. Volunteering time for and participating in various activities promoting inclusion and participation of people with disabilities in the community is also beneficial.

Organizations:

Disabled peoples' organizations are a very important aspect of advocacy and awareness of disability rights and implementation of such measures as the CRPD. The primary concerns of DPOs should be promoting inclusion and participation and providing a wide range of available resources to the disability community in order to achieve this. Raising awareness through education campaigns, pride parades, training programs and other activities serve to actively include people with disabilities and to spread understanding that specific rights needs must be met. Creating and providing training and informational materials for professionals and people who work with people with disabilities will break down possible barriers and further inclusion. It is also necessary that DPOs work as monitoring bodies, collecting information and distributing reports and such publications so that attention can be paid to specific areas that need to be addressed. Dispersing information and promoting campaigns at universities and other educational sites can be a great strategic tool to incorporate civil society into the implementation. It has been advocated that DPOs not only do such things but also form coalitions to work with

Convention on the Rights of People with Disabilities
Published: August 17, 2008

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other related organizations, like the efforts of the International Disability Alliance that holds eight international organizations.

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