

Forum: Human Rights Commission

Issue: Question of Ensuring the Human Rights of People with Disabilities

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Introduction

According to the United Nations (UN) Human Rights Office of the High Commissioner (OHCHR), “Persons with disabilities face discrimination and barriers that restrict them from participating in society on an equal basis with others every day. They are denied their rights to be included in the general school system, to be employed, to live independently in the community, to move freely, to vote, to participate in sport and cultural activities, to enjoy social protection, to access justice, to choose medical treatment and to enter freely into legal commitments such as buying and selling property.”¹

The question of ensuring the human rights of people with disabilities has been a top-priority issue for the OHCHR since the day it was created, but alas the problem remains unsolved.

Council of Europe estimates that 80 million Europeans living with disabilities are still discriminated everywhere and in many fields of life. Children with disabilities are denied their educational rights because schools are not equipped to meet their needs. Job opportunities are limited due to discriminatory practices and inaccessible workplaces, making people dependent on social benefits. Flawed systems of guardianship prevent people from taking decisions affecting their lives. Several Council of Europe member states still hesitate to close down residential institutions and develop community-based services for persons with disabilities, arguing that institutional care is necessary for persons with multiple or "profound" disabilities.²

To summarize the whole issue, there are three main areas, three basic human rights that need to be provided around the globe. First is proper healthcare. The goal is for all governments to provide the highest possible standard of healthcare for people with disabilities without discrimination. There are countries around the world where this is indeed the case. For example Peru where new mothers are offered extra 30 days of paid leave if their child was born with a disability. Another example is Armenia where all parents with children with disabilities are guaranteed a paid leave so they can accompany kids

¹ <https://www.ohchr.org/en/issues/disability/pages/disabilityindex.aspx>

² <https://www.coe.int/en/web/commissioner/thematic-work/persons-with-disabilities>

to healthcare appointments. Despite that, the reality is that only “26% of 193 constitutions guarantee the right to health to people with disabilities”.³

Second area is education. Only 28% of countries constitutionally guaranteed quality education on all levels for people with disabilities. There are many schools that exclude children with disabilities because they seem different. Despite that, research shows that mainstreaming improves learning outcomes for children with disabilities. Last but not least is employment. Only 14 out of the 25 most populated countries have constitutional protection for people with disabilities against discrimination in workplaces. Brazil can be seen as an example of that since in 2015 the government passed a law which protects workers with disabilities from prejudice and discrimination when it comes to payment, promotion, training and overall hiring. Countries like Peru, Montenegro and Japan create quotas for companies, which forces them to employ a specific amount of disabled people or otherwise they have to pay a fine.

As you can see all three areas desperately need improvement and already existing best practices from all over the world must be spread, possibly even enforced.

Definition of Key Terms

Disability - a physical, mental, cognitive, or developmental condition that impairs, interferes with, or limits a person's ability to engage in certain tasks or actions or participate in typical daily activities and interactions.⁴ (Some examples would be: dyslexia, deafness, visual impairment, autism spectrum disorder, etc.)

Ensure - to make something certain to happen.⁵

Human Rights - Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. Everyone is entitled to these rights, without discrimination.⁶ (For further and more detailed information please use the UN official website given in the footnotes)

³<https://www.npr.org/sections/goatsandsoda/2016/12/18/504964701/how-is-the-world-treating-people-with-disabilities>

⁴<https://www.merriam-webster.com/dictionary/disability>

⁵<https://dictionary.cambridge.org/dictionary/english/ensuring>

⁶<https://www.un.org/en/sections/issues-depth/human-rights/>

Discrimination - treating a person or particular group of people differently, especially in a worse way from the way in which you treat other people.⁷

International Convention - international conventions are treaties or agreements between countries. "International convention" is often used interchangeably with terms like "international treaty," "international agreement," or "contract between states."⁸

Types of Treaties:

- **Bilateral** - between two states only,
- **Plurilateral** - between a small group of states (more than two though),
- **Multilateral** - between a large number of states.

Self-determination - a fundamental right that is (or at least supposed to be) equal for any individual, a right to make their own decisions and to control their own lives.

Judicial - relating to or done by courts or judges or the part of a government responsible for the legal system.⁹

Injustice - lack of fairness and/or justice.

Facts and Statistics

Around 15% of the world's population or estimated 1 billion people, live with disabilities. They are the world's largest minority.¹⁰ Furthermore, this figure is increasing through population growth, medical advances and the ageing process, says the World Health Organization. These people on average spend about 8 years, or 11.5% of their life span, living with disabilities.¹¹

An extremely important fact that we must constantly keep in mind is that 80% of persons with disabilities live in developing countries, according to the UN Development Programme. This has a clear connection with the next fact, which states that disability rates are significantly higher among groups with lower educational attainment in the countries of the Organisation for Economic Co-operation and Development

⁷ <https://dictionary.cambridge.org/dictionary/english/discrimination>

⁸ https://www.law.cornell.edu/wex/international_conventions

⁹ <https://dictionary.cambridge.org/dictionary/english/judicial>

¹⁰ <https://www.who.int/en/news-room/fact-sheets/detail/disability-and-health>

¹¹ <https://www.disabled-world.com/disability/statistics/>

(OECD), says the OECD Secretariat. On average, 19% of less educated people have disabilities, compared to 11% among the better educated. We can then assume that because of the lack of education for women in developing countries, in most OECD countries, women report higher amount of incidents of disability than men. We must keep in mind that women with disabilities are recognized to be multiply disadvantaged, experiencing exclusion on account of their gender and their disability. In fact, both women and girls with disabilities are particularly vulnerable to abuse. A small 2004 survey in Orissa, India, found that virtually all of the women and girls with disabilities were beaten at home, 25% of women with intellectual disabilities had been raped and 6% of women with disabilities had been forcibly sterilized. And it is not only women, persons with disabilities are more likely to be victims of violence or rape, according to a 2004 British study, and less likely to obtain police intervention, legal protection or preventive care.¹² Research indicates that violence against children with disabilities occurs at annual rates at least 1.7 times greater than for their peers without disabilities.¹³

With lack of education, naturally comes lack of income. The World Bank estimates that 20% of the world's poorest people have some kind of disability.¹⁴ According to UNICEF, 30% of street youths have some kind of disability,¹⁵ which yet again proves that poverty is closely related to disabilities. Many people with disabilities world-wide do not have access to proper, if any, education, which makes it practically impossible for them to climb out of poverty and tackle their disabilities. To be more precise, 90% of children with disabilities in developing countries do not attend school, says UNESCO.¹⁶ Furthermore, the global literacy rate for adults with disabilities is as low as 3%, and 1% for women with disabilities, according to a 1998 UNDP study.¹⁷ Lastly, in all countries, students with disabilities remain

¹² <https://webarchive.nationalarchives.gov.uk/20110218141841/http://rds.homeoffice.gov.uk/rds/pdfs2/hosb703.pdf>

¹³ <http://www.campaignforeducation.org/en/resources/>

¹⁴ <http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/0..contentMDK:23261965~pagePK:51123644~piPK:329829~theSitePK:29708,00.html>

¹⁵ https://www.unicef.org/explore_3893.html

¹⁶ <https://en.unesco.org/themes/education/>

¹⁷ http://hdr.undp.org/sites/default/files/reports/259/hdr_1998_en_complete_nostats.pdf

underrepresented in higher education, although in more economically developed countries, the numbers are on the increase.¹⁸

We must further acknowledge that even when persons with disabilities receive proper education, it is still incredibly tough to find a job. An estimated 386 million of the world's working-age people have some kind of disability, says the International Labour Organization (ILO). Unemployment among persons with disabilities is as high as 80% in some countries, since often employers assume that persons with disabilities are unable to work.¹⁹ Let's look at India as an example. People with disabilities constitute a significant five to 6% of the country's population. Despite the "People with Disabilities" Act, which reserves for them 3% of government jobs. Of the some 70 million persons with disabilities in India, only about 100,000 have succeeded in obtaining employment in industry.²⁰ On the other side of the globe, a 2004 United States survey found that only 35% of working-age persons with disabilities are in fact working, compared to 78% of those without disabilities. Two-thirds of the unemployed respondents with disabilities said they would like to work but could not find jobs.²¹ A year prior to that, a 2003 study by Rutgers University found that people with physical and mental disabilities continue to be vastly underrepresented in the U.S. workplace. One-third of the employers surveyed said that persons with disabilities cannot effectively perform the required job tasks. The second most common reason given for not hiring persons with disabilities was the fear of costly special facilities.²² Ironically that is a misconception, since the Job Accommodation Network (JAN) of the U.S. Department of Labor's Office of Disability Employment states that the employers in the 2010 study reported that a high percentage (56%) of accommodations cost absolutely nothing to make, while the rest typically cost only \$600.²³

An important long-term solution to the issue before us is to lower the amount of people with disabilities by reducing violence. For every child killed in warfare, three are injured and acquire a permanent form of

¹⁸ <http://www.oecd.org/education/school/studentwithdisabilitieslearningdifficultiesanddisadvantagesstatisticsandindicators.htm>

¹⁹ http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_087707.pdf

²⁰ <https://www.ncpedp.org/>

²¹ http://bbi.syr.edu/publications/blanc docs/2003-2004/IDRM_Americas_2004.pdf

²² <https://www.un.org/development/desa/disabilities/resources/factsheet-on-persons-with-disabilities.html>

²³ <https://askjan.org/media/lowcosthighimpact.html>

disability.²⁴ Furthermore, in some countries, up to a quarter of disabilities result from injuries and violence.²⁵ By tackling the issue at its root you can help millions of people around the world.

UN Convention on the Rights of Persons with Disabilities (CRPD)

Full Convention in PDF format²⁶

The CRPD is undoubtedly one of the UNs main solutions to the question at hand. We highly recommend that you read through to avoid creating repetitive solutions that are already being implemented and so you could possibly establish upon and kick off of what already has been done.

According to UNs official website, the Convention on the Rights of Persons with Disabilities was adopted on 13 December 2006 at the United Nations Headquarters in New York, and was opened for signature on 30 March 2007. There were 82 signatories to the Convention, 44 signatories to the Optional Protocol, and 1 ratification of the Convention. This is the highest number of signatories in history to a UN Convention on its opening day. It is the first comprehensive human rights treaty of the 21st century and is the first human rights convention to be open for signature by regional integration organizations. The Convention entered into force on 3 May 2008.²⁷

The Convention on the Rights of Persons with Disabilities is a product of decades of discussion in the Human Rights Committee. Throughout those years, many countries have changed their policies and so the convention was constantly being amended. In 2008, the CRPD was a huge breakthrough for all supporters of people with disabilities. Before the convention people with disabilities were viewed rather as “objects” of charity, social protection and medical treatment, however the treaty made them “subjects” with rights, rights that they can use to make own free decisions based on informed consent. The Convention on the Rights of Persons with Disabilities finally made people with disabilities active members of the society.

The United Nations Convention on the Rights of Persons with Disabilities obligates all member states to ensure that any and all people with any and all disabilities (including intellectual disabilities) have the right of self-determination. The right of self-determination for a human being is the same as sovereignty

²⁴ <https://www.disabled-world.com/disability/statistics/>

²⁵ https://www.who.int/violence_injury_prevention/disability/en/

²⁶ <https://www.un.org/disabilities/documents/convention/convoptprot-e.pdf>

²⁷ <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

for a country. Unfortunately, the denial of this right is currently widespread. According to Kjersti Skarstad²⁸, “violations occur because self-determination is not treated as core to human rights realisation, and because many persons with ID are presumed incompetent to make decisions.”

As previously stated, we strongly recommend that you read the Convention on the Rights of Persons with Disabilities due to the aforementioned reasons, however here is a general explanation of what the treaty is. First, CRPD establishes a broad categorization of persons with disabilities. Despite it being already done in the treaty, we recommend you do the same in your resolutions. Next the convention straightforwardly states that all persons with all types of disabilities must be able to enjoy all fundamental freedoms and human rights. Furthermore, the CRPD clarifies and goes over the exceptions, times where “adaptations have to be made for persons with disabilities to effectively exercise their rights”²⁹ Lastly, the Convention on the Rights of Persons with Disabilities outlines the areas where the rights of people with disabilities have been violated and where the protection of those rights must be reinforced.

Key Member States and NGOs Involved and Their Views

Human Rights Office of the High Commissioner (OHCHR)

OHCHR is a part of the United Nations Secretariat and is a leading UN body in the department of Human Rights. As the name suggests, this organization is led by the “High Commissioner”, who was given a unique mandate by the General Assembly. Despite the document giving OHCHR little power, the office is expected to “promote and protect all human rights for all people”.³⁰ The staff of OHCHR amounts to roughly 1300 people. The organization has regional offices around the world as well as a headquarters in Geneva. OHCHR has three separate divisions, which are equally present and important:

Thematic Engagement, Special Procedures and Right to Development Division (TESPRDD)

This branch is responsible for the majority of the office work. TESPRDD “develops policy and provides guidance, tools, advice and capacity-strengthening support on thematic human rights issues, including for human rights mainstreaming purposes; and provides support to the Human Rights Council’s special procedures.”

Human Rights Council and Treaty Mechanisms Division (CTMD)

CTMD provides technical support to all Human Rights bodies and sub-bodies.

²⁸ <https://www.tandfonline.com/doi/full/10.1080/13642987.2018.1454903?scroll=top&needAccess=true>

²⁹ <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

³⁰ <https://www.ohchr.org/EN/AboutUs/Pages/WhoWeAre.aspx>

Field Operations and Technical Cooperation Division (FOTCD)

Oversees and implements the Office's work in the field.

United States of America (USA)

USA is one of the best countries for people with disabilities to live in. For the past decades it has been trying to spread its best practices around the world. An example of that would be USA sponsoring *Costa Rican Women with Disabilities Leadership Project* in 2002. "This was the first time in the history of Costa Rica that disability advocates from various regions joined together to plan a model for further integration and participation in society." Furthermore, the USA has conducted civil rights workshops, trainings and consultation in Japan, Vietnam, Guam, Palau, Russia, Germany, Bosnia, Wales, Israel, Australia, New Zealand and South Africa. All these workshops provided consultation on how to integrate and support people with disabilities.³¹

Less Economically Developed Countries (LEDCs)

After decades of creating new and new human rights treaties and trying to implement them, a pattern has emerged. It is very common for LEDCs to disregard human rights resolutions and international recommendations on this issue, since human rights are perceived as a sort of bonus, an accessory one could say, a cherry on top, but definitely not a top priority that would improve the overall economy. Many countries around the world currently have a mindset that when a strong economy is built, the human rights are almost automatically empowered. But what if it is the other way around? What if we first have to preserve human rights to build a strong economical structure?

Timeline of Events

April 7, 1948	Creation of World Health Organization
December 20, 1993	Office of the United Nations High Commissioner for Human Rights is created
December 13 2006	Convention on the Rights of Persons with Disabilities is adopted

Possible Solutions

³¹ <https://dredf.org/legal-advocacy/international-disability-rights/>

(Despite these solutions slightly resembling clauses in structure, they should not be taken as such, nor should they be seen as an example of how to write a resolution)

1. **Ask** the Security Council to consider the question of ensuring the Human Rights of people with disabilities and recommend the SC to:
 - a. **Create** a binding legal document that is almost fully based upon the Convention on the Rights of Persons with Disabilities. The CRDP right now is simply a recommendation. It is a marker of normality and what the international community considers to be right and wrong. The document is in no way binding to those who signed it or punishing to those who breached it. Security Council though, has the power to make a document similar to our convention obligatory. Of course such radical solutions would most likely get vetoed by some of the Five Permanent members, unless the treaty is amended and more generalised. During HELIMUN you could potentially start discussing with the representatives of P5 in your committee and ultimately create a resolution that could go straight to the Security Council and have the best chances of not being vetoed.
 - b. **Create** a special Sanctions Committee, which would monitor the implementation of the resolution on Human Rights of People with Disabilities and recommend appropriate punishment (normally in the form of a sanction) for countries who breach it. According to Article 41 of the United Nations Charter, the Security Council has the authority to use a variety of measures to enforce its decisions. The Council regularly creates subsidiary organs to support or implement these measures, which are known as Sanctions Committees. These committees consist of the fifteen members of the Security Council who passed this resolution (if some countries in the SC voted against it, but despite that it passed, they still get to be a part of the Sanctions Committee).

2. Not many countries openly disregard the Convention on the Rights of Persons with Disabilities, however far more still do not follow them despite officially agreeing with the treaty. Unlike the Security Council, Human Rights Committee does not have the mandate, which allows them to practically force anything on the international community, since it cannot create binding documents nor punish countries for breaching them. But the committee can reward. The Human Rights Office of the High Commissioner, which was mentioned previously, currently monitors the situation of Human Rights all over the world. The Human Rights Committee has unlimited funds, just like any other MUN committee, so it is possible to give the OHCHR the ability to distribute a limited amount of these funds to countries that either show great improvement or are already incredible at upholding the Human Rights of people with disabilities. The “rewards” can not only be monetary, but some other privileges can be promised as well. The details are up to you, but remember that some countries can see this solution as MEDCs just trying to “suck out” the UN funds since most of them need little if any improvement to get the awards.

3. Support workplaces that employ people with disabilities. Rather self-explanatory, however you will have to make sure that organizations do not exploit this solution, so you will have to find a good balance with “rewards”.
4. Social campaigns that show the humanity of people with disabilities and encourage everyone to support them.

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