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# Convention on the Rights of Persons with Disabilities and its Optional Protocol

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# Outline of Presentation

- Convention timeline
- What is the Convention?
- Paradigm shift
- Definition of disability
- General principles, articles and rights in the Convention
- International cooperation
- Accessibility of organizations and their activities
- Monitoring
- Implementation within the United Nations
- Special Rapporteur
- Conclusion

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# Convention Timeline

- **Adoption by the United Nations General Assembly - 13 December 2006**
- **Opened for signature - 30 March 2007**
- **Entry into force – 3 May 2008**
- **First Conference of States Parties – 31 October & 3 November 2008**
- **Second Conference of States Parties – 2 – 4 September 2009**
- **First session of the Committee on the Rights of Persons with Disabilities – 23-27 February 2008**

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# Relationship to other disability texts

- The Convention builds upon, and works in synergy with previous international texts related to persons with disabilities:
  - Standard Rules on the Equalization of Opportunities for Persons with Disabilities - 1994 (not a legally binding treaty)
  - World Programme of Action on Disabled Persons - 1982 (not a legally binding treaty)

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# Why a Convention?

- A response to an overlooked development challenge: approximately 10% of the world's population are persons with disabilities (over 650 million persons). Approximately 80% of whom live in developing countries
- A response to the fact that although pre-existing human rights conventions offer considerable potential to promote and protect the rights of persons with disabilities, this potential was not being tapped. Persons with disabilities continued being denied their human rights and were kept on the margins of society in all parts of the world. The Convention sets out the legal obligations on States to promote and protect the rights of persons with disabilities. It does not create new rights.

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# Purpose of Convention (Article 1)

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

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# What is unique about the Convention?

- *Both* a development and a human rights instrument
- A policy instrument which is cross-disability and cross-sectoral
- Legally binding

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# A Paradigm Shift

- The Convention marks a 'paradigm shift' in attitudes and approaches to persons with disabilities.
- Persons with disabilities are not viewed as "objects" of charity, medical treatment and social protection; rather as "subjects" with rights, who are capable of claiming those rights and making decisions for their lives based on their free and informed consent as well as being active members of society.
- The Convention gives universal recognition to the dignity of persons with disabilities.



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# What is Disability?

- The Convention does *not* explicitly define disability
- Preamble of Convention states:
  - 'Disability is an **evolving** concept, and that disability results from the **interaction** between persons with impairments and attitudinal and environmental barriers that hinders full and effective participation in society on an equal basis with others'
- Article 1 of the Convention states:
  - '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'.

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# What is Disability?

- *Disability results from an **interaction** between a non-inclusive society and individuals:*
  - Person using a wheelchair might have difficulties gaining employment not because of the wheelchair, but because there are environmental barriers such as inaccessible buses or staircases which impede access
  - Person with extreme near-sightedness who does not have access to corrective lenses may not be able to perform daily tasks. This same person with prescription eyeglasses would be able to perform all tasks without problems.

# Convention Terminology

- YES:
  - ‘persons with disabilities’
  
- NO:
  - ‘handicapped’
  - ‘physically or mentally challenged’
  
- Note: Preferences for terminology among persons with disabilities and among geographic regions may vary. The individual wishes of persons with disabilities should be respected as much as possible.

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# General Principles (Article 3)

- Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons
- Non-discrimination
- Full and effective participation and inclusion in society
- Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity
- Equality of opportunity
- Accessibility
- Equality between men and women
- Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities

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# General Principles: Participation and Inclusion

- Participation is important to correctly identify specific needs, and to empower the individual
- Full and effective participation and inclusion in society is recognized in the Convention as:
  - A general principle (article 3)
  - A general obligation (article 4)
  - A right (articles 29 and 30)

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# General Principles:

## Non-discrimination

- Fundamental principle of international human rights law
- Includes direct and indirect discrimination
- ***reasonable accommodation*** must be made for persons with disabilities
- *reasonable accommodation*: ‘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’

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# General Principles: Accessibility

- Important as a means to empowerment and inclusion
- Both a general principle and a stand-alone article (article 9)
- Access must be ensured to:
  - Justice (article 13)
  - Living independently and being included in the community (article 19)
  - Information and communication services (article 21)
  - Education (article 24)
  - Health (article 25)
  - Habilitation and rehabilitation (article 26)
  - Work and employment (article 27) - human resource policies and practices
  - Adequate standard of living and social protection (article 28)
  - Participation in political and social life (article 29)
  - Participation in cultural life, recreation, leisure and sport (article 30)

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# Convention Structure

Preamble

1. Purpose

2. Definitions

3. General principles

4. General obligations

5. Equality and non-discrimination

6. Women with disabilities

7. Children with disabilities

8. Awareness-raising

9. Accessibility

10. Right to life

11. Situations of risk and humanitarian emergencies

12. Equal recognition before the law

13. Access to justice

14. Liberty and security of the person

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

16. Freedom from exploitation, violence and abuse

17. Protecting the integrity of the person

18. Liberty of movement and nationality

19. Living independently and being included in the community



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# Convention Structure

- 20. Personal mobility
- 21. Freedom of expression and opinion, and access to information
- 22. Respect for privacy
- 23. Respect for home and the family
- 24. Education
- 25. Health
- 26. Habilitation and rehabilitation
- 27. Work and employment
- 28. Adequate standard of living and social protection
- 29. Participation in political and public life
- 30. Participation in cultural life, recreation, leisure and sport
- 31. Statistics and data collection
- 32. International cooperation
- 33. National implementation and monitoring
- 34 to 40. International monitoring mechanism
- 41 to 50. Final clauses
- Optional protocol

# Rights in the Convention

- Equality before the law without discrimination (article 5)
- Right to life, liberty and security of the person (articles 10 & 14)
- Equal recognition before the law and legal capacity (article 12)
- Freedom from torture (article 15)
- Freedom from exploitation, violence and abuse (article 16)
- Right to respect physical and mental integrity (article 17)
- Freedom of movement and nationality (article 18)
- Right to live in the community (article 19)
- Freedom of expression and opinion (article 21)
- Respect for privacy (article 22)
- Respect for home and the family (article 23)
- Right to education (article 24)
- Right to health (article 25)
- Right to work (article 27)
- Right to adequate standard of living (article 28)
- Right to participate in political and public life (article 29)
- Right to participation in cultural life (article 30)

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# International Cooperation

## (Article 32)

- International cooperation, including international development programmes should be inclusive of, and accessible to, persons with disabilities
- Focus is on mainstreaming disability into all development activities, though disability specific measures may be necessary to 'accelerate or achieve de facto equality of persons with disabilities'. (Article 5)
- Millennium Development Goals will not be achieved if persons with disabilities are not included

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# Protecting and Promoting Human Rights with Limited Resources

- International human rights law recognizes the limitations on resources
- Limitations on resources is not an excuse to delay implementation
- Limited resources have to be prioritized according to reasonable and objective criteria and funding must be proportional
- Strategies for effective use of limited resources:
  - Target low-cost programmes
  - Target people in the most marginalized situations
  - Be non-discriminatory
  - Draw on international cooperation
  - Include persons with disabilities in all stages

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# Mainstreaming Disability in Existing Processes

- Article 4.1.(c): ‘States Parties undertake to take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes’
- Mainstreaming of disability issues according to the Convention in:
  - Work of existing human rights treaty bodies
  - Human Rights Council
  - Millennium Development Goals (MDG) - national and international strategies
  - Common Country Assessment (CCA)/United Nations Development Assistance Framework (UNDAF)
  - Poverty Reduction Strategy Papers (PRSP)
  - The development activities of international donors and NGOs
  - Census data
  - Sectoral and cross-sectoral policies
  - Programmes and policies for women (article 6) and children (article 7)
  - and others...

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# No-gap Policy

- No entity can achieve the goal of equality for persons with disabilities on its own.
- An interconnected network of actors is required to reach this goal.
- Example: In order for a person with disabilities using a wheelchair to access decent work, the person needs to be able:
  - to physically move in and out of his or her home
  - to access the public space and transportation
  - to access the work facilities (both the built environment and its information and communications systems)
- Different entities need to ensure that their respective spheres of responsibility provide the necessary opportunities and access to persons with disabilities, on an equal basis with others.
- If any one element of the network fails in this obligation, persons are not able to reap the benefit from the other elements.

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# How accessible are the activities of my organization?

- Every aspect of an organization's activities must be analyzed to ensure accessibility and inclusion. A few examples:
  - Do we require our partners/grantees to have policies and practices in place to ensure inclusion of persons with disabilities?
  - Do we collect data on the number of persons with disabilities which benefit from our development activities?
  - Do we design our development projects and programmes to ensure that persons with disabilities can participate and benefit?
  - And many others...

# How accessible is my organization?

- A thorough analysis of every aspect of an organization must be necessary to ensure accessibility and inclusion. Just a few examples:
  - **Are our human resource policies and practices accessible?**
    - Do we have policies ensuring that the recruitment process is accessible to persons with different disabilities?
    - Do we have policies and resources which ensure that provision of *reasonable accommodation*, allowing persons with disabilities to work in our organization?
  - **Are our information and communication systems accessible?**
    - Is our website accessible?
    - Is sign language interpretation available?
    - Are documents available in Braille?
  - **Are our physical facilities accessible?**
    - Are our buildings, office spaces, facilities accessible?



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# Convention Bodies

## ■ **Conference of States Parties**

- meets in order to consider any matter with regard to the implementation of the Convention (biennially or upon decision by the Conference)

## ■ **Committee on the Rights of Persons with Disabilities**

- a body of independent experts serving in their personal capacity
- tasked with reviewing States' implementation of the Convention.
- initially comprises 12 independent experts; rises to 18 members after an additional 60 ratifications or accessions to the Convention.

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# Optional Protocol

- Creates additional functions for the Committee on the Rights of Persons with Disabilities:
  - **Individual communications:** Committee considers communications from individuals or group of individuals claiming to be victims of a violation of the provisions of the Convention by a State Party of the party to the Protocol
  - **Inquiries:** Committee member may conduct an inquiry on a State Party, following information received indicating grave or systemic violations of the Convention by State Party

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# National Monitoring and Implementation

- National Human Rights Institutions (NHRIs) play important role
- National focal points & coordination mechanisms within governments
  - Multi-sectoral involvement of all government ministries
  - Outreach to other national stakeholders (civil society organizations, academic/scientific institutions, private sector)

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# Implementation within United Nations: Inter-agency Support Group

- United Nations Inter-Agency Support Group for the Convention on the Rights of Persons with Disabilities (IASG) established.
- First meeting was held in December 2007
- Through the IASG, the United Nations will support the States parties, based within a framework of coordinated planning and action.
- The IASG will ensure that the programmes and policies of the United Nations are inclusive of persons with disabilities, and will work to strengthen recognition of and respect for the principles of the Convention on the Rights of Persons with Disabilities.
- Membership of the IASG: United Nations departments, regional commissions, agencies, funds and programmes whose work is relevant to the Convention.

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# Special Rapporteur on Disability

- Role of the Special Rapporteur on Disability
  - Monitor the implementation of the Standard Rules for the Equalization of Opportunities of Persons with Disabilities
  - Advocate the equalization of opportunities for, the full enjoyment of all human rights by, and the well-being of persons with disabilities in all respects
  - Create awareness of the Convention on the Rights of Persons with Disabilities, including for its wider signature and ratification by Member States
  - Act as a catalyst to promote international and technical cooperation on disability issues, including by identifying strategic areas for the exchange and sharing of expertise, best practices, knowledge, information and relevant technologies in order to enhance the capacity-building of Member States
  - Collaborate, in the fulfillment of the above tasks, with all relevant stakeholders, including organizations of persons with disabilities
- Special Rapporteur reports yearly to the Commission for Social Development.

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# Monitoring and Implementation

All activities must include the participation of persons with disabilities:

**‘Nothing about us without us’**

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# Conclusion

- The challenge of implementing the Convention is now!
- Need for training, capacity building, awareness raising, good practices collection and validation, knowledge management
- Need to mainstream disability in all development activities
- Need for implementation of Convention principles in the internal operations of organizations
- Need to include persons with disabilities in all stages of implementation, and build capacity of organizations of persons with disabilities to do so

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# Resource for further information:

## United Nations Secretariat for the Convention on the Rights of Persons with Disabilities

[www.un.org/disabilities](http://www.un.org/disabilities)

[www.ohchr.org](http://www.ohchr.org)

[enable@un.org](mailto:enable@un.org)