

CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

QUESTIONS AND ANSWERS

INTRODUCTORY QUESTIONS

What are the human rights of persons with disabilities?

All members of society have the same human rights – they include civil, cultural, economic, political and social rights. Examples of these rights include the following:

- equality before the law without discrimination
- right to life, liberty and security of the person
- equal recognition before the law and legal capacity
- freedom from torture
- freedom from exploitation, violence and abuse
- right to respect physical and mental integrity
- freedom of movement and nationality
- right to live in the community
- freedom of expression and opinion
- respect for privacy
- respect for home and the family
- right to education
- right to health
- right to work
- right to an adequate standard of living
- right to participate in political and public life
- right to participate in cultural life

All persons with disabilities have the right to be free from discrimination in the enjoyment of their rights. This includes the right to be free from discrimination on the basis of disability, but also on any other basis such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

What is the Convention on the Rights of Persons with Disabilities?

The Convention on the Rights of Persons with Disabilities is an international treaty that identifies the rights of persons with disabilities as well as the obligations on States parties to the Convention to promote, protect and ensure those rights. The Convention also establishes two implementation mechanisms: the Committee on the Rights of Persons with Disabilities, established to monitor implementation, and the Conference of States Parties, established to consider matters regarding implementation.

States negotiated the Convention with the participation of civil society organizations, national human rights institutions and inter-governmental organizations. The United Nations General Assembly adopted the Convention on 13 December 2006 and it was opened for signature on 30 March 2007. States that ratify the Convention are legally bound to respect the standards in the Convention. For other States, the Convention represents an international standard that they should endeavour to respect.

What is the Optional Protocol to the Convention?

The Optional Protocol is also an international treaty. The Optional Protocol establishes two procedures aimed at strengthening the implementation and monitoring of the Convention. The first is an

individual communications procedure allowing individuals to bring petitions to the Committee claiming breaches of their rights; the second is an inquiry procedure giving the Committee authority to undertake inquiries of grave or systematic violations of the Convention.

What other international instruments recognize the rights of persons with disabilities?

States have adopted specific instruments to protect and promote the rights of persons with disabilities over the last decades. Important milestones include:

- the Declaration on the Rights of Disabled Persons (1995);
- the World Programme of Action concerning Disabled Persons (1981);
- the Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care (1991);
- the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (1993).

Although guidelines, declarations, principles, resolutions and other documents are not legally binding, they express a moral and political commitment by States, and can be used as guidelines to enact legislation or to formulate policies concerning persons with disabilities. It is important to note that some provisions of the Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care have been criticized and the Convention on the Rights of Persons with Disabilities now supersedes these standards to the extent that there is any conflict between the two instruments.

In addition to the Convention on the Rights of Persons with Disabilities, what other human rights conventions are relevant?

All human rights conventions relate to everyone, including persons with disabilities. The International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights protect against discrimination on any basis. There are also human rights conventions dealing with discrimination, such as discrimination against women and specific issues or groups of people, such as children or migrant workers

The core human rights treaties are as follows:

- 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 Against Torture
- The Convention on the Elimination of All forms of Discrimination against Women
- The Convention on the Rights of the Child
- The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
- The International Convention for the Protection of All Persons from Enforced Disappearance
- The Convention on the Rights of Persons with Disabilities.

All human rights conventions include a provision protecting against discrimination. . However, only one of these Conventions, the Convention on the Rights of the Child, specifically recognizes the need to protect against discrimination on the grounds of disability. Nevertheless, all Conventions are understood to refer to “disability” implicitly as a ground of discrimination. This makes it clear that persons with disabilities should not be discriminated against when these conventions are applied. Thus, the Convention on the Elimination of All Forms of Discrimination against Women, for example, applies to all women, including women with disabilities.

Why is it necessary to have a Convention on the Rights of Persons with Disabilities?

The Convention is necessary in order to have a clear reaffirmation that the rights of persons with disabilities are human rights and to strengthen respect for these rights. Although existing human rights conventions offer considerable potential to promote and protect the rights of persons with disabilities, it became clear that this potential was not being tapped. Indeed, persons with disabilities continued being denied their human rights and were kept on the margins of society in all parts of the world. This continued discrimination against persons with disabilities highlighted the need to adopt a legally binding instrument which set out the legal obligations on States to promote and protect the rights of persons with disabilities.

Why is the Convention unique?

The Convention is the first human rights convention of the 21st century and the first legally binding instrument with comprehensive protection of the rights of persons with disabilities. While the Convention does not establish new human rights, it does set out with much greater clarity the obligations on States to promote, protect and ensure the rights of persons with disabilities. Thus, the Convention not only clarifies that States should not discriminate against persons with disabilities, it also sets out the many steps that States must take to create an enabling environment so that persons with disabilities can enjoy real equality in society. For example, the Convention requires States to take measures to ensure accessibility of the physical environment and information and communications technology. Similarly, States have obligations in relation to raising awareness, promoting access to justice, ensuring personal mobility, and collecting disaggregated data relevant to the Convention. In this way, the Convention goes into much greater depth than other human rights treaties in setting out the steps that States should take to prohibit discrimination and achieve equality for all.

The Convention incorporates a social development perspective. The Convention recognizes the importance of international cooperation and its promotion to support national implementation efforts. An innovation in this regard concerns specific references to actions the international community could take to promote international cooperation such as:

- ensuring that international development programmes are inclusive of and accessible to persons with disabilities;
- facilitating and supporting capacity-building;
- facilitating cooperation in research and access to scientific and technical knowledge;
- providing technical and economic assistance as appropriate.

SPECIFIC QUESTIONS ON THE CONVENTION

What is the content of the Convention on the Rights of Persons with Disabilities?

The Convention sets out the human rights of persons with disabilities and the obligations on States to promote, protect and ensure those rights as well as mechanisms to support implementation and monitoring. The content can be broken down in the following way:

- Preamble – gives general context to the Convention and identifies important background issues
- Purpose – sets out the goal of the Convention which is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms of all persons with disabilities, and to promote respect for their inherent dignity
- Definitions – define key terms in the Convention, namely: communication, language, discrimination on the basis of disability, reasonable accommodation and universal design.
- General principles – identify the standards or imperatives that apply to the enjoyment of all rights in the Convention, such as the principle of non-discrimination and the principle of equality

- Obligations – clarify the steps that States must take to promote, protect and ensure the rights in the Convention
- Specific rights – identify the existing civil, cultural, economic, political and social human rights, affirming that persons with disabilities also hold those rights
- Enabling measures – identify specific steps that States must take to ensure an enabling environment for the enjoyment of human rights, namely: awareness-raising, ensuring accessibility, ensuring protection and safety in situations of risk and humanitarian emergencies, promoting access to justice, ensuring personal mobility, enabling habilitation and rehabilitation, and collecting statistics and data
- International cooperation - recognizes the importance of the international community working together to ensure the full enjoyment of the rights of persons with disability
- Implementation and monitoring – requires States to establish national frameworks for monitoring and implementing the Convention and establishes a Conference of States Parties to consider any matter in relation to implementation of the Convention and a Committee on the Rights of Persons with Disabilities to monitor the Convention
- Final clauses – set out the procedures for signature, ratification, entering into force, and other procedural requirements relevant to the Convention.

What are the principles of the Convention?

Article 3 sets out the General Principles that apply to the enjoyment of the rights of persons with disabilities. These are:

- 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.

Are the terms “disability” and “persons with disabilities” defined in the Convention?

The Convention does not include a definition of “disability” or “persons with disabilities” as such. However, elements of the preamble and article 1 provide guidance to clarify the application of the Convention.

- “Disability” - The preamble recognizes 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”.
- “Persons with disabilities” - Article 1 states that “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”.

Several elements of these provisions are relevant to highlight. First, there is recognition that “disability” is an evolving concept resulting from attitudinal and environmental barriers hindering the participation of persons with disabilities in society. Consequently, the notion of “disability” is not fixed and can alter, depending on the prevailing environment from society to society.

Second, disability is not considered as a medical condition, but rather as a result of the interaction between negative attitudes or an unwelcoming environment with the condition of particular persons. By dismantling attitudinal and environmental barriers - as opposed to treating persons with disabilities as problems to be fixed - those persons can participate as active members of society and enjoy the full range of their rights.

Third, the Convention does not restrict coverage to particular persons; rather, the Convention identifies persons with long-term physical, mental, intellectual and sensory disabilities as beneficiaries under the Convention. The reference to "includes" assures that this need not restrict the application of the Convention and States parties could also ensure protection to others, for example, persons with short-term disabilities or who are perceived to be part of such groups.

What are the specific rights in the Convention?

The Convention reaffirms that persons with disabilities enjoy the same human rights as everyone. The specific rights recognized in the Convention are:

- equality before the law without discrimination
- right to life, liberty and security of the person
- equal recognition before the law and legal capacity
- freedom from torture
- freedom from exploitation, violence and abuse
- right to respect physical and mental integrity
- freedom of movement and nationality
- right to live in the community
- freedom of expression and opinion
- respect for privacy
- respect for home and the family
- right to education
- right to health
- right to work
- right to an adequate standard of living
- right to participate in political and public life
- right to participate in cultural life

What are the obligations on States Parties to the Convention?

The Convention identifies general and specific obligations on States parties in relation to the rights of persons with disabilities. In terms of general obligations, States have to:

- adopt legislation and administrative measures to promote the human rights of persons with disabilities;
- adopt legislative and other measures to abolish discrimination;
- protect and promote the rights of persons with disabilities in all policies and programmes;
- stop any practice that breaches the rights of persons with disabilities;
- ensure that the public sector respects the rights of persons with disabilities;
- ensure that the private sector and individuals respect the rights of persons with disabilities;
- undertake research and development of accessible goods, services and technology for persons with disabilities and encourage others to undertake such research;
- provide accessible information about assistive technology to persons with disabilities;
- promote training on the rights of the Convention to professionals and staff who work with persons with disabilities;
- consult with and involve persons with disabilities in developing and implementing legislation and policies and in decision-making processes that concern them.

How is the Convention monitored?

The Convention requires monitoring at both the national and international level. Nationally, the Convention requires States, in accordance with their legal and administrative systems, to maintain, strengthen, designate or establish a framework to promote, protect and monitor implementation of the Convention.

Internationally, the Convention establishes a Committee on the Rights of Persons with Disabilities which has the role of reviewing periodic reports submitted by States on the steps they have taken to implement the Convention. The Committee also has authority to examine individual communications and conduct inquiries in relation to those States that have recognized the Committee's authority to do so by ratifying the Optional Protocol.

What are national frameworks to promote, protect and monitor implementation of the Convention?

The notion of a national framework to promote, protect and monitor the Convention is relatively open. The Convention recognizes that such frameworks might differ from country to country by allowing flexibility to establish the frameworks in accordance with each State's legal and administrative system. However, the Convention also requires that whatever body is established must be independent. Normally, national frameworks will include at least establishing some form of independent national human rights institution such as a Human Rights Commission or Ombudsman's Office. However, a framework could contain other elements such as courts.

What is the Committee on the Rights of Persons with Disabilities?

The Committee on the Rights of Persons with Disabilities is a body of independent experts tasked with reviewing States' implementation of the Convention. These experts will serve in their personal capacity. Initially, the Committee comprises twelve independent experts which will rise to 18 members after an additional 60 ratifications or accessions to the Convention. States parties will choose experts on the basis of their competence and experience in the field of human rights and disability, and also in consideration of equitable geographic representation, representation of different forms of civilization and legal systems, gender balance, and participation of experts with disabilities.

The Committee periodically examines reports, prepared by States, on the steps they have taken to implement the Convention. For those States that are party to the Optional Protocol, the Committee also has authority to receive complaints from individuals of alleged breaches of their rights and to undertake inquiries in the event of grave or systematic violations of the Convention.

What is the Conference of States Parties?

The Convention also establishes a Conference of States Parties that meets regularly in order to consider any matter with regard to the implementation of the Convention. The Convention leaves open the exact nature of the role of the Conference of States Parties although responsibilities include electing the members of the Committee on the Rights of Persons with Disabilities and debating and adopting proposed amendments to the Convention.

What is periodic reporting?

Each State party to the Convention must submit to the Committee on the Rights of Persons with Disabilities an initial comprehensive report on measures taken to implement the Convention. Each State must submit its initial report within two years after the Convention enters into force for that State. The initial report should:

- establish the constitutional, legal and administrative framework for the implementation of the Convention;
- explain the policies and programmes adopted to implement each of the Convention's provisions;
- identify any progress made in the realization of the rights of persons with disabilities as a result of the ratification and implementation of the Convention.

Each State must submit subsequent reports at least every four years or whenever the Committee requests one. Subsequent reports should:

- respond to the concerns and other issues highlighted by the Committee in its concluding observations to previous reports;
- indicate progress made in the realization of the rights of persons with disabilities over the reporting period;
- highlight any obstacles that the Government and other actors might have faced in implementing the Convention over the reporting period.

Is it possible to complain to the Committee if rights have been breached?

Yes. The Optional Protocol to the Convention establishes an individual communications procedure that permits individuals and groups in a State party to the Protocol to complain to the Committee on the Rights of Persons with Disabilities that the State has breached one of its obligations under the Convention. The complaint is known as a "communication". The Committee examines the complaint and the observations of the State, and on this basis formulates its views and recommendations, if any, forwards them to the State, and makes them public.

Can the Committee undertake inquiries?

Yes. The Optional Protocol establishes an inquiry procedure. If the Committee receives reliable information indicating grave or systematic violations by a State party to the Optional Protocol of any of the provisions of the Convention, the Committee may invite the State in question to respond to such information. After considering the State party's observations and any other reliable information, the Committee may designate one or more of its members to conduct an inquiry and issue a report urgently. If the State agrees, the Committee may visit the country in question. After undertaking the inquiry, the Committee transmits its findings to the State which has six months to submit further observations. The Committee eventually summarizes its findings which it makes public. A State ratifying the Optional Protocol may "opt out" of the inquiry procedure.

What is the role of civil society in the monitoring process?

Civil society has an important role to play in the monitoring process, both nationally and internationally. In relation to national monitoring, the Convention expressly stipulates that civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process (see Convention article 33.3). In relation to international monitoring, States parties are invited to give due consideration to consulting with and actively involving persons with disabilities and their representative organizations when nominating experts for the treaty body (see Convention article 34.3). Further, experience from other international human rights treaty monitoring bodies highlights the critical role that civil society can play in the periodic reporting process, in supporting individuals in bringing individual communications, and in providing reliable information to the Committee on grave or systematic human rights violations as a basis for an inquiry.

BECOMING A PARTY TO THE CONVENTION AND OPTIONAL PROTOCOL

What is the signature of the Convention?

The first step in becoming a party to the Convention is signing the treaty. States and regional integration organizations (RIO) may sign the Convention or Optional Protocol. A State or RIO may sign the Convention at any time. By signing the Convention or Optional Protocol, States or RIOs indicate their intention to take steps to be bound by the treaty at a later date. Signing also creates an obligation, in the period between signing and ratification, to refrain from acts that would defeat the object and purpose of the treaty.

What is ratification?

The next step in becoming a party to the Convention or Optional Protocol is ratification. Ratification is a concrete action taken by States which signals the intention to undertake legal rights and obligations contained in the Convention or the Optional Protocol. Regional integration organizations express their consent to be bound by the Convention or Optional Protocol through “formal confirmation” – an act which has the same effect as ratification.

What is accession?

A State or regional integration organization may also express its consent to be bound by the Convention or Optional Protocol through the act of accession. Accession has the same legal effect as ratification; however, unlike ratification, which must be preceded by signing to create binding legal obligations under international law, accession requires only one step – depositing the instrument of accession.

When does the Convention come into force?

The Convention comes into force on the 30th day after the deposit of the 20th instrument of ratification or accession. The Optional Protocol comes into force on the 30th day after the deposit of the 10th instrument of ratification or accession. It is likely that the two instruments will enter into force on two distinct dates. At the moment each enters into force, the Convention and Optional Protocol become legally binding on States parties.

What will be the role of the United Nations Secretariat with regard to the Convention?

The United Nations has established a joint secretariat for the Convention, consisting of staff of both the United Nations Department of Economic and Social Affairs ([DESA](#)), based in New York, and the Office of the High Commissioner for Human Rights ([OHCHR](#)) in Geneva. The Department for Economic and Social Affairs (DESA) supports the Conference of State Parties and the Office of the High Commissioner for Human Rights (OHCHR) supports the Committee on the Rights of Persons with Disabilities. DESA and OHCHR work together to support States, civil society and national human rights institutions to implement and monitor the Convention.

What will be the role of the Special Rapporteur on Disability?

The Special Rapporteur on Disability is tasked with monitoring the implementation of the Standard Rules on Equalization of Opportunities for Persons with Disabilities, and reports to the United Nations Commission for Social Development, which is a functional commission of the [Economic and Social Council \(ECOSOC\)](#) of the United Nations. Though the mandate of the Special Rapporteur is specific to the Standard Rules, not the Convention, the work of the Special Rapporteur will have direct significance to the implementation of the Convention due to the degree of overlap between the content of the Standard Rules and the Convention. The Standard Rules, however, is not a legally binding instrument.

THE NEGOTIATION PROCESS

How was the Convention negotiated?

The Convention was drafted by 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 (Ad Hoc Committee), which was a committee of the United Nations General Assembly. Its membership was open to all United Nations Member States and observers. During its first session, the Ad Hoc Committee decided that representatives from non-governmental organizations (NGOs) accredited to the Ad Hoc Committee could also participate in meetings and make statements in accordance with United Nations practice.

The Ad Hoc Committee held eight sessions. At its first two sessions, in 2002 and 2003, the Committee considered the possibility of drafting an international instrument on the rights of persons with disabilities, and discussed the type of instrument and possible elements to be included. At its second session, the Ad Hoc Committee established a working group to prepare a draft text of a convention. The Working Group, composed of government and NGO representatives, met in January 2004 and drafted a text for negotiation. At its third, fourth, fifth, sixth, seventh and eighth sessions, the Ad Hoc Committee continued its negotiations. The Convention text was finalized by the Ad Hoc Committee on 26 August 2006.

A drafting group tasked with ensuring uniformity of terminology throughout the text of the draft convention and harmonizing the versions in the official languages of the United Nations reviewed the text from September to November 2006.

The United Nations General Assembly adopted the text of the Convention on the Rights of Persons with Disabilities and its Optional Protocol on 13 December 2006.

Did civil society participate in the Convention negotiation?

During its first session, the Ad Hoc Committee decided that representatives from non-governmental organizations (NGOs) accredited to the Ad Hoc Committee could also participate in meetings and make statements in accordance with United Nations practice. Thereafter, the General Assembly repeatedly urged that efforts be made to actively involve disability organizations in the work of the Ad Hoc Committee.

Throughout the process, organizations of persons with disabilities and other NGOs were very active in providing comments and information from a disability perspective.

Did national human rights institutions participate in the negotiations?

National human rights institutions (NHRI) were also active in the negotiations. Partly as a result of the efforts of representatives of NHRIs, States agreed to a dedicated article on national implementation and monitoring which requires States to have some form of national human rights institution that protects, promotes and monitors the Convention.

Were consultations held at the regional level during the negotiation of the Convention?

Regional consultative meetings were held in many regions and in some sub-regions from 2003 to 2006. Consultative meetings comprised of both training on the Convention process and content, as well as dialogue on regional priorities and implications. The meetings' outcome documents provided suggestions and recommendations reflecting the national, sub-regional and regional priorities which contributed to the work of the Ad Hoc Committee.

What was the role of the United Nations Voluntary Fund on Disability in the negotiation of the Convention?

During the negotiation process the United Nations Voluntary Fund on Disability supported the participation of representatives of organizations of persons with disabilities from developing countries – and in particular from the least developed countries – in the Ad Hoc Committee sessions.

Grants from the Voluntary Fund are targeted to support pilot and innovative action around the Convention promotion and implementation.

How was accessibility of the negotiation documentation ensured?

The methods to ensure accessibility during the negotiation process increased in sophistication over time. Methods progressed from diskettes and documents in Braille, to email and website facilitated communication. A website was created to be accessible to conformance level A according to the standards set by the Web Content Accessibility Guidelines version 1.0 (WCAG 1.0). Among other features, this level of accessibility allowed users of assistive technology such as screen readers to access the website effectively, and allowed for the resizing of text for those who needed to view enlarged text. Working documents of negotiation of Convention text were posted to the website as soon as they were discussed during a session of the Ad Hoc Committee, an innovative practice for United Nations convention negotiations. The website thus provided instant worldwide access to the rapidly changing progress of the discussions, giving the opportunity for groups around the world to feed into the process in a timely manner and on precise issues. In addition, the conference room at United Nations headquarters in New York where negotiations were held was made WiFi-accessible mid-way through the negotiation process. The WiFi allowed persons in the room to electronically access and read the documents being discussed using assistive devices as necessary. All Ad Hoc Committee meetings were held in a wheelchair accessible conference room, and neck loops were provided upon request for persons with hearing impairments.

FURTHER INFORMATION

Where can I find all the documents related to the Convention negotiation ?

Department of Economic and Social Affairs – <http://www.un.org/disabilities>
Office of the High Commissioner for Human Rights – <http://www.ohchr.org>