



## Report on the Fifth Conference of State Parties (CRPD) at the United Nations

14 August 2012

### 1. Introduction

The Select Committee on Women, Children and Persons with Disabilities, having participated in the 5<sup>th</sup> State Parties meeting on the United Nations Convention on the Rights of Persons with Disabilities 11- 18 September 2012, reports as follows:

#### Delegation:

Hon BP Mabe (ANC), Chairperson, Select Committee on Women, Children and People with Disabilities, Ms T Matthews, Researcher, Select Committee on Women, Children and People with Disabilities.

This concept paper briefly provides a background, structure and content of the United Nations Convention on the Rights of Persons with Disabilities (hereafter referred to as the Convention). The Convention was one of the fastest treaties ever negotiated at the United Nations and deals specifically with the needs of persons with disabilities. It came into force on 3 May 2008 and the ratification and signatory status is as follows:

- 147 signatories to the Convention
- 98 ratifications of the Convention
- 90 signatories to the Optional Protocol
- 60 ratifications of the Optional Protocol

South Africa ratified the Convention and the Optional Protocol on 30<sup>th</sup> November 2007. Furthermore, South Africa has also agreed to be a pilot country for implementing the international treaty into domestic legislation and practice.

It has been noted that the Convention marked a major shift in the way societies view persons with disabilities, with the person being the key decision-maker in his or her own life. The Convention has makes persons with disabilities "rights holders" and "subjects of law", with full participation in formulating and implementing plans and policies affecting them.<sup>1</sup>

This paper highlights the sessions Members of Parliament attended during the "Fifth Conference of State Parties (CRPD) at the United Nations. This paper also draws on parallels and finding that emanated from public hearings on United Nations Convention on the Rights of Persons with Disabilities and the Optional Protocol held in July 2012. These hearings were hosted by the Select and Portfolio Committees on Women, Children and People with Disabilities.

<sup>1</sup> United Nation, enable (2009)



## 2. Structure of Convention

The Convention is comprised of 50 Articles and the Optional Protocol to the Convention contains 18 Articles.

### 2.1 Content

Herewith a summary of the articles within the Convention, these articles should be borne in mind as it relates to each session and its key points of discussion.

- **Article 1:** Stipulates the purpose of the Convention which is to “promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity”. Of interest to note, the Convention has not defined disability within the definitions section but refers to it within the preamble 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”.<sup>2</sup>
- **Article 2:** Provides definitions for communication’ language; discrimination on the basis of disability and universal design.
- **Article 3:** Lists 8 *General principles* that resonate with many other human rights treaties these include for example respect for inherent dignity, non-discrimination and equality.
- **Article 4:** Outlines the *Obligations* of State parties to ensure and promote the full realization of the human rights and fundamental freedoms of persons with disabilities.
- **Article 5:** Expands on the role of State parties to given effect to ensuring *Equality and non-discrimination* for persons with disabilities.
- **Article 6 & 7:** Deals specifically with role of State parties in dealing with women and children with disabilities respectively.
- **Article 8:** Highlights the duties of State parties to in raising disability *awareness* and the measures required hereto.
- **Article 9:** Provides a detailed account of what *accessibility* entails and the role of State parties to give effect to it.
- **Article 10:** Deals with the right to life.
- **Article 11:** Deals with the *situation of risk and humanitarian emergencies*.
- **Article 12-14:** These three articles give expression to the *equal recognition of persons with disabilities before the law* and *access to justice* as well as the *liberty and security* of a person.
- **Article 15 & 16:** Together these two articles deal with *freedom from torture or cruel in human or degrading treatment or punishment* and *freedom from exploitation violence and abuse*.

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<sup>2</sup> United Nations (2007)



- **Article 17:** Stipulates the right which gives expression to *protecting the integrity of a person*.
- **Article 18:** Details what is entailed in terms of *liberty of movement and nationality*.
- **Article 19:** Describes the duties of State parties to give effect to the right of persons with disabilities for living independently and being included in the community.
- **Article 20:** Describes what State parties are required to do ensure *personal mobility* for persons with disabilities.
- **Article 21:** Deals with freedom of expression and opinion, and access to information
- **Article 22:** Deals with respect for privacy.
- **Article 24-26:** Deals with education, health and habilitation and rehabilitation.
- **Article 27:** Deals with Work and employment and the right of right of persons with disabilities to work and what the duties of State parties are hereto.
- **Article 28:** Describes in detail what is required of State Parties to recognise the right of persons with disabilities to an *adequate standard of living and social protection*.
- **Article 29-30:** Together deals with *Participation in political and public life as well as cultural life, recreation, leisure and sport respectively*.
- **Article 31:** Highlights the importance of State parties for the collection, dissemination and reporting of disaggregated statistics and research data in order to formulate and implement policies to give effect to the Convention.
- **Article 32:** Refers to the importance of *International Co-operation* and the promotion thereof by State parties to support national efforts to giving effect to the Convention.
- **Article 33:** Deals specifically with *National implementation and monitoring* of the Convention by State parties.
- **Article 34:** Stipulates the role of the *Committee* on the Rights of Persons with disabilities. The Committee on the Rights of Persons with Disabilities will hold its first session in Geneva between the 23<sup>rd</sup> to 27<sup>th</sup> February 2009.
- **Article 35-36:** Deals with the *Reporting* on the Convention by State Parties and the *consideration of reports* by the Committee.
- **Article 37 & 38:** Refers to the *Co-operation between State Parties and the Committee* as well as the **Relationship of the Committee with other bodies** be it within the United Nations or other specialised agencies.
- **Article 39:** Deals with the Conference of State Parties.
- **Article 41-42:** These two articles stipulate the requirement for *Depositing* the Convention and *signature* process.
- **Article 44:** Deals with *Regional integration*.
- **Article 45:** Stipulates what is entailed for *Entry onto force* of the Convention.
- **Article 46-48:** these deals with *Reservation, Amendments and Denunciation*.
- **Article 49 & 50:** Last two articles deals with Accessible format and authentic text of the Convention.

## 1. Session attended: Sustainable development: inclusive and accessible



### **1.1 Key issues raised:**

The following are key announcements, recommendations and challenges raised by delegates and panellists as it relates to sustainable development as it relates to inclusion and accessibility.

- Panellist noted that there are approximately 1 billion people living with disabilities in the world, mostly living in poorer countries.
- It was noted that Spain and the Philippines will take the lead on 23 September 2013, where the General Assembly will convene a High-Level Meeting on Disability with the overarching theme: "The way forward: a disability inclusive development agenda towards 2015 and beyond". The Meeting will highlight the requirement for stronger action to achieve the Millennium Development Goals and Other Internationally.
- Panellists noted that discussions regarding international development priorities for the period beyond 2015 suggest that sustainability, equity and inclusiveness will be central considerations in the emerging framework. While accessibility is particularly relevant to persons with disabilities, it has implications and benefits for all. It is an essential aspect of inclusive and sustainable development, and also impacts economic development and growth, as barriers to participation can cause inconsistencies in allocation of resources, production of goods and services and distribution of benefits.
- It was highlighted that people with disabilities are often invisible or excluded and actions of accessibility must include everyone.
- The international community should reconsider the issue of accessibility in the context of development and recognize accessibility as a central and cross-cutting issue, essential to sustainable, equitable and inclusive development.
- It was noted that outside of ramps at school there is a need for advanced and innovative technology such as voice technology devices. Over and above assistive devices at schools, panellists also highlight a need for deaf translators within the health sector.
- There is a need to establish disability councils at both national and municipal levels.
- The concept of a "normative framework" was raised. This relates to policy guidance on accessibility is mainly provided by the principal international instruments concerning persons with disabilities. The World Programme of Action views accessibility as an essential means to further its goals of "full participation" and "equality". The Standard Rules on the Equalization of Opportunity for Persons with Disabilities identifies "accessibility" of the physical environment and of information and communication as two "target areas" to ensure equalization of opportunities. It also defines accessibility as a means and a goal of disability-inclusive development. Examples of such policies have been implemented in Brazil known as "living without border/limits".



- In terms of the Rio +20 initiative it was noted that the concept of green economy in the context of sustainable development and poverty eradication currently does not include issues of accessibility as it is related to people with disabilities.

## **2. Session attended: Involuntary sterilization: developing a WHO (World Health Organisation) statement**

### **2.1 Key issues raised:**

- Women with disabilities experience higher rates of gender-based violence, sexual abuse, neglect, maltreatment and exploitation than women without disabilities. Violence may be experienced in the home and in other settings, including institutions, and may be perpetrated by care givers, family members or strangers, among others. Violence against women with disabilities can also take the form of forced medical treatment or procedures, including forced sterilization, the incidence of which has been documented in many countries and regions.
- Panellists highlighted that that health care workers often persuade or force women with disabilities to be sterile. This is partially due to a perception that women with disabilities cannot be effective parents. Furthermore it was noted that approximately 400 000 women are forcibly sterilised each year.
- Studies presented indicated that children with disabilities are 4.6 times more exposed to violence than other children.
- It was reported that often women are sterilised without their consent or knowledge after giving birth.
- The issue of reproductive rights were raised with two key factors highlighting the following: 1) a women's choice to be able to freely decide on matters relating to her body and; 2) access to information to assist women with making decisions about their reproductive health.
- Comments from South Africa included a reflection on the Choice of Termination of Pregnancy Act that provides for women to make active and free choices about their reproductive health. Other comments included acknowledging and enquiring about men and issues related to their sterilization. It was noted that they should not be excluded from this discourse.

## **3. Session attended: Women with disabilities and employment**



### **3.1 Key issues raised:**

- It was noted that women with disabilities have limited access to education and consequently demonstrate lower educational status than the general population. This inevitably impacts on the type of employment she has access to.
- It was noted that statistics on the number of women with disabilities is limited. However, panellists noted that global literacy rate is as low as three per cent for all adults with disabilities, and one per cent for women with disabilities.
- Panellists added that women with disabilities have often only limited access to vocational and skills development training and experience lower rates of employment.
- It was concluded that there is a need to use Conventions such as CEDAW and the CRPD to advocate and legislate for equal opportunities for all citizens as it related to both education and employment.

## **4. Session attended: Shadow reporting: process, prospects and problems**

### **4.1 Key issues raised:**

- It was presented that the purpose of disability human rights reporting is to support local and international disabled peoples organisations (DPOs) and all "mainstream" human rights organisations to undertake disability human rights reporting to track implementation of treaty obligations by States, using the CRPED as a benchmark.
- Reporting should take into account the following key points:
  - Credibility and reliability of information or data presented
  - A clear and sound methodology used in the reporting process
  - Ensure a link to human rights standards
  - Reporting must include a responsiveness to the needs of the local community
  - Shadow reporting should be done by individuals outside of government to ensure there isn't a conflict of interest. However, some panellist's saw value in governments providing assistance with shadow reports.
- Panellist highlighted the severe human rights infringements in Mexico as uncovered by the Human Rights Watch. It was noted that many citizens are not aware of the maltreatment of people with disabilities around the world. Furthermore there was a call for an urgent reflection on facilities that are entrusted with the care of people with disabilities. In some cases presented individuals were left in the same conditions for up to ten years in many cases the poor conditions and environment appeared to have not improved but worsened the quality of life of people living in health care facilities with poor resources.



## 5. Conclusion

Members drew on findings from the conference and juxtaposed it with the public hearings findings.<sup>1</sup> Most of the findings of these two events were similar. The following challenges were identified at the conference and public hearings: Education – early childhood development (ECD), inclusive education, higher education, financial aid; Employment and Economic Empowerment; Sexual abuse, neglect and maltreatment; Health and rehabilitation – including access to assistive devices; Transport; Accessibility – physical access to buildings, access to information, access to media, access to assistive technology; Need for strategies and integrated plan; Intersectoral and Inter-Departmental Collaboration; Negative attitudes and stereotypes; Special groups – intellectual disability, Down's Syndrome, Dementia; Lack of awareness – UNCRPD; and Treaty compliance.

These findings will be followed up on through engagement with the relevant Departments and organisations. This engagement will take place via oversight visits and committee meetings

## 6. Recommendations

- Members recommended that future conferences, seminars or forums of this nature ensure the inclusion of civil society consultation and input, with a specific focus on the disability sector.
- It was recommended that South Africa fast-track's the depositing of the Country Report.
- It was suggested that organisation such as Disabled People South Africa (DPSA) are encouraged to liaise and work closer with Committees in order to further engage with the challenges faced by people with disabilities.
- South Africa needs to continue working with UN Agencies such as, United Nations Department of Economic and Social Affairs (UNDESA), towards capacitating both government officials and NGO's with regards to improving their reporting at national, regional and international level.

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<sup>1</sup> The Portfolio and Select Committees for Women, Children and People with Disabilities hosted the public hearings on the implementation of the United Nations Convention on the Rights of Persons with Disabilities, this was a joint initiative held on the 25th and the 26th July 2012.