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## Neliswa Nobatana - Comments on the implementation of the UN convention and optional protocol for the parliamentary hearings

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**To:** <nnobatana@parliament.gov.za>  
**Date:** 7/20/2012 12:10 PM  
**Subject:** Comments on the implementation of the UN convention and optional protocol for the parliamentary hearings  
**CC:** <mkoff@parliament.gov.za>, "Lidia Pretorius" <Lidia@dwcpd.gov.za>, <Gi...

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Dear Ms Neliswa Nobatana,

Please find below some points for the parliamentary hearings next week, in respect of the implementation of the UN Convention on the Rights of People with Disabilities and the Optional Protocol:

I work on universal access in public transport projects. I use the Convention as the guiding approach to enable people with disabilities to be included in transport services; both in terms of the implementation of new transport services and the modal upgrading of existing transport services. I have found the following problems:

1. The Convention is weak on its identification of transport services as a means of mobilising people with disabilities to be able to participate in society. It is equally, if not more weak, on the identification of human settlement planning to overcome societal barriers, and it fails to identify the link between the two. The only mention is a vague reference under Article 9 Accessibility (1). South Africa is uniquely positioned to appreciate the terrible implications of the use of settlement and transport planning to separate people. People with disabilities have experienced, and continue to experience, architectural apartheid all over the world and there is nothing in the Convention that urges member states to start addressing it. The focus of the Convention is on education, health and other goals, which does not enable full participation in society, but keeps people with disabilities participating in a marginalised way. Unless we significantly change the way settlements and transport are planned and designed, we will not reach the goals of inclusive employment, education, health, recreations and the other desired outcomes. We do not achieve the reduction we want and need in welfare spending. Article 19 (Living independently and being included in the community), is not an achievable goal unless the settlement and transport problems are addressed.
2. Secondly, the convention fails to relate universal design (Article 2 Definitions) to standards required for infrastructure. The article on accessibility identifies that a member state should have minimum building standards (Article 9 Accessibility (2)). Minimum building standards are not the same as universal design, and without this link it is impossible to alter the building standards approach. Building Regulations; through the International Standards Organisation (ISO) are performance based standards, which always relate back to the minimum standards in a country. Indeed the convention emphasises the need for member states to produce these, and not universal design standards. If the convention were to indicate that these minimum standards, should, at a minimum, take account of universal design, or include a similar phrase, the divergence would be solved.

As the Department of Transport, we rely heavily on the Bureau of Standards to provide us with acceptable standards, and we would like to ensure that minimum standards incorporate universal design, not only in infrastructure, but also in pedestrian infrastructure and sidewalk design, communications, information and obviously, vehicle design.

3. Thirdly, transport services: transport is described as transportation (Article 9 Accessibility), which is ambiguous and could relate solely to vehicles. Transport is a service should be recognised as a complete travel chain; from the point of deciding to take a trip and accessing information on it, to the point of completing a trip and providing feedback on it. Without the acknowledgment of this whole process, the idea of transport is reduced to whether a vehicle itself is accessible. There are plenty of examples of accessible vehicles, but this does not result in an accessible transport service.

The above point is true of any service, which in my reading of the Convention, it is beginning to address. However, more clarity is needed as it does not come across with the force that it should. Any service available to the public should be universally accessible in its entirety.

4. Fourthly, modal upgrading and the implementation of transport services: transport services have to be upgraded over time. This requires a plan to be put in place, and the plan's implementation monitored. The Department of Transport is able to use existing legislation to argue for this; the combination of the Convention, the Promotion of Equality and Prevention of Unfair Discrimination Act, and the National Land Transport Act provide us amply with this mandate. What is lacking are regulations and Codes of Practice under the Promotion of Equality and Prevention of Unfair Discrimination Act. Although this does not directly affect the Convention, the Convention could require member states to develop plans in a far stronger manner and ensure that they are implemented, under each member states' human rights legislation. The mention of 'plans' under the Preamble (f) is weak and provides no direction. There should be a whole section guiding member states on how to achieve this process.

I hope that the above points are helpful. I would be happy to provide further clarification should it be required. I would be especially happy to contribute towards more detailed discussions on settlement and transport planning, to demonstrate why this is such an important area that has been thus far over looked.

Kind regards,

**Amanda Gibberd**

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