

The Convention: on paper and in practice

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While various international instruments are in place to protect the rights of persons with disabilities, knowledge of these at a grassroots level is limited. At the same time, holding governments that have signed or ratified some of these mechanisms accountable is no easy task, especially in times of disaster.

In March 2008, the UN Convention on the Rights of Persons with Disabilities (CRPD) came into force. The CRPD is intended as a human rights instrument with an explicit social development dimension; it adopts a broad definition of disability and affirms that all persons with all types of disabilities must enjoy all human rights and fundamental freedoms.¹ Building on several existing UN treaties and conventions, including the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRD), the CRPD is the first and only international agreement to explicitly stipulate the rights of persons with disabilities in international law.

As of May 2010, there were 144 signatories and 87 ratifications to the CRPD. The first step is for countries to sign the CRPD, which signifies that they agree with it in principle. The next step – ratification – signals the State Parties' intent to undertake the legal rights and obligations contained in the Convention.

In addition, there is an Optional Protocol which establishes two procedures to strengthen the implementation and monitoring of the CRPD. The first allows individuals to bring petitions to the CRPD Committee, claiming breaches of their rights; and the second gives the CRPD Committee authority to undertake inquiries into serious violations of the CRPD. To date, 88 States Parties have signed the CRPD's Optional Protocol; among these, 44 have ratified the Optional Protocol.

Within the CRPD, Article 11 addresses the obligations of States Parties towards persons with

disabilities during humanitarian emergencies. While it is not explicit about what measures States Parties should take in such situations, Article 11 does reference the need for States Parties to ensure that they comply with their international human rights and international humanitarian law obligations towards persons with disabilities during this time. Read in conjunction with other relevant articles of the CRPD, such as Article 4 (General obligations), Article 9 (Accessibility), Article 10 (Right to life), Article 17 (Protecting the integrity of the person) and Article 19 (Living independently and being included in the community), Article 11 is a powerful tool to ensure that people with disabilities are included in all aspects of humanitarian response and displacement, from recovery to rebuilding and resettlement.

Article 11 - Situations of risk and humanitarian emergencies

States Parties shall take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.

See UN Enable website for full text of the Convention: <http://www.un.org/disabilities/default.asp?navid=14&pid=150>

In practice

The social situation for persons with disabilities is grave in many developing countries long before

natural disasters strike. In Haiti, for example, in addition to the economic hardship and political unrest affecting society, persons with disabilities are generally treated as outcasts as a result of social stigma, stemming mainly from superstition and the practice of voodoo. The January 2010 earthquake exacerbated further the vulnerability of children and adults with disabilities, particularly those with mental health issues and cognitive disabilities. The recent exposure by international aid organisations of deplorable conditions at a psychiatric institution in Port-au-Prince and in rural children's orphanages speaks to the need to protect the rights of persons with disabilities.

Haiti signed and ratified both the CRPD and the Optional Protocol in July 2009. If, as indicated above, the human rights of Haitians with disabilities continue to be violated, then it is safe to assume that they may be unaware of or unable to access the CRPD – because of barriers such as poverty, rural isolation, illiteracy and lack of disability accommodations.² Monitoring of the CRPD and the Optional Protocol is important at a government level. Research indicates that, in Haiti, Article 40 of the Constitution, which provides for the publication and dissemination of laws, orders, decrees, international agreements, treaties and conventions in Creole and French, is not yet generally applied. Neither the State Party nor civil society is advancing the CRPD agenda, although Article 33 of the CRPD stipulates that persons with disabilities and their representative organisations need to be involved fully in the monitoring process of the CRPD.

To this end, Disabled Peoples International (DPI), the largest grassroots cross-disability organisation in the world, is committed to raising awareness about the CRPD and its Optional Protocol. DPI was actively involved in

the CRPD drafting negotiations at the UN, holding consultations in member countries and regions to ensure a cross-disability perspective through the sharing of lived experiences.

DPI members are currently involved in revising the Sphere standards and, with Handicap International and World Vision International, in drafting the UNHCR ExCom Conclusion on Disabilities.

DPI's 134 member organisations provide peer support, self-help and advocacy training, and advice to groups on universal design principles. In Thailand after the 2005 tsunami, DPI's Asia Pacific Regional Office supported the establishment of the Phang Nga Society of Disabled Persons (PSDP), a self-help organisation for 4,000 persons with cross-disabilities in Phang Nga Province. PSDP provided 60 wheelchairs to people with disabilities injured by the tsunami, and advocated successfully for the building of wheelchair-accessible ramps.

The value of peer support during recovery and resettlement should not be underestimated since strong peer relationships help to empower persons with disabilities. This is clear in the work of Kaganzi Rutachwamagyo, now Head of the Disability Resource Center in Dar es Salaam, Tanzania. Rutachwamagyo, who uses a wheelchair, provided peer support to survivors with disabilities in refugee camps following the Rwandan genocide. He believes that peer support contributed to the refugees' survival and psychological well-being in Benaco Camp.

Following a disaster, persons with disabilities are scattered, and local disabled people's organisations (DPOs) may lose capacity. Liaison and cooperation with international relief agencies in rebuilding and resettlement are key to sustainability of local DPOs. When the 2004 Asian tsunami hit the south-western coast of India, international aid workers identified the need to ensure the whole disability community was included in rehabilitation but this was not put into practice.³ The result was increased isolation and neglect of particularly vulnerable groups such as persons with cognitive



Haiti, 2010.

disabilities, women with disabilities, and children.

Conclusion

In general, governments have not been successful in reporting to treaty monitoring bodies about how they are applying the various human rights conventions to persons with disabilities; the monitoring bodies have been equally remiss in not asking for this information. Adoption of the CRPD should facilitate change – and the ExCom Conclusion should help raise additional awareness.

Persons with disabilities still face significant barriers at every stage of humanitarian crisis and internal displacement: as they flee, in and around camps, en route to and upon return home. While addressing these challenges appears formidable, inclusion of DPOs in disaster management programmes, inter-agency coordination mechanisms and rehabilitation is essential to enable the immediate and long-term needs of persons with disabilities in disasters to be brought to the fore.

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- <http://www.un.org/disabilities/>
- Such as plain language translation of CRPD in Creole.
- Kett, Stubbs and Yeo, IDDC, 2005 <http://www.ucl.ac.uk/le-ccr/projects/conflict/iddc>

CRPD tools

Once the CRPD was adopted in 2006, DPI created a *Ratification Toolkit* to support the global campaign for signature and ratification of the CRPD and then, in 2007, with funding from the Ministry of Foreign Affairs (Finland), published an *Implementation Toolkit* to assist States Parties with the subsequent implementation phase of the CRPD.

The Ratification and Implementation Toolkits are online at <http://www.icrpd.net/> (English, French, Spanish)