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| SOCHUM

**AGENDA: PROMOTING EFFORTS TO
ELIMINATE DISCRIMINATION
AGAINST PEOPLE WITH DISABILITIES**

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INTRODUCTION TO THE COMMITTEE AND MANDATE

The United Nations General Assembly Third Committee (also known as the Social, Humanitarian and Cultural Committee or SOCHUM or C3) is one of six main committees at the General Assembly of the United Nations. It deals with human rights, humanitarian affairs and social matters.

The Third Committee meets every year in early October and aims to finish its work by the end of November. All 193 member states of the UN can attend. As in previous sessions, an important part of the work of the Committee will focus on the examination of human rights questions, including reports of the special procedures of the Human Rights Council which was established in 2006.

MANDATE

The work of the Committee focuses on human rights, humanitarian affairs and social issues. In addition, it also considers issues relating to:

- The advancement of women
- The protection of children
- the protection of indigenous populations, and related issues
- The treatment of refugees, and related issues such as racism and discrimination
- The promotion of fundamental freedoms
- The right to self-determination
- Youth, family and ageing
- The rights of persons with disabilities
- Crime prevention and criminal justice
- The international drug trade, and related issues

INTRODUCTION TO THE AGENDA

Persons with disabilities often are excluded from the mainstream of the society and denied their human rights. Discrimination against persons with disabilities takes various forms, ranging from invidious discrimination, such as the denial of educational opportunities, to more subtle forms of discrimination, such as segregation and isolation because of the imposition of physical and social barriers. Effects of disability-based discrimination have been particularly severe in fields such as education, employment, housing, transport, cultural life and access to public places and services. This may result from distinction, exclusion, restriction or preference, or denial of reasonable accommodation on the basis of disablement, which effectively nullifies or impairs the recognition, enjoyment or exercise of the rights of persons with disabilities.¹

A dramatic shift in perspective has taken place over the past two decades from an approach motivated by charity towards the disabled to one based on rights. In essence, the human rights perspective on disability means viewing people with disabilities as subjects and not as objects. It entails moving away from viewing people with disabilities as problems towards viewing them as holders of rights. Importantly, it means locating problems outside the disabled person and addressing the manner in which various economic and social processes accommodate the difference of disability - or not, as the case may be. The debate about the rights of the disabled is therefore connected to a larger debate about the place of difference in society.²

Disability cannot be considered in isolation. It cuts across all aspects of a person's life and can have very different implications at different stages in a person's life cycle.

1 Gerald Quinn and Theresia Degener (2018) UN Enable - Overview of International Legal Frameworks (¶4 p.6)

2 Anna Bruce, Christine Burke, Dr. Joshua Castellino, Padraic Kenna, Dr. Ursula Kilkelly, Shivaun Quinlivan Human Rights and Disabilities(2019): OHCHR Report onThe current use and future potential of United Nations human rights instruments in the context of disabilities (p.209)

Cohesive efforts from local to international level need to be taken to address this nuanced aspect of the society.

1. DEFINITION OF DISABILITY

There is no single definition of disability. ^[3] Defining disability is complicated as it is ‘complex, dynamic, multidimensional and contested’ ^[4]

The UN Convention on the Rights of Persons with Disabilities (UNCRPD) recognises that ‘disability is an evolving concept’ ‘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’ ⁵

2. DEGREE OF DISABILITY

The main aim of degree of disability is to objectively assess how disability influence the autonomy of an individual - here autonomy means all aspects of life from health, to personal life, education, communication and, most importantly, accessibility. When it comes to measuring the degree of disability, the Barthel index⁶ is one of the most applicable methods.

The index assesses the level of independence of a person with respect to performing some basic activities of daily living (ADL), the time spent in performing these activities and the need for help. The original index had ten ADLs which includes various factors like feeding, moving between the chair and the bed, bladder control, bowel control, grooming etc.

3 Mitra, S. (2006). The capability approach and disability. *Journal of Disability Policy Studies*, 16(4), 236-247.

4 WHO & The World Bank. (2011). *World report on disability*. Geneva: WHO

5 UNCRPD. (2006). *Convention on the rights of persons with disabilities and optional protocol*

6 Sunrise Medical (2001) Degree of Disability Report pg. 72

DISABILITY AND SOCIAL INCLUSION

WHAT DOES SOCIAL INCLUSION MEAN?

Social inclusion in disability studies⁷ found it to mean:

- being accepted and recognised as an individual beyond the disability
- having personal relationships with family, friends and acquaintances
- being involved in recreation and social activities
- having appropriate living accommodation
- having employment
- having appropriate formal and informal support.

Disability inclusive development ‘seeks to ensure the full participation of people with disabilities as empowered self-advocates in development processes and emergency responses and works to address the barriers which hinder their access and participation.

DISABILITY BARRIERS

The social model of disability suggests disability is caused by the way society is organized, rather than by a person’s impairment. This model suggests barriers in society are created by ableism. When barriers are removed, people with disabilities can be independent and equal in society.

There are three main types of barriers:⁸

1 Attitudinal barriers: are created by people who see only disability when associating with people with disabilities in some way. These attitudinal barriers can be witnessed through bullying, discrimination, and fear. These barriers include low expectations of people with disabilities. These barriers contribute to all other

7Rimmerman, A. (2013). *Social inclusion of people with disabilities: National and international perspectives*. Cambridge University Press

8 ["World Report on Disability"](#) (PDF). WHO. 2011.

barriers.^[9] Attitudes towards people with disabilities in low and middle-income countries can be even more extreme.

2. Environmental barriers: inaccessible environments, natural or built, create disability by creating barriers to inclusion.

3. Institutional barriers: include many laws, policies, practices, or strategies that discriminate against people with disabilities. For example, a study of five Southeast Asian countries found that electoral laws do not specially protect the political rights of persons with disabilities, while ‘some banks do not allow visually disabled people to open accounts, and HIV testing centers often refuse to accept sign language interpreters due to confidentiality policies’.^[10] Restrictive laws exist in some countries, particularly affecting people with intellectual or psychosocial disabilities.

Other barriers include: internalised barriers (low expectations of people with disabilities can undermine their confidence and aspirations), inadequate data and statistics, lack of participation and consultation of disabled people.

9] ["Disability Poverty and Development"](#) (PDF). DFID. 2000. Archived from [the original](#)(PDF) on 2019-10-02.

[10] Ju'beh, Al. ["Disability Inclusive Development Toolkit"](#) (PDF). 2015. CBM. (p. 42)

ROLE OF DISABILITY LEGISLATION AND INTERNATIONAL FRAMEWORKS

Legislation at country level is fundamental in promoting the rights of persons with disabilities. While the importance - and increasing role - of international law in promoting the rights of persons with disabilities is recognised by the international community, domestic legislation remains one of the most effective means of facilitating social change and improving the status of disabled persons. International norms concerning disability are useful for setting common standards for disability legislation. Those standards also need to be appropriately reflected in policies and programmes that reach persons with disabilities and can effect positive changes in their lives.¹⁰

Some international and regional human rights conventions protect the rights of persons with disabilities specifically, or have provisions concerning persons with disabilities. These include:

- ILO Convention concerning Vocational Rehabilitation and Employment (Disabled Persons)
- Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons With Disabilities
- Convention on the Rights of the Child (article 23);¹¹
- African Charter of Human and People's Rights (art. 18(4));
- the African Charter on the Rights and Welfare of the Child (article 13);
- European Social Charter (article 15);

10 ["International Disability Rights"](#). *Disability Rights Education & Defense Fund*. Retrieved 18 October 2017.

11 Dhanda, Amita. 2006–7. "Legal Capacity in the Disability Rights Convention: Stranglehold of the past or Lodestar for the Future." *Syracuse Journal of International Law and Commerce* 34: 429–462.

- Protocol of San Salvador (Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights) (article 6 & 9)

Several disability-specific non-binding international instruments have been adopted at the international level. The instruments include:

- Declaration of the Rights of Mentally-Retarded Persons,
- Declaration on the Rights of Disabled Persons,
- World Programme of Action concerning Disabled Persons,
- Tallinn Guidelines for Action on Human Resources Development in the Sundberg Declaration on Actions and Strategies for Education, Prevention and Integration, adopted by the UNESCO World Conference on Actions and Strategies for Education, Prevention and Integration, Malaga (Spain), 2 - 7 November 1981,
- Salamanca Statement and Framework for Action on Special Needs Education, adopted by the UNESCO World Conference on Special Needs ¹²Education: Access and Quality, Salamanca (Spain), 7 - 10 June 1994 .

In addition, a General Comment on persons with disabilities has been given by the Committee on Economic, Social and Cultural Rights. General Comments are authoritative statements of the Committee of its understanding of rights enshrined in the International Covenant on Economic, Social and Cultural Rights.¹³ General Comments, adopted by most human rights treaty bodies, can be used to guide States in the implementation of international human rights norms, and to measure the level of compliance of States Parties with regard to the specific rights contained in human rights conventions.

12 Education transforms lives. United Nations Children's Educational Fund (2019)

13 United Nations. 1966b. International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 999 UNTS 2 (ICESCR).

PAST ACTIONS UNDER THE AMBIT OF UN

The International Year of Disabled Persons, 1981, was celebrated with numerous programmes, research projects, policy innovations and recommendations. Many conferences and symposiums were held during the Year, including the First Founding Congress of Disabled People International, in Singapore from 30 November to 6 December. The Trust Fund for the International Year, established in 1977, collected over \$510,000 in contributions from member States.

In 1982,¹⁴ the General Assembly took a major step towards ensuring effective follow-up to the International Year by adopting, on 3 December 1982, the World Programme of Action concerning Disabled Persons. The Programme restructured disability policy into three distinct areas: prevention, rehabilitation and equalization of opportunities.

Implementation of the Programme of Action, using multi-sectoral and multidisciplinary approaches, was addressed by the General Assembly on 3 December 1982 and 22 November 1983. In a broad sense, implementation would entail long-term strategies integrated into national policies for socio-economic development, preventive activities that would include development and use of technology for the prevention of disabilities, and legislation eliminating discrimination regarding access to facilities, social security, education and employment. At the international level, Governments were requested to cooperate with each other, the United Nations and non-governmental organizations.

Together, the Programme and the International Year had launched a new era—one that would seek to define disability as the relationship between persons with disabilities and their environment. The imperative to remove societal barriers which impede the full participation by persons with disabilities became increasingly recognized.¹⁵

¹⁴ United Nations Disability Statistics Database Report (p.62) (2018)

¹⁵ United Nations Department of Economic and Social Affairs: World Programme of Action (2014)

CASE STUDY

1. UGANDA: AN EXAMPLE OF INCLUSIVE PLANNING

As a main plank of its commitment to rebuild the social and economic fabric of the country, the Ugandan Government has for some years given the highest priority to the education of all its children. Free primary education is guaranteed to four children in every family, with priority given to children with disabilities, as well as to girls. As a result, the number of children enrolled in primary schools rose from 2.5 million in 1996 to 7.6 million in 2003,ⁱⁱ while the number of teachers increased from 38,000 in 1980 to over 90,000 in 1998. This commitment to universal primary education has been made within the framework of the UN Education for All initiative. Uganda was one of the first countries to apply for debt relief under the UN Heavily Indebted Poor Countries Initiative, in return for a commitment to invest the money thus saved in health and education. In addition, several international NGOs have entered into partnership agreements with the government and grants have been provided to this end by the World Bank, African Development Bank, the European Union, UN Development Programme and UNICEF.¹⁶

¹⁶ Innocenti Research Centre Report (p.35) United Nations Children's Education Fund (2020):

ACTIONS UNDERTAKEN AT THE REGIONAL LEVEL

African Union

Recent developments include, the Kigali Declaration of 2003 called on Member States to develop a Protocol (to the African Charter) with the purpose of protecting the rights of persons with disabilities and the elderly. The African Commission subsequently appointed a ‘Focal Point on the Rights of Older Persons in Africa’ in November 2007¹⁷. In order to remedy the omission of people with disabilities, the Focal Point was expanded in 2009 to become a ‘Working Group on the Rights of Older Persons and People with Disabilities in Africa’. The five-member Working Group was mandated inter alia to draft a concept paper for consideration by the African Commission that would serve as the basis for the adoption of a Draft Protocol on Ageing and People with Disabilities.

Members of the Working Group attended an Expert Seminar on the Rights of Older Persons and People with Disabilities in Accra, Ghana from 26-28 August 2009. While the objective of the seminar was to initiate the drafting of a (single) Protocol on the Rights of Older Persons and People with Disabilities in Africa, two distinct documents emerged from the event. The first draft Protocol, which related to ‘Older Persons’, enjoyed further consultation and was later submitted to the African Commission.

European Union

The Equality Act 2010¹⁸ was a legal way to protect persons with disabilities from discrimination occurrences in workplaces and generally in society. It prohibited discrimination addressed to the disabled people in different fields: including delivery of goods, associations, facilities, services, work, in the discharge of public functions,

17 The African Disability Rights Yearbook 2011 - 2012 (para 24, p.32)

18 "[Equality Act 2010](http://legislation.gov.uk)". Legislation.gov.uk. Retrieved 31 July 2017.

premises, and education. In the Act, disability is one protected characteristic among others, only those with diagnosed disabilities can rely upon these provisions;¹⁹

European Disability Strategy 2010-2020 - the continuation of a previous Strategy for period 2004–2010, that distinguishes 8 priority fields of actions:

Accessibility – customization of services and goods to disabled people;

Participation – making sure that the disabled are using all benefits and rights which belong to them from EU citizenship, that are guaranteed in legal documents, treaties and others;

Equality – commencement of equal opportunities and the fight against discrimination,

Employment – increasing the share of disabled people who work in the labor market;

Education, training – education-promoting actions and lifelong learning for young disabled people, ensuring equal access to education, which leads to full participation in society and the overall increased quality of life;

Social protection – fight against poverty, exclusion, and promotion of dignified living conditions;

Health care - equal access to medical services;

External actions – promoting the rights of the disabled among EU enlargements states and establishing international programs about disability,^[11]

The adoption of the European accessibility act in 2019 is beginning the next phase of accessibility momentum.

19 ["TREATY OF AMSTERDAM AMENDING THE TREATY ON EUROPEAN UNION, THE TREATIES ESTABLISHING THE EUROPEAN COMMUNITIES AND CERTAIN RELATED ACTS"](#) (PDF). *Europarl.europa.eu*. Retrieved 31 July 2017.

CURRENT SCENARIO IN CONTEXT OF THE PANDEMIC

While the COVID-19 pandemic threatens all members of society, persons with disabilities are disproportionately impacted due to attitudinal, environmental and institutional barriers that are reproduced in the COVID-19 response.²⁰ Many persons with disabilities have pre-existing health conditions that make them more susceptible to contracting the virus, experiencing more severe symptoms upon infection, leading to elevated levels of death. During the COVID-19 crisis, persons with disabilities who are dependent on support for their daily living may find themselves isolated and unable to survive during lockdown measures, while those living in institutions are particularly vulnerable, as evidenced by the overwhelming numbers of deaths in residential care homes and psychiatric facilities. Barriers for persons with disabilities in accessing health services and information are intensified. Persons with disabilities also continue to face discrimination and other barriers in accessing livelihood and income support, participating in online forms of education, and seeking protection from violence. Particular groups of persons with disabilities, such as prisoners and those who are homeless or without adequate housing, face even greater risks. Awareness of these risks leads to better responses that can allay the disproportionate impact experienced by persons with disabilities. This guidance aims to: bring awareness of the pandemic's impact on persons with disabilities and their rights; draw attention to some promising practices already being undertaken around the world; identify key actions for States and other stakeholders; and provide resources for further learning about ensuring rights based COVID-19 responses inclusive of persons with disabilities.

What are some promising practices?

20 Adelina Comas-Herrera and Joseba Zalakain, "Mortality associated with COVID-19 outbreaks in care homes: early international evidence", p 5. 7
International Long term care policy network, (12 April 2020)

The Bioethics Committee of the San Marino Republic produced COVID-19 guidance on triage, which prohibits discrimination on the basis of disability: “The only parameter of choice, therefore, is the correct application of triage, respecting every human life, based on the criteria of clinical appropriateness and proportionality of the treatments. Any other selection criteria, such as age, gender, social or ethnic affiliation, disability, is ethically unacceptable, as it would implement a ranking of lives only apparently more or less worthy of being lived, constituting an unacceptable violation of human rights.”

The Office for Civil Rights at the United States Department of Health and Human Services²¹ issued a bulletin to ensure that authorities prohibit discrimination on the basis of disability, stating that “persons with disabilities should not be denied medical care on the basis of stereotypes, assessments of quality of life, or judgments about a person’s relative “worth” based on the presence or absence of disabilities or age”.

The bulletin also provides guidance to authorities on ensuring outreach and accessibility of information and communications to persons with disabilities for equal opportunity to benefit from emergency response efforts, “including making reasonable accommodations [to] help ensure that the emergency response is successful and minimizes stigmatization.” The United Arab Emirates has launched a national program to test persons with disabilities in their homes and as of mid-April had conducted 650,000 COVID-19 tests of persons with disabilities.

In the Paraguay, the Commission on Human Rights has published information to support health agencies tailor public messages for vulnerable groups of the communities, including children and people with disabilities.^{4 22}

21 See USA, Department of Education, Questions and answers on providing services to children with disabilities during the coronavirus disease 2019 outbreak (March 2020.)

22 Paraguay’s Disability Focal Point (SENADIS) S 3.1 launched its use of social media to provide information in sign language, promoting access by the deaf community (2020)

In Canada, the COVID-19 Disability Advisory Group was established with the participation of persons with disabilities and their representative organisations to advise the government on disability-specific issues, challenges and systemic gaps and strategies, measures and steps to be taken.

CONCLUSION

Reliable and objective statistics are important to assist planning and resource allocation and to place children with disabilities more clearly on the map. Although the statistical databases necessary for this purpose require time to develop, planning and programming must move forward. Denying or delaying services to children with disability on the grounds that more data are needed is not acceptable. Plans, policies and budgets should be designed to allow changes and modifications, as additional data are made available over time. The movement towards developing truly inclusive societies is already underway in many parts of the world. It is gaining strength from the Millennium Declaration and the Millennium Development Goals, from other international commitments such as Education for All and ‘A World Fit for Children’, and above all from the Convention on the Rights of the Child and the new Convention on the Rights of Persons with Disabilities. With the necessary national and international commitment to establishing more just and inclusive societies, this momentum will decisively grow. Day by day, diversity is coming to be understood as a resource and more children and adults with disabilities are being given the opportunity to contribute to the life of their family, community and country.

FURTHER QUESTIONS

- Should there be an uniform definition of what constitutes as a “disability”?
- Is there a need for a coordinating agency, in this specific context to facilitate multi sectorial coordination between projects undertaken by several subsidiary organs of the UN? If yes, how can it be achieved?
- What steps can be taken at the domestic level to ensure equity for disabled people currently under arrest, detention, under trial, probation?
- What steps can be taken to intensify global efforts with respect to social security and decent standard of living for the disabled?

FURTHER READING

1. https://www.un.org/en/content/disabilitystrategy/assets/documentation/UN_Disability_Inclusion_Strategy_english.pdf
2. <https://www.ohchr.org/en/hrbodies/crpd/pages/crpdindex.aspx>
3. <https://www.equalityhumanrights.com/en/our-human-rights-work/monitoring-and-promoting-un-treaties/un-convention-rights-persons-disabilities>
4. <https://www.internationaldisabilityalliance.org/advocacy>
5. <https://www.ohchr.org/en/professionalinterest/pages/rightsofdisabledpersons.aspx>
6. <https://www.un.org/development/desa/disabilities/history-of-united-nations-and-persons-with-disabilities-a-human-rights-approach-the-1970s.html>