

# Human Rights Indicators for People with Disability

A resource for disability activists and policy makers

incorporating an introduction and commentary to the  
United Nations Convention on the Rights of Persons with Disabilities



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## **Queensland Advocacy Incorporated**

Queensland Advocacy Incorporated (QAI) is an independent, community-based systems and legal advocacy organisation for persons with disability in Queensland, Australia.

QAI's mission is to promote, protect and defend the fundamental needs and rights of the most vulnerable persons with disability in Queensland. QAI does this by engaging in systems advocacy directed to attitudinal, law and policy change.

QAI is part of the Australian Network of Disability Advocacy Services funded by the Australian Government.

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ISBN: 978-0-9775937-2-9  
First published: August 2008  
© Queensland Advocacy Incorporated  
Graphics by Simon Kneebone  
Design & DTP by Lettuce Create

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## GLOSSARY

**Accede/Accession:** This is the act by which a country that has not previously signed a treaty already in force between other countries becomes a party to that treaty.

**Adopt/adoption:** This is the act by which the proposed text of a treaty is formally accepted by the General Assembly.

**Covenant:** A formal binding agreement between countries. It has the same meaning as 'treaty' and 'convention.'

**Convention:** A formal binding agreement between countries. It has the same meaning as 'covenant' and 'treaty.'

**Declaration:** A non-binding agreement between countries.

**Entry into force:** The point at which treaty becomes legally binding for a country that has ratified or acceded to the treaty.

**International cooperation:** This refers to cooperation between State Parties to implement a treaty. It may include international development and humanitarian assistance, technical exchange, harmonisation of standards, as well as joint action on other issues that have an extraterritorial dimension (for example, civil aviation).

**Ratify/Ratification:** This is the act by which a country that has signed a treaty agrees to be formally bound by its obligations.

**Reservations:** A formal statement lodged by a country with the United Nations at the time it ratifies or accedes to a treaty stating that it does not accept one or more of the obligations of the treaty.

**Sign/Signature:** This is an act by which a country indicates its intention to be bound by a treaty at some point in the future.

**Social model:** A general term used to describe an approach to understanding disability as the product of the interaction between persons with impairments with an inaccessible and non-inclusive environment.

**State Party/State Parties:** A term used to describe a country that has agreed to be bound by a treaty (that is, the country has ratified or acceded to the treaty).

**Treaty:** A formal binding agreement between countries. It has the same meaning as 'covenant' and 'convention.'

## ABOUT THIS PUBLICATION

This publication is an outcome of a multi-stage project that has involved the development and testing of human rights indicators for persons with disability.

**The overall aim of this project** is to make visible the relationship between the lived experience of Queenslanders with disability and the international human rights standards accepted by the Australian Government. To date, three stages of the project have been conducted, and further stages of work are under development and will be pursued as opportunities and resources become available.

**Stage 1** of the project involved the development of an initial set of human rights indicators for persons with disability which were based on the elements of the 6 major human rights instruments that the Australian Government had ratified up to July 2005. This work was undertaken and completed in 2005-2006, during which period the *Convention on the Rights of Persons with Disabilities (CRPD)* was still under negotiation. At that stage, it was anticipated that it would be some time before this Convention was finalised. The then draft text of the Convention was used to inform, but did not provide the primary foundation for the indicators developed, as this text was expected to change significantly as negotiations continued.

**Stage 2** of the project involved the development of an Easy-English, pictorial version of the human rights indicators developed in Stage 1 of the project. This was produced as an information and education resource to assist in communicating basic human rights concepts to persons with cognitive impairments. It provided a framework for consultations with persons with cognitive disability conducted in Stage 3 of the project. Copies of this resource can be obtained from QAI or downloaded from QAI's website at [www.qai.org.au](http://www.qai.org.au)

**Stage 3** of the project involved qualitative research to ascertain the degree to which persons with disability and their associates perceive that their human rights are recognised, promoted, protected and fulfilled in the Queensland environment. The Human Rights Indicators developed in Stage 1 of the Project provided the framework for analysis, and were tested for their utility and clarity. A series of consultations were conducted with persons with disability drawn from a variety of impairment groups, other specific population groups, and locations across Queensland. A 'snapshot' report has been developed that incorporates the findings of the research, and is published separately. Copies of this report may be obtained from QAI .

Stage 3 has also involved the refinement of the Human Rights Indicators developed in Stage 1 of the project in light of both the finalisation of the *Convention on the Rights of Persons with Disabilities (CRPD)* in December 2006 and field test experience. The purpose of this publication is to set out this revised set of Indicators. The Indicators are now structured according to the elements of the *CRPD*, and are accompanied by an introduction and commentary to the *CRPD*.

## ACKNOWLEDGEMENTS

The project has benefited from the expertise and experience of an expert reference group which met periodically throughout the project.

**Members of the reference group** served either on a pro-bono basis or their employer contributed the cost of their time and expertise to the project 'in-kind'. QAI acknowledges the guidance and support of Reference Group members with great appreciation.

### Project Advisory Committee:

#### Convenor

Kevin Cocks	Queensland Advocacy Incorporated
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#### Members

Graham Schlecht	Carers Queensland
Greg Wagner	Queenslanders with Disability
Jayne Clapton	Griffith University
John Dickinson	Brain Injury Association
Kym McCallum	Mamre
Kathy Ellem	Queensland Parents for People with Disability
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Marie Knox	Queensland University of Technology
Mark Henley	Spinal Injuries Association
Neroli Holmes	Anti-Discrimination Commission Queensland
Paige Armstrong	Endeavour Foundation
Sue Collins	ACROD (now National Disability Services)
Amanda Dearlove	Minter Ellison

QAI also wishes to acknowledge with appreciation the work of the Project Manager, Melinda Ewin, Systems Advocate at QAI, and Project Consultant, Phillip French, from the Disability Studies and Research Institute.

## FOREWORD



The adoption of the Convention on the Rights of Persons with Disabilities, by the United Nations General Assembly on 13 December 2006, was the end of a journey embarked on by the United Nations since 2001. For the international disability community, it had been a much longer journey.

Disability organisations had long been pressing for a convention dealing specifically with the rights of persons with disabilities. Initially some governments had reservations about the need to negotiate a major new human rights convention, particularly given the resources required for such a process. Theoretically there was no need for a new convention, because existing human rights instruments applied to persons with disabilities, in just the same way that they do to everyone else.

The reality, unfortunately, had not followed the theory. The existing human rights instruments had fallen far short in their protection of the human rights and fundamental freedoms guaranteed to persons with disabilities.

This does not mean that States had deliberately avoided their obligations. But many of the obligations under other instruments are set out in quite a broad and generic way, which can leave grey areas for their practical implementation in respect of particular groups. Often, too, the enjoyment of rights and freedoms by persons with disabilities may require some adaptation by States to accommodate the disability in question. And unfortunately persons with disabilities have often been marginalised and discriminated against in our societies.

The dismaying statistics compiled by the United Nations and the Specialised Agencies on the situation of persons with disabilities worldwide left no doubt that specific action needed to be taken. And those of us who participated in the negotiations on the Convention were certainly left in no doubt as to why it was needed. The candid and informative contributions of the disability organisations in the negotiations had been invaluable in opening our eyes and reaffirming why our task was so crucial.

Once that hurdle had been overcome, and there was acceptance of the need for a Convention, all of the participants, States and civil society together, worked tirelessly to get a worthy outcome. The Convention will make a significant difference to the ten percent of the world's population that lives with a disability. It is a practically focused convention, because it has been so closely informed and influenced by the experiences of persons with disabilities worldwide, as represented by their organisations. They had clearly articulated the challenges, difficulties and requirements of persons with disabilities in their interaction with society at large, and it is in those areas – and they are myriad – on which the Convention focuses. It will be the benchmark for future standards and action.

Attitudes need to change, societies need to be more inclusive and accessible, and persons with disabilities need to be more empowered. The Convention enshrines themes such as these.

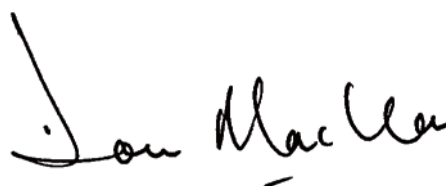
A record number of States signed the new Convention the day it was opened for signature. The momentum thus generated led to its entry into force just over a year later.

Effective implementation will now be the key. That will require effective and coordinated action by disability organisations, which have worked so well in the negotiations. It will require action by governments, and by the UN system.

That is why this publication is so important. Civil society needs to raise awareness both within its constituent groups, and within society as a whole, about the new Convention, the paradigm shift it embraces, and the rights it enshrines.

Ultimately, rights are guaranteed, maintained and strengthened through being used. That requires awareness, and knowledge, and determination.

This publication is an important contribution to that process.



**Don Mackay**

*Chair of the United Nations Ad Hoc Committee that negotiated the Convention on the Rights of Persons with Disabilities*

## INTRODUCTION TO QAI'S HUMAN RIGHTS PROJECT

This publication sets out a preliminary set of human rights indicators for persons with disability, which are based on the elements of the *Convention on the Rights of Persons with Disabilities (CRPD)*.

**The stimulus for this project** was the proliferation of quality assurance measures for services to persons with disability in Queensland, and indeed nationally, that were perceived by QAI to be increasingly misdirected by empty officialism, rather than properly grounded in the recognition and respect of fundamental human rights. QAI sought to elaborate a new approach to monitoring and ascertaining the quality of human services for persons with disability, which was based on indicators of the degree to which their fundamental human rights were promoted, protected and fulfilled.

Importantly, however, the scope of the project developed was not confined to the development of 'internal' indicators of quality for the specialist service system. QAI adopted the fundamental value position that the quality of the specialist service system could only really be ascertained by assessing the degree to which persons with disability enjoyed their fundamental human rights and freedoms in all aspects of life. This required the subordination of the specialist service system to the position of instrumental agent for the realisation of dignity and rights, and a focus on the status of persons with disability in society generally.

### Purpose of this publication

A fundamental objective of this project is to stimulate and embed a human rights consciousness within the community of persons with disability and their associates. A range of resources is envisaged for different constituencies to facilitate this objective, and a number of these have already been produced.

This publication makes available for disability activists and policy makers work done to date on the development of Human Rights Indicators for persons with disability. This work is far from complete, but even at this stage these Indicators provide a useful tool for issue analysis and policy development. We hope this resource encourages and facilitates greater application of human rights principles to the needs and concerns of persons with disability.

The Indicators are presented in the context of the *CRPD* from which they are derived. A secondary aim of the publication is to promote awareness and understanding of the *CRPD*, which is potentially the most significant development in the history of the disability rights movement. To assist disability activists and policy makers come to terms with the *CRPD*, we provide a short introduction and overview to the Convention, as well as an introductory commentary to each of its articles. Again, we hope this will encourage and facilitate the rapid recognition and application of the fundamental human rights and freedoms enunciated by the *CRPD* to the needs and concerns of persons with disability in Australia.

### Human Rights Indicators?

An 'indicator' provides specific information on the state or condition of an event, activity or outcome. Human Rights Indicators attempt to provide specific information about the degree to which human rights and fundamental freedoms are 'enjoyed' ('attained' or 'realised') in a particular context. At the most basic level this includes information about the mere presence or absence of a state or condition, but such Indicators will, for the most part, be more concerned with the degree to which a state or condition has been attained.

In recent years, there have been a number of important attempts to develop Human Rights Indicators in a range of contexts,<sup>1</sup> although not, as far as we have been able to establish, in the area of disability rights. These initiatives tend to have a number of interrelated and overlapping aims, which include:

- The demystification and concretising of human rights and freedoms to facilitate their active implementation;
- The identification of performance standards and benchmarks to be achieved in programme implementation, particularly in the area of international development;
- The identification of objective evaluative criteria for assessing nations' compliance with human rights norms, and for use in programme and project monitoring and evaluation;
- Providing for the comparability of datasets across different contexts;
- The development of advocacy tools to promote compliance with human rights norms.

The development of Human Rights Indicators is not, however, without significant methodological challenges. Just some of these challenges are:

- The potentially subjective content of human rights norms (the scope and depth of the norm may, to a significant extent, be in the eye of the beholder);
- Human rights norms comprise both 'process' and 'outcome' elements ('means' and 'ends'), and these need to be distinguished;
- There are distinct levels of obligation associated with the tripartite obligation to

'respect, protect, and fulfil' human rights (or in the case of the *CRPD*, to 'promote, protect and ensure' human rights);

- Civil and political rights are subject to different implementation requirements to economic, social and cultural rights ('immediate' versus 'progressive' realisation) and this will affect the performance criteria associated with each class of rights;
- Indicators are not self-evidencing (at least in the sense they are used in this publication). Their utility ultimately requires the identification and marshalling of quantitative and qualitative data sources and the development of a performance framework for the interpretation of this data;
- Human rights are 'universal, indivisible, interdependent and interrelated.' This problematises the identification of discrete performance requirements and measures for specific rights, or elements of rights;
- Determining the level of specificity of Human Rights Indicators (which may be general in nature or applied to particular context).

The Human Rights Indicators presented in this publication are a work in progress. At this stage they remain at an elementary level of development. They are limited to general process or outcome statements of each element of the substantive human rights set out in the *CRPD*. Within the constraints of this project,<sup>2</sup> it has not been possible to engage at any depth with the methodological issues outlined above. Their importance is noted here in the hope that there will be future opportunities to elaborate and refine the Indicators we have developed in accordance with a more comprehensive methodology. In the meantime, we fully acknowledge the significant limitations of the work done to date. Nevertheless, we are confident that the Indicators are useful informative, educational and policy tools, even at this early stage of development.

<sup>1</sup> For an overview, see Malhotra, R and Fasel, N (2005) *Qualitative Human Rights Indicators – A Survey of Initiatives*, Background Paper developed for a seminar conducted by the Institute for Human Rights Abo Akademi University, which may be accessed at [www.abo.fi/instut/imr](http://www.abo.fi/instut/imr).

<sup>2</sup> This has been a small-scale project funded from internal resources.

### Why develop Human Rights Indicators?

As noted above, QAI was stimulated to develop Human Rights Indicators for persons with disability out of concern that measures of specialist service quality were becoming increasingly bureaucratic and devoid of meaningful content. In this respect, Human Rights Indicators were envisaged as an alternative means of monitoring and evaluating service quality. At the very least, it would be desirable for these quality assurance measures to incorporate a greater level of human rights content. The incorporation of Human Rights Indicators would be a potent means of achieving this.

One option for the future application of Human Rights Indicators for persons with disability would be in human rights monitoring in relation to persons with disability. The Indicators could potentially provide the analytical framework for monitoring. Human rights data (both quantitative and qualitative) could be tabulated against each Indicator, perhaps in an electronic database platform. This database would be an important repository of information about the degree to which persons with disability enjoy a particular right or freedom, and assist in informing priorities for action and advocacy. It would also potentially inform government and non-government reports to the United Nations *CRPD* Treaty Body, the Committee on the Rights of Persons with Disabilities, in relation to Australia's compliance with the *CRPD*.

QAI is also currently exploring the potential usefulness of Human Rights Indicators as educative, policy and advocacy tools applied to specific areas, such as health and housing, for example. This may require the derivation or elaboration of more specific and detailed indicators in relation to the policy area. These Indicators could potentially provide new insights, performance criteria and motivation in relation to old problems.

### Project Methodology

To develop Human Rights Indicators for persons with disability we have adopted as our basic framework the human rights and freedoms enunciated in the *CRPD*. We have included both the process and outcome related performance requirements of these rights and freedoms. Each right and freedom has been disaggregated into discrete elements, and then these elements have been translated into simple statements of the specific state or condition required by the right or freedom. The *CRPD* is particularly dense in many areas and this density has given rise to a large number of indicators in particular instances. Although some attempt has been made to develop Human Rights Indicators that are discrete from each other, this has proved difficult in many cases due to the iterative and reiterative nature of the *CRPD* text, and the indivisibility, interdependence and interrelatedness of all human rights. Therefore there remains a degree of repetition, or iteration, between some Human Rights Indicators. It may be possible to reduce or eliminate this repetition in future refinements of these Indicators.



# THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES – INTRODUCTION AND OVERVIEW<sup>3</sup>

## The United Nations General Assembly adopted the Convention on the Rights of Persons with Disabilities (CRPD) and an associated Optional Protocol on 13 December 2006.<sup>4</sup>

**The CRPD** is the first human rights treaty to be adopted by the General Assembly in the 21<sup>st</sup> century, and it is reputed to be the most rapidly negotiated United Nations human rights treaty in the history of international law.<sup>5</sup> On its opening for signature on 30 March 2007, the *CRPD* was signed by 81 nations and the European Union, which is the highest number of opening signatures recorded for any human rights treaty.<sup>6</sup> As at the end of June 2008, 129 countries have signed the *CRPD* and 71 have signed its *Optional Protocol*.

The act of signature of a United Nations treaty is an indication of an intention to ratify the treaty, which must be made in good faith.<sup>7</sup> However, the act of signature itself does not contribute to the treaty coming into force, or create any specific obligations for the signature nation. This only occurs when the nation ratifies the treaty. The *CRPD* came into force 30 days after the 20th instrument of ratification was deposited with the United Nations.<sup>8</sup> Its *Optional Protocol* also came into force on that date as the required 10 instruments of ratification had already been lodged.<sup>9</sup> As at the end of June 2008, 127 nations have ratified the *CRPD* and 16 have ratified its *Optional Protocol*. The *CRPD* Secretariat anticipates that the *CRPD*, and possibly also its *Optional Protocol*, will reach the necessary threshold of ratifications to come into force by the end of 2007.<sup>10</sup>

The formulation of the *CRPD* has been hailed as a great landmark in the struggle to reframe the needs and concerns of persons with disability in terms of human rights. Speaking for the Secretary-General of the United Nations on the occasion of its adoption, the Deputy Secretary-General said the *CRPD* heralded the ‘dawn of a new era — an era in which disabled people will no longer have to

endure the discriminatory practices and attitudes that have been permitted to prevail for all too long.’<sup>11</sup> Reiterating the claim made many times by national and non-government delegations in the course of *CRPD* negotiations, the Chairman of the negotiating committee characterised the *CRPD* as embodying a paradigm shift away from a social welfare response to disability to a rights-based approach.<sup>12</sup> In this respect, the *CRPD* is, at least ideologically, based upon a social model of disability,<sup>13</sup> which views ‘impairment’ as an ordinary incident of human diversity, and ‘disability’ as the result of the interaction of persons with impairments with socially constructed attitudinal and environmental barriers.<sup>14</sup>

### Typology and elements of the CRPD

The General Assembly mandate under which the *CRPD* was developed called for proposals for a “comprehensive and integral international convention,” and indeed, these concepts featured in its working title up until the final stages of negotiation.<sup>15</sup> This initial working title for the convention incorporated important meanings. The word ‘comprehensive’ signified an instruction to the negotiating committee to take a holistic approach to the formulation of the Convention, incorporating social development, human rights and non-discrimination elements. The word ‘integral’ signified an intention for the Convention to become a core constituent of international human rights law, rather than a subsidiary of existing law. The *CRPD* therefore has the same status as the International Bill of Rights<sup>16</sup> and other core human rights conventions.<sup>17</sup>

The *CRPD* is a thematic human rights convention in the sense that it is focused on the human rights concerns of a specific population group – persons with disability. In this respect it is similar to other thematic human rights conventions, such as the *International Covenant on the Elimination of All Forms of Discrimination Against Women*. Thematic human rights conventions may be contrasted with the covenants that constitute the *International Bill of Rights*, which are of general applicability – that is, they apply to every person, including persons with disability.

The *CRPD* incorporates both civil and political rights (sometimes referred to as ‘first-generation’ rights)<sup>18</sup> and economic, social and cultural rights (sometimes referred to as ‘second-generation’ rights),<sup>19</sup> and in this respect it is a ‘hybrid’ convention, closer in typology to the *Convention on the Rights of the Child* than to earlier non-discrimination based thematic human rights conventions. Civil and political rights are sometimes called ‘negative rights’ because they operate principally as constraints on interference with the liberty of the individual. On the other hand, social, economic and cultural rights are sometimes called ‘positive obligations’ because they require State Parties to take active steps to avoid the violation of a human right.

Civil and political rights, and economic, social and cultural rights are, traditionally, subject to different standards of compliance. Civil and political rights are ‘immediately realisable’, which means that State Parties have an immediate obligation to promote, protect and fulfil these rights. Social, economic and cultural rights are subject to the standard of ‘progressive realisation’. State Parties are not required to immediately fully comply with the requirements of the right, provided they are working towards the realisation of the right as quickly and effectively as possible, using the maximum resources at their disposal. State Parties do, however, have an obligation to satisfy ‘minimum essential levels’ of the right, and to avoid deliberately regressive measures.<sup>20</sup>

Traditionally, social, economic and cultural rights have been viewed as ‘non-justiciable’; meaning that their open-ended, aspirational nature prevents independent adjudication of State Party compliance.<sup>21</sup> However, this view has progressively eroded, as have other aspects of the traditional distinction between first- and second-generation rights. Importantly, the *Optional Protocol* to the *CRPD* permits complaints, and adjudication by the Committee on the Rights of Persons with Disabilities, in relation to all rights recognised by the *CRPD*.

The General Assembly mandate under which the *CRPD* was developed stipulated that the negotiating Committee was not to develop any new human rights, but was to apply existing human rights to the particular circumstances of persons with disability.<sup>22</sup> However, in the course of the *CRPD*’s development, traditional rights have been amplified, transformed and extended. The *CRPD* incorporates a number of collective or social group rights (sometimes referred to as ‘third-generation’ rights),<sup>23</sup> and also a number of ‘universal’ equality measures (which are sometimes conceptualised as ‘fourth-generation’ rights).<sup>24</sup> There is also a major emphasis on recreation, leisure and tourism related rights (sometimes referred to as ‘fifth-generation’ rights).<sup>25</sup>

Additionally, the *CRPD* incorporates highly disability specific interpretations of existing human rights, which transform formerly essentially non-interference based rights into positive state obligations.<sup>26</sup> In these and other respects, the *CRPD* blends civil and political rights with economic, social and cultural rights not only within its overall structure, but also within its individual articles. It appears to abandon, in effect, the distinction between those rights that are subject to immediate versus progressive realisation.<sup>27</sup>

### Key background to the development of the CRPD

In the second half of the 20<sup>th</sup> century, the United Nations formulated seven core human rights treaties.<sup>28</sup> With very limited exceptions these treaties do not deal expressly with the human rights of persons with disability.<sup>29</sup> Nevertheless, because they are of general application within their respective purviews, they extend, in theory at least, to persons with disability on an equal basis with others. Until 2001, an argument based on the general applicability of existing treaties prevailed over attempts within the international community to develop a disability specific human rights convention.

However, in reality, existing human rights treaties, and the United Nations human rights system to which they give rise, have done little to protect, promote and fulfil the rights of persons with disability. In part, this is because these treaties, both in their formulation and in their implementation by human rights practitioners and multi-lateral agencies,<sup>30</sup> have not penetrated to the specific forms of human rights violation persons with disability experience. There has also been a general failure within the United Nations system to recognise persons with disability as right-bearers and to interpret their needs and concerns in terms of human rights.<sup>31</sup>

The CRPD brings to fruition more than 30 years of activism at the international level to frame the needs and concerns of persons with disability in terms of human rights. This activism has produced a number of earlier non-binding human rights instruments<sup>32</sup> (sometimes called “soft law”), which have had an important influence on domestic<sup>33</sup> and international policy, but these instruments have lacked comprehensiveness and enforceability. Additionally, some earlier instruments are, in particular respects, inconsistent with the contemporary conceptualisation of disability and human rights.<sup>34</sup>

The constituency of support for an international convention on the rights of persons with disability developed in a unique international political environment for a human rights treaty. Three initial attempts (in 1982, 1987, and 1989 respectively) to persuade the international community to develop a human rights convention in respect of persons with disability failed.<sup>35</sup> The reasons for their failure are multifactorial, but apparently included the belief that the rights of persons with disability were adequately dealt with in universal human rights instruments; the inability to convince the international community that persons with disability experienced specific and aggravated forms of human rights violation; and, diminishing support for civil right based approaches to human rights (in which these initiatives were apparently framed) particularly among developing and transitional nations.

In 2001, the Government of Mexico spearheaded another campaign to secure a mandate from the General Assembly to develop a human rights convention in relation to persons with disability. This campaign was framed in terms of social development and used as its backdrop the *Millennium Development Goals* (MDGs)<sup>36</sup> formulated by the United Nations in 2000, which aim, among other things, to halve global extreme poverty by 2015. Persons with disability were not identified as a specific target group for action in the MDGs, even though this group is significantly over-represented amongst the world’s so-called ‘poorest of the poor’.<sup>37</sup> The basic thrust of the Mexican campaign was that in light of this omission a specific human rights instrument was required to ensure that persons with disability were not left behind in global development efforts.

This framing of the human rights agenda for persons with disability in terms of social development resulted in a groundswell of support from many of the world’s developing and transitional economies, and even from countries that have not traditionally demonstrated a strong commitment to human rights.<sup>38</sup> When the issue was raised for debate at the 56<sup>th</sup> Session of the General Assembly in December 2001, a resolution to develop a human rights instrument in relation to persons with disability was adopted by consensus, without a vote being necessary.

### Participation of persons with disability

The development of the *CRPD* has involved the highest level of participation by representatives of civil society of any human rights convention, or indeed any other United Nations process, in history.<sup>39</sup> This participation was overwhelmingly that of persons with disability and their representative organisations. This high level of participation was achieved by a number of different means, including:

- extensive consultations with representatives of disabled persons by United Nations regional agencies (in the Asia Pacific Region, the United Nations Economic and Social Council for Asia and the Pacific (UNESCAP) established an expert working group and held a number of regional workshops);
- domestic consultations with persons with disability by participating governments (the Australian Government funded two broad-based consultation processes with Australians with disability at key points in the development of the *CRPD*);
- participation of experts with disability in government delegations to the *CRPD* negotiating committee (the Australian Government included a joint expert representative of the Australian Federation of Disability Organisations and the National Disability Advisory Council in its delegation. It also included a representative of the Australian Human Rights and Equal Opportunity Commission, who is an expert with disability);
- the establishment by the General Assembly of a Voluntary Fund to support disabled persons organisations and government delegations from developing and transitional economies to attend and participate in the negotiating committee's deliberations;
- the General Assembly's adoption of rules of procedure for the negotiating committee that not only gave automatic accreditation to non-government organisations already granted observer status with the United Nations Economic and Social Council, but which also enabled the committee to accredit other disabled persons organisations to participate in its deliberations as

observers;

- the adoption of rules of procedure by the negotiating committee that allowed for a very high degree of participation by accredited civil society organisations. (Most sessions of the committee were conducted in open sessions that could be observed by civil society representatives, and at all formal sessions of the committee, civil society organisations were permitted to intervene in the debate.)

Apart from this, civil society organisations had virtually unlimited capacity to meet informally with state delegations to put their views, and were able to conduct so-called side events on a broad range of topic areas to engage and inform official delegations.

This high level of participation by disabled peoples organisations is reflected not only in the quality of the text of the *CRPD* in many areas, but also in the emphasis placed by the *CRPD* on the ongoing participation of persons with disability, and their representative organisations, in policy and program development, and in implementation and monitoring at the domestic and international levels. This 'partnership' approach to the development of the *CRPD* has very important continuing implications for all aspects of *CRPD* implementation.

### Structure of the *CRPD*

The *CRPD* comprises 50 Articles and its *Optional Protocol* comprises 18 Articles. Although it is not formally divided into sections, the *CRPD* is made up of a number of different types of articles. The overall structure of the *CRPD* is set out in Table 1.

The full text of the *CRPD* and its *Optional Protocol* are reproduced at Appendices 1 and 2 respectively.

**Table 1: Structure of the CRPD**

Section	Articles	Content
<b>Preamble</b>	Preamble paragraphs 'a to y'	The <i>Preamble</i> provides an overview of the international concern that led to the development of the <i>CRPD</i> , and situates the <i>CRPD</i> in the context of other disability and human rights initiatives taken by the international community up to that point. It highlights key issues necessary for a proper understanding of disability and human rights concerns. Unlike the other parts of the <i>CRPD</i> , the <i>Preamble</i> does not contain binding legal obligations. However, it plays an important role in the interpretation of the <i>CRPD</i> .
<b>Interpretive articles</b>	Articles 1 and 2	The <i>interpretive articles</i> set out the general purpose of the <i>CRPD</i> , describe the class of persons to whom the <i>CRPD</i> applies, and defines key terms. They also assist in clarifying the scope and content of the <i>CRPD</i> 's legally binding obligations.
<b>General obligations</b>	Articles 3 to 9	The <i>general obligations</i> contain over-arching or cross-cutting principles and measures to be applied in all aspects of the implementation of the Convention. They contain legally binding obligations and also assist in clarifying the scope and content of the specific obligations.
<b>Specific obligations</b>	Articles 10 to 30	The <i>specific obligations</i> set out, mostly in some detail, the specific human rights and fundamental freedoms recognised by the Convention. They are legally binding obligations. Broadly speaking, Articles 10 to 23 and Article 29 are based in civil and political rights, while Articles 24 to 28 and Article 30 are based in economic, social and cultural rights. However, as noted, in some cases there are new or amplified applications or extensions of these rights.
<b>Implementation and monitoring provisions</b>	Articles 31 to 40	The <i>implementation and monitoring provisions</i> contain the arrangements required for implementation and monitoring of the Convention at both the national and international levels. At the international level this includes the establishment of a new treaty body called the Committee on the Rights of Persons with Disabilities.
<b>Operational (or machinery) provisions</b>	Articles 41 to 50	The <i>operational or machinery provisions</i> deal with a range of administrative and legal issues such as how states become a party to the <i>CRPD</i> , and when it will come into force.
<b>Optional Protocol</b>	Articles 1 to 18	The <i>Optional Protocol</i> is a separate document to the <i>CRPD</i> that incorporates an individual complaint procedure, which allows individuals and groups of individuals to raise complaints with the treaty body where they have exhausted domestic remedies. It also establishes an inquiry procedure in relation to gross or systemic violations of <i>CRPD</i> rights.

### Progress towards ratification in Australia

While Australia was among the first nations to sign, as at the end of June 2008, a decision on Australia's ratification of the *CRPD* remains pending. Both the current Australian Attorney-General, and the Parliamentary Secretary for Disabilities and Children's Services, have indicated in dialogue with the disability sector that Australia is likely to ratify the *CRPD*. However, a final decision will not be made until the usual treaty-related domestic consultative processes are complete<sup>40</sup>. These processes are currently underway<sup>41</sup>. On 19 June 2008, the Australian Parliament's Joint Standing Committee on Treaties issued a preliminary report recommending that Australia ratify the *CRPD*. The Parliament and the Executive will consider this recommendation in the coming weeks<sup>42</sup>.

In an effort to generate momentum towards ratification, a coalition of Australia's major disability advocacy and advisory bodies, including QAI, has called on all Australian governments to complete domestic consultative and deliberative processes to ensure that Australia can ratify the *CRPD* on 3 December 2008 (the day of annual observance of International Day of Persons with Disability).<sup>43</sup> However, it now appears quite possible that Australia will ratify the *CRPD* well in advance of this date, in part, so that Australia can participate in the first Conference of State Parties to be held in relation to the Convention.<sup>44</sup> This Conference must be convened before 3 November 2008 (within six months of the *CRPD* coming into force).

The former Australian Government was opposed to signature and ratification of the Optional Protocol.<sup>45</sup> However, the current Australian Government has recently indicated that it will shortly commence a National Interest Analysis to inform a decision on whether or not it will now accede to the *Optional Protocol*.<sup>46</sup>

### Status of international law in Australia

International law is binding upon Australia in its relationship with the community of nations. However, this does not mean that an international obligation entered into by the Australian Government automatically becomes part of Australian domestic law. For that to occur, with very limited exceptions, the Australian Parliament must legislate to specifically incorporate the obligation.<sup>47</sup>

Article 4 of the *CRPD* requires parties to adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognised in the Convention. However, in spite of its obligation to do so, Australia has not comprehensively enacted into domestic "hard law" previous international human rights treaties it has ratified.<sup>48</sup> Australia does not have a national bill of rights,<sup>49</sup> and at the Commonwealth level, there remains significant political resistance to such a bill.<sup>50</sup> There can therefore be no real expectation that the act of ratification of the *CRPD*, of itself, will stimulate the Australian Government to enact further domestic measures for the promotion and protection of the human rights of persons with disability.

Additionally, it is important to note that current Australian foreign policy requires that all domestic laws comply with the obligations of an international treaty prior to Australia ratifying or acceding to the treaty.<sup>51</sup> In this respect, it is important to note that the Australian Government's strategic approach to the negotiation of the *CRPD* sought to ensure that the obligations it lays down do not exceed obligations already accepted in Australian domestic law.

It is therefore important to appreciate that the Australian Government is approaching the question of ratification from the point of view that Australian laws and institutional arrangements already comply with the terms of the Convention, at least broadly speaking. In this respect, particular reliance has been placed on measures such as the Disability Discrimination Act, 1992 (Cth), the Disability Services Act, 1986 (Cth), the Human Rights and Equal Opportunity Commission, the Commonwealth Disability Strategy, and disability peak body and advisory structures.<sup>52</sup>

Of course, this does not necessarily mean that the Australian Government believes that Australians with disability enjoy to the maximum possible extent all of the human rights set down by the CRPD, particularly with respect to economic, social and cultural rights. However, it does appear to take the view that Australia already demonstrates the required minimum level of compliance with CRPD obligations. It therefore appears to have no specific current intention of introducing any additional measures to give effect to the CRPD following ratification.

Ratification and implementation of the CRPD in Australia is therefore likely to require concerted ongoing efforts by disability activists and policy makers. We hope that this publication is a useful resource in support of these efforts.

- 3 Some sections of this introduction and overview are based on previous unpublished work by the author prepared for the Public Interest Advocacy Centre for the Human Rights and Equal Opportunity Commission. The support of these agencies in the development of the original material is acknowledged with appreciation.
- 4 The CRPD and its *Optional Protocol* were adopted during the sixty-first session of the General Assembly by resolution A/RES/61/611. The United Nations document number for the CRPD and its *Optional Protocol* is Doc.A/61/611.
- 5 *Secretary-General Hails Adoption of Landmark Convention on Rights of People with Disabilities*, Official Statement of the United Nations Secretary-General, SG/SM/10797: HR/4911: L/T/4400, 13 December 2006.
- 6 News Statement, *Record number of countries sign UN treaty on disabilities on opening day*, UN News Service, 30 March 2007
- 7 This is an obligation arising from Article 18 of the United Nations *Vienna Convention on the Law of Treaties* 1969.
- 8 Article 45, paragraph 1, *Convention on the Rights of Persons with Disabilities*.
- 9 Article 13, paragraph 1, *Optional Protocol to the Convention on the Rights of Persons with Disabilities*.
- 10 Jean-Pierre Gonnot, Chief, Secretariat for the Convention on the Rights of Persons with Disabilities, Division for Social Policy and Development, Department of Economic and Social Affairs, United Nations Secretariat address to Second Session of the Biwako Millennium Framework Stakeholders' Coordination Meeting, United Nations Economic and Social Council for Asia and the Pacific, Bangkok, Thailand, 1-2 March 2007: *Convention on the Rights of Persons with Disabilities – A Tool for Development*.
- 11 *Secretary-General Hails Adoption of Landmark Convention on Rights of People with Disabilities*, Official Statement of the United Nations Secretary-General, SG/SM/10797: HR/4911: L/T/4400, 13 December 2006.
- 12 Ambassador Don MacKay, Permanent Representative of New Zealand in the United Nations and Chair of 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, Commentary at a High-Level Dialogue, "From vision to action: The road to implementation of the Convention on the Rights of Persons with Disabilities" held in association with the Signature Ceremony of the Convention on the Rights of Persons with Disabilities at the United Nations, New York on 30 March 2007.
- 13 See further: Abberley, P. (1987) "The Concept of Oppression and the Development of a Social Theory of Disability", in *Disability, Handicap and Society*, Vol. 2, No. 1, pp.5-19 and Oliver, M (1996) *Understanding Disability: from Theory to Practice*, Macmillan, Hampshire.
- 14 This understanding is encapsulated by the description of disability contained in article 1 of the CRPD.
- 15 *Resolution 56/168 Comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities*, adopted on the report of the Third Committee A/56/583/Add.2, 19 December 2001.
- 16 The International Bill of Rights is made up of the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights*, and the *International Covenant on Economic, Social and Cultural Rights*.
- 17 The core United Nations human rights conventions are the *International Covenant on Civil and Political Rights*, the *International Covenant on Economic, Social and Cultural Rights*, the *International Convention on the Elimination of All Forms of Racial Discrimination*, the *International Covenant on the Elimination of All Forms of Discrimination Against Women*, the *Convention on the Rights of the Child*, the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, and the *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*.
- 18 Broadly speaking Articles 10 to 23 and Article 29 of the CRPD are civil and political rights.
- 19 Broadly speaking Articles 24-28 and Article 30 of the CRPD are economic, social and cultural rights.
- 20 The distinction between immediate and progressive realisation, and the obligations associated with progressive realisation are set out in *General Comment No 3 The nature of States Parties' obligations (Art.2(1))* 14/12/1990 of the Committee on Economic, Social and Cultural Rights, contained in United Nations High Commissioner for Human Rights Document E/1991/23 especially at par 9.
- 21 For an extensive discussion of this issue see: Langford, M and Nolan, A, *Litigating Economic, Social and Cultural Rights: Legal Practitioners Dossier*, (Second Edition) The Centre for Housing Rights and Evictions, Geneva, Switzerland, 2006.

- 22 See for example, United Nations Media Release *Chairman says draft convention sets out 'detailed code of implementation and spells out how individual rights should be put into practice*, United Nations General Assembly SOC/4680, 12 August 2005. This point was made repeatedly in the course of negotiations, was a feature of the rhetoric associated with its adoption and opening for signature, and now also permeates formative implementation dialogue and planning: see for example, Jean-Pierre Gonnnot 'supra'.
- 23 For example, the right to research and development (Article 4(f) and (g)), the right to awareness-raising (Article 8), the right to social protection and poverty reduction (Article 28(b)), and the right to development and international cooperation (Article 32).
- 24 For example, the right to accessibility (Article 9).
- 25 Article 30 of the CRPD.
- 26 For example, the right of non-interference with personal opinion and expression is transformed into a positive state obligation to provide public information in accessible formats and to recognise sign languages, Braille, and augmentative and alternative communication.
- 27 Paradoxically, this distinction is formally preserved by Article 4(2) of the CRPD. However, in substance it is not.
- 28 See footnotes 16 and 17 'supra'.
- 29 The Preamble and Article 23 of the *Convention on the Rights of the Child* contain the only explicit references to persons with disability. Generally, persons with disability have been regarded as falling within the formulation prohibiting discrimination on the basis of '... other status' (for example, in Article 2(1) of the *International Covenant on Civil and Political Rights*).
- 30 Multilateral agencies included UNICEF – the United Nations Children Fund and UNHCR – the United Nations Refugee Agency.
- 31 For a broader discussion of these issues see Quinn, G and Degener, T et al *Human Rights and Disability: The current use and future potential of United Nations human rights instruments in the context of disability*, Office of the High Commissioner for Human Rights, United Nations, New York and Geneva, 2002.
- 32 These earlier non-binding instruments are the *Declaration on the Rights of Mentally Retarded Persons* (1971), the *Declaration on the Rights of Disabled Persons* (1975), the *Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care* (1991), and the *Standard Rules for the Equalization of Opportunities for Persons with Disabilities* (1993).
- 33 Both the United Nations *Declaration on the Rights of Mentally Retarded Persons* (1971) and the *Declaration on the Rights of Disabled Persons* (1975) are attached as schedules to the *Human Rights and Equal Opportunity Commission Act*, 1986. In some respects the principles they contain are also incorporated into Australian domestic law by the *Disability Services Act*, 1986 (Cth), and the *Disability Discrimination Act*, 1992 (Cth).
- 34 For example, the United Nations *Declaration on the Rights of Mentally Retarded Persons* (1971) continues to provide qualified support for institutional accommodation for persons with disability (Article 4) and the United Nations *Declaration on the Rights of Disabled Persons* (1975) incorporates a personal deficiency-based conceptualisation of disability (Article 1).
- 35 Italy sponsored the first efforts to persuade the General Assembly to adopt a human rights convention dealing with persons with disability in 1982. In 1987 and 1989 there were two further attempts, which were initiated by Italy and Sweden respectively.
- 36 See further Annan, K Secretary General of the United Nations (2000) *We the Peoples: The Role of the United Nations in the 21<sup>st</sup> Century*, Chapter 1 'The Development Agenda', United Nations.
- 37 The World Health Organisation estimates that there are 650 million persons with disability in the world, 80% of whom live in the developing world: World Health Organisation, *Global Programming Note 2006-2007: Call for Resource Mobilisation and Engagement Opportunities*, 2006. This estimate is based on a population prevalence of 10%, which is likely to be a significant underestimate.
- 38 The sponsors of Resolution 56/168 *Comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities* (supra note 15) were Bolivia, Chile, Colombia, Congo, Costa Rica, Cuba, Democratic Republic of the Congo, Dominican Republic, Ecuador, El Salvador, Guatemala, Jamaica, Mexico, Morocco, Nicaragua, Panama, Philippines, Sierra Leone, South Africa and Uruguay.
- 39 Many officials made this point in addresses to Opening for Signature Ceremony, and in the associated Press Conference. For example, Juan Manuel Gomez-Robledo, Mexico's Under-Secretary for Multilateral Affairs and Human Rights said, 'the negotiating process had been unprecedented in the history of the United Nations because disability-rights activists and representatives of non-governmental organisations had participated in the talks on a nearly similar footing as Member States.'
- 40 Honourable Philip Ruddock, MP, Attorney-General of Australia: Keynote Address to Human Rights and Equal Opportunity Commission Workshop on Promoting the Ratification and Implementation of the Convention on the Rights of Persons with Disabilities in Australia, 28 June 2007. The current Australian Government's opposition to the *Optional Protocol* stems from its so-called 'Treaty-Body Reform Agenda: for an overview see: Department of Foreign Affairs and Trade, *Australian Initiative to Reform the UN Treaty Committees*, [http://www.dfat.gov.au/un/untreaty\\_faq.html](http://www.dfat.gov.au/un/untreaty_faq.html) (accessed 5 July 2007).
- 41 For a detailed description of the consultative and deliberative processes leading up to a decision on treaty ratification see Australian Government Department of Foreign Affairs and Trade (2005), *Signed, Sealed and Delivered: Treaties and Treaty Making: An Official's Handbook*, (6th Edition), Treaties Secretariat, Department of Foreign Affairs and Trade, Canberra.
- 42 Parliament of the Commonwealth of Australia, Joint Standing Committee on Treaties, Report 92, Treaty Tabled on 4 June 2008, United Nations Convention on the Rights of Persons with Disabilities (New York, 13 December 2006), June 2008.
- 43 Media Release, *Human rights and disability representatives call for speedy ratification of UN Convention on the Rights of Persons with Disabilities*, 2 July 2007.
- 44 Media Alert, Joint Standing Committee on Treaties, *Treaties Committee supports UN Convention on the Rights of Persons with Disabilities*, 19 June 2008: "As an active party in Convention negotiations, the Committee considered it was important that Australia continue to take a leading role in promoting the rights of people with disabilities. One way to do this is to ensure that we can participate in the nomination process for the Committee on the Rights of Persons with Disabilities' Mr Thompson said.
- 45 The Australian Government's objection to the *Optional Protocol* stems from its 'Treaty-Body Reform Agenda.' Apparently, it does not wish to participate in further international oversight arrangements until the concerns it has identified in this agenda are addressed: see further Department of Foreign Affairs and Trade *Australian Initiative to Reform the UN Treaty Committees* available at [http://www.dfat.gov.au/un/untreaty\\_faq.html](http://www.dfat.gov.au/un/untreaty_faq.html) (accessed 5 July 2007)
- 46 Joint Media Release, Minister for Foreign Affairs; Attorney General; Parliamentary Secretary on Disabilities and Children's Services, *Government Welcomes Convention on Disabilities*, 3 May 2008: "The Rudd Government will also soon begin consulting the States and Territories on the *Optional Protocol* to the Convention."
- 47 Courts may look to Australia's international obligations to assist in statutory interpretation, where ambiguity exists: *Minister for Immigration and Ethnic Affairs v Teoh* (1995) 183 CLR 273.
- 48 Aspects of some obligations have been incorporated. The *Sex Discrimination Act*, 1984 (Cth) incorporates major aspects of the *Convention on the Elimination of All Forms of Discrimination Against Women* and the *Race Discrimination Act*, 1975 (Cth) incorporates major aspects of the *International Convention on the Elimination of All Forms of Racial Discrimination*. In the disability area both the *Disability Discrimination Act*, 1992 (Cth) and the *Disability Services Act*, 1986 (Cth) incorporate major aspects of the *Declaration on the Rights of Mentally Retarded Persons* (1971) and the *Declaration on the Rights of the Disabled* (1975).
- 49 Although Victoria and the Australian Capital Territory have enacted statutory Bills of Rights: *Charter of Human Rights and Responsibilities Act*, 2006 (Vic); *Human Rights Act*, 2004 (ACT).
- 50 Although a recommendation for such a bill has made it into the outcomes of the Government's 2020 Summit: *Australia 2020 Summit: Final Report*; recommendation 9.3 at 308.
- 51 Australian Government Department of Foreign Affairs and Trade (2005), *Signed, Sealed and Delivered: Treaties and Treaty Making: An Officials Handbook*, (6th Edition), Treaties Secretariat, Department of Foreign Affairs and Trade, Canberra at 26-27.
- 52 Parliament of the Commonwealth of Australia, Documents tabled 4 June 2008: National Interest Analysis [2008] ATNIA 18 with attachments on implementation and consultation: United Nations Convention on the Rights of Persons with Disabilities New York, 13 December 2006 [2007] ATNIF 15.

## HUMAN RIGHTS INDICATORS FOR PERSONS WITH DISABILITY

In the pages that follow we set out Human Rights Indicators for persons with disability in their current stage of development.

**They are first presented** in summary in a tabular format related to the *CRPD* or *Optional Protocol* article from which they are derived.

The Indicators are then embedded within the framework of the *CRPD* and its *Optional Protocol*, and are accompanied by a short commentary on each Article of the *CRPD*. This commentary draws out the salient features of each article, and notes any key issues to be taken into account in the interpretation and application of the rights it contains. A series of discussion points are then elaborated to highlight key issues and sources of evidence that will assist in determining the degree to which persons with disability enjoy (have 'attained' or 'realised') the right or freedom in the Australian context.

**Note that** while we have provided a commentary on each article of the *CRPD* and its *Optional Protocol*, Human Rights Indicators have obviously only been derived from those articles that have instrumental or substantive human rights content; that is, articles that contain either human right 'process' or 'outcome' requirements.



### Summary

Article	Human Rights Indicators
<b>Article 1: Purpose</b>	<ul style="list-style-type: none"> <li>The human rights and fundamental freedoms set out in the <i>CRPD</i> apply to all persons with disability.</li> <li>All human rights and fundamental freedoms are promoted, protected and fulfilled.</li> <li>The inherent dignity of persons with disability is promoted and respected.</li> </ul>
<b>Article 3: General principles</b>	<ul style="list-style-type: none"> <li>All human rights and fundamental freedoms of persons with disability are interpreted and implemented in a manner consistent with the following general principles: <ul style="list-style-type: none"> <li>Respect for the inherent dignity, individual autonomy, including freedom to make one's own choices, and independence of persons;</li> <li>Non-discrimination;</li> <li>Full and effective participation and inclusion in society;</li> <li>Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;</li> <li>Equality of opportunity;</li> <li>Accessibility;</li> <li>Equality between men and women;</li> <li>Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.</li> </ul> </li> </ul>
<b>Article 4: General obligations</b>	<ul style="list-style-type: none"> <li>All human rights and fundamental freedoms of persons with disability are promoted, protected and fulfilled by laws, policies and programmes.</li> <li>All laws, regulations, customs and practices that constitute discrimination on the ground of disability have been modified or abolished.</li> <li>All policies and programmes take into account the promotion and protection of the human rights and fundamental freedoms of persons with disability.</li> <li>All action and practices of public authorities and institutions is consistent with the human rights and fundamental freedoms of persons with disability.</li> <li>There is no discrimination on the ground of disability by any person, organisation or private enterprise.</li> <li>Research and development of universally designed goods, services, equipment and facilities is undertaken or promoted.</li> <li>The availability and use of universally designed goods, services, equipment and facilities is promoted.</li> <li>The use of universal design in the development of standards and guidelines is promoted.</li> <li>Research and development of new technologies, mobility aids, devices, and assistive technologies for persons with disability is undertaken and promoted.</li> <li>The availability and use of new technologies, mobility aids, devices, and assistive technologies for persons with disability is promoted.</li> <li>Priority is given to research and development of technologies with an affordable cost to persons with disability.</li> <li>Accessible information is provided to persons with disability about mobility aids, devices and assistive technologies, other forms of assistance, support services and facilities.</li> <li>Professionals and staff working with persons with disability are trained to recognise and facilitate the realisation of the human rights and fundamental freedoms of persons with disability.</li> <li>The full realisation of economic, social and cultural rights is pursued to the maximum extent of available resources.</li> <li>The full realisation of economic, social and cultural rights is pursued within a framework of international cooperation, where necessary.</li> <li>The civil and political rights of persons with disability are immediately realised.</li> <li>Representative organisations for children and adults with disability are closely consulted and actively involved in the development and implementation of legislation and policies to implement the <i>CRPD</i> and all other decision-making processes concerning issues relating to persons with disability.</li> <li>Existing provisions, which are more favourable than those provided the <i>CRPD</i>, are preserved.</li> <li>The human rights and fundamental freedoms of persons with disability are recognised in all parts of Australia's federal system without any limitations or exceptions.</li> </ul>

Article	Human Rights Indicators
<b>Article 5: Equality and non-discrimination</b>	<ul style="list-style-type: none"> <li>• The law is the same for persons with disability as it is for others.</li> <li>• The law is applied to persons with disability in the same way as it is applied to others.</li> <li>• The law shields persons with disability from harm in the same way it does for others.</li> <li>• Persons with disability are able to use the law to protect or pursue their interests on an equal basis with others.</li> <li>• Discrimination on the ground of disability is prohibited.</li> <li>• Persons with disability are effectively protected from discrimination on the ground of disability, and on all other grounds.</li> <li>• All appropriate steps are taken to ensure the provision of reasonable accommodation of the needs of persons with disability.</li> <li>• Positive measures designed to promote and achieve equality for persons with disability are excepted from the prohibition of discrimination on the ground of disability.</li> </ul>
<b>Article 6: Women with disabilities</b>	<ul style="list-style-type: none"> <li>• The pre-existing gender inequality of women and girls with disability is recognised in all aspects of <i>CRPD</i> implementation.</li> <li>• Women and girls with disability enjoy all human rights and fundamental freedoms on the basis of equality with men and boys.</li> <li>• Positive measures are in place to ensure the development, advancement and empowerment of women and girls with disability, and their ability to exercise their human rights and fundamental freedoms.</li> </ul>
<b>Article 7: Children with disabilities</b>	<ul style="list-style-type: none"> <li>• Children and young persons with disability enjoy all human rights and fundamental freedoms on an equal basis with other children.</li> <li>• In all action concerning children and young persons with disability, the best interests of the child is a primary consideration.</li> <li>• The evolving autonomy of children and young persons with disability is recognised in all decision-making processes that affect them.</li> <li>• Children and young persons with disability are able to express their views on all matters that affect them.</li> <li>• The views of children and young persons with disability are given appropriate weight in all decision-making processes.</li> <li>• Reasonable accommodation is provided to children and young persons with disability where required to ensure their ability to participate in decision-making processes on an equal basis with other children.</li> <li>• Age-related accommodations are provided to children and young persons with disability on an equal basis with other children to ensure their ability to participate in decision-making processes.</li> </ul>
<b>Article 8: Awareness-raising</b>	<ul style="list-style-type: none"> <li>• The human rights and dignity of persons with disability are recognised and respected at all levels of society and in all areas of life.</li> <li>• The community is receptive to the human rights of persons with disability.</li> <li>• The community has positive perceptions of persons with disability.</li> <li>• Stereotypes, prejudices and harmful practices relating to persons with disability are effectively combated at all levels of society and in all areas of life.</li> <li>• The capability and contribution of persons with disability is effectively promoted at all levels of society and in all areas of life.</li> <li>• The media portrays persons with disability in a manner that is consistent with their human rights and dignity.</li> </ul>

Article	Human Rights Indicators
<b>Article 9: Accessibility</b>	<ul style="list-style-type: none"> <li>• Persons with disability are able to access all aspects of the environment on an equal basis with others, including: <ul style="list-style-type: none"> <li>◦ Public and private buildings and facilities, including schools, housing, medical facilities and workplaces;</li> <li>◦ Information and communications, including information and communication technologies and systems;</li> <li>◦ Transport and transport infrastructure.</li> </ul> </li> <li>• Barriers and obstacles to accessibility of public facilities and services are identified and eliminated.</li> <li>• Standards and guidelines are in place and are enforced to ensure the accessibility of public services and facilities.</li> <li>• Standards and guidelines for accessibility apply to both government and private entities providing public services and facilities.</li> <li>• Training on accessibility issues for persons with disability is provided to all relevant stakeholders (for example, architects, planners, and engineers).</li> <li>• Signage in public buildings is available in Braille, and in easy to read and comprehend formats.</li> <li>• Live assistance and intermediaries (such as guides, readers and sign language interpreters) are available to facilitate accessibility to public buildings and facilities.</li> <li>• Any other necessary assistance is available to persons with disability to ensure their access to information.</li> <li>• Persons with disability have access to new information and communications technologies and systems, including the Internet.</li> <li>• Information and communication technologies and systems are from the outset designed, developed, produced, and distributed so as to incorporate accessibility features.</li> <li>• Information and communication technologies and systems may be made accessible to persons with disability at minimum cost.</li> </ul>
<b>Article 10: Right to life</b>	<ul style="list-style-type: none"> <li>• Persons with disability enjoy the right to life and survival on an equal basis with others.</li> <li>• All necessary measures are taken to ensure that persons with disability enjoy the right to life and survival on an equal basis with others.</li> <li>• Persons with disability are not arbitrarily deprived of life, including as a result of discrimination on the ground of disability.</li> <li>• The right to life is protected by law (and these laws are effective in relation to persons with disability).</li> </ul>
<b>Article 11: Situations of risk and humanitarian emergencies</b>	<ul style="list-style-type: none"> <li>• All necessary measures are taken to ensure the protection and safety of persons with disability in situations of risk.</li> </ul>

Article	Human Rights Indicators
<b>Article 12:</b> <b>Equal recognition before the law</b>	<ul style="list-style-type: none"> <li>• All persons with disability are recognised at all times and in all situations as persons with legal rights and duties.</li> <li>• Persons with disability are able to exercise legal capacity on an equal basis with others.</li> <li>• Persons with disability receive any support they may require to exercise their legal capacity. Any such support: <ul style="list-style-type: none"> <li>◦ Respects the rights, will and preferences of the person;</li> <li>◦ Is free from conflict of interest and undue influence;</li> <li>◦ Is proportionate to the person's need for such support (that is, it is the least restrictive necessary);</li> <li>◦ Is individualised;</li> <li>◦ Is provided only for the period necessary;</li> <li>◦ Is subject to regular review by an independent and impartial authority.</li> </ul> </li> <li>• Persons with disability are able to own and inherit property.</li> <li>• Persons with disability have access to credit on an equal basis with others.</li> <li>• Persons with disability are not deprived of their property without proper lawful reason.</li> <li>• Persons with disability are able to control their own financial affairs on an equal basis with others.</li> <li>• Persons with disability receive any support they may require to manage their financial affairs. Any such support: <ul style="list-style-type: none"> <li>◦ Respects the rights, will and preferences of the person;</li> <li>◦ Is free from conflict of interest and undue influence;</li> <li>◦ Is proportionate to the person's need for such support (that is, it is the least restrictive necessary);</li> <li>◦ Is individualised;</li> <li>◦ Is provided only for the period necessary;</li> <li>◦ Is subject to regular review by an independent and impartial authority.</li> </ul> </li> </ul>
<b>Article 13:</b> <b>Access to justice</b>	<ul style="list-style-type: none"> <li>• Persons with disability enjoy effective access to justice at all stages of the legal process.</li> <li>• Procedural accommodations are made in the legal process to ensure effective participation of persons with disability in the justice system in whatever role they encounter it.</li> <li>• Age-related accommodations are made to the legal process to ensure effective participation of children and young persons with disability.</li> <li>• Appropriate training is provided to all justice agency personnel to ensure access to justice for persons with disability.</li> </ul>
<b>Article 14:</b> <b>Liberty and security of the person</b>	<ul style="list-style-type: none"> <li>• Persons with disability enjoy personal freedom on an equal basis with others.</li> <li>• Persons with disability are free from interference with their person on an equal basis with others.</li> <li>• Persons with disability are not deprived of liberty without lawful and proper reason.</li> <li>• The existence of impairment or disability (of itself) is never a reason for deprivation of liberty.</li> <li>• Persons with disability deprived of their liberty enjoy fully their remaining human rights.</li> <li>• Reasonable accommodation is provided to persons with disability deprived of their liberty to ensure their full enjoyment of their remaining human rights.</li> </ul>

Article	Human Rights Indicators
<b>Article 15: Freedom from torture or cruel, inhuman or degrading treatment or punishment</b>	<ul style="list-style-type: none"> <li>Persons with disability are effectively protected from torture, and from cruel, inhuman, and degrading treatment or punishment.</li> <li>Persons with disability are not subject to medical or scientific experimentation without their consent.</li> <li>Persons with disability who do not have the capacity to consent are subject to special protection from medical and scientific experimentation.</li> <li>All effective measures are taken to protect persons with disability from torture, and from cruel, inhuman and degrading treatment or punishment.</li> </ul>
<b>Article 16: Freedom from exploitation, violence and abuse</b>	<ul style="list-style-type: none"> <li>Persons with disability are effectively protected from all forms of exploitation, violence and abuse.</li> <li>Protection from exploitation, violence and abuse is effective both within and outside the home (that is, both in the public and private spheres).</li> <li>Women and girls with disability are effectively protected from all forms of exploitation, violence and abuse that have a gender dimension.</li> <li>Children and young persons with disability and older persons with disability are effectively protected from all forms of exploitation, violence and abuse that have an age dimension.</li> <li>Persons with disability, their families and carers are effectively informed and educated in relation to strategies to avoid, detect and report all forms of exploitation, violence and abuse.</li> <li>There are effective laws and policies that ensure that harms against persons with disability are identified, investigated and prosecuted.</li> <li>Laws, policies, programmes, protective and other services that relate to the prevention, detection, investigation and prosecution of harms against children and adults with disability are age, gender and disability sensitive.</li> <li>All specialist facilities and programmes for persons with disability are effectively monitored by independent authorities to safeguard against exploitation, violence and abuse of persons with disability.</li> <li>Persons with disability who are victims of harm have access to effective recovery, rehabilitation and social reintegration programmes and services.</li> <li>Recovery, rehabilitation and reintegration programmes for persons with disability who are victims of harm are provided in an environment that fosters the health, welfare, self-respect, dignity and autonomy of the person.</li> <li>Recovery, rehabilitation and reintegration programmes for persons with disability who are victims of crime are responsive to age and gender-related needs.</li> </ul>
<b>Article 17: Protecting the integrity of the person</b>	<ul style="list-style-type: none"> <li>Persons with disability are not subject to interference with their physical integrity.</li> <li>Persons with disability are not subject to interference with their mental integrity.</li> </ul>

## HUMAN RIGHTS INDICATORS FOR PERSONS WITH DISABILITY

Article	Human Rights Indicators
<b>Article 18: Liberty of movement and nationality</b>	<ul style="list-style-type: none"> <li>Persons with disability enjoy liberty of movement within and across national borders on an equal basis with others.</li> <li>Persons with disability are able to choose their own residence on an equal basis with others.</li> <li>Persons with disability are able to choose their nationality on an equal basis with others.</li> <li>Children with disability are registered immediately after birth.</li> <li>Children with disability are named from birth.</li> <li>Children with disability acquire a nationality from birth.</li> <li>Children with disability know and are cared for by their parents from birth.</li> </ul>
<b>Article 19: Living independently and being included in the community</b>	<ul style="list-style-type: none"> <li>Persons with disability live in the community with choices equal to others.</li> <li>Persons with disability are included, and participate, in the community.</li> <li>Persons with disability are able to choose their place of residence on an equal basis with others.</li> <li>Persons with disability are not obliged to live in any particular living arrangement.</li> <li>Persons with disability have access to a range of in-home, residential and other community support services necessary to support living and inclusion in the community and to prevent isolation and segregation from the community.</li> <li>Community services and facilities for the general population are available to persons with disability on an equal basis with others and are responsive to their needs.</li> </ul>
<b>Article 20: Personal mobility</b>	<ul style="list-style-type: none"> <li>Persons with disability enjoy personal mobility with the greatest possible independence.</li> <li>Persons with disability are able to mobilise in the manner and at the time of their choice.</li> <li>Persons with disability are able to mobilise at an affordable cost.</li> <li>Persons with disability have access to quality mobility aids, devices and assistive technologies.</li> <li>Persons with disabilities have access to live assistance and intermediaries.</li> <li>Persons with disability are effectively trained in mobility skills.</li> <li>Staff who work with persons with disability are effectively trained in mobility skills.</li> <li>There are mobility aids, devices and assistive technologies to support all aspects of mobility for persons with disability.</li> </ul>
<b>Article 21: Freedom of expression and opinion, and access to information</b>	<ul style="list-style-type: none"> <li>Persons with disability enjoy freedom of expression on an equal basis with others.</li> <li>Persons with disability enjoy freedom of opinion on an equal basis with others.</li> <li>Persons with disability have freedom to seek, receive and impart information and ideas on an equal basis with others.</li> <li>Persons with disability are able to seek, receive and impart information and ideas through all forms of communication of their choice.</li> <li>Public information is available to persons with disability in accessible formats.</li> <li>Public information is accessible to persons who use assistive communication devices.</li> <li>Public information is made available in accessible formats in a timely manner and without additional cost.</li> <li>Alternative modes, means and formats of communication are accepted and facilitated in official interactions with persons with disability.</li> <li>Public information and services provided by the private sector are accessible to persons with disability.</li> <li>The mass media is accessible to persons with disability.</li> <li>The Internet is accessible to persons with disability.</li> </ul>

Article	Human Rights Indicators
<b>Article 22: Respect for privacy</b>	<ul style="list-style-type: none"> <li>• Persons with disability are free from arbitrary or unlawful interference with their privacy, irrespective of their living arrangements.</li> <li>• Persons with disability are free from arbitrary or unlawful interference with their family life.</li> <li>• Persons with disability are free from arbitrary or unlawful interference with their home.</li> <li>• Persons with disability are free from arbitrary or unlawful interference with their correspondence and other forms of communication.</li> <li>• Persons with disability are free from unlawful attacks on their honour and reputation.</li> <li>• The law effectively protects persons with disability from interference with all aspects of their privacy.</li> <li>• The law effectively protects persons with disability from attacks on their honour and reputation.</li> <li>• The law effectively protects the privacy of personal, health and rehabilitation information of persons with disability on an equal basis with others.</li> </ul>
<b>Article 23: Respect for home and the family</b>	<ul style="list-style-type: none"> <li>• Persons with disability do not experience discrimination in relation to any matter concerning marriage, family, parenthood and relationships.</li> <li>• Consenting adults with disability are able to marry and found a family.</li> <li>• Persons with disability are able to decide on the number and spacing of their children.</li> <li>• Persons with disability have effective access to family planning information and education, including in accessible and adapted formats if required.</li> <li>• Persons with disability, including children with disability, retain their fertility on an equal basis with others.</li> <li>• Persons with disability are accorded the same rights and responsibilities as others with respect to the guardianship and adoption of children.</li> <li>• The 'best interests of the child' is the paramount consideration in all decisions concerning guardianship and adoption.</li> <li>• Persons with disability have access to appropriate assistance, where necessary, to perform their child-rearing responsibilities.</li> <li>• Children with disability are accorded the same rights as other children to family life.</li> <li>• Children with disability are effectively protected from concealment, abandonment, neglect and segregation.</li> <li>• Children with disability and their families are effectively supported with early intervention, comprehensive information, and services and support.</li> <li>• Children with disability are not arbitrarily or unlawfully separated from their parents against their will. The 'best interests of the child' is the basis for any such separation.</li> <li>• Children with disability are not separated from their parents on the basis of the disability of either the child or of one or both parents.</li> <li>• Children with disability unable to live with their immediate family are provided with alternative care within their wider family, or if this is not possible, within the community in a family setting.</li> </ul>

Article	Human Rights Indicators
<b>Article 24: Education</b>	<ul style="list-style-type: none"> <li>• Persons with disability are accorded the right to education.</li> <li>• Persons with disability are free from discrimination on the ground of disability in education.</li> <li>• Education of persons with disability is inclusive at all levels of the education system.</li> <li>• Persons with disability have access to life-long learning, including general tertiary education, vocational training and adult education.</li> <li>• Education is directed to:             <ul style="list-style-type: none"> <li>◦ The full development of human potential and sense of dignity and self worth;</li> <li>◦ Strengthening of respect for human rights, fundamental freedoms, and human diversity;</li> <li>◦ The development of personality, talents and creativity, and mental and physical abilities, to their fullest potential;</li> <li>◦ Enabling persons with disability to participate effectively in a free society.</li> </ul> </li> <li>• Persons with disability are not excluded from the general education system on the basis of disability.</li> <li>• Persons with disability are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability.</li> <li>• Persons with disability can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live.</li> <li>• Students with disability are provided with reasonable accommodation of their impairment and disability-related needs.</li> <li>• Students with disability receive the support they require to facilitate their effective education within the general education system.</li> <li>• Students with disability receive effective individualised support measures in fully inclusive environments that maximise academic and social development.</li> <li>• Persons with disability have access to life and social development skills education to facilitate their full and equal participation in education and as members of the community.</li> <li>• Persons with disability have the opportunity to learn:             <ul style="list-style-type: none"> <li>◦ Braille, alternative script, augmentative and alternative modes, means and formats of communication;</li> <li>◦ Orientation and mobility skills; and</li> <li>◦ Sign languages.</li> </ul> </li> <li>• Persons with disability have access to peer support and mentoring.</li> <li>• The linguistic identity of the Deaf community is promoted in educational settings.</li> <li>• Education for children who are blind, deaf or deafblind is delivered in appropriate languages, including sign languages, and other modes and means of communication appropriate for the individual.</li> <li>• Teachers are qualified in Australian Sign Language and proficient in the use of Braille.</li> <li>• Staff at all levels of the education system are educated in disability awareness and in the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support students with disability.</li> </ul>

Article	Human Rights Indicators
<b>Article 25: Health</b>	<ul style="list-style-type: none"> <li>• Persons with disability enjoy the highest attainable standard of health.</li> <li>• Persons with disability do not experience discrimination in any aspect of the health system.</li> <li>• Health services, including health-related rehabilitation services, are gender sensitive.</li> <li>• Persons with disability have access to the same range, quality and standard of free or affordable health care and programmes as other persons.</li> <li>• Persons with disability have access to the same range, quality and standard of free or affordable sexual and reproductive health care and programmes as other persons</li> <li>• Persons with disability have access to the same range, quality and standard of population-based public health programmes as other persons.</li> <li>• Persons with disability have access to any specialist health services they require, including early identification and intervention services, and services designed to minimise or prevent further disability.</li> <li>• Health services are available in local communities, including in rural areas.</li> <li>• Health professionals provide the same quality of care to persons with disability as to others.</li> <li>• Health professionals are educated to raise awareness of the human rights, dignity, autonomy and needs of persons with disability.</li> <li>• Health care is provided only on the basis of the free and informed consent of the person with disability receiving treatment.</li> <li>• There are health care ethical standards in place for public and private health care that ensure that persons with disability receive the highest attainable health care without discrimination.</li> <li>• Discrimination on the ground of disability in the provision of health insurance and life insurance is prohibited. Such insurance is available to persons with disability on a fair and reasonable basis.</li> <li>• Discriminatory denial of health care or health services, or foods or fluids on the basis of disability, is prohibited.</li> </ul>
<b>Article 26: Habilitation and rehabilitation</b>	<ul style="list-style-type: none"> <li>• Persons with disability have access to habilitation and rehabilitation services that will allow them to attain and maintain : <ul style="list-style-type: none"> <li>◦ Maximum independence;</li> <li>◦ Full physical, mental, social and vocational ability;</li> <li>◦ Full inclusion and participation in all aspects of life.</li> </ul> </li> <li>• Habilitation and rehabilitation services begin at the earliest possible stage.</li> <li>• Habilitation and rehabilitation services are based on the multidisciplinary assessment of the person's individual needs and strengths.</li> <li>• Habilitation and rehabilitation services support persons with disability to participate and be included in the community, and in all aspects of society.</li> <li>• Habilitation and rehabilitation services are available to persons with disability in local communities, including in rural areas.</li> <li>• The participation of persons with disability in habilitation and rehabilitation services is voluntary.</li> <li>• Habilitation and rehabilitation professionals and staff receive comprehensive initial and continuing education.</li> <li>• Persons with disability are informed about, and have ready access to, assistive devices and technologies to assist them with habilitation and rehabilitation.</li> </ul>

Article	Human Rights Indicators
<b>Article 27: Work and employment</b>	<ul style="list-style-type: none"> <li>• Persons with disability have access to work on an equal basis with others.</li> <li>• Persons with disability have the opportunity to gain a living in a freely chosen or accepted labour market and work environment.</li> <li>• Persons with disability have access to open, inclusive and accessible employment.</li> <li>• Discrimination on the ground of disability is prohibited in all forms and aspects of employment, including: <ul style="list-style-type: none"> <li>◦ Conditions of recruitment;</li> <li>◦ Hiring and employment;</li> <li>◦ Continuity of employment;</li> <li>◦ Career advancement;</li> <li>◦ Safe and healthy working conditions.</li> </ul> </li> <li>• Persons with disability have access to just and favourable conditions of work on an equal basis with others. This includes: <ul style="list-style-type: none"> <li>◦ Equal opportunities of work;</li> <li>• Equal remuneration for work of equal value;</li> <li>• Safe and healthy working conditions, including protection from harassment;</li> <li>• The redress of grievances.</li> </ul> </li> <li>• Persons with disability exercise their labour and trade union rights on an equal basis with others.</li> <li>• Persons with disability have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training.</li> <li>• Career opportunities and career advancement for persons with disability are promoted.</li> <li>• Persons with disability are provided with assistance to find, obtain, maintain and return to employment.</li> <li>• Opportunities for self-employment, entrepreneurship, development of cooperatives and personal enterprises are promoted to persons with disability.</li> <li>• Persons with disability are employed in the public sector.</li> <li>• There are policies and measures (such as affirmative action and incentives), which promote employment of persons with disability in the private sector.</li> <li>• Persons with disability have access to reasonable accommodation of their impairment and disability related needs in the workplace.</li> <li>• Persons with disability have access to work experience in the open labour market.</li> <li>• Vocational and professional rehabilitation, job-retention and return-to-work programmes for persons with disability are promoted.</li> <li>• Persons with disability are not held in slavery or in servitude and are protected from forced or compulsory labour on an equal basis with others.</li> </ul>
<b>Article 28: Adequate standard of living and social protection</b>	<ul style="list-style-type: none"> <li>• Persons with disability have access to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, without discrimination on the ground of disability.</li> <li>• Persons with disability enjoy continuous improvement of living conditions without discrimination on the ground of disability.</li> <li>• Persons with disability have access to social protection without discrimination on the ground of disability.</li> <li>• Persons with disability have access to clean water.</li> <li>• Persons with disability have access to appropriate and affordable services, devices and other assistance for disability-related needs.</li> <li>• Persons with disability have access to social protection and poverty reduction programmes. In particular, women and girls with disability, and older persons with disability, have access to social protection and poverty reduction programmes.</li> <li>• Persons with disability and their families living in situations of poverty have access to assistance with disability-related expenses.</li> <li>• Persons with disability have access to public housing programmes.</li> <li>• Persons with disability have access to retirement benefits and programmes.</li> </ul>

Article	Human Rights Indicators
<b>Article 29: Participation in political and public life</b>	<ul style="list-style-type: none"> <li>• Persons with disability effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives.</li> <li>• Voting procedures, facilities and materials are accessible to persons with disability.</li> <li>• Persons with disability are able to vote by secret ballot in elections and public referendums.</li> <li>• Persons with disability are able to vote in elections and public referendums without intimidation.</li> <li>• Persons with disability are able to stand for election, to effectively hold office, and perform all public functions at all levels of government.</li> <li>• Persons with disability have access to a personal assistant of their choice to assist in voting.</li> <li>• Persons with disability can effectively and fully participate in the conduct of public affairs on an equal basis with others without discrimination.</li> <li>• Participation of persons with disability in public affairs is encouraged.</li> <li>• Persons with disability are encouraged to participate in non-governmental organisations and associations concerned with public and political life, and in the activities and administration of political parties.</li> <li>• Persons with disability are encouraged to form and join organisations of persons with disability to represent them at the international, national, regional and local levels.</li> </ul>
<b>Article 30: Participation in cultural life, recreation, leisure and sport</b>	<ul style="list-style-type: none"> <li>• Persons with disability take part in cultural life on an equal basis with others.</li> <li>• Cultural materials are available in accessible formats.</li> <li>• Persons with disability have access to television programmes, films, theatre and other cultural activities in accessible formats.</li> <li>• Persons with disability have access to places of cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services.</li> <li>• Persons with disability have access, as far as possible, to monuments and sites of national cultural importance.</li> <li>• Persons with disability have the opportunity to develop and utilise their creative, artistic and intellectual potential.</li> <li>• Intellectual property rights do not constitute an unreasonable or discriminatory barrier to access to cultural materials for persons with disability.</li> <li>• The specific cultural and linguistic identity of persons with disability, including sign languages and Deaf culture, is recognised.</li> <li>• Persons with disability participate in recreational, leisure and sporting activities on an equal basis with others.</li> <li>• The participation to the fullest extent possible of persons with disability in mainstream sporting activities at all levels is encouraged and promoted.</li> <li>• Persons with disability have the opportunity and capacity to organise, develop and participate in disability-specific sporting and recreational activities.</li> <li>• Persons with disability have access to sporting, recreational and tourism venues.</li> <li>• Children with disability have equal access with other children to participation in play, recreation and leisure and sporting activities.</li> <li>• Persons with disability have access to services from those involved in the organisation of recreation, tourism, leisure and sporting activities.</li> </ul>

Article	Human Rights Indicators
<b>Article 31: Statistics and data collection</b>	<ul style="list-style-type: none"> <li>• Statistical and research data is collected to assist in the formulation and implementation of policies to give effect to the <i>CRPD</i>.</li> <li>• Information collection processes comply with human rights and ethical safeguards, including in relation to the confidentiality of personal information.</li> <li>• Information is disaggregated so as to enable it to be used to assess the effectiveness of <i>CRPD</i> implementation efforts in a particular area or with respect to a particular group.</li> <li>• Statistical and research data is disseminated to persons with disability in accessible formats, and to interested others.</li> </ul>
<b>Article 32: International cooperation</b>	<ul style="list-style-type: none"> <li>• The importance of international cooperation for the realisation of the purpose and objectives of the <i>CRPD</i> is recognised and promoted.</li> <li>• International cooperation is undertaken in partnership with civil society, in particular with organisations of persons with disability.</li> <li>• International development programmes are inclusive of and accessible to persons with disability.</li> <li>• Capacity to implement the <i>CRPD</i> is built by sharing and exchanging information, experience, training and best practice with other nations.</li> <li>• Capacity to implement the <i>CRPD</i> is built by facilitating cooperation in research and access to scientific and technical knowledge with other nations.</li> <li>• Capacity to implement the <i>CRPD</i> is built by providing economic and technical assistance to other nations. Such assistance includes the provision of access to, and the sharing of, accessible and assistive technologies.</li> </ul>
<b>Article 33: National implementation and monitoring</b>	<ul style="list-style-type: none"> <li>• There are designated focal points and coordination mechanisms within government to facilitate cross-sectoral <i>CRPD</i> implementation.</li> <li>• An independent monitoring mechanism to oversee implementation of the <i>CRPD</i>, which complies with the <i>Paris Principles</i> has been designated or established.</li> <li>• Persons with disability are fully involved, and participate, in national monitoring of implementation of the <i>CRPD</i>.</li> </ul>
<b>Article 35: Reports by States Parties</b>	<ul style="list-style-type: none"> <li>• A comprehensive report to the Committee on the Rights of Persons with Disabilities in relation to Australia's implementation of the <i>CRPD</i> is lodged within two years of the <i>CRPD</i> coming into force.</li> <li>• Periodic reports are submitted to the Committee in relation to Australia's implementation of the <i>CRPD</i> every four years or when the Committee requests Australia to do so.</li> <li>• Reports to the Committee are prepared in an open and transparent manner.</li> <li>• Persons with disability are actively consulted in the preparation of Australia's reports to the Committee.</li> </ul>
<b>Article 37: Cooperation between States Parties and the Committee</b>	<ul style="list-style-type: none"> <li>• Australia cooperates with the Committee on the Rights of Persons with Disabilities.</li> </ul>
<b>Article 40: Conference of States Parties</b>	<ul style="list-style-type: none"> <li>• Australia actively participates in the Conference of State Parties.</li> </ul>

## HUMAN RIGHTS INDICATORS FOR PERSONS WITH DISABILITY

Article	Human Rights Indicators
<b>Article 43: Consent to be bound</b>	<ul style="list-style-type: none"> <li>Australia is a party to the <i>Convention on the Rights of Persons with Disabilities</i>.</li> </ul>
<b>Article 46: Reservations</b>	<ul style="list-style-type: none"> <li>Australia has not lodged reservations against any aspect of the <i>CRPD</i>.</li> </ul>

## OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

Article	Human Rights Indicators
<b>Article 3</b>	<ul style="list-style-type: none"> <li>Australia responds to communications received by the Committee on the Rights of Persons with Disabilities within six months of notification of the communication.</li> </ul>
<b>Article 4</b>	<ul style="list-style-type: none"> <li>Australia takes any interim measures requested by the Committee on the Rights of Persons with Disabilities to avoid irreparable damage to the victim or victims of an alleged violation.</li> </ul>
<b>Article 7</b>	<ul style="list-style-type: none"> <li>Australia cooperates with the Committee on the Rights of Persons with Disabilities in any inquiry into allegations of grave or systemic violations of the <i>CRPD</i>.</li> <li>Australia responds to any findings, comments and recommendations arising from an inquiry into allegations of grave or systemic violations of the <i>CRPD</i> within six months of receiving the Committee's report.</li> </ul>
<b>Article 11</b>	<ul style="list-style-type: none"> <li>Australia is a party to the Optional Protocol to the <i>Convention on the Rights of Persons with Disabilities</i>.</li> </ul>
<b>Article 14</b>	<ul style="list-style-type: none"> <li>Australia has not lodged reservations against any aspect of the <i>Optional Protocol</i>.</li> </ul>

## Preamble

### Detailed Commentary

#### *The States Parties to the present Convention,*

- (a) *Recalling* the principles proclaimed in the Charter of the United Nations which recognize the inherent dignity and worth and the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world,
- (b) *Recognizing* that the United Nations, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, has proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind,
- (c) *Reaffirming* the universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms and the need for persons with disabilities to be guaranteed their full enjoyment without discrimination,
- (d) *Recalling* 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 on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,
- (e) *Recognizing* 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,
- (f) *Recognizing* the importance of the principles and policy guidelines contained in the World Programme of Action concerning Disabled Persons and in the Standard Rules on the Equalization of Opportunities for Persons with Disabilities in influencing the promotion, formulation and evaluation of the policies, plans, programmes and actions at the national, regional and international levels to further equalize opportunities for persons with disabilities,
- (g) *Emphasizing* the importance of mainstreaming disability issues as an integral part of relevant strategies of sustainable development,
- (h) *Recognizing also* that discrimination against any person on the basis of disability is a violation of the inherent dignity and worth of the human person,
- (i) *Recognizing further* the diversity of persons with disabilities,
- (j) *Recognizing* the need to promote and protect the human rights of all persons with disabilities, including those who require more intensive support,

## CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

- (k) *Concerned* that, despite these various instruments and undertakings, persons with disabilities continue to face barriers in their participation as equal members of society and violations of their human rights in all parts of the world,
- (l) *Recognizing* the importance of international cooperation for improving the living conditions of persons with disabilities in every country, particularly in developing countries,
- (m) *Recognizing* the valued existing and potential contributions made by persons with disabilities to the overall well-being and diversity of their communities, and that the promotion of the full enjoyment by persons with disabilities of their human rights and fundamental freedoms and of full participation by persons with disabilities will result in their enhanced sense of belonging and in significant advances in the human, social and economic development of society and the eradication of poverty,
- (n) *Recognizing* the importance for persons with disabilities of their individual autonomy and independence, including the freedom to make their own choices,
- (o) *Considering* that persons with disabilities should have the opportunity to be actively involved in decision-making processes about policies and programmes, including those directly concerning them,
- (p) *Concerned* about the difficult conditions faced by persons with disabilities who are subject to multiple or aggravated forms of discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age or other status,
- (q) *Recognizing* that women and girls with disabilities are often at greater risk, both within and outside the home of violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation,
- (r) *Recognizing* that children with disabilities should have full enjoyment of all human rights and fundamental freedoms on an equal basis with other children, and recalling obligations to that end undertaken by States Parties to the Convention on the Rights of the Child,
- (s) *Emphasizing* the need to incorporate a gender perspective in all efforts to promote the full enjoyment of human rights and fundamental freedoms by persons with disabilities,
- (t) *Highlighting* the fact that the majority of persons with disabilities live in conditions of poverty, and in this regard recognizing the critical need to address the negative impact of poverty on persons with disabilities,
- (u) *Bearing in mind* that conditions of peace and security based on full respect for the purposes and principles contained in the Charter of the United Nations and observance of applicable human rights instruments are indispensable for the full protection of persons with disabilities, in particular during armed conflicts and foreign occupation,
- (v) *Recognizing* the importance of accessibility to the physical, social, economic and cultural environment, to health and education and to information and communication, in enabling persons with disabilities to fully enjoy all human rights and fundamental freedoms,
- (w) *Realizing* that the individual, having duties to other individuals and to the community to which he or she belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the International Bill of Human Rights,
- (x) *Convinced* that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State, and that persons with disabilities and their family members should receive the necessary protection and assistance to enable families to contribute towards the full and equal enjoyment of the rights of persons with disabilities,
- (y) *Convinced* that a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities will make a significant contribution to redressing the profound social disadvantage of persons with disabilities and promote their participation in the civil, political, economic, social and cultural spheres with equal opportunities, in both developing and developed countries,

### Commentary

The *Preamble* to the *CRPD* comprises 25 paragraphs (a to y) which have a number of different purposes. Together they provide an overview of the international concern that led to the development of the *CRPD*, situate the *CRPD* in the context of other disability and human rights initiatives taken by the international community up to that point, and highlight key issues necessary for a proper understanding of disability and human rights concerns. Unlike the other parts of the *CRPD*, the *Preamble* does not contain binding legal obligations. However, it plays an important role in the interpretation of the *CRPD*.

Paragraphs (a) and (b) recite the foundation for the rights of persons with disability, which is the international community's commitment to the inherent dignity and worth, and inalienable rights, of *all members of the human family* (emphasis added) contained in the Charter of the United Nations, and the entitlement of *everyone ... without distinction of any kind* (emphasis added) to all the rights and freedoms set out in the *Universal Declaration of Human Rights* and other international human rights covenants. Paragraph (h) amplifies this view by recognising that 'discrimination against any person on the basis of disability is a violation of the inherent dignity and worth of the human person.'

Paragraph (c) recites the foundation for the holistic approach that has been taken to the development of the *CRPD*, which lies in the 'universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms and the need for persons with disabilities to be guaranteed their full enjoyment without discrimination.'

Paragraph (d) establishes the status of the *CRPD* as an integral human rights instrument by situating it on the same level as the existing 'core' United Nations human rights treaties.

Paragraph (e) seeks to underpin the *CRPD* with a contemporary understanding of disability as an 'evolving' concept, which is the result of the interaction of persons with impairments with attitudinal and environmental barriers. In its first aspect, paragraph (e) seeks both to positively frame the negotiating committee's inability or unwillingness to agree on a definition of 'disability' or 'person with disability,' and to acknowledge that understandings of impairment and disability vary across cultures and time. In its second aspect, paragraph (e) makes it clear that the *CRPD* is based on the social model of disability. Paragraph (v) also emphasises the social model of disability by recognising the importance of the accessibility to the social environment and social programmes to the realisation of the human rights of persons with disability.

Paragraph (f) notes the importance of the principles and policy guidelines contained in the United Nations *World Programme of Action concerning Disabled Persons* (1982)<sup>48</sup> and in the *Standard Rules on the Equalization of Opportunities of Persons with Disabilities* (1993).<sup>49</sup> In doing so, it explicitly acknowledges these instruments as antecedents to the *CRPD*. By not mentioning the *United Nations Declaration on the Rights of Mentally Retarded Persons* (1971), the *United Nations Declaration on the Rights of Disabled Persons* (1975), and the *United Nations Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care* (1991) the paragraph, implicitly, negates the *CRPD*'s evolution from these instruments, or at least, draws a line between these instruments and the *CRPD*.<sup>50</sup>

Paragraph (g) emphasises the importance of mainstreaming disability issues in social development. This theme is picked up again in paragraph (t), which highlights the fact that the majority of persons with disability in the world live in poverty, and that there is a critical need to address this. Paragraph (l) elaborates this theme by recognising the importance of international cooperation for improving the living conditions of persons with disability in developing countries.<sup>51</sup> Taken together, these three paragraphs make it clear that persons with disability ought to be a priority, and *CRPD rights* should be applied, in poverty reduction and social development efforts at the national and international levels.

Paragraphs (i), (j), (p), (q) (r), and (s) recognise the diversity of persons with disability, and the multiple and aggravated disadvantage and discrimination experienced by persons with disability who require more intensive support, as well as those who experience such disadvantage and discrimination on the basis of additional characteristics such as race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth age or other status. Particular emphasis is placed on a gender perspective (in paragraph (s)), and the recognition of gender related violence and abuse (paragraph (q)). The implication is that the *CRPD* must be interpreted and applied in a way that will ensure the promotion, protection and fulfillment of the human rights and fundamental freedoms of all persons with disability, including those who experience multiple and aggravated forms of human rights violation.

Paragraph (k) sets out the principal reason for the development of a core thematic human rights instrument in relation to persons with disability, which was the failure of pre-existing instruments to secure equality for persons with disability and prevent human rights violations against them.

Paragraph (m) challenges the traditional negative and deficit-based construction of disability and persons with disability by explicitly recognising the value of the potential and actual contributions made by persons with disability to the well-being and diversity of their communities. Paragraph (m) also recognises that securing human rights for persons with disability will enhance the sense of belonging that persons with disability experience in their communities, and significantly advance the human, social and economic development of their societies.

Paragraph (n) recognises the importance to persons with disability of their individual autonomy and independence, including the ability to make their own choices. Paragraph (o) applies this principle to public policy making, asserting that persons with disability ought to be provided with the opportunity to be actively involved in decision-making processes about policies and programmes, included those directly affecting them.

Paragraph (u) highlights the risks faced by persons with disability during armed conflicts and foreign occupation, and calls for the observance of all of the human rights of persons with disability in these situations. It links this imperative to the Charter of the United Nations, which encapsulates the view that respect for human rights is essential for peace and security of the world.

Paragraph (w) observes that all persons have a duty to others and to the community to strive for the promotion and observance of all human rights recognised in the *International Bill of Rights* (from which the *CRPD* is derived). In this respect, it highlights the fact that it is not only nations and governments that have this responsibility, but all individuals and segments of society.

Paragraph (x) affirms the family as the natural and fundamental group unit of society, and the entitlement of the family to protection by society and the state. It applies this principle in a way that recognises that *both* persons with disability *and* their family members should receive protection and assistance, so that families can contribute to the realisation of the human rights of persons with disability. It is important to observe that paragraph (x) is delicately drafted to emphasise that protection and assistance provided to families must be instrumental in the realisation of the rights of persons with disability.

Finally, paragraph (y) asserts the belief that the *CRPD* will make a significant contribution to redressing the profound social disadvantage of persons with disability, and promote their participation in all aspects of life. Importantly, this belief is asserted with respect to both developing and developed countries. It is also notable that paragraph (y) preserves the concept of a 'comprehensive and integral' international convention, which featured in the working title of the *CRPD* during most of its negotiation stage. The meaning of these terms has been discussed in the introduction to this resource.

<sup>48</sup> United Nations, General Assembly, *World Programme of Action Concerning Disabled Persons; Report of the Secretary-General: Addendum* UN Doc. A/37/351/Add.1.

<sup>49</sup> United Nations, General Assembly, *Standard Rules on the Equalization of Opportunities for Persons with Disabilities* UN Doc A/Res/48/49.

<sup>50</sup> The International Disability Caucus (a coalition of non-governmental organisations participating as observers in the negotiating committee's proceedings) explicitly opposed reference to these instruments on the basis that they perpetuated approaches that result in the violation of the human rights of persons with disability.

<sup>51</sup> Paragraph (l) does not limit international cooperation to poverty reduction or social development in poorer countries, however. It recognises that international cooperation is important for improving the living conditions of persons with disability in every country. This might include, for example, sharing of technical standards, and cooperation on issues such as copyright, which have international dimensions.

## ARTICLE 1:

### Purpose

The purpose of the present Convention 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.

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.

## Article 1. Human Rights Indicators

- **The human rights and fundamental freedoms set out in the *CRPD* apply to all persons with disability.**
- **All human rights and fundamental freedoms are promoted, protected and fulfilled.**
- **The inherent dignity of persons with disability is promoted and respected.**

## Commentary

This Article sets out the purpose of the *CRPD*. The purpose contains a number of key concepts essential to the interpretation of the *CRPD* as a whole. It sets out three levels of obligation: to *promote* (foster recognition), *protect* (prevent interference with), and *ensure* (enable the realisation of) the human rights and fundamental freedoms of persons with disability. The Article makes it clear that these levels of obligation apply to *all* human rights and fundamental freedoms. They therefore apply to all other general and specific obligations set out in the *CRPD*. The Article also requires State Parties to *promote* and *respect* (that is, not interfere with) inherent human dignity, which is the ultimate source of all human rights and freedoms. The *CRPD* does not define the terms *impairment* or *disability*, or *person with disability*. However, this Article makes it clear that the *CRPD* applies to *all persons with disabilities*, which includes (but is not limited to) persons who have long-term physical, mental, intellectual and sensory impairments. The class of persons recognised by the *CRPD* is therefore expansive and inclusive, rather than limited and restrictive. In fact, the real extent of the class of persons protected by the *CRPD* can probably only properly be ascertained by reliance upon external interpretive aids such as the World Health Organisation's *International Classification of Functioning, Disability and Health*. Although it does not define disability or persons with disability as such, the Article makes it clear that disability is to be understood according to the precepts of the social model, which interprets disability as the product of the interaction of persons with impairments with environmental barriers that hinder their full and effective participation in society on an equal basis with others. This social model understanding of disability is a fundamental underpinning of the *CRPD*.

## Article 1. Key issues

Issue	Points to consider
<b>Are the human rights and fundamental freedoms of all persons with disability promoted, protected and ensured?</b>	<ul style="list-style-type: none"> <li>What class of persons is recognised as persons with disability for the purpose of the protection of their human rights and fundamental freedoms?</li> <li>Is there any impairment or disability group, or individual with impairment or disability, that is denied their human rights and fundamental freedoms?</li> </ul>
<b>Do persons with disability enjoy all human rights and fundamental freedoms?</b>	<ul style="list-style-type: none"> <li>Are the human rights and fundamental freedoms of persons with disability effectively <i>promoted</i>?</li> <li>Are the human rights and fundamental freedoms of persons with disability effectively <i>protected</i>?</li> <li>Are the human rights and fundamental freedoms of persons with disability effectively <i>ensured</i>?</li> </ul>
<b>Is the inherent dignity of persons with disability recognised?</b>	<ul style="list-style-type: none"> <li>Is the inherent dignity of persons with disability effectively promoted?</li> <li>Is the inherent dignity of persons with disability respected?</li> </ul>



## ARTICLE 2:

### Definitions

For the purposes of the present Convention:

“Communication” includes languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology;

“Language” includes spoken and signed languages and other forms of non-spoken languages;

“Discrimination on the basis of disability” means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation;

“Reasonable accommodation” means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms;

“Universal design” means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. “Universal design” shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.

<sup>52</sup> Article 4(4) requires the preservation of existing measures more beneficial than the *CRPD*.

## Commentary

This is an interpretative Article, in that it defines five key terms used in a number of places throughout the *CRPD*. The Article does not itself enunciate human rights and fundamental freedoms, but rather will assist in clarifying the scope of the rights and freedoms set out in the *CRPD*'s general and specific obligations. The Article defines the term ‘communication’ very broadly to include forms of interaction based in speech, signs, touch, writing and electronic text, as well as to include accessible formats and communication technologies. ‘Language’ is defined to include spoken and sign language as well as other forms of non-spoken language.

The definition of ‘discrimination on the ground of disability’ is also very broadly drawn and incorporates any distinction, exclusion or restriction that has the *purpose or effect* of impairing or nullifying the enjoyment or exercise of any human right or fundamental freedom. The prohibition on discrimination on the ground of disability covers all areas of life, and is therefore far more extensive than current Australian non-discrimination law in the area of disability, which is limited to specific areas of life (such as education, employment, clubs and associations). The formulation *purpose or effect* captures direct and indirect discrimination on the ground of disability respectively. Very importantly, discrimination on the ground of disability is defined to include the denial of reasonable accommodation. “Reasonable accommodation” means necessary and appropriate modification needed by a particular person, or in a specific situation, to ensure the enjoyment or exercise of a human right or fundamental freedom on an equal basis with others. Nevertheless, the obligation to provide reasonable accommodation is limited, in that it must not impose a disproportionate or undue burden on the person or entity obliged to provide the accommodation. This test is potentially different, and arguably less stringent, than the ‘unjustifiable hardship’ test already provided in Australian non-discrimination law in the area of disability. However, because the ‘unjustifiable hardship’ test is more beneficial to persons with disability, the *Convention* will require its preservation in Australian law.<sup>52</sup> “Universal design” is defined to mean the design of products, environments, programmes and services to be usable by all people to the greatest extent possible, without the need for adaptation or specialised design. Importantly, the obligation to implement the principle of universal design does not mean that effort must not also be directed to the design and development of specialised assistive devices for persons with disability, where necessary.

## ARTICLE 3:

### General principles

The principles of the present Convention shall be:

- (a) Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
- (b) Non-discrimination;
- (c) Full and effective participation and inclusion in society;
- (d) Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- (e) Equality of opportunity;
- (f) Accessibility;
- (g) Equality between men and women;
- (h) Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

## Commentary

This Article sets out the general principles that underpin the *CRPD*. It is both an over-arching and a cross-cutting Article — meaning that these principles should be applied in all aspects of the interpretation and implementation of the *CRPD*. The Article will therefore be important in resolving any ambiguity that may arise in relation to the meaning and intention of other general and specific obligations. Any such ambiguity would need to be resolved in a way that is consistent with these general principles. The Article places major emphasis on respect for inherent dignity, personal autonomy, non-discrimination, participation and inclusion in society, and accessibility. Paragraph (e) also provides that the standard of equality that underpins the *CRPD* is 'equality of opportunity' or *substantive equality*. This standard under-girds the requirement to reasonably accommodate the needs of persons with disability provided elsewhere in both the general and specific obligations. Paragraph (d) positively situates disability as part of the spectrum of human diversity, and requires respect and acceptance of difference. It challenges deviancy or deficiency-based conceptualisations of impairment and disability. Paragraph (g) makes it clear that the *CRPD* is to be interpreted and implemented in a manner that promotes, protects, and ensures the human rights and fundamental freedoms of both men and women with disability on the basis of gender equality. Paragraph (h) requires the human rights and fundamental freedoms set out in the *CRPD* to be interpreted and applied in a manner that recognises the evolving capacities of children with disability. This is particularly relevant to the exercise of personal autonomy in decision-making, for example. The second aspect of paragraph (h) seeks to ensure that children with disability are legally recognised as persons and that their identity is preserved.



## Article 3

### Human Rights Indicators

- **All human rights and fundamental freedoms of persons with disability are interpreted and implemented in a manner consistent with the following general principles:**
  - Respect for the inherent dignity, individual autonomy, including 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.



### Article 3. Key issues

Issue	Points to consider
<b>Are all human rights and fundamental freedoms interpreted and implemented in a manner consistent with these general principles?</b>	<ul style="list-style-type: none"> <li>• Are these general principles applied in the interpretation and implementation of all aspects of the <i>CRPD</i>?</li> <li>• Are any ambiguities in the interpretation and implementation of any aspect of the <i>CRPD</i> resolved in a manner consistent with these general principles?</li> </ul>

## ARTICLE 4:

### General obligations

1. States Parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability. To this end, States Parties undertake:
  - (a) To adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention;
  - (b) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities;
  - (c) To take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes;
  - (d) To refrain from engaging in any act or practice that is inconsistent with the present Convention and to ensure that public authorities and institutions act in conformity with the present Convention;
  - (e) To take all appropriate measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise;
  - (f) To undertake or promote research and development of universally designed goods, services, equipment and facilities, as defined in article 2 of the present Convention, which should require the minimum possible adaptation and the least cost to meet the specific needs of a person with disabilities, to promote their availability and use, and to promote universal design in the development of standards and guidelines;
  - (g) To undertake or promote research and development of, and to promote the availability and use of new technologies, including information and communication technologies, mobility aids, devices and assistive technologies, suitable for persons with disabilities, giving priority to technologies at an affordable cost;
  - (h) To provide accessible information to persons with disabilities about mobility aids, devices and assistive technologies, including new technologies, as well as other forms of assistance, support services and facilities;
  - (i) To promote the training of professionals and staff working with persons with disabilities in the rights recognized in this Convention so as to better provide the assistance and services guaranteed by those rights.
2. With regard to economic, social and cultural rights, each State Party undertakes to take measures to the maximum of its available resources and, where needed, within the framework of international cooperation, with a view to achieving progressively the full realization of these rights, without prejudice to those obligations contained in the present Convention that are immediately applicable according to international law.
3. In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.
4. Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of persons with disabilities and which may be contained in the law of a State Party or international law in force for that State. There shall be no restriction upon or derogation from any of the human rights and fundamental freedoms recognized or existing in any State Party to the present Convention pursuant to law, conventions, regulation or custom on the pretext that the present Convention does not recognize such rights and freedoms or that it recognizes them to a lesser extent.
5. The provisions of the present Convention shall extend to all parts of federal states without any limitations or exceptions.

### Commentary

This is a very important article of considerable density that sets out the general obligations of State Parties in relation to the implementation of the *CRPD*. It is an over-arching and cross-cutting article in the sense that the obligations it lays down apply to the implementation of all other general and specific obligations. Paragraph 1 of the Article sets out a series of implementation measures that State Parties must agree to undertake once they become a party to the *CRPD*. This includes the obligation to enact laws and develop policies and programmes to give effect to all of the rights and freedoms recognized by the *CRPD*. It also includes the obligation to repeal or modify laws and regulations and to change customs and practices that discriminate against persons with disability. Additionally, paragraph 1 requires State Parties to undertake or promote research and development of universally designed goods, services, equipment and facilities, and to incorporate universal design into product standards and guidelines. Similarly, it requires State Parties to undertake or promote research and development of affordable new technologies, mobility aids, devices and assistive technologies, and to promote their availability and use. Paragraph 1 further seeks to guarantee that persons with disability will benefit from assistive technologies and other forms of assistance, support services and facilities by requiring State Parties to ensure that they receive accessible information about the availability and use of these technologies and services.

Finally, paragraph 1 requires State Parties to promote the training of professionals and staff working with persons with disability to ensure they have the insights and skills to assist in the realisation of the human rights and fundamental freedoms of persons with disability. Paragraph 2 of the Article preserves the traditional distinction between civil and political rights, which are subject to the standard of immediate realisation, and economic, social and cultural rights, which are subject to progressive realisation. Paragraph 2 makes it clear that economic, social and cultural rights are to be realised progressively using the maximum available resources, and if necessary, within a framework of international cooperation. Paragraph 3 of the Article places an obligation on State Parties to consult with, and actively involve, representative organisations for children and adults with disability in the development of legislation and policies to implement all aspects of the *CRPD*, and in all other decision-making processes relating to persons with disability. Paragraph 4 preserves any measures that may already exist within a state that are more beneficial than those provided in the *CRPD*. This has important implications in Australia where some measures already exceed the standard set by the *CRPD*. Paragraph 5 of the Article requires federal states, such as Australia, to ensure that the *CRPD* is fully implemented in all jurisdictions of the federation.



# Article 4

## Human Rights Indicators

- All human rights and fundamental freedoms of persons with disability are promoted, protected and fulfilled by laws, policies and programmes.
- All laws, regulations, customs and practices that constitute discrimination on the ground of disability have been modified or abolished.
- All policies and programmes take into account the promotion and protection of the human rights and fundamental freedoms of persons with disability.
- All action and practices of public authorities and institutions is consistent with the human rights and fundamental freedoms of persons with disability.
- There is no discrimination on the ground of disability by any person, organisation or private enterprise.
- Research and development of universally designed goods, services, equipment and facilities is undertaken or promoted.
- The availability and use of universally designed goods, services, equipment and facilities is promoted.
- The use of universal design in the development of standards and guidelines is promoted.
- Research and development of new technologies, mobility aids, devices, and assistive technologies for persons with disability is undertaken and promoted.
- The availability and use of new technologies, mobility aids, devices, and assistive technologies for persons with disability is promoted.
- Priority is given to research and development of technologies with an affordable cost to persons with disability.
- Accessible information is provided to persons with disability about mobility aids, devices and assistive technologies, other forms of assistance, support services and facilities.
- Professionals and staff working with persons with disability are trained to recognise and facilitate the realisation of the human rights and fundamental freedoms of persons with disability.
- The full realisation of economic, social and cultural rights is pursued to the maximum extent of available resources.
- The full realisation of economic, social and cultural rights is pursued within a framework of international cooperation, where necessary.
- The civil and political rights of persons with disability are immediately realised.
- Representative organisations for children and adults with disability are closely consulted and actively involved in the development and implementation of legislation and policies to implement the *CRPD* and all other decision-making processes concerning issues relating to persons with disability.
- Existing provisions, which are more favourable than those provided the *CRPD*, are preserved.
- The human rights and fundamental freedoms of persons with disability are recognised in all parts of Australia's federal system without any limitations or exceptions.

## Article 4. Key issues

Issue	Points to consider
Are there laws, policies and programmes in place to implement all of the human rights and fundamental freedoms recognised by the <i>CRPD</i> ?	<ul style="list-style-type: none"> <li>What are the human rights and fundamental freedoms recognised by the <i>CRPD</i>?</li> <li>What laws, policies and programmes implement these human rights and fundamental freedoms?</li> </ul>
Are there any remaining laws, regulations, customs or practices that constitute discrimination against persons with disability?	<ul style="list-style-type: none"> <li>Are there any laws and regulations that discriminate on the ground of disability?</li> <li>Are there any social customs and practices that discriminate on the ground of disability?</li> <li>What action has been taken (or is being taken) to repeal or modify any laws and regulations that discriminate on the ground of disability?</li> <li>What action has been taken (or is being taken) to change any social customs and practices that discriminate on the ground of disability?</li> </ul>
Are the human rights and fundamental freedoms of persons with disability taken into account in all policies and programmes?	<ul style="list-style-type: none"> <li>Do all policies and programmes promote and protect the human rights and fundamental freedoms of persons with disability?</li> <li>What development, monitoring and evaluation processes are in place to ensure that all policies and programmes promote and protect the human rights and fundamental freedoms of persons with disability?</li> </ul>
Do all public authorities and institutions promote and protect the human rights and fundamental freedoms of persons with disability?	<ul style="list-style-type: none"> <li>Are there any public authorities and institutions that fail to recognise, promote, or protect the human rights of persons with disability?</li> <li>Are there any particular human rights or freedoms of persons with disability that are not fully recognised, promoted or protected by public authorities and institutions?</li> </ul>
Does any person, organisation or private enterprise discriminate on the ground of disability?	<ul style="list-style-type: none"> <li>What measures are in place to eliminate discrimination on the ground of disability by individuals, organisations and private enterprises?</li> <li>How effective are these measures?</li> <li>Do these measures apply to all areas of life?</li> </ul>
Is research and development of universally designed goods, services, equipment and facilities undertaken and promoted?	<ul style="list-style-type: none"> <li>How is research and development of universally designed goods, services, equipment and facilities undertaken and promoted?</li> <li>What is the extent of such research and development? Is this adequate?</li> </ul>
Is the availability and use of universally designed goods, services, equipment and facilities promoted?	<ul style="list-style-type: none"> <li>How is the availability and use of universally designed goods, services, equipment and facilities promoted?</li> <li>What is the extent of such promotion? Is this adequate?</li> </ul>
Is universal design promoted in the development of product standards and guidelines?	<ul style="list-style-type: none"> <li>Do product standards and guidelines incorporate the principles of universal design?</li> <li>What measures are in place to promote the incorporation of universal design into product standards and guidelines?</li> <li>What is the extent of these measures? Is this adequate?</li> </ul>

## Article 4. Key issues

Issue	Points to consider
<b>Is research and development of new technologies, mobility aids, devices, and assistive technologies for persons with disability undertaken and promoted?</b>	<ul style="list-style-type: none"> <li>• How is research and development of new technologies, mobility aids, devices, and assistive technologies for persons with disability undertaken and promoted?</li> <li>• What is the extent of such research and development? Is this adequate?</li> </ul>
<b>Is priority given to research and development of affordable new technologies, mobility aids, devices, and assistive technologies for persons with disability?</b>	<ul style="list-style-type: none"> <li>• How affordable to persons with disability are new technologies, mobility aids, devices, and assistive technologies?</li> <li>• What measures are in place to ensure affordability?</li> </ul>
<b>Do persons with disability have access to accessible information about assistive devices and technologies, and other forms of assistance, support services and facilities?</b>	<ul style="list-style-type: none"> <li>• How is the availability of assistive devices and technologies, other forms of assistance, support services and facilities promoted to persons with disability?</li> <li>• Is information about the availability and use of these products and services available in a range of formats accessible to persons with disability?</li> </ul>
<b>Are professionals and staff who work with persons with disability trained to recognise and facilitate the realisation of the human rights and fundamental freedoms of persons with disability?</b>	<ul style="list-style-type: none"> <li>• Are professionals and staff provided with training about the human rights and fundamental freedoms of persons with disability?</li> <li>• What is the scope of this training?</li> <li>• How effective is this training?</li> </ul>
<b>To what extent have the economic, social and cultural rights of persons with disability been realised in Australia?</b>	<ul style="list-style-type: none"> <li>• Have all economic, social and cultural rights of persons with disability been fully realised in Australia?</li> <li>• If not, is Australia progressing towards the realisation of these rights to the maximum extent of its available resources?</li> <li>• Do persons with disability enjoy at least the minimum acceptable level of realisation of economic, social and cultural rights?</li> <li>• Are there any instances in which the state of realisation of economic, social and cultural rights of persons with disability has regressed?</li> </ul>
<b>Is the realisation of economic, social and cultural rights of persons with disability pursued through international cooperation, where necessary?</b>	<ul style="list-style-type: none"> <li>• Are there any economic, social and cultural rights whose realisation requires cooperation with other countries (e.g. in the areas of copyright, or development of product standards)?</li> <li>• If so, is such cooperation pursued?</li> <li>• What is the extent of international cooperation? Is it adequate?</li> </ul>

## Article 4. Key issues

Issue	Points to consider
<b>Do persons with disability enjoy their civil and political rights to the fullest extent?</b>	<ul style="list-style-type: none"> <li>Do persons with disability enjoy all aspects of their civil and political rights?</li> <li>Are there any instances where enjoyment of these rights is denied or diminished?</li> </ul>
<b>Are representative organisations for adults and children closely consulted and involved in the development of laws, policies, programmes and decision-making processes?</b>	<ul style="list-style-type: none"> <li>Are representative organisations of persons with disability closely consulted and involved in the development of laws, policies and programmes to implement the <i>CRPD</i>?</li> <li>Are representative organisations of persons with disability closely consulted and involved in all other decision-making processes concerning issues relating to persons with disability?</li> <li>What recognition and practical support is provided to representative organisations of persons with disability to enable them to participate in policy and programme development and decision-making processes?</li> </ul>
<b>Does Australia currently have measures in place that are more favourable than those required by the <i>CRPD</i>?</b>	<ul style="list-style-type: none"> <li>What, if any, measures are already in place in Australia that are more favourable than the requirements of the <i>CRPD</i>?</li> <li>Will these measures be preserved?</li> </ul>
<b>Will the <i>CRPD</i> be implemented throughout Australia's federation?</b>	<ul style="list-style-type: none"> <li>Will all of the human rights and fundamental freedoms of persons with disability be promoted, protected and ensured throughout the Australian federation?</li> <li>What measures are in place to ensure implementation in areas of state or territory responsibility?</li> <li>What measures are in place to ensure consistent implementation throughout the federation?</li> </ul>



## ARTICLE 5:

# Equality and non-discrimination

1. States Parties recognise that all persons are equal before and under the law and are entitled without discrimination to the equal protection and equal benefit of the law.
2. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.
3. In order to promote equality and eliminate discrimination, State Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.
4. Specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention.

## Commentary

This Article asserts the human right of persons with disability to equality before the law and to freedom from discrimination. It is also an over-arching and cross-cutting article that applies to the implementation of all other general and specific obligations. There are several dimensions to legal equality. Paragraph 1 provides that persons with disability are entitled to equality *before the law* (meaning the law is the same for everyone), and *under the law* (meaning that the law is applied in the same way to everyone). It also provides that persons with disability are entitled to *equal protection of the law* (meaning that the law shields persons with disability from harm in the same way that it shields others) and to *equal benefit of the law* (meaning that persons with disability may use the law to pursue their interests in the same way that others may). Paragraph 2 requires State Parties to prohibit discrimination on the basis of disability and to guarantee persons with disability equal and effective legal protection against discrimination on all grounds (that is, on the basis of disability or any other status such as gender, age, race, ethnicity, religion or sexuality). Paragraph 3 establishes a general obligation on State Parties to take all appropriate steps to ensure that reasonable accommodation is provided for persons with disability in order to promote equality and eliminate discrimination. Paragraph 4 makes it clear that the prohibition on discrimination does not apply to favourable measures (even though they involve different treatment of persons with disability), which are designed to facilitate substantial equality between persons with disability and others. Examples of these positive measures include specialist programmes and services that are only available to persons with disability, or to particular groups or individuals with disability. Paragraph 4 would also permit favourable modifications to the legal rights and responsibilities of persons with disability, and to the legal process, designed to ensure substantial equality of treatment.



## Article 5. Human Rights Indicators

- The law is the same for persons with disability as it is for others.
- The law is applied to persons with disability in the same way as it is applied to others.
- The law shields persons with disability from harm in the same way it does for others.
- Persons with disability are able to use the law to protect or pursue their interests on an equal basis with others.
- Discrimination on the ground of disability is prohibited.
- Persons with disability are effectively protected from discrimination on the ground of disability, and on all other grounds.
- All appropriate steps are taken to ensure the provision of reasonable accommodation of the needs of persons with disability.
- Positive measures designed to promote and achieve equality for persons with disability are excepted from the prohibition of discrimination on the ground of disability.



## Article 5. Key issues

Issue	Points to consider
<b>Is the law the same for persons with disability as it is for others?</b>	<ul style="list-style-type: none"> <li>• Are persons with disability (or any individuals or groups of persons with disability) subject to special laws?</li> <li>• Are persons with disability (or any individuals or groups of persons with disability) excluded from any laws?</li> </ul>
<b>Is the law applied to persons with disability in the same way as it is applied to others?</b>	<ul style="list-style-type: none"> <li>• Are there any situations in which the law is applied differently to persons with disability than it is for others?</li> <li>• For example, is the law enforced in the same way in relation to persons with disability as it is for others?</li> </ul>
<b>Does the law shield persons with disability from harm in the same way it does others?</b>	<ul style="list-style-type: none"> <li>• Does the law, as written, effectively protect persons with disability from harm?</li> <li>• Are laws intended to protect persons with disability from harm effectively enforced?</li> <li>• Does the legal process effectively protect persons with disability from harm?</li> </ul>
<b>Are persons with disability able to use the law to protect or pursue their interests on an equal basis with others?</b>	<ul style="list-style-type: none"> <li>• Are persons with disability able to use the law to effectively protect or pursue their interests?</li> <li>• Does the legal process allow persons with disability to effectively protect or pursue their interests?</li> <li>• Do persons with disability have access to legal aid or other necessary support to effectively protect and pursue their interests?</li> </ul>
<b>Does the law prohibit discrimination on the ground of disability?</b>	<ul style="list-style-type: none"> <li>• Is there a legal prohibition on discrimination on the ground of disability?</li> <li>• Does it cover all areas of life?</li> </ul>
<b>Are persons with disability effectively protected from discrimination on the ground of disability, and on all other grounds?</b>	<ul style="list-style-type: none"> <li>• Is there a legal prohibition on discrimination on the ground of any status (for example, gender, age, race, ethnicity, religion, sexuality)?</li> <li>• Do these laws offer effective protection against discrimination? Are they effectively enforced?</li> <li>• Do any laws prohibiting discrimination on the ground of disability offer effective protection against discrimination? Are they effectively enforced?</li> <li>• Do laws prohibiting discrimination offer effective protection against discrimination on the ground of more than one status (e.g. gender and disability)?</li> </ul>
<b>Are all appropriate steps taken to ensure the provision of reasonable accommodation of the needs of persons with disability?</b>	<ul style="list-style-type: none"> <li>• Do any laws prohibiting discrimination on the ground of disability require the provision of reasonable accommodation of the needs of persons with disability?</li> <li>• What other measures are in place to ensure the provision of reasonable accommodation of the needs of persons with disability?</li> </ul>
<b>Are positive measures, which designed to promote and achieve equality for persons with disability, excepted from the prohibition of discrimination on the ground of disability?</b>	<ul style="list-style-type: none"> <li>• Do laws prohibiting discrimination on the ground of disability permit positive discrimination in favour of persons with disability aimed at promoting or achieving equality?</li> <li>• What positive measures are available to persons with disability to promote and achieve equality with others?</li> </ul>

## ARTICLE 6:

### Women with disabilities

1. States Parties recognise that women and girls with disabilities are subject to multiple discrimination, and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms.
2. States Parties shall take all appropriate measures to ensure the full development, advancement and empowerment of women, for the purpose of guaranteeing them the exercise and enjoyment of the human rights and fundamental freedoms set out in the present Convention.

## Commentary

This is an over-arching and cross-cutting article that imposes a general obligation on State Parties to recognise pre-existing gender inequality and to take positive action to ensure that women and girls with disability enjoy all human rights and fundamental freedoms recognised by the *CRPD* on an equal basis with men and boys. Paragraph 2 of the Article makes it clear that this is to include positive measures (or positive discrimination) in favour of women and girls with disability to ensure their development, advancement and empowerment, and their ability to exercise their human rights and fundamental freedoms. The Article is reinforced by other specific applications of human rights and fundamental freedoms to women and girls with disability set out in a number of the specific obligations.

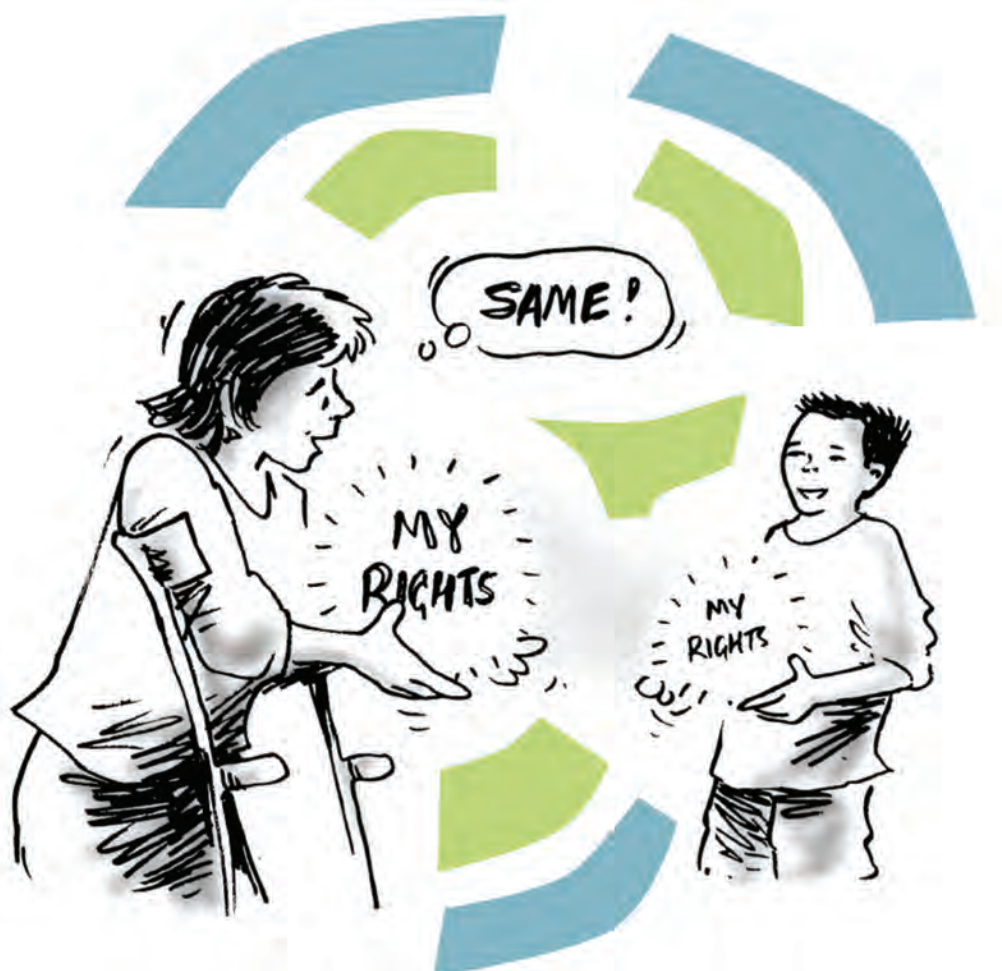


## Article 6. Human Rights Indicators

- **The pre-existing gender inequality of women and girls with disability is recognised in all aspects of *CRPD* implementation.**
- **Women and girls with disability enjoy all human rights and fundamental freedoms on the basis of equality with men and boys.**
- **Positive measures are in place to ensure the development, advancement and empowerment of women and girls with disability, and their ability to exercise their human rights and fundamental freedoms.**

## Article 6. Key issues

Issue	Points to consider
Is the pre-existing gender inequality of women and girls with disability recognised in all aspects of CRPD implementation?	<ul style="list-style-type: none"> <li>Is the pre-existing gender inequality of women and girls with disability recognised at a policy level?</li> <li>Is it recognised in programme development?</li> </ul>
Do women and girls with disability enjoy all human rights and fundamental freedoms on the basis of equality with men and boys?	<ul style="list-style-type: none"> <li>Are there areas of gender-related inequality of outcomes for women and girls with disability?</li> </ul>
What positive measures are in place to ensure the development, advancement and empowerment of women and girls with disability, and their ability to exercise their human rights and freedoms?	<ul style="list-style-type: none"> <li>Are there specific policies focused on the development, advancement and empowerment of women and girls with disability?</li> <li>Are there specific programmes or initiatives focused on the development, advancement and empowerment of women and girls with disability?</li> <li>Is implementation of all human rights and fundamental freedoms conducted in a gender sensitive and responsive manner?</li> </ul>



## ARTICLE 7:

### Children with disabilities

1. States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.
2. In all actions concerning children with disabilities, the best interests of the child shall be a primary consideration.
3. States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right.



## Commentary

This is an over-arching and cross-cutting article that imposes an obligation on State Parties to ensure that children and young persons with disability are able to exercise their human rights and fundamental freedoms on an equal basis with other children. It attempts to ensure that all of the general and specific obligations set down by the *CRPD* are implemented in a manner that recognises the particular susceptibility of children and young persons with disability to human rights violations. The Article is reinforced by other specific applications of human rights and fundamental freedoms to children with disability set out in a number of the specific obligations. The Article reaffirms, specifically with respect to children and young persons with disability, the principle established in the *Convention on the Rights of the Child* that in all actions concerning children, the ‘best interests of the child’ shall be a primary consideration. The principle aims to avoid situations where decisions concerning children and young persons are made for the benefit of others, rather than for the child or young person. The Article also reaffirms the principle established in the *Convention on the Rights of the Child*, but specifically with respect to children and young persons with disability, that children and young persons have an evolving capacity to participate in and make decisions affecting their lives. To this end, the article requires State Parties to ensure that children and young persons with disability are able to express views freely on all matters that affect them. These views must be given due weight taking into account the age and maturity of the child or young person with disability, on an equal basis with other children and young persons. Importantly, in order for children and young persons with disability to realise their evolving capacity for autonomy, State Parties must ensure the provision of any necessary disability- or age-related assistance required by the child or young person. This may require the provision of reasonable accommodation of disability related needs, or procedural adjustments to the legal process, for example.

## Article 7.

### Human Rights Indicators

- Children and young persons with disability enjoy all human rights and fundamental freedoms on an equal basis with other children.
- In all action concerning children and young persons with disability, the 'best interests of the child' is a primary consideration.
- The evolving autonomy of children and young persons with disability is recognised in all decision-making processes that affect them.
- Children and young persons with disability are able to express their views on all matters that affect them.
- The views of children and young persons with disability are given appropriate weight in all decision-making processes.
- Reasonable accommodation is provided to children and young persons with disability where required to ensure their ability to participate in decision-making processes on an equal basis with other children.
- Age-related accommodations are provided to children and young persons with disability on an equal basis with other children to ensure their ability to participate in decision-making processes.



## Article 7. Key issues

Issue	Points to consider
<b>Do children and young persons with disability enjoy all human rights and fundamental freedoms on an equal basis with other children?</b>	<ul style="list-style-type: none"> <li>• Are children and young persons with disability viewed as ‘right-bearers’ on an equivalent basis to other children and young persons?</li> <li>• Are human rights and fundamental freedoms implemented in a manner that recognises the specific status, needs and concerns of children and young persons with disability?</li> <li>• Do children and young persons with disability experience violations of their human rights and fundamental freedoms?</li> </ul>
<b>Is the ‘best interests of the child’ a primary consideration in all actions concerning children and young persons with disability?</b>	<ul style="list-style-type: none"> <li>• What principles underpin decision-making in relation to children and young persons with disability?</li> <li>• Is the principle of the ‘best interests of the child’ a primary consideration?</li> <li>• How are the interests of the child or young person identified and prioritised among competing interests?</li> </ul>
<b>Is the evolving autonomy of children and young persons with disability recognised in all decision-making processes that affect them?</b>	<ul style="list-style-type: none"> <li>• Do laws, policies and practices recognise and respect the evolving autonomy and capacity of children and young persons with disability?</li> <li>• Is the evolving autonomy and capacity of children and young persons with disability encouraged and supported?</li> <li>• Are children and young persons with disability able to exercise their evolving capacity and autonomy on an equal basis with other children?</li> </ul>
<b>Are children and young persons with disability able to express their views on all matters that affect them?</b>	<ul style="list-style-type: none"> <li>• Do laws, policies, and practices recognise and respect the right of children and young persons with disability to express their views on all matters that affect them?</li> <li>• Are children and young persons with disability able to express their views on an equal basis with other children?</li> <li>• How is such participation encouraged and supported?</li> </ul>
<b>Are the views of children and young persons with disability given appropriate weight in all decision making processes?</b>	<ul style="list-style-type: none"> <li>• Are the views of children and young persons with disability taken into account in decision-making processes that affect them?</li> <li>• What weight is given to these views?</li> <li>• How is the weight to be given to the views of children and young persons with disability determined?</li> <li>• Are these processes equivalent to those for other children?</li> </ul>
<b>Is reasonable accommodation provided to children and young persons with disability where required to ensure their ability to participate in decision-making processes on an equal basis with other children?</b>	<ul style="list-style-type: none"> <li>• What accommodations or adjustments are available to children and young persons with disability to ensure that they are able to exercise their autonomy and capacity?</li> <li>• Are these accommodations, and the circumstances in which they are provided, adequate to ensure equality of participation in decision-making with other children?</li> </ul>
<b>Are age-related accommodations provided to children and young persons with disability on an equal basis with other children to ensure their ability to participate in decision-making processes?</b>	<ul style="list-style-type: none"> <li>• What age-related accommodations are provided to children and young persons with disability to ensure they are able to participate in decision-making processes?</li> <li>• Are these accommodations, and the circumstances in which they are provided, adequate to ensure effective participation?</li> </ul>

## ARTICLE 8:

### Awareness raising

1. States Parties undertake to adopt immediate, effective and appropriate measures:
  - (a) To raise awareness throughout society, including at the family level, regarding persons with disabilities, and to foster respect for the rights and dignity of persons with disabilities;
  - (b) To combat stereotypes, prejudices and harmful practices relating to persons with disabilities, including those based on sex and age, in all areas of life;
  - (c) To promote awareness of the capabilities and contributions of persons with disabilities.
2. Measures to this end include:
  - (a) Initiating and maintaining effective public awareness campaigns designed:
    - (i) To nurture receptiveness to the rights of persons with disabilities;
    - (ii) To promote positive perceptions and greater social awareness towards persons with disabilities;
    - (iii) To promote recognition of the skills, merits and abilities of persons with disabilities, and of their contributions to the workplace and the labour market;
  - (b) Fostering at all levels of the education system, including in all children from an early age, an attitude of respect for the rights of persons with disabilities;
  - (c) Encouraging all organs of the media to portray persons with disabilities in a manner consistent with the purpose of the present Convention;
  - (d) Promoting awareness-training programmes regarding persons with disabilities and the rights of persons with disabilities.

## Commentary

This Article requires State Parties to take immediate action to improve the status of persons with disability at all levels of society by raising awareness and fostering respect for their rights and dignity. This includes an obligation to combat stereotypes, prejudices and harmful practices impacting on persons with disability, including those that are based on gender and age. It also includes the obligation to promote awareness of the capabilities and contribution to society of persons with disability. The Article then sets out a range of measures that may be taken to give effect to these obligations. They include the development of public awareness campaigns designed to nurture receptiveness to the rights of persons with disability, and to promote positive perceptions and greater social awareness of persons with disability. It also includes the development of public awareness campaigns aimed at promoting recognition of the skills and abilities of persons with disability particularly targeted to the workplace and labour market. The Article also suggests specific action at all levels of the education system to foster respect for the rights of persons with disability and in relation to the media, to ensure the portrayal of persons with disability in a manner consistent with human rights and fundamental freedoms.



## Article 8. Human Rights Indicators

- The human rights and dignity of persons with disability are recognised and respected at all levels of society and in all areas of life.
- The community is receptive to the human rights of persons with disability.
- The community has positive perceptions of persons with disability.
- Stereotypes, prejudices and harmful practices relating to persons with disability are effectively combated at all levels of society and in all areas of life.
- The capability and contribution of persons with disability is effectively promoted at all levels of society and in all areas of life.
- The media portrays persons with disability in a manner that is consistent with their human rights and dignity.

### Article 8. Key issues

Issue	Points to consider
Are the human rights and dignity of persons with disability recognised and respected at all levels of society and in all areas of life?	<ul style="list-style-type: none"> <li>• What is the status of persons with disability within society?</li> <li>• Are the human rights and fundamental freedoms of persons with disability recognised and respected?</li> <li>• Are persons with disability treated with dignity?</li> <li>• Is respect for the rights of persons with disability fostered at all levels of the education system?</li> </ul>
How receptive is the community to the human rights of persons with disability?	<ul style="list-style-type: none"> <li>• Does the community respond positively when persons with disability assert their rights?</li> <li>• Does the community willingly accord persons with disability their rights?</li> </ul>
Does the community have positive perceptions of persons with disability?	<ul style="list-style-type: none"> <li>• How are persons with disability perceived by the community?</li> <li>• Are persons with disability perceived according to any negative stereotypes? If so, what are these stereotypes?</li> </ul>
Are stereotypes, prejudices and harmful practices relating to persons with disability effectively combated at all levels of society and in all areas of life?	<ul style="list-style-type: none"> <li>• What measures are taken to combat stereotypes, prejudices and harmful practices relating to persons with disability?</li> <li>• What is the scope of these measures? How effective are they?</li> </ul>
Is the capability and contribution of persons with disability effectively promoted at all levels of society and in all areas of life?	<ul style="list-style-type: none"> <li>• What measures are taken to promote the capacity and contribution of persons with disability?</li> <li>• What is the scope of these measures? How effective are they?</li> <li>• Do these measures highlight the potential contribution of persons with disability to the workforce and labour market?</li> </ul>
Does the media portray persons with disability in a manner consistent with their human rights and dignity?	<ul style="list-style-type: none"> <li>• How are persons with disability portrayed in the media?</li> <li>• What guidelines exist, if any, in relation to the portrayal of persons with disability in the media?</li> <li>• How appropriate are these guidelines, if any? Are these guidelines enforced?</li> </ul>

## ARTICLE 9:

### Accessibility

1. To enable persons with disabilities to live independently and participate fully in all aspects of life, State Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:
  - (a) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;
  - (b) Information, communications and other services, including electronic services and emergency services.
2. States Parties shall also take appropriate measures to:
  - (a) Develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;
  - (b) Ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities;
  - (c) Provide training for stakeholders on accessibility issues facing persons with disabilities;
  - (d) Provide in buildings and other facilities open to the public signage in Braille and in easy to read and understand forms;
  - (e) Provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters to facilitate accessibility to buildings and other facilities open to the public;
  - (f) Promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information;
  - (g) Promote access for persons with disabilities to new information and communications technologies and systems, including the Internet;

- (h) Promote the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost.

### Commentary

This Article imposes a general obligation on State Parties to enable persons with disability to live independently and participate fully in all aspects of life by ensuring their access to the environment. This requires State Parties to identify and eliminate obstacles and barriers to accessibility. Access to public and domestic buildings, transport and transport infrastructure, information and communication technologies and systems, and public services and facilities are particularly highlighted. Also particularly highlighted is the requirement for medical facilities, electronic services (for example, EFTPOS), and emergency services to be accessible to persons with disability. Additionally, the article requires appropriate measures to be taken to ensure that signage in public buildings is available in Braille and easy to read formats, and that live assistance and intermediaries are available, where required, to facilitate access by persons with disability to buildings and other facilities open to the public. The Article places major emphasis on the promotion of access for persons with disability to new information and communications technologies and systems, including the Internet. In this respect, it requires State Parties to promote the incorporation of accessibility measures into the design, development, production and distribution of accessible information and communication technologies and systems. Building accessibility features into the design and development stage has the important benefit that later activation of these features can be achieved at no, or minimal, additional cost. Importantly, the Article requires equivalent levels of accessibility to be available in both urban and rural areas. It is also important to note that the obligations imposed by the Article apply to public services and facilities provided by government and the private sector. The Article makes it clear that accessibility is to be achieved through a variety of implementation measures. These include the development and monitoring of minimum standards and guidelines for accessibility, and the provision of training for stakeholders in accessibility issues.

## Article 9. Human Rights Indicators

- Persons with disability are able to access all aspects of the environment on an equal basis with others, including:
  - Public and private buildings and facilities, including schools, housing, medical facilities and workplaces;
  - Information and communications, including information and communication technologies and systems;
  - Transport and transport infrastructure.
- Barriers and obstacles to accessibility of public facilities and services are identified in eliminated.
- Standards and guidelines are in place and are enforced to ensure the accessibility of public services and facilities.
- Standards and guidelines for accessibility apply to both government and private entities providing public services and facilities.
- Training on accessibility issues for persons with disability is provided to all relevant stakeholders (for example, architects, planners, and engineers).
- Signage in public buildings is available in Braille, and in easy to read and comprehend formats.
- Live assistance and intermediaries (such as guides, readers and sign language interpreters) are available to facilitate accessibility to public buildings and facilities.
- Any other necessary assistance is available to persons with disability to ensure their access to information.
- Persons with disability have access to new information and communications technologies and systems, including the Internet.
- Information and communication technologies and systems are from the outset designed, developed, produced, and distributed so as to incorporate accessibility features.
- Information and communication technologies and systems may be made accessible to persons with disability at minimum cost.

### Article 9. Key issues

Issue	Points to consider
Are persons with disability able to access all aspects of the environment on an equal basis with others?	<ul style="list-style-type: none"> <li>• Are public and private buildings and facilities, including schools, housing, medical facilities and workplaces accessible to persons with disability?</li> <li>• Are information and communications, including information and communication technologies and systems accessible to persons with disability?</li> <li>• Is public transport and public transport infrastructure accessible to persons with disability?</li> <li>• Are all other aspects of the environment accessible to persons with disability?</li> </ul>
Are barriers and obstacles to accessibility of public facilities and services identified and eliminated?	<ul style="list-style-type: none"> <li>• What processes are in place to identify barriers and obstacles to accessibility in public facilities and services?</li> <li>• What measures are in place to ensure that these barriers and obstacles are eliminated?</li> </ul>
Are there appropriate standards and guidelines for the accessibility of public services and facilities?	<ul style="list-style-type: none"> <li>• Are there appropriate standards and guidelines to ensure the accessibility of public services and facilities?</li> <li>• Are these standards and guidelines mandatory or advisory?</li> <li>• Are any mandatory standards and guidelines enforced?</li> <li>• How are any advisory standards and guidelines promoted?</li> </ul>

## Article 9. Key issues

Issue	Points to consider
<b>Do any standards and guidelines for accessibility apply to both government and private entities providing public services and facilities?</b>	<ul style="list-style-type: none"> <li>What entities are covered by any accessibility standards and guidelines?</li> <li>Are promotion and enforcement measures undertaken in relation to accessibility standards equally effective for public and private entities?</li> </ul>
<b>Is training on accessibility issues provided to all relevant stakeholders?</b>	<ul style="list-style-type: none"> <li>What training is available in relation to accessibility issues?</li> <li>How is this training, if any, mandated, and who provides it?</li> <li>What is the quality of any training provided?</li> <li>To whom is training in relation to accessibility issues for persons with disability provided? Does it involve all relevant professionals including, architects, planners, engineers, product designers)? Does it include persons with disability?</li> </ul>
<b>Is signage in public buildings available in formats accessible to persons with disability?</b>	<ul style="list-style-type: none"> <li>Is signage available in Braille?</li> <li>Is signage available in language and graphics that are easy to read and comprehend?</li> <li>Is the degree of colour contrast adequate?</li> <li>Is the level of accessible signage equivalent to signage for others?</li> </ul>
<b>Are live assistance and intermediaries available to persons with disability in order to facilitate their access to public buildings and facilities?</b>	<ul style="list-style-type: none"> <li>Are guides available to persons with disability, where required, to assist them to access public buildings and facilities?</li> <li>Are readers available to persons with disability, where required, to assist them to access public buildings and facilities?</li> <li>Are sign language interpreters available to persons with disability, where required, to assist them to access public buildings and facilities?</li> </ul>
<b>Is any other necessary assistance available to persons with disability to ensure their access to information?</b>	<ul style="list-style-type: none"> <li>What other assistance is available to persons with disability to ensure their effective access to information?</li> </ul>
<b>Are new information and communications technologies and systems accessible to persons with disability?</b>	<ul style="list-style-type: none"> <li>Are there standards and guidelines for accessibility that apply to the development of new information and communications technologies?</li> <li>Are any such standards and guidelines effectively enforced?</li> <li>What measures are in place to ensure that the Internet, specifically, is accessible to persons with disability?</li> </ul>
<b>Do information and communication technologies incorporate accessibility features at all stages of development?</b>	<ul style="list-style-type: none"> <li>What measures are in place to ensure that accessibility features are incorporated at the design and development stage for new information and communication technologies?</li> <li>What measures are in place to ensure that accessibility features are incorporated into the production and distribution stage for new information and communication technologies?</li> <li>How effective are any such measures?</li> </ul>
<b>What is the cost of making information and communication technologies accessible to persons with disability?</b>	<ul style="list-style-type: none"> <li>What is the cost of making information and communication technologies accessible to persons with disability?</li> <li>Who bears this cost?</li> <li>Is this cost minimised by the incorporation of accessibility features to the maximum extent possible in the design, development, production and distribution stages for these technologies?</li> </ul>

## ARTICLE 10:

### Right to Life

States Parties reaffirm that every human being has the inherent right to life and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others.

#### Commentary

This Article *reaffirms* the right to life for persons with disability; that is, it restates the pre-existing right to life of all persons. To understand the full extent of the right we therefore need to go back to its original statement in the *Universal Declaration of Human Rights* and the *International Covenant on Civil and Political Rights*, as well as understand its development in the *Convention on the Rights of the Child* and through treaty body commentary. The right to life is a civil and political right that was originally formulated as a restraint on arbitrary interference with life. However, this understanding has evolved over time. The Human Rights Committee<sup>53</sup> has said that the expression *inherent right to life* cannot be properly understood in a restrictive manner, and requires State Parties to adopt positive measures (that is, take action to protect and enable life, not just refrain from interfering with life). The Human Rights Committee has also highlighted a number of specific threats to life, which State Parties must take steps to overcome, including potential arbitrary threats from security forces and forced disappearance. The *Convention on the Rights of the Child* extends the right to life to incorporate a right of *survival and development* in relation to children.

The *CRPD* requires State Parties to take *all necessary measures* to ensure that persons with disability enjoy the right to life on an equal basis with others. This formulation clearly encapsulates the Human Rights Committee's view that the right to life requires State Parties to take positive action to protect and enable life. This will include the provision of those health care and social services that are essential to the survival of persons with disability. In other words, realisation of the right to life and survival for persons with disability requires action towards the attainment of key economic, social and cultural rights.

There is a continuing debate about whether the right to life vests at birth or following conception, but most commentators take the view that the right only vests at birth. The right to life in the *CRPD* therefore probably does not apply to the pre-birth termination of pregnancy on the basis of impairment, although the position will remain arguable. The *International Covenant on Civil and Political Rights* focuses on protection from *arbitrary* deprivation of life. This would clearly encompass threats to life from discrimination on the ground of disability; for example, the withholding or withdrawal of health care on the basis of impairment and disability. The right to life in the *CRPD* must be understood in this light. As in other areas of the *Convention*, the requirement that persons with disability are able to enjoy the right to life *on an equal basis with others* must be understood as requiring reasonable accommodation of impairment and disability related needs, not merely equal treatment with others.

<sup>53</sup> The Human Rights Committee is the treaty body for the International Covenant on Civil and Political Rights.

## Article 10. Human Rights Indicators

- **Persons with disability enjoy the right to life and survival on an equal basis with others.**
- **All necessary measures are taken to ensure that persons with disability enjoy the right to life and survival on an equal basis with others.**
- **Persons with disability are not arbitrary deprived of life, including as a result of discrimination on the ground of disability.**
- **The right to life is protected by law (and these laws are effective in relation to persons with disability).**

## Article 10. Key issues

Issue	Points to consider
<b>Do persons with disability enjoy the right to life and survival on an equal basis with others?</b>	<ul style="list-style-type: none"> <li>• What is the life expectancy of persons with disability in general compared with the rest of the population?</li> <li>• What is the life expectancy of persons with disability who experience multiple and aggravated disadvantage because of their gender, age, racial, ethnic and religious background, indigenous background, sexuality or other status?</li> <li>• Do persons with disability experience any specific threats to life and survival?</li> <li>• Are there any specific failures to respect and protect the lives of persons with disability compared to others?</li> </ul>
<b>What steps are taken to ensure that persons with disability enjoy the right to life and survival on an equal basis with others?</b>	<ul style="list-style-type: none"> <li>• Do persons with disability have adequate access to health and social services, and other social supports necessary for survival?</li> <li>• Are specific threats to life and survival of persons with disability adequately recognised and addressed in public policy?</li> </ul>
<b>Are persons with disability subject to arbitrary deprivation of life?</b>	<ul style="list-style-type: none"> <li>• Are laws recognising and protecting the right to life and survival of all persons applied differently in the case of persons with disability?</li> <li>• Is there any evidence of discrimination in the provision of health care and social supports necessary for the survival of persons with disability?</li> <li>• What are the attitudes and practices of health and social service professionals in relation to the right to life and survival of persons with disability?</li> <li>• Is there anything in the way that security services, such as police, interact with persons with disability that constitutes a threat to life and survival?</li> <li>• Is there anything about the way that the Australian immigration system operates that constitutes a threat to life from forced disappearance?</li> </ul>
<b>Does the law recognise and protect the right to life and survival of persons with disability?</b>	<ul style="list-style-type: none"> <li>• Is the right to life of all persons effectively protected by law?</li> <li>• Are there laws that recognise and address the specific threats to the life and survival of persons with disability?</li> <li>• Are these laws effectively enforced?</li> </ul>



**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.

## Article 11. Human rights indicators

- All necessary measures are taken to ensure the protection and safety of persons with disability in situations of risk.

**Commentary**

This Article is an important new development, or application, of the right of life and survival to situations of risk and humanitarian emergencies impacting on persons with disability. The *CRPD* was developed during the period 2001–2006 against a backdrop of extraordinary events in the international community. These included the terrorist attacks in New York, Madrid, and London, the South-East Asian Tsunami, earthquakes in Asia and the Middle East, as well as the wars in Afghanistan, Iraq, Israel, Palestine and Lebanon. The development of the *CRPD* provided the opportunity to highlight the disproportionate impact of disaster and conflict on persons with disability. The Article has both a domestic and an extraterritorial dimension. It requires State Parties to ensure that domestic responses to emergency, for example, standards for built environment, and domestic disaster planning, provide for the protection and safety of persons with disability in situations of emergency. It also requires State Parties to ensure that their obligations under international humanitarian law are fulfilled in a manner that ensures the protection and safety of persons with disability. This will require both the elimination of discrimination on the ground of disability, and specific measures to respond to the needs of persons with disability, in humanitarian assistance provided internationally.

**Article 11. Key issues**

Issue	Points to consider
<b>What measures are taken to ensure the safety and protection of persons with disability in situations of domestic emergency?</b>	<ul style="list-style-type: none"> <li>• Do Australian building standards provide for the safety and protection of persons with disability in situations of emergency?</li> <li>• Does emergency response planning provide for the safety and protection of persons with disability in situations of emergency?</li> <li>• Are persons with disability consulted and informed about measures to secure their safety and protection in situations of emergency?</li> </ul>
<b>Does Australian international humanitarian assistance ensure the safety and protection of persons with disability in situations of risk?</b>	<ul style="list-style-type: none"> <li>• Are persons with disability recognised as a specific population group in humanitarian assistance policy and programming?</li> <li>• Is there discrimination on the ground of disability in Australian humanitarian assistance policy and programmes?</li> </ul>

## ARTICLE 12:

### Equal recognition before the law

1. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.
2. States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.
3. States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.
4. States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that measures relating to legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body. The safeguards shall be proportional to the degree to which such measures affect the person's rights and interests.
5. Subject to the provisions of this article, States Parties shall take all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and shall ensure that persons with disabilities are not arbitrarily deprived of their property.

## Commentary

This Article *reaffirms* the right of all persons with disability to equal recognition before the law, but applies it to the specific circumstances they face. There are two dimensions to the right, *legal personality* (that is, a person on whom the legal system confers rights and imposes duties) and *capacity to act* (that is, the ability to exercise these rights and perform these duties). Paragraph 1 of the Article makes it clear that all persons, including all persons with disability, should be recognised in all situations as persons with rights and duties under the law. Paragraphs 2 and 3 of the Article are concerned with the issue of *capacity to act*. They require State Parties to ensure that persons with disability receive the support they need to exercise their legal capacity on an equal basis with others in all aspects of their lives. The term *equal basis with others* includes recognition of age-related differences in capacity to act in relation to children and young persons. The emphasis in these paragraphs is on supported decision-making (assisting the person to make a decision personally), rather than substitute-decision making (someone else making a decision for the person), although the Article permits the continued operation of guardianship-type arrangements. Paragraph 4 sets out minimum safeguards against abuse that State Parties are required to institute in relation to supported decision-making (including substitute decision-making) of any kind. These safeguards include an obligation that the support provider respect the rights, will and preferences of the person being supported, and that the type of support is proportionate to the person's needs (that is, it is the least restrictive necessary). Support must also be individualised, and free from conflict of interest and undue influence. Support arrangements must also be subject to regular review by an independent and impartial authority. Paragraph 5 of the Article focuses on the right of persons with disability to own and inherit property, and to have equal access to financial credit. It provides that persons with disability cannot be deprived of their property without a proper lawful reason. Paragraph 5 is expressed as subject to other provisions of the Article, which means that persons with disability are entitled to receive support to manage their financial affairs, and any such support must be subject to safeguards against abuse.

## Article 12.

### Human Rights Indicators

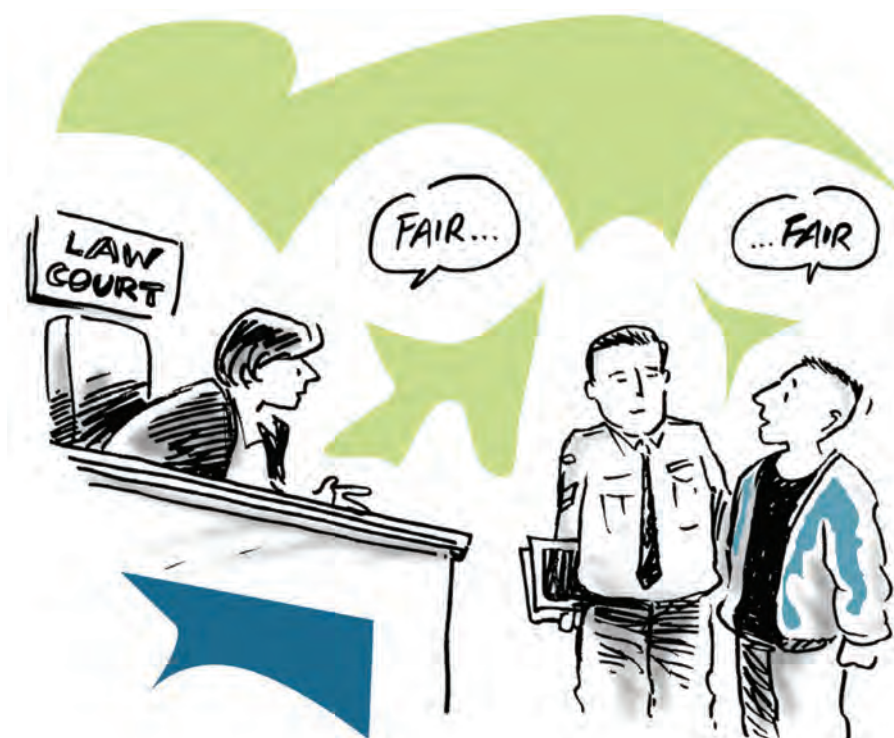
- All persons with disability are recognised at all times and in all situations as persons with legal rights and duties.
- Persons with disability are able to exercise legal capacity on an equal basis with others.
- Persons with disability receive any support they may require to exercise their legal capacity. Any such support:
  - Respects the rights, will and preferences of the person;
  - Is free from conflict of interest and undue influence;
  - Is proportionate to the person's need for such support (that is, is the least restrictive necessary);
  - Is individualised;
  - Is provided only for the period necessary;
  - Is subject to regular review by an independent and impartial authority.
- Persons with disability are able to own and inherit property.
- Persons with disability have access to credit on an equal basis with others.
- Persons with disability are not deprived of their property without proper lawful reason.
- Persons with disability are able to control their own financial affairs on an equal basis with others.
- Persons with disability receive any support they may require to manage their financial affairs. Any such support:
  - Respects the rights, will and preferences of the person;
  - Is free from conflict of interest and undue influence;
  - Is proportionate to the person's need for such support (that is, it is the least restrictive necessary);
  - Is individualised;
  - Is provided only for the period necessary;
  - Is subject to regular review by an independent and impartial authority.

## Article 12. Key issues

Issue	Points to consider
<b>Are all persons with disability recognised at all times and in all situations as persons with legal rights and duties?</b>	<ul style="list-style-type: none"> <li>Are all persons with disability recognised as a matter of law as persons with legal rights and responsibilities?</li> <li>Are all persons with disability recognised as a matter of practice as persons with legal rights and responsibilities?</li> <li>Does the law or practice modify the legal rights and duties of any persons with disability? If so, how does this affect the enjoyment of this human right?</li> </ul>
<b>Are persons with disability able to exercise legal capacity on an equal basis with others?</b>	<ul style="list-style-type: none"> <li>Are all persons with disability presumed to have legal capacity on an equal basis with others?</li> <li>Are children and young persons with disability presumed to have legal capacity equivalent to that accorded to other children and young persons?</li> <li>Do all persons with disability receive any support they may require in order to exercise their legal capacity on an equal basis with others?</li> <li>Do persons with disability, as far as possible, receive support to make their own decisions, rather than have someone else make these decisions on their behalf?</li> </ul>
<b>Are there effective safeguards against abuse of supported (including substitute) decision-making arrangements?</b>	<ul style="list-style-type: none"> <li>Do supported decision-making arrangements respect the rights of persons with disability?</li> <li>Do supported decision-making arrangements respect will and preferences of persons with disability?</li> <li>Are supported decision-making arrangements free from conflict of interest?</li> <li>Are supported decision-making arrangements free from undue influence?</li> <li>Are supported decision-making arrangements proportionate to the person's need for assistance and the least restrictive necessary?</li> <li>Are supported decision-making arrangements tailored to the circumstances and needs of the specific individual to whom they relate?</li> <li>Are supported decision-making arrangements time-limited only to the period they are required?</li> <li>Are supported decision-making arrangements subject to regular review by an independent and impartial authority?</li> </ul>
<b>Are persons with disability able to own and inherit property?</b>	<ul style="list-style-type: none"> <li>Does the law allow persons with disability to acquire, hold and dispose of property on an equal basis with others?</li> <li>Are there any situations in which persons with disability are deprived of their property without proper lawful reason?</li> <li>Does the law allow persons with disability to inherit property on an equal basis with others?</li> <li>Does the law and practice protect the inheritance rights of persons with disability?</li> </ul>
<b>Do persons with disability have access to credit on an equal basis with others?</b>	<ul style="list-style-type: none"> <li>Do any of the terms and conditions upon which credit is provided constitute discrimination on the ground of disability?</li> <li>Are supported decision-making arrangements subject to regular review by an independent and impartial authority?</li> </ul>

## Article 12. Key issues

Issue	Points to consider
<b>Are persons with disability able control their own financial affairs on an equal basis with others?</b>	<ul style="list-style-type: none"> <li>• Are all persons with disability presumed to have capacity to control their financial affairs on an equal basis with others?</li> <li>• Are children and young persons with disability presumed to have capacity to control their financial affairs equivalent to that accorded to other children and young persons?</li> <li>• Do all persons with disability receive any support they may require in order to exercise their capacity to control their financial affairs on an equal basis with others?</li> <li>• Do persons with disability, as far as possible, receive support to control their financial affairs, rather than have someone else make these decisions on their behalf?</li> </ul>
<b>Are there effective safeguards against abuse of supported (including substitute) financial management arrangements?</b>	<ul style="list-style-type: none"> <li>• Do supported financial management arrangements respect the rights of persons with disability?</li> <li>• Do supported financial management arrangements respect will and preferences of persons with disability?</li> <li>• Are supported financial management arrangements free from conflict of interest?</li> <li>• Are supported financial management arrangements free from undue influence?</li> <li>• Are supported financial management arrangements proportionate to the person's need for assistance and the least restrictive necessary?</li> <li>• Are supported financial management arrangements tailored to the circumstances and needs of the specific individual to whom they relate?</li> <li>• Are supported financial management arrangements time-limited only to the period they are required?</li> <li>• Are supported financial management arrangements subject to regular review by an independent and impartial authority?</li> </ul>



## ARTICLE 13:

### Access to justice

1. States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.
2. In order to help to ensure effective access to justice for persons with disabilities, States Parties shall promote appropriate training for those working in the field of administration of justice, including police and prison staff.

## Article 13. Human Rights Indicators

- **Persons with disability enjoy effective access to justice at all stages of the legal process.**
- **Procedural accommodations are made in the legal process to ensure effective participation of persons with disability in the justice system in whatever role they encounter it.**
- **Age-related accommodations are made to the legal process to ensure effective participation of children and young persons with disability.**
- **Appropriate training is provided to all justice agency personnel to ensure access to justice for persons with disability.**

## Commentary

This Article is an important new development, or application, of the right of equality before the law to persons with disability. The Article requires State Parties to ensure effective *access to justice* for persons with disability. This is a new positive dimension to the obligation that will require State Parties to undertake measures that will ensure substantial equality of treatment, rather than mere formal equality of treatment, of persons with disability in the justice system. In this respect, it highlights the need for procedural accommodations to the legal process to facilitate the effective participation of all persons with disability in the justice system in whatever role they encounter it, for example, whether as litigants, defendants, victims or other witnesses, or as officers of the justice system, such as jurors, lawyers, administrators and adjudicators. The Article also requires State Parties to ensure that specific age-appropriate accommodation are made to the legal process that will ensure effective access to justice for children and young persons with disability. Paragraph 2 requires State Parties to ensure effective access to justice for persons with disability by promoting appropriate disability related training of justice agency personnel.



## Article 13. Key issues

Issue	Points to consider
<b>Do persons with disability enjoy effective access to justice at all stages of the legal process?</b>	<ul style="list-style-type: none"> <li>• Does the legal system provide effective protection of the rights of persons with disability, whether as victims, suspects, defendants, or convicted offenders?</li> <li>• Is the justice system accessible to persons with disability irrespective of the role in which they participate in it (including as justice system officers and administrative personnel)?</li> </ul>
<b>Are procedural accommodations made to the legal process to ensure effective participation of persons with disability in the legal system?</b>	<ul style="list-style-type: none"> <li>• Are investigation methods and interview techniques appropriately adapted to the needs of persons with disability?</li> <li>• Are the laws of evidence sufficiently flexible and adapted to the needs of persons with disability?</li> <li>• Are justice agency premises (for example, police stations, courts and tribunals) physically accessible to persons with disability (for example, in relation to access for persons who use mobility devices, way-finding for persons who are blind or have cognitive impairment, hearing augmentation for persons who are hearing impaired)?</li> <li>• Do the administrative processes associated with the justice system (for example, court forms, out-of court communication) accommodate the needs of persons with disability?</li> <li>• Does the in-court legal process accommodate the needs of persons with disability?</li> <li>• Are appropriate accommodations available to persons with disability in the justice system irrespective of the role in which they participate in it (including as justice system officers and administrative personnel)?</li> </ul>
<b>Are age-related accommodations to the legal process made to ensure the effective participation of children and young persons with disability?</b>	<ul style="list-style-type: none"> <li>• Are investigation methods and techniques appropriately adapted to the needs of children and young persons with disability?</li> <li>• Are the laws of evidence sufficiently flexible and adapted to the needs of children and young persons with disability?</li> <li>• Does the in-court legal process accommodate the needs of children and young persons with disability?</li> </ul>
<b>Is appropriate training provided to all justice agency personnel to ensure access to justice for persons with disability?</b>	<ul style="list-style-type: none"> <li>• Do justice agency personnel, such as police, court administrators, prison officers, legal practitioners, magistrates and judges receive appropriate training in human rights and access to justice for persons with disability?</li> <li>• Do justice agency personnel receive appropriate training in the identification of persons with disability involved in the legal process?</li> <li>• Do justice agency personnel receive appropriate training about adjustments required by persons with disability to the legal process?</li> <li>• Do justice agency personnel receive appropriate training in communication skills for work with persons with disability?</li> <li>• Do police receive appropriate training in investigation methods and interview techniques appropriate for work with persons with disability?</li> <li>• Do police receive appropriate training in investigation methods and interview techniques appropriate for work with children and young persons with disability?</li> </ul>

## ARTICLE 14:

# Liberty and security of the person

1. States Parties shall ensure that persons with disabilities, on an equal basis with others:
  - (a) Enjoy the right to liberty and security of person;
  - (b) Are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the existence of a disability shall in no case justify a deprivation of liberty.
2. States Parties shall ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of this Convention, including by provision of reasonable accommodation.

## Commentary

This Article affirms that persons with disability are to enjoy the right to liberty (personal freedom) and security (non-interference with the person) on an equal basis with others. It provides that persons with disability cannot be deprived of their liberty unlawfully or without proper reason, and that the mere existence of a disability (without anything else) can never justify deprivation of liberty. This means that a person with disability may only be denied liberty for a reason other than their impairment or disability: for example, a person cannot be involuntarily institutionalised just because they have intellectual or psychosocial impairment. However, at least under Australian law, this formulation has some potential to be circular, as it will sometimes be a characteristic of disability (for example, challenging behaviour or psychosis arising from underlying impairment that presents a risk of harm to the person or to others) that may provide the basis for the denial of liberty. In drafting this article the Ad Hoc Committee drew a distinction between impairment and disability, and the characteristics or consequences of that impairment, that may not be drawn under Australian law.

The Article also requires State Parties to ensure that persons with disability who are deprived of their liberty are guaranteed their remaining human rights, including those provided under the *CRPD*. This includes an obligation on State Parties to ensure that reasonable accommodations are made to ensure persons with disability are able to enjoy their other human rights in fact (rather than just in form). This might include, for example, ensuring that a person who is deaf, and who is incarcerated in a criminal justice facility, has regular access to an Auslan interpreter so that he or she can communicate with prison authorities and other prisoners. The Article applies to all processes and circumstances in which persons with disability are deprived of their liberty, not only to denial of liberty under the criminal law and in criminal justice facilities. For example, it applies equally to involuntary detention in a mental health facility and to immigration detention.

## Article 14. Human Rights Indicators

- **Persons with disability enjoy personal freedom on an equal basis with others.**
- **Persons with disability are free from interference with their person on an equal basis with others.**
- **Persons with disability are not deprived of liberty without lawful and proper reason.**
- **The existence of impairment or disability (of itself) is never a reason for deprivation of liberty.**
- **Persons with disability deprived of their liberty enjoy fully their remaining human rights.**
- **Reasonable accommodation is provided to persons with disability deprived of their liberty to ensure their full enjoyment of their remaining human rights.**

## Article 14. Key issues

Issue	Points to consider
<b>Do persons with disability enjoy personal freedom on an equal basis with others?</b>	<ul style="list-style-type: none"> <li>Are any persons with disability subject to restrictions on their personal liberty that are not experienced by others?</li> </ul>
<b>Are persons with disability effectively protected from interference with their person on an equal basis with others?</b>	<ul style="list-style-type: none"> <li>Is the personal safety of persons with disability effectively protected by law and in practice?</li> <li>Is the right of persons with disability to non-interference with their person effectively protected by law and in practice?</li> </ul>
<b>Are persons with disability ever deprived of their liberty without lawful and proper reason?</b>	<ul style="list-style-type: none"> <li>In what situations are persons with disability potentially deprived of their liberty?</li> <li>Is there a lawful and proper reason for any deprivation of liberty?</li> </ul>
<b>Is the existence of impairment or disability (of itself) ever a reason for deprivation of liberty?</b>	<ul style="list-style-type: none"> <li>Are there any situations in which persons with disability are deprived of their liberty merely because they have particular disability or impairment?</li> </ul>
<b>Do persons with disability who are deprived of their liberty enjoy fully their remaining human rights?</b>	<ul style="list-style-type: none"> <li>What are the conditions and circumstances under which persons with disability are deprived of their liberty?</li> <li>Do these conditions ensure the recognition and respect of all their human rights other than the right to liberty?</li> </ul>
<b>Are persons with disability who are deprived of their liberty provided with reasonable accommodation of their disability-related needs to ensure their enjoyment of their remaining human rights?</b>	<ul style="list-style-type: none"> <li>What are the disability related needs of persons deprived of their liberty?</li> <li>Is reasonable accommodation of these needs provided?</li> </ul>

## ARTICLE 15:

# Freedom from torture and cruel, inhuman or degrading treatment or punishment

1. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his or her free consent to medical or scientific experimentation.
2. State Parties shall take all effective legislative, administrative, judicial or other measures to prevent persons with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman or degrading treatment or punishment.

## Article 15. Human Rights Indicators

- **Persons with disability are effectively protected from torture, and from cruel, inhuman, and degrading treatment or punishment.**
- **Persons with disability are not subject to medical or scientific experimentation without their consent.**
- **Persons with disability who do not have the capacity to consent are subject to special protection from medical and scientific experimentation.**
- **All effective measures are taken to protect persons with disability from torture, and from cruel, inhuman and degrading treatment or punishment.**

## Commentary

This Article prohibits torture and cruel, inhuman or degrading treatment or punishment. It also prohibits medical and scientific experimentation without consent. The first paragraph of the Article is a simple restatement of the prohibition provided in Article 7 of the *International Covenant on Civil and Political Rights*. However, the second paragraph imposes an obligation on State Parties to take *all effective measures to prevent* persons with disability from being subjected to torture or cruel, inhuman or degrading treatment or punishment. Arguably, this second paragraph transforms the Article from one of non-interference to a positive duty to protect persons with disability from torture, or cruel, inhuman or degrading treatment or punishment. In its general commentary on Article 7 of the *International Covenant on Civil and Political Rights*, the Human Rights Committee notes that the prohibition on torture and cruel, inhuman and degrading treatment or punishment relates not only to acts that cause physical pain but also to acts that cause mental suffering. The Committee also notes that torture, or cruel, inhuman and degrading treatment and punishment may include corporal punishment, excessive chastisement, and prolonged solitary confinement. Importantly, the Committee has also observed that persons unable to consent to treatment require special protection from medical and scientific experimentation.

## Article 15. Key issues

Issue	Points to consider
<b>Are persons with disability effectively protected from torture, and from cruel, inhuman and degrading treatment or punishment?</b>	<ul style="list-style-type: none"> <li>• Are any persons with disability subject to treatment that amounts to torture?</li> <li>• Are any persons with disability subject to cruel, inhuman or degrading treatment?</li> <li>• Are any persons with disability subject to cruel, inhuman or degrading punishment?</li> <li>• What measures are taken to protect persons with disability from torture, or from cruel, inhuman or degrading treatment or punishment?</li> </ul>
<b>Are persons with disability subject to medical and scientific experimentation without their consent?</b>	<ul style="list-style-type: none"> <li>• Are any persons with disability subject to medical experimentation?</li> <li>• Are any persons with disability subject to scientific experimentation?</li> <li>• What are the requirements for consent associated with any treatment of this kind?</li> <li>• Are persons with disability who are unable to consent effectively protected from medical and scientific experimentation?</li> </ul>



## ARTICLE 16:

# Freedom from exploitation, violence and abuse

1. States Parties shall take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects.
2. States Parties shall also take all appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring, inter alia, appropriate forms of gender- and age-sensitive assistance and support for persons with disabilities and their families and caregivers, including through the provision of information and education on how to avoid, recognize and report instances of exploitation, violence and abuse. States Parties shall ensure that protection services are age-, gender- and disability-sensitive.
3. In order to prevent the occurrence of all forms of exploitation, violence and abuse, States Parties shall ensure that all facilities and programmes designed to serve persons with disabilities are effectively monitored by independent authorities.
4. States Parties shall take all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disabilities who become victims of any form of exploitation, violence or abuse, including through the provision of protection services. Such recovery and reintegration shall take place in an environment that fosters the health, welfare, self-respect, dignity and autonomy of the person and takes into account gender- and age-specific needs.
5. States Parties shall put in place effective legislation and policies, including women- and child-focused legislation and policies, to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted.

## Commentary

This Article requires State Parties to take all appropriate measures to protect persons with disability from all forms of exploitation, violence and abuse. This includes the enactment of laws, the establishment or enhancement of protection services, the development of policies and programmes, and the pursuit of education strategies to protect persons with disability from exploitation, violence and abuse, and to ensure the identification, investigation and prosecution of these harms when they occur. The Article encompasses harms committed in both the private and public spheres (*in and outside the home*). It focuses specific attention on those harms that have a gender and age-related dimension, and requires State Parties to ensure that all laws, policies, programmes and services relating to the detection, investigation and prosecution of these harms are age-, gender- and disability- sensitive. The Article emphasises the State Party obligation to educate persons with disability, their families and carers about the avoidance, recognition and reporting of instances of violence, exploitation and abuse. Paragraph 3 of the Article focuses specific attention on the vulnerability of persons with disability to harm in specialist services, for example, institutional accommodation services. It requires State Parties to ensure effective, independent monitoring of all specialist facilities and programmes for persons with disability as a safeguard against exploitation, violence and abuse. Paragraph 4 requires State Parties to ensure that appropriate measures are in place to ensure the physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disability who are victims of harm. State Parties are further required to ensure that recovery, rehabilitation, and social reintegration services are delivered in an environment that fosters the health, welfare, self-respect, dignity and autonomy of the person. This obligation is particularly directed to ensuring that persons with disability are not institutionalised or further brutalised in response to their experience of harm.

## Article 16.

### Human Rights Indicators

- Persons with disability are effectively protected from all forms of exploitation, violence and abuse.
- Protection from exploitation, violence and abuse is effective both within and outside the home (that is, both in the public and private spheres).
- Women and girls with disability are effectively protected from all forms of exploitation, violence and abuse that have a gender dimension.
- Children and young persons with disability and older persons with disability are effectively protected from all forms of exploitation, violence and abuse that have an age dimension.
- Persons with disability, their families and carers are effectively informed and educated in relation to strategies to avoid, detect and report all forms of exploitation, violence and abuse.
- There are effective laws and policies that ensure that harms against persons with disability are identified, investigated and prosecuted.
- Laws, policies, programmes, protective and other services that relate to the prevention, detection, investigation and prosecution of harms against children and adults with disability are age, gender and disability sensitive.
- All specialist facilities and programmes for persons with disability are effectively monitored by independent authorities to safeguard against exploitation, violence and abuse of persons with disability.
- Persons with disability who are victims of harm have access to effective recovery, rehabilitation and social reintegration programmes and services.
- Recovery, rehabilitation and reintegration programmes for persons with disability who are victims of harm are provided in an environment that fosters the health, welfare, self-respect, dignity and autonomy of the person.
- Recovery, rehabilitation and reintegration programmes for persons with disability who are victims of crime are responsive to age and gender-related needs.

## Article 16. Key issues

Issue	Points to consider
<b>Are persons with disability effectively protected from all forms of exploitation, violence and abuse?</b>	<ul style="list-style-type: none"> <li>• Are persons with disability subject to exploitation, violence and abuse?</li> <li>• What laws, policies, programmes and services exist to protect persons with disability from exploitation, violence and abuse?</li> <li>• How effective are these measures?</li> </ul>
<b>Are persons with disability effectively protected from exploitation, violence and abuse both within and outside the home?</b>	<ul style="list-style-type: none"> <li>• Are persons with disability subject to exploitation, violence and abuse from those with whom they have close domestic relationships (for example, family members and carers)?</li> <li>• What laws, policies, programmes and services exist to protect persons with disability from exploitation, violence and abuse from those with whom they have close domestic relationships?</li> <li>• How effective are these measures?</li> </ul>
<b>Are women and girls with disability effectively protected from gender-related exploitation, violence and abuse?</b>	<ul style="list-style-type: none"> <li>• Are women and girls with disability subject to specific forms, or specific circumstances of exploitation, violence and abuse?</li> <li>• What laws, policies, programmes and services exist to protect women and girls with disability from gender-related exploitation, violence and abuse?</li> <li>• How effective are these measures?</li> </ul>
<b>Are children and young persons with disability and older persons with disability effectively protected from age-related exploitation, violence and abuse?</b>	<ul style="list-style-type: none"> <li>• Are children and young persons and older persons with disability subject to specific forms, or specific circumstances of exploitation, violence and abuse?</li> <li>• What laws, policies, programmes and services exist to protect children and young persons and older persons with disability from age-related exploitation, violence and abuse?</li> <li>• How effective are these measures?</li> </ul>
<b>What information and education is available for persons with disability, their families and carers in relation to strategies to avoid, detect and report exploitation, violence and abuse?</b>	<ul style="list-style-type: none"> <li>• How are persons with disability informed and educated about their right to be free from exploitation, violence and abuse?</li> <li>• How are persons with disability informed and educated about strategies to avoid, detect, and report exploitation, violence and abuse?</li> <li>• How are family members and carers informed and educated about the right of persons with disability to be free from exploitation, violence and abuse?</li> <li>• How are family members and carers informed and educated about strategies to avoid, detect, and report exploitation, violence and abuse of persons with disability?</li> <li>• How effective are these measures?</li> </ul>
<b>Are there effective laws and policies to ensure that harms against persons with disability are identified, investigated and prosecuted?</b>	<ul style="list-style-type: none"> <li>• What laws and policies are in place in relation to the identification, investigation and prosecution of harms against persons with disability?</li> <li>• What is the scope of these laws and policies? How effective are they?</li> </ul>

## Article 16. Key issues

Issue	Points to consider
<b>Are laws, policies, programmes, protective and other services that relate to the prevention, detection, investigation and prosecution of harms against children and adults with disability age-, gender- and disability- sensitive?</b>	<ul style="list-style-type: none"> <li>• Are measures relating to protection of persons with disability from harm, sensitive to the specific issues related to children and young persons, and older persons with disability?</li> <li>• Are these measures sensitive to the specific issues related to gender?</li> <li>• Are these measures sensitive to the specific issues related to impairment and disability?</li> <li>• Are they sensitive to the needs of these groups?</li> </ul>
<b>Are all specialist facilities and programmes for persons with disability effectively monitored by independent authorities as a safeguard against exploitation, violence and abuse?</b>	<ul style="list-style-type: none"> <li>• What monitoring arrangements are in place in relation to specialist facilities and programmes for persons with disability?</li> <li>• Are any monitoring agencies independent of these facilities and programmes?</li> <li>• Does monitoring provide an effective safeguard against exploitation, violence and abuse of persons with disability in these facilities and programmes?</li> </ul>
<b>What services are available to support the effective recovery, rehabilitation and social reintegration of persons with disability who are victims of exploitation, violence or abuse?</b>	<ul style="list-style-type: none"> <li>• What services are available to persons with disability who are victims of harm?</li> <li>• Are these services appropriate and sufficient?</li> <li>• In what environments are these services provided?</li> <li>• Do these services promote the health, welfare, self-respect, dignity and autonomy of the person?</li> <li>• Are these services age- and gender- sensitive?</li> </ul>



**ARTICLE 17:****Protecting the integrity of the person**

Every person with disabilities has a right to respect for his or her physical and mental integrity on an equal basis with others.

## Article 17. Human Rights Indicators

- **Persons with disability are not subject to interference with their physical integrity.**
- **Persons with disability not subject to interference with their mental integrity.**

**Commentary**

This Article is an extension of the right to liberty and security of the person. It is framed as a broad principle that specifically emphasises both the *physical* and *mental* integrity of persons with disability. It is particularly directed towards the protection of persons with psychosocial disability from interventions affecting their physical and psychic wholeness and well-being, including compulsory confinement and medical treatment. The Article imposes the obligation to *respect* the integrity of the person, which in context means to *refrain from interference with* the body and mind (including emotional and cognitive processes) of the person. The standard of non-interference is equivalence with others. This may lead to some ambiguity where it is a characteristic of disability (such as psychosis leading to behaviour that presents the risk of harm to self or others) that is the basis for a compulsory intervention. Generally, such behaviour in the absence of disability would also lead to compulsory intervention.

**Article 17. Key issues**

Issue	Points to consider
<b>Do persons with disability experience interference with the integrity of their physical bodies?</b>	<ul style="list-style-type: none"> <li>• What treatments and interventions are persons with disability subject to?</li> <li>• What are the circumstances in which this occurs?</li> <li>• Are others subject to these treatments and interventions in equivalent circumstances?</li> <li>• Are persons with disability effectively protected from unwanted or unjustified interventions and treatments affecting the integrity of physical bodies?</li> </ul>
<b>Do persons with disability experience interference with their mental integrity?</b>	<ul style="list-style-type: none"> <li>• What treatments and interventions are persons with disability subject to?</li> <li>• What are the circumstances in which this occurs?</li> <li>• Are others subject to these treatments and interventions in equivalent circumstances?</li> <li>• Are persons with disability effectively protected from unwanted or unjustified interventions and treatments affecting their mental integrity?</li> </ul>

## ARTICLE 18:

# Liberty of movement and nationality

1. States Parties shall recognize the rights of persons with disabilities to liberty of movement, to freedom to choose their residence and to a nationality, on an equal basis with others, including by ensuring that persons with disabilities:
  - (a) Have the right to acquire and change a nationality and are not deprived of their nationality arbitrarily or on the basis of disability;
  - (b) Are not deprived, on the basis of disability, of their ability to obtain, possess and utilize documentation of their nationality or other documentation of identification, or to utilize relevant processes such as immigration proceedings, that may be needed to facilitate exercise of the right to liberty of movement;
  - (c) Are free to leave any country, including their own;
  - (d) Are not deprived, arbitrarily or on the basis of disability, of the right to enter their own country.
2. Children with disabilities shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by their parents.

## Commentary

This Article applies the traditional freedoms of liberty of movement and nationality to the circumstances of persons with disability. It requires State Parties to ensure that persons with disability enjoy these freedoms on an equal basis with others. The Article guarantees persons with disability the right to movement across and within national borders, and the right to choose their residence and nationality on an equal basis with others. This has important implications for Australian immigration policy, and that of many other countries, which typically discriminate on the basis of disability. The Article provides that persons with disability have the right to acquire and change their nationality, and may not be deprived of their nationality arbitrarily or on the basis of disability. It accords persons with disability the right to obtain, possess and use documentation of nationality and related identification materials necessary to exercise their right to liberty of movement. Paragraph 2 of the Article provides specific guarantees of nationality and citizenship to children with disability. It requires State Parties to ensure that children with disability are named, registered, and acquire nationality from birth. It also seeks to guarantee, as far as possible, that children with disability are not separated from their parents from birth. This paragraph also has implications for immigration laws that may refuse entry to a child with disability who is a member of a family seeking to immigrate.

## Article 18. Human Rights Indicators

- **Persons with disability enjoy liberty of movement within and across national borders on an equal basis with others.**
- **Persons with disability are able to choose their own residence on an equal basis with others.**
- **Persons with disability are able to choose their nationality on an equal basis with others.**
- **Children with disability are registered immediately after birth.**
- **Children with disability are named from birth.**
- **Children with disability acquire a nationality from birth.**
- **Children with disability know and are cared for by their parents from birth.**

## Article 18. Key issues

Issue	Points to consider
<b>Do persons with disability have the freedom to move across and within national borders on an equal basis with others?</b>	<ul style="list-style-type: none"> <li>Is there any restriction on persons with disability leaving or entering Australia that do not apply to others?</li> <li>Do persons with disability have the freedom to travel within Australia on an equal basis with others?</li> <li>Are there any barriers to freedom of movement by persons with disability?</li> </ul>
<b>Are persons with disability able to choose their own residence on an equal basis with others?</b>	<ul style="list-style-type: none"> <li>Are persons with disability able to choose their country of residence on an equal basis with others?</li> <li>Are persons with disability able to choose their place of residence on an equal basis with others?</li> <li>Are persons with disability able to choose their length and type of residence on an equal basis with others?</li> <li>What are the barriers, if any, to persons with disability taking up residence in the country and location of their choice?</li> </ul>
<b>Are persons with disability able to choose their nationality on an equal basis with others?</b>	<ul style="list-style-type: none"> <li>Are persons with disability able to migrate to or from Australia on an equal basis with others?</li> <li>Are persons with disability able to adopt Australian citizenship on an equal basis with others?</li> <li>What are the barriers, if any, to persons with disability migrating to and from Australia, and to their adopting Australian citizenship?</li> </ul>
<b>Is the legal personality and citizenship of children with disability recognised from birth?</b>	<ul style="list-style-type: none"> <li>Are children with disability registered immediately after birth?</li> <li>Are children with disability named from birth?</li> <li>Do children with disability acquire nationality from birth?</li> </ul>
<b>Are children with disability accorded the right, from birth, as far as possible, to know and be cared for by their parents?</b>	<ul style="list-style-type: none"> <li>Are there any circumstances in which children with disability are separated from their parents at birth or during childhood?</li> <li>In those situations where children with disability are separated from their parents, are they able to maintain their personal identities?</li> <li>Are they able to maintain contact with their parents?</li> </ul>



## ARTICLE 19:

# Living independently and being included in the community

States Parties to this Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their inclusion and participation in the community, including by ensuring that:

- (a) Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement;
- (b) Persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community;
- (c) Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.

## Commentary

This article is an important extension of the right to liberty, which applies specifically to the living arrangements of persons with disability. The article is directed to the elimination of segregated, congregate and socially isolated environments in which persons with disability have historically been forced, or obliged, to live. The article requires State Parties to ensure that persons with disability are able to live in the community with accommodation options equal to others, and that these options support the inclusion and participation of persons with disability in community life. The article also provides that persons with disability must be able to choose with whom they live on an equal basis with others. In order to realise these freedoms, State Parties are obliged to ensure that persons with disability have access to the support services they require in order to live freely in the community, and to avoid isolation and segregation from the community. These support services include in-home support, residential and community support services, and personal care. The article also seeks to ensure that mainstream community services and facilities are available and responsive to the needs of persons with disability so as to facilitate their freedom to live in and be a part of the community.

## Article 19. Human Rights Indicators

- **Persons with disability live in the community with choices equal to others.**
- **Persons with disability are included, and participate, in the community.**
- **Persons with disability are able to choose their place of residence on an equal basis with others.**
- **Persons with disability are not obliged to live in any particular living arrangement.**
- **Persons with disability have access to a range of in-home, residential and other community support services necessary to support living and inclusion in the community and to prevent isolation and segregation from the community.**
- **Community services and facilities for the general population are available to persons with disability on an equal basis with others and are responsive to their needs.**

## Article 19. Key issues

Issue	Points to consider
<b>Are persons with disability able to live in the community with choices equal to others?</b>	<ul style="list-style-type: none"> <li>• What living arrangements are available to persons with disability?</li> <li>• Do persons with disability have the same choice of accommodation options available to others?</li> <li>• What are the barriers, if any, to persons with disability living in the community?</li> <li>• What factors, if any, limit the accommodation choices available to persons with disability?</li> </ul>
<b>Are persons with disability included in community life?</b>	<ul style="list-style-type: none"> <li>• Apart from being physically present in the community, do persons with disability actively participate in social and economic life?</li> <li>• Are persons with disability welcomed and supported to participate in community life?</li> <li>• What are the barriers, if any, to the participation of persons with disability in community life?</li> </ul>
<b>Are persons with disability able to choose their place of residence on an equal basis with others?</b>	<ul style="list-style-type: none"> <li>• What choice of accommodation is available to persons with disability?</li> <li>• Who, or what, determines the accommodation choices available to persons with disability?</li> <li>• Is choice constrained by any factors that do not apply to other persons?</li> </ul>
<b>Are persons with disability compelled, or obliged, to live in any particular living arrangement?</b>	<ul style="list-style-type: none"> <li>• What range of domestic housing is available to persons with disability? Is this range restricted for persons with disability in a way that others are not restricted?</li> <li>• What range of social housing is available to persons with disability? Is this range restricted for persons with disability in a way that others are not restricted?</li> <li>• What models of supported accommodation are available to persons with disability? Do the range of models available reflect the choices available to others in the community?</li> <li>• Are the accommodation choices available to persons with disability constrained by the inability to obtain support to live in preferred options?</li> </ul>
<b>What support services are available to persons with disability to enable them to exercise their freedom to live in and be a part of the community?</b>	<ul style="list-style-type: none"> <li>• Do persons with disability have effective access to any in-home support necessary for them to live in and be a part of the community?</li> <li>• Do persons with disability have effective access to any residential support necessary for them to live in and be a part of the community?</li> <li>• Do persons with disability have access to any community services necessary for them to live in and be a part of the community?</li> <li>• Are these services effective in safeguarding persons with disability from isolation and segregation from the community?</li> </ul>
<b>Are generic community services and facilities available to persons with disability on an equal basis with others?</b>	<ul style="list-style-type: none"> <li>• How accessible to persons with disability are community services for the general population (for example, transport and health services)?</li> <li>• Are community services for the general population responsive to the needs of persons with disability?</li> <li>• Are community services for the general community effective in supporting persons with disability to live in and be a part of the community?</li> </ul>

## ARTICLE 20:

### Personal mobility

States Parties shall take effective measures to ensure personal mobility with the greatest possible independence for persons with disabilities, including by:

- (a) Facilitating the personal mobility of persons with disabilities in the manner and at the time of their choice, and at an affordable cost;
- (b) Facilitating access by persons with disabilities to quality mobility aids, devices, assistive technologies and forms of live assistance and intermediaries, including by making them available at an affordable cost;
- (c) Providing training in mobility skills to persons with disabilities and to specialist staff working with persons with disabilities;
- (d) Encouraging entities that produce mobility aids, devices and assistive technologies to take into account all aspects of mobility for persons with disabilities.

## Article 20. Human Rights Indicators

- **Persons with disability enjoy personal mobility with the greatest possible independence.**
- **Persons with disability are able to mobilise in the manner and at the time of their choice.**
- **Persons with disability are able to mobilise at an affordable cost.**
- **Persons with disability have access to quality mobility aids, devices and assistive technologies.**
- **Persons with disabilities have access to live assistance and intermediaries.**
- **Persons with disability are effectively trained in mobility skills.**
- **Staff who work with persons with disability are effectively trained in mobility skills.**
- **There are mobility aids, devices and assistive technologies to support all aspects of mobility for persons with disability.**

## Commentary

This Article is a further important extension of the right to liberty of movement, which is focused on the personal mobility of persons with disability. It requires State Parties to ensure that persons with disability are able to mobilise with the greatest possible independence. Three dimensions of this freedom are particularly highlighted: the right of persons with disability to mobilise in the manner of their choice (that is, to choose the type of mobility aid or conveyance); the right to do so at the time of their choice (that is, to be free from externally imposed schedules that limit independence); and, the right to mobilise at an affordable cost. In order to realise this freedom State Parties are required to facilitate access by persons with disability to quality mobility aids, devices and assistive technologies, as well as to live assistance and intermediaries (for example, sighted guides and sign language interpreters).

State Parties must also ensure that training in mobility skills is available to persons with disability and specialist staff who work with persons with disability. The Article covers all aspects of mobility, not just physical movement, but also way-finding, and social interactions. In this respect it is notable that the Article also requires State Parties to encourage entities that produce mobility aids, devices and assistive technologies to develop products that will assist with all aspects of mobility for persons with disability.



## Article 20. Key issues

Issue	Points to consider
<b>Do persons with disability enjoy personal mobility with the greatest possible independence?</b>	<ul style="list-style-type: none"> <li>• Do persons with disability have effective access to mobility aids, devices and assistive technologies necessary for their maximum possible independence?</li> <li>• Do persons with disability have access to live assistance and intermediaries necessary for their maximum possible independence?</li> <li>• Are support services for persons with disability provided and integrated in a manner that facilitates their maximum possible independence?</li> </ul>
<b>Are persons with disability able to mobilise in the manner and at the time of their choice?</b>	<ul style="list-style-type: none"> <li>• Are there constraints on the type of mobility aids, devices, and assistive technologies available to persons with disability? Do these constraints limit choice and independence?</li> <li>• Are there constraints on the type or timing of mobility support services for persons with disability that limit choice and independence?</li> </ul>
<b>Are mobility aids, devices, assistive technologies, and live assistance and intermediaries available to persons with disability at an affordable cost?</b>	<ul style="list-style-type: none"> <li>• What is the cost of mobility aids, devices and assistive technologies? Who bears this cost?</li> <li>• What is the cost of live assistance and intermediaries? Who bears this cost?</li> <li>• Are these costs affordable?</li> <li>• Does the cost of these products and services limit the mobility and independence of persons with disability?</li> </ul>
<b>Do persons with disability have access to quality mobility aids, devices and assistive technologies?</b>	<ul style="list-style-type: none"> <li>• What mobility aids, devices, and assistive technologies are available to persons with disability?</li> <li>• Are these products of the greatest possible range and quality?</li> <li>• What efforts are made to ensure access by persons with disability to these products?</li> </ul>
<b>Do persons with disabilities have access to live assistance and intermediaries?</b>	<ul style="list-style-type: none"> <li>• What forms of live assistance and intermediaries are available to persons with disability?</li> <li>• In what circumstances is such assistance available?</li> <li>• What is the cost of such assistance? Who bears this cost? Is such assistance affordable for persons with disability?</li> <li>• What efforts are made to ensure access by persons with disability to live assistance and intermediaries?</li> </ul>
<b>Do persons with disability receive effective training in mobility skills?</b>	<ul style="list-style-type: none"> <li>• What training is available for persons with disability in relation to personal mobility?</li> <li>• What is the range and quality of any training available?</li> <li>• What is the cost of this training? Who bears this cost? Is such training affordable for persons with disability?</li> </ul>
<b>Are staff who work with persons with disability effectively trained in mobility skills?</b>	<ul style="list-style-type: none"> <li>• What training is available for staff who work with persons with disability in relation to personal mobility?</li> <li>• What is the range and quality of any training available?</li> </ul>
<b>How comprehensive is the range of mobility aids, devices and assistive technologies available for persons with disability?</b>	<ul style="list-style-type: none"> <li>• Are aids, devices and assistive technologies available in relation to all aspects of personal mobility?</li> <li>• Do mobility products take account of all aspects of mobility required by the individual?</li> <li>• What efforts are made to promote the development of a comprehensive range of mobility products for persons with disability?</li> </ul>

## ARTICLE 21:

# Freedom of expression and opinion, and access to information

States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice as defined in article 2 of the present Convention, including by:

- (a) Providing information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost;
- (b) Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions;
- (c) Urging private entities that provide services to the general public, including through the Internet, to provide information and services in accessible and usable formats for persons with disabilities;
- (d) Encouraging the mass media, including providers of information through the Internet, to make their services accessible to persons with disabilities;
- (e) Recognizing and promoting the use of sign languages.

## Commentary

This Article applies and extends the traditional right of freedom from interference with opinion and expression. Most significantly, it assimilates to these traditional freedoms the right of access to public information. State Parties are required to take all appropriate measures to ensure that persons with disability are able to find, receive and impart information on an equal basis with others through all forms of augmented and assisted communication. The right of freedom of opinion and expression is a civil and political right subject to the implementation standard of immediate realisation. Importantly, the Article requires information in accessible formats to be made available in a timely manner (for example, at the same time as this information becomes available to others in regular formats), and without any additional cost. The Article also requires State Parties to ensure that persons with disability are permitted and supported to use sign language, Braille, and alternative and augmented communications in their interactions with public officials. In fact, it calls upon State Parties to officially recognise and promote the use of sign languages. State Parties must also encourage private sector agencies that provide public information and services to ensure that they provide information in formats that are accessible to persons with disability. Finally, the Article requires State Parties to encourage the mass media, and in particular, providers of information through the Internet, to make their services accessible to persons with disability.

## Article 21.

### Human Rights Indicators

- Persons with disability enjoy freedom of expression on an equal basis with others.
- Persons with disability enjoy freedom of opinion on an equal basis with others.
- Persons with disability have freedom to seek, receive and impart information and ideas on an equal basis with others.
- Persons with disability are able to seek, receive and impart information and ideas through all forms of communication of their choice.
- Public information is available to persons with disability in accessible formats.
- Public information is accessible to persons who use assistive communication devices.
- Public information is made available in accessible formats in a timely manner and without additional cost.
- Alternative modes, means and formats of communication are accepted and facilitated in official interactions with persons with disability.
- Public information and services provided by the private sector are accessible to persons with disability.
- The mass media is accessible to persons with disability.
- The Internet is accessible to persons with disability.
- Australian Sign Language is officially recognised and its use is promoted.

### Article 21. Key issues

Issue	Points to consider
<b>Do persons with disability enjoy freedom of expression on an equal basis with others?</b>	<ul style="list-style-type: none"> <li>• Do persons with disability experience any interference with their right to express themselves on an equal basis with others?</li> <li>• Are persons with disability supported and encouraged to develop alternative and augmentative communication systems in circumstances where they are unable to communicate in regular ways?</li> </ul>
<b>Do persons with disability enjoy freedom of opinion on an equal basis with others?</b>	<ul style="list-style-type: none"> <li>• Do persons with disability experience any interference with their right to freedom of opinion?</li> <li>• Are persons with disability supported and encouraged to form and express their own opinions about issues?</li> </ul>
<b>Are persons with disability able to seek, receive and impart information and ideas on an equal basis with others?</b>	<ul style="list-style-type: none"> <li>• What are the barriers, if any, to persons with disability finding, obtaining and disseminating information and ideas on an equal basis with others? (These barriers could be attitudinal, socio-economic, environmental or technological in nature).</li> <li>• Do persons who do not have disability experience equivalent barriers?</li> </ul>

## Article 21. Key issues

Issue	Points to consider
<b>Are persons with disability able to seek, receive and impart information and ideas through all forms of communication of their choice?</b>	<ul style="list-style-type: none"> <li>Do persons with disability have effective access to alternative and augmentative communication systems of their choice?</li> <li>Are persons with disability able to use alternative and augmentative communication systems of their choice to communicate with others?</li> </ul>
<b>Is public information available to persons with disability in accessible formats?</b>	<ul style="list-style-type: none"> <li>In what formats is public information made available? Does this include Large Print, Braille, and Easy-English?</li> </ul>
<b>Is public information accessible to persons who use assistive communication devices?</b>	<ul style="list-style-type: none"> <li>Is public information available in accessible electronic formats?</li> <li>Are electronic repositories of public information (for example, websites) accessible to persons who use assistive technologies?</li> </ul>
<b>Is public information made available in accessible formats in a timely manner and without additional cost?</b>	<ul style="list-style-type: none"> <li>Is public information made available in accessible formats at the same time it is made available in regular formats?</li> <li>Do persons with disability incur any additional costs in order to obtain public information in an accessible format?</li> </ul>
<b>Are alternative modes, means and formats of communication accepted and facilitated in official interactions with persons with disability?</b>	<ul style="list-style-type: none"> <li>Do public authorities and officials recognise and accept alternative and augmentative means of communication?</li> <li>Do public authorities and officials facilitate access to alternative and augmentative communication systems for persons with disability, where they require such assistance?</li> </ul>
<b>Are public information and services provided by the private sector accessible to persons with disability?</b>	<ul style="list-style-type: none"> <li>Are private sector agencies involved in public service provision required to provide information in accessible formats?</li> <li>Do private sector agencies providing public information and services accept alternative and augmentative means of communication?</li> <li>Do private sector agencies providing public information and services facilitate access to alternative and augmentative communication systems for persons with disability, where they require such assistance?</li> </ul>
<b>Is the mass media accessible to persons with disability?</b>	<ul style="list-style-type: none"> <li>In what hardcopy and electronic formats is mass media information available?</li> <li>Are mass media electronic formats and repositories accessible to persons with disability who use assistive communication technologies?</li> </ul>
<b>Is the Internet accessible to persons with disability?</b>	<ul style="list-style-type: none"> <li>Are all aspects of the Internet accessible to persons with disability who use assistive communication technologies?</li> <li>Is Internet based information available in alternative formats for persons with disability (for example, in Easy-English, Large Print, and sign language?)</li> </ul>
<b>Are sign languages officially recognised and their use promoted?</b>	<ul style="list-style-type: none"> <li>Are Australian sign languages officially recognised as languages?</li> <li>Is the use of sign language accepted and promoted in Australian society?</li> <li>Is access to sign language interpreting facilitated without cost to persons with disability?</li> </ul>

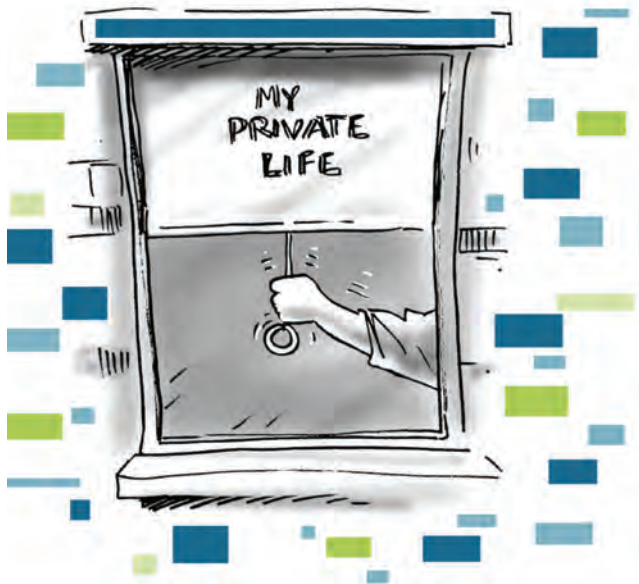
## ARTICLE 22:

### Respect for privacy

1. No person with disabilities, regardless of place of residence or living arrangements, shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence or other types of communication or to unlawful attacks on his or her honour and reputation. Persons with disabilities have the right to the protection of the law against such interference or attacks.
2. States Parties shall protect the privacy of personal, health and rehabilitation information of persons with disabilities on an equal basis with others.

### Commentary

This Article affirms the traditional right to privacy and protection of reputation with respect to persons with disability. The right to privacy protection includes the domains of the family and home as well as correspondence. The traditional right to privacy in correspondence is extended to cover all forms of communication that may be utilised by persons with disability. The right is also particularised to protect personal, health and rehabilitation information, in recognition of the fact that persons with disability are particularly susceptible to violation of privacy rights in these areas.



## Article 22. Human Rights Indicators

- **Persons with disability are free from arbitrary or unlawful interference with their privacy, irrespective of their living arrangements.**
- **Persons with disability are free from arbitrary or unlawful interference with their family life.**
- **Persons with disability are free from arbitrary or unlawful interference with their home.**
- **Persons with disability are free from arbitrary or unlawful interference with their correspondence and other forms of communication.**
- **Persons with disability are free from unlawful attacks on their honour and reputation.**
- **The law effectively protects persons with disability from interference with all aspects of their privacy.**
- **The law effectively protects persons with disability from attacks on their honour and reputation.**
- **The law effectively protects the privacy of personal, health and rehabilitation information of persons with disability on an equal basis with others.**

## Article 22. Key issues

Issue	Points to consider
<b>Do persons with disability enjoy freedom from arbitrary or unlawful interference with their privacy, irrespective of their living arrangements?</b>	<ul style="list-style-type: none"> <li>Do persons with disability enjoy the same level of privacy as others?</li> <li>Are there any specific risks of privacy violation associated with the settings in which persons with disability may live?</li> <li>How well are these risks avoided?</li> </ul>
<b>Do persons with disability enjoy freedom from arbitrary or unlawful interference with their family life?</b>	<ul style="list-style-type: none"> <li>Do persons with disability experience any threats to the privacy of their family life, which are not experienced by others?</li> <li>What forms of intrusion into family life are persons with disability at risk of?</li> </ul>
<b>Do persons with disability enjoy freedom from arbitrary or unlawful interference with their home?</b>	<ul style="list-style-type: none"> <li>Do persons with disability experience any threats to the privacy of their home life, which are not experienced by others?</li> <li>What forms of intrusion into home life are persons with disability at risk of?</li> <li>Are there different levels, or types, of privacy risk associated with different living arrangements?</li> </ul>
<b>Do persons with disability enjoy freedom from arbitrary or unlawful interference with their correspondence and other forms of communication?</b>	<ul style="list-style-type: none"> <li>Do persons with disability experience any threats to the privacy of their correspondence and communication, which are not experienced by others?</li> <li>What forms of communication privacy violations are persons with disability at risk of?</li> <li>How well are these risks avoided?</li> </ul>
<b>Do persons with disability enjoy freedom from unlawful attacks on their honour and reputation?</b>	<ul style="list-style-type: none"> <li>Are persons with disability effectively protected from vilification on the ground of disability?</li> <li>Are there specific threats to the reputation of persons with disability that may be associated with their reliance upon support services?</li> </ul>
<b>Does the law effectively protect persons with disability from interference with all aspects of their privacy?</b>	<ul style="list-style-type: none"> <li>How comprehensive is privacy law?</li> <li>Does it protect against the specific forms, or heightened risk, of privacy violation experienced by persons with disability?</li> <li>Is privacy law effectively enforced with respect to persons with disability?</li> </ul>
<b>Does the law effectively protect persons with disability from attacks on their honour and reputation?</b>	<ul style="list-style-type: none"> <li>How comprehensive is defamation law? Does it protect against the specific forms, or heightened risk, of attacks on reputation experienced by persons with disability?</li> <li>Are there effective laws to protect against vilification on the ground of disability?</li> <li>Are defamation and any vilification laws effectively enforced with respect to persons with disability?</li> </ul>
<b>Does the law effectively protect the privacy of personal, health and rehabilitation information of persons with disability on an equal basis with others?</b>	<ul style="list-style-type: none"> <li>What are the legal protections against unauthorised disclosure of personal, health and rehabilitation information?</li> <li>Do these protections take into account the specific forms, or heightened risk, of privacy violation experienced by persons with disability?</li> <li>Are privacy laws concerning personal, health and rehabilitation information effectively enforced with respect to persons with disability?</li> </ul>

## ARTICLE 23:

# Respect for home and the family

1. States Parties shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others, so as to ensure that:
  - (a) The right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognized;
  - (b) The rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children and to have access to age-appropriate information, reproductive and family planning education are recognised, and the means necessary to enable them to exercise these rights are provided;
  - (c) Persons with disabilities, including children, retain their fertility on an equal basis with others.
2. States Parties shall ensure the rights and responsibilities of persons with disabilities, with regard to guardianship, wardship, trusteeship, adoption of children or similar institutions, where these concepts exist in national legislation; in all cases the best interests of the child shall be paramount. States Parties shall render appropriate assistance to persons with disabilities in the performance of their child-rearing responsibilities.
3. States Parties shall ensure that children with disabilities have equal rights with respect to family life. With a view to realizing these rights, and to prevent concealment, abandonment, neglect and segregation of children with disabilities, States Parties shall undertake to provide early and comprehensive information, services and support to children with disabilities and their families.
4. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of

the child. In no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents.

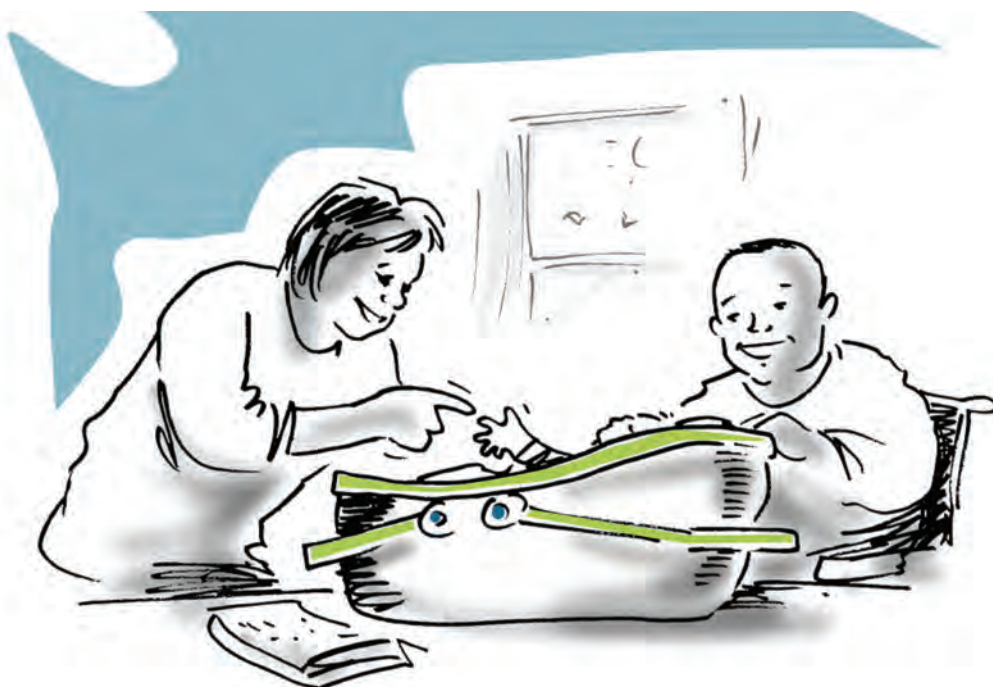
5. States Parties shall, where the immediate family is unable to care for a child with disabilities, undertake every effort to provide alternative care within the wider family, and failing that, within the community in a family setting.

## Commentary

This Article applies and extends the traditional right of respect for the home and family to the circumstances of persons with disability. The first paragraph of the article requires State Parties to ensure that persons with disability are protected from discrimination in any matter concerning marriage, family, parenthood and relationships. This protection includes the right of consenting adults with disability to marry and found a family, and to decide on the number and spacing of their children. To assist persons with disability effectively realise this right, State Parties are required to ensure that persons with disability have access to information and education about family planning, in alternative and adapted formats if required. Importantly, the first paragraph also asserts the right of persons with disability, including children, to retain their fertility on an equal basis with others. This provision is, in effect, a prohibition against non-therapeutic sterilisation of children and adults with disability. Paragraph 2 of the Article requires State Parties to ensure that persons with disability have the same rights as others with respect to the guardianship and adoption of children. It requires all guardianship and adoption decisions to be subject to the paramount principle of the 'best interests of the child.' The remaining paragraphs of the Article emphasise the rights of children with disability to grow up at home with their parents, or where this is not possible, with members of their wider family, or in a family-like setting in the community. In this respect, paragraph 3 protects children with disability from concealment, neglect and segregation by requiring State Parties to ensure that these children and their families have access to early intervention, comprehensive information and services and support. Paragraph 4 protects against the separation of children from their parents on the basis of the disability of the child or one or both of its parents, unless such separation is in the 'best interests of the child' (for example, in a case of abuse or neglect).

## Article 23. Human Rights Indicators

- Persons with disability do not experience discrimination in relation to any matter concerning marriage, family, parenthood and relationships.
- Consenting adults with disability are able to marry and found a family.
- Persons with disability are able to decide on the number and spacing of their children.
- Persons with disability have effective access to family planning information and education, including in accessible and adapted formats if required.
- Persons with disability, including children with disability, retain their fertility on an equal basis with others.
- Persons with disability are accorded the same rights and responsibilities as others with respect to the guardianship and adoption of children.
- The 'best interests of the child' is the paramount consideration in all decisions concerning guardianship and adoption.
- Persons with disability have access to appropriate assistance, where necessary, to perform their child-rearing responsibilities.
- Children with disability are accorded the same rights as other children to family life.
- Children with disability are effectively protected from concealment, abandonment, neglect and segregation.
- Children with disability and their families are effectively supported with early intervention, comprehensive information, and services and support.
- Children with disability are not arbitrarily or unlawfully separated from their parents against their will. The 'best interests of the child' is the basis for any such separation.
- Children with disability are not separated from their parents on the basis of the disability of either the child or of one or both parents.
- Children with disability unable to live with their immediate family are provided with alternative care within their wider family, or if this is not possible, within the community in a family setting.



## Article 23. Key issues

Issue	Points to consider
<b>Do persons with disability experience discrimination in relation to any matter concerning marriage, family, parenthood and relationships?</b>	<ul style="list-style-type: none"> <li>What are the attitudes of the community towards persons with disability being involved in intimate relationships, marrying, or having children?</li> <li>Do social policies and the structure of support services result, either directly or indirectly, in discrimination against persons with disability with respect to intimate relationships, marriage, or having and raising children?</li> </ul>
<b>Are consenting adults with disability accorded the right to marry and found a family?</b>	<ul style="list-style-type: none"> <li>Are there any legal or social barriers to consenting adults with disability marrying, and having and raising children?</li> <li>Do these barriers vary across impairment groups?</li> <li>Is the right of persons with disability to marry and found a family effectively promoted and protected?</li> </ul>
<b>Are persons with disability able to decide on the number and spacing of their children?</b>	<ul style="list-style-type: none"> <li>Are there social barriers to persons with disability having and raising children?</li> <li>Do these barriers vary across impairment groups?</li> <li>Is the right of persons with disability to have and raise children effectively promoted and protected?</li> </ul>
<b>Do persons with disability have access to family planning information and education, including in accessible and adapted formats if required?</b>	<ul style="list-style-type: none"> <li>Is reproductive and other family planning information and education readily available to persons with disability?</li> <li>Are persons with disability effectively supported to obtain this information and participate in such education?</li> <li>Is such information and education available in accessible and adapted formats suitable for persons from a wide range of impairment groups?</li> </ul>
<b>Are persons with disability, including children with disability, able to retain their fertility on an equal basis with others?</b>	<ul style="list-style-type: none"> <li>Are adults and children with disability effectively protected from non-therapeutic sterilisation?</li> <li>Is there effective protection for both women and girls, and men and boys with disability?</li> </ul>
<b>Do persons with disability have the same rights and responsibilities as others with respect to the guardianship and adoption of children?</b>	<ul style="list-style-type: none"> <li>Do persons with disability experience any form of discrimination in relation to guardianship and adoption of children?</li> <li>What are the attitudes of the community towards persons with disability assuming guardianship or adopting children?</li> <li>Do persons with disability have access to the services and support they may require to raise a child for whom they have assumed guardianship or adoptive parental responsibilities?</li> </ul>
<b>Is the 'best interests of the child' a primary consideration in all decisions concerning guardianship and adoption?</b>	<ul style="list-style-type: none"> <li>What are the principles that underpin decision-making with respect to the guardianship and adoption of children?</li> <li>Is the principle of the 'best interests of the child' a primary consideration?</li> <li>Does this consideration, or the weight accorded it, vary either in principle or in practice, should the child have a disability?</li> </ul>
<b>Do persons with disability have access to appropriate assistance, where necessary, to perform their child-rearing responsibilities?</b>	<p>What services and other supports are available to persons with disability to assist them with their child-rearing responsibilities?</p> <p>Are these services and other supports adapted to any disability-related needs of the parent?</p>

## Article 23. Key issues

Issue	Points to consider
<b>Are children with disability accorded the same rights as other children to family life?</b>	<ul style="list-style-type: none"> <li>Do all children with disability have the opportunity to grow up in their family?</li> <li>Do children with disability and their families have access to any services and supports they may require in order to enjoy a positive and inclusive family life?</li> </ul>
<b>Are children with disability effectively protected from concealment, abandonment, neglect and segregation?</b>	<ul style="list-style-type: none"> <li>Are there any situations in which children with disability are concealed from the community?</li> <li>Are there any situations in which children with disability are abandoned by their parents?</li> <li>Are there any situations in which children with disability are subject to neglect?</li> <li>Are there any situations in which children with disability are segregated from the community?</li> <li>What protections exist against such treatment?</li> <li>How effective are these protections?</li> </ul>
<b>Are children with disability and their families effectively supported with early intervention, comprehensive information, and services and support?</b>	<ul style="list-style-type: none"> <li>What early intervention services are available to children with disability and their families?</li> <li>What information services are available to children with disability and their families? What is the quality and approach of the information provided?</li> <li>What services and supports are available to children with disability and their families? What is the quality of these services and supports?</li> <li>Do these services effectively protect children with disability from concealment, abandonment, neglect and segregation?</li> </ul>
<b>Are children with disability arbitrarily or unlawfully separated from their parents against their will? Is the 'best interests of the child' the basis for any such separation?</b>	<ul style="list-style-type: none"> <li>Are there situations in which children with disability are separated from their parents?</li> <li>What is the basis for such separation?</li> <li>What legal protections are in place to prevent arbitrary or unlawful separation of children with disability from their families?</li> <li>How effective are these protections?</li> </ul>
<b>Is the disability of either the child or of one or both parents ever a factor in the separation of children from their parents?</b>	<ul style="list-style-type: none"> <li>How do child protection authorities react to children or parents with disability?</li> <li>Is there any evidence of discrimination on the ground of disability in child protection policy or practice?</li> </ul>
<b>What happens to children with disability who are unable to live with their parents for whatever reason?</b>	<ul style="list-style-type: none"> <li>What are the placement principles that apply to children with disability who are separated from their parents?</li> <li>Do these principles require placement with the child's extended family wherever possible?</li> <li>Do these principles protect the right of children with disability to grow up in a family environment in the community?</li> </ul>

## ARTICLE 24:

### Education

1. States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and life long learning directed to:
  - (a) The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;
  - (b) The development by persons with disabilities of their personality, talents and creativity as well as their mental and physical abilities, to their fullest potential;
  - (c) Enabling persons with disabilities to participate effectively in a free society.
2. In realizing this right, States Parties shall ensure that:
  - (a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;
  - (b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;
  - (c) Reasonable accommodation of the individual's requirements is provided;
  - (d) Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;
  - (e) Effective individualized support measures are provided in environments that maximise academic and social development, consistent with the goal of full inclusion;
3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including:
  - (a) Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;
  - (b) Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;
  - (c) Ensuring that the education of person, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.
4. In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.
5. States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.

### Commentary

This Article applies the right to education to persons with disability. It requires State Parties to ensure that persons with disability have access to an inclusive education system at all levels, and to life-long learning opportunities, including tertiary, vocational and adult education. Reinforcing the CRPD's general prohibition on disability discrimination, the article specifically requires State Parties to ensure the elimination of discrimination on the ground of disability from all aspects of education. Similarly, the Article specifically requires State Parties to ensure that reasonable accommodation of impairment and disability related needs is provided at all levels of the education system. State Parties are required to ensure that education is directed towards a number of fundamental goals, which include the development of human personality and potential, a sense of dignity and self-worth, respect for human rights, fundamental freedom and human diversity, and effective participation in a free society. The Article places over-arching and repeated emphasis on inclusive education and requires State Parties to provide the individualised services and supports necessary for effective inclusion.

Paragraphs 3 and 4 of the Article focus particularly on the learning and social development needs of children and young persons with sensory disability. State Parties are required to facilitate the learning of Braille and other alternative modes, means and formats of communication, and orientation and mobility skills. State Parties are also required to facilitate peer support and mentoring to assist children and young persons with sensory disability develop a positive self-image and social networks. Children who are deaf or deafblind must be provided the opportunity to learn sign languages, and the linguistic identity of the Deaf community must be promoted. Educational instruction must be delivered in the most appropriate languages and modes and means of communication for the child with sensory disability, and in environments that maximise their academic and social development. In order to realise these rights, State Parties are required to ensure that teachers are employed who are qualified in sign language and Braille, and to provide training to ensure that all staff working in the education system are sensitive to the needs of persons with disability, and are able to effectively use augmentative and alternative communication, and adapt and use educational techniques and materials appropriate for children with disability.



## Article 24.

### Human Rights Indicators

- Persons with disability are accorded the right to education.
- Persons with disability are free from discrimination on the ground of disability in education.
- Education of persons with disability is inclusive at all levels of the education system.
- Persons with disability have access to life-long learning, including general tertiary education, vocational training and adult education.
- Education is directed to:
  - The full development of human potential and sense of dignity and self worth;
  - Strengthening of respect for human rights, fundamental freedoms, and human diversity;
  - The development of personality, talents and creativity, and mental and physical abilities, to their fullest potential;
  - Enabling persons with disability to participate effectively in a free society.
- Persons with disability are not excluded from the general education system on the basis of disability.
- Persons with disability are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability.
- Persons with disability can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live.
- Students with disability are provided with reasonable accommodation of their impairment and disability related needs.
- Students with disability receive the support they require to facilitate their effective education within the general education system.
- Students with disability receive effective individualised support measures in fully inclusive environments that maximise academic and social development.
- Persons with disability have access to life and social development skills education to facilitate their full and equal participation in education and as members of the community.
- Persons with disability have the opportunity to learn:
  - Braille, alternative script, augmentative and alternative modes, means and formats of communication;
  - Orientation and mobility skills;
  - Sign languages.
- Persons with disability have access to peer support and mentoring.
- The linguistic identity of the Deaf community is promoted in educational settings.
- Education for children who are blind, deaf or deafblind is delivered in appropriate languages, including sign languages, and other modes and means of communication appropriate for the individual.
- Teachers are qualified in Australian Sign Language and proficient in the use of Braille.
- Staff at all levels of the education system are educated in disability awareness and in the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support students with disability.

## Article 24. Key issues

Issue	Points to consider
<b>Are persons with disability accorded the right to education?</b>	<ul style="list-style-type: none"> <li>• Is there a right to education incorporated into the law?</li> <li>• Does any such right apply to persons with disability on an equal basis with others?</li> <li>• Is this right enforceable?</li> <li>• In practice, do persons with disability have effective access to education?</li> </ul>
<b>Do persons with disability experience discrimination on the ground of disability in education?</b>	<ul style="list-style-type: none"> <li>• Is the education system at all levels accessible to, and inclusive of, all persons with disability?</li> <li>• Are any necessary adjustments made to ensure that persons with disability can effectively participate in education (for example, to ensure physical access, and adaptations to curricula)?</li> <li>• Do persons with disability have access to the assistive technologies and live assistance they require to effectively participate in education?</li> </ul>
<b>Do persons with disability have a right to an inclusive education at all levels of the education system?</b>	<ul style="list-style-type: none"> <li>• Is there a right to an inclusive education (that is, in regular schools and other learning environments) incorporated into law?</li> <li>• Is any such right enforceable?</li> <li>• Are persons with disability segregated from others in education?</li> </ul>
<b>Are persons with disability accorded the right to life-long learning, including general tertiary education, vocational training and adult education?</b>	<ul style="list-style-type: none"> <li>• Is there any right to lifelong learning for persons with disability incorporated into law?</li> <li>• What is the extent of any such law?</li> <li>• Is any such law enforceable?</li> <li>• In practice, do persons with disability have effective access to a range of life-long learning opportunities?</li> </ul>
<b>Is education directed to:</b> <ul style="list-style-type: none"> <li>• The full development of human potential and sense of dignity and self-worth;</li> <li>• Strengthening of respect for human rights, fundamental freedoms, and human diversity;</li> <li>• The development of personality, talents and creativity, and mental and physical abilities, to their fullest potential;</li> <li>• Enabling persons with disability to participate effectively in a free society?</li> </ul>	<ul style="list-style-type: none"> <li>• What are the fundamental goals and objectives of our education system, especially with respect to persons with disability?</li> <li>• How effective are curricula and instructional techniques in achieving these goals and objectives, especially with respect to persons with disability?</li> </ul>
<b>Are persons with disability excluded from the general education system on the basis of disability?</b>	<ul style="list-style-type: none"> <li>• Are there any examples of direct exclusion of persons with disability from education? (For example, because of a characteristic of impairment such as challenging behaviour, or a refusal to provide necessary accommodations, such as a sign-language interpreter).</li> <li>• Are there any examples of indirect exclusion of persons with disability from the education system? (For example, where a person with cognitive disability drops out of school because the curriculum is inaccessible).</li> </ul>

## Article 24. Key issues

Issue	Points to consider
<b>Are persons with disability excluded from free and compulsory primary education, or from secondary education, on the basis of disability?</b>	<ul style="list-style-type: none"> <li>• Is primary education free? Is it compulsory?</li> <li>• Are there any examples of either direct or indirect exclusion of children with disability from primary education?</li> <li>• Are there any examples of either direct or indirect exclusion of persons with disability from secondary education?</li> </ul>
<b>Are persons with disability able to access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live?</b>	<ul style="list-style-type: none"> <li>• Is primary education available to all persons with disability in local communities? Is such education free, inclusive and of good quality?</li> <li>• Is secondary education available to all persons with disability in local communities?</li> </ul>
<b>Are students with disability provided with reasonable accommodation of their impairment and disability related needs?</b>	<ul style="list-style-type: none"> <li>• What services and supports are available to students with disability to facilitate their effective access to education?</li> <li>• What adjustments and adaptations are available to facilitate the participation of persons with disability?</li> </ul>
<b>Do students with disability receive the support they require to facilitate their effective education within the general education system?</b>	<ul style="list-style-type: none"> <li>• Are sufficient adjustments, accommodations, support and services available to facilitate the effective education and inclusion of persons with disability within the general education system?</li> <li>• Are there any barriers to inclusion, and to an effective education, for persons with disability in the general education system?</li> </ul>
<b>Do students with disability receive effective individualised support measures in fully inclusive environments that maximise academic and social development?</b>	<ul style="list-style-type: none"> <li>• What individualised support measures are available to persons with disability to facilitate their effective participation in education?</li> <li>• Are these individualised supports available in fully inclusive environments?</li> <li>• Do these support measures maximise academic and social development?</li> </ul>
<b>Do persons with disability have access to life and social development skills education to facilitate their full and equal participation in education and as members of the community?</b>	<ul style="list-style-type: none"> <li>• What life and social development skills education is available to children and young persons with disability, in particular those with sensory impairments?</li> <li>• Does this education promote independence and social development?</li> </ul>
<b>Do persons with disability have the opportunity to learn: Braille, alternative script, augmentative and alternative modes, means and formats of communication; Orientation and mobility skills; and sign languages?</b>	<ul style="list-style-type: none"> <li>• What arrangements are available for persons with disability with vision impairment to learn Braille and electronic alternative scripts? Are these arrangements adequate?</li> <li>• What arrangements are available for persons with other communication impairments to learn augmentative and alternative modes, means and formats of communication? Are these arrangements adequate?</li> <li>• What arrangements are in place for persons who are deaf or deafblind to learn sign languages? Are these arrangements adequate?</li> </ul>

## Article 24. Key issues

Issue	Points to consider
Do persons with disability have access to peer support and mentoring?	<ul style="list-style-type: none"> <li>Do persons with disability, particularly those with sensory disability, have the opportunity to form peer support networks to promote positive self-image and socialisation?</li> <li>Do they have access to mentoring to promote positive self-image and socialisation?</li> </ul>
Is the linguistic identity of the Deaf community promoted in educational settings?	<ul style="list-style-type: none"> <li>Is the linguistic identity of the Deaf community recognised in education?</li> <li>Is the use of sign languages facilitated and promoted?</li> </ul>
Is education for children who are blind, deaf or deafblind delivered in appropriate languages, including sign languages, and other modes and means of communication appropriate for the individual?	<ul style="list-style-type: none"> <li>Do children who are blind or deafblind have access to Braille and accessible forms of electronic script in all aspects of their education?</li> <li>Do children who are deaf or deafblind have access to sign languages in all aspects of their education?</li> </ul>
Are teachers qualified in sign language and proficient in the use of Braille?	<ul style="list-style-type: none"> <li>What training is provided to teachers to ensure that they are qualified in sign language and proficient in the use of Braille?</li> <li>What quality assurance and continuing training is available to ensure qualifications and proficiency are maintained?</li> </ul>
Are staff at all levels of the education system educated in disability awareness and in the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support students with disability?	<ul style="list-style-type: none"> <li>What training is provided to education professionals and other staff to raise their awareness of augmentative and alternative modalities of communication? Is this training adequate?</li> <li>What training is provided to educational professionals in instructional techniques, curriculum adaptation, and the adaptation and use of accessible materials? Is this training adequate?</li> <li>What advice and support is available to educational professionals in relation to communication skills, adaptation of curricula and materials?</li> </ul>



## ARTICLE 25:

### Health

States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation. In particular, States Parties shall:

- (a) Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health and population-based public health programmes;
- (b) Provide those health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimize and prevent further disabilities, including among children and older persons;
- (c) Provide these health services as close as possible to people's own communities, including in rural areas;
- (d) Require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, inter alia, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care;
- (e) Prohibit discrimination against persons with disabilities in the provision of health insurance, and life insurance where such insurance is permitted under national law, which shall be provided in a fair and reasonable manner;
- (f) Prevent discriminatory denial of health care or health services or foods or fluids on the basis of disability.

### Commentary

This Article applies the right to health to persons with disability. It requires State Parties to ensure that persons with disability realise the highest attainable standard of health, and that health care and health services are free from discrimination on the ground of disability. In particular, the Article requires State Parties to prevent the discriminatory denial of health care, health services and food and fluids on the basis of disability. Reiterating the obligations imposed by *Article 6: Women with Disabilities*, this Article requires State Parties to ensure that health services are gender sensitive. The Article aims to ensure that persons with disability have access to the same range, quality and standard of free or affordable health care and programmes that are available to others, as well as to any specialist health services they require because of their disability. For the first time in a core United Nations human rights treaty, the Article incorporates specific references to sexual and reproductive health services and to population-based public health programmes as among those health services to which persons with disability should have access. The Article requires State Parties to ensure that health services are available as close as possible to local communities, including in rural areas. It also requires State Parties to ensure that health professionals are sensitised to the health needs of persons with disability, and to their human rights, through initiatives such as awareness raising, education, and the development of ethical standards for health care and health services. Subparagraph (e) requires State Parties to ensure that health insurance and life insurance is available to persons with disability on a fair and reasonable basis, free from discrimination on the ground of disability.

## Article 25. Human Rights Indicators

- Persons with disability enjoy the highest attainable standard of health.
- Persons with disability do not experience discrimination in any aspect of the health system.
- Health services, including health-related rehabilitation services, are gender-sensitive.
- Persons with disability have access to the same range, quality and standard of free or affordable health care and programmes as other persons.
- Persons with disability have access to the same range, quality and standard of free or affordable sexual and reproductive health care and programmes as other persons
- Persons with disability have access to the same range, quality and standard of population-based public health programmes as other persons.
- Persons with disability have access to any specialist health services they require, including early identification and intervention services, and services designed to minimise or prevent further disability.
- Health services are available in local communities, including in rural areas.
- Health professionals provide the same quality of care to persons with disability as to others.
- Health professionals are educated to raise awareness of the human rights, dignity, autonomy and needs of persons with disability.
- Health care is provided only on the basis of the free and informed consent of the person with disability receiving treatment.
- There are health care ethical standards in place for public and private health care that ensure that persons with disability receive the highest attainable health care without discrimination.
- Discrimination on the ground of disability in the provision of health insurance and life insurance is prohibited. Such insurance is available to persons with disability on a fair and reasonable basis.
- Discriminatory denial of health care or health services, or foods or fluids on the basis of disability, is prohibited.



## Article 25. Key issues

Issue	Points to consider
<b>Do persons with disability enjoy the highest attainable standard of health?</b>	<ul style="list-style-type: none"> <li>What is the highest attainable level of health care in the Australian context? Consider the issue both in terms of quality and breadth of health care and services available.</li> <li>Is there any difference in the quality and breadth of health care available to persons with disability as compared to others?</li> </ul>
<b>Do persons with disability experience discrimination in any aspect of the health system?</b>	<ul style="list-style-type: none"> <li>Is the health system accessible to all persons with disability?</li> <li>Are any necessary adjustments made to ensure that persons with disability can effectively access health care and health services?</li> <li>What are the attitudes of health professionals towards the health care needs of persons with disability, and their claims upon health resources?</li> <li>Do persons with disability have access to the assistive technologies and live assistance they require to effectively access health care and health services?</li> </ul>
<b>Are health services, including health-related rehabilitation services, gender-sensitive?</b>	<ul style="list-style-type: none"> <li>Is the general health care system, and are general health care services, accessible and responsive to women and girls with disability?</li> <li>Are women's health services accessible and responsive to women and girls with disability?</li> <li>Are specialist health care services available, where necessary, to meet the specific needs of women and girls with disability?</li> </ul>
<b>Do persons with disability have access to the same range, quality and standard of free or affordable health care and programmes as other persons?</b>	<ul style="list-style-type: none"> <li>Is the full range of free or affordable health care available to others available to persons with disability?</li> <li>Are health care services available to persons with disability of the same quality and standard as those available to others?</li> </ul>
<b>Do persons with disability have access to the same range, quality and standard of free or affordable sexual and reproductive health care and programmes as other persons?</b>	<ul style="list-style-type: none"> <li>Do persons with disability have access to the same range of sexual and reproductive health care services and programmes as are available to others?</li> <li>Are those services available to persons with disability of the same quality and standard as those available to others?</li> </ul>
<b>Do persons with disability have access to the same range, quality and standard of population-based public health programmes as other persons?</b>	<ul style="list-style-type: none"> <li>Are the needs and concerns of persons with disability factored into population-based public health programmes?</li> <li>What do population-based statistics tell us about the effectiveness of population-health programmes in respect of persons with disability (for example, what are smoking rates among persons with disability compared with the general population)?</li> </ul>
<b>Do persons with disability have access to any specialist health services they require, including early identification and intervention services, and services designed to minimise or prevent further disability?</b>	<ul style="list-style-type: none"> <li>What specialist health services do persons with disability require?</li> <li>Are these services available to persons with disability free of charge or at an affordable cost?</li> </ul>

## Article 25. Key issues

Issue	Points to consider
<b>Are comprehensive health services available in local communities, including in rural areas?</b>	<ul style="list-style-type: none"> <li>What health care services are available at the local level, especially in rural areas?</li> <li>Is there any difference in the range and quality of health care available to persons with disability depending upon whether they live in a metropolitan or rural area?</li> </ul>
<b>Do health professionals provide the same quality of care to persons with disability as to others?</b>	<ul style="list-style-type: none"> <li>What are the attitudes of health care professionals to the health needs of persons with disability?</li> <li>How knowledgeable and skilled are health care professionals in relation to the health care needs of persons with disability?</li> </ul>
<b>Are health professionals educated to raise their awareness of the human rights, dignity, autonomy and needs of persons with disability?</b>	<ul style="list-style-type: none"> <li>What education and training is provided to health care professionals to sensitise them to the human rights, dignity and health care needs of persons with disability?</li> <li>How comprehensive is this training? Is it systematic?</li> </ul>
<b>Is health care provided only on the basis of the free and informed consent of the person with disability receiving treatment?</b>	<ul style="list-style-type: none"> <li>What policies and procedures are in place to ensure that healthcare is provided only on the basis of the free and informed consent of the person with disability being treated?</li> <li>Are there any situations in which health care is provided coercively, or without the genuine consent of the person with disability being treated?</li> </ul>
<b>Are there ethical standards in place for public and private health care that ensure that persons with disability receive the highest attainable health care without discrimination?</b>	<ul style="list-style-type: none"> <li>What policies, procedures and standards are in place to ensure that persons with disability have access to high quality health care?</li> <li>What policies, procedures and standards are in place to prevent discrimination on the ground of disability in health care?</li> <li>Are these policies, procedures and standards adequate? Are they enforced?</li> </ul>
<b>Is discrimination on the ground of disability in the provision of health insurance and life insurance prohibited? Is such insurance available to persons with disability on a fair and reasonable basis?</b>	<ul style="list-style-type: none"> <li>Do persons with disability have access to health insurance and life insurance?</li> <li>Under what terms and conditions is health insurance and life insurance available?</li> <li>What are the policies and attitudes of insurance providers to persons with disability?</li> </ul>
<b>Is the discriminatory denial of health care or health services, or foods or fluids, on the basis of disability prohibited?</b>	<ul style="list-style-type: none"> <li>Does the law or policy prohibit the denial of health care or health services on the basis of disability?</li> <li>Does the law or policy prohibit the denial of food or fluids on the basis of disability?</li> <li>Are any laws and policies in these areas adequate? Are they effectively enforced?</li> </ul>

## ARTICLE 26:

### Habilitation and rehabilitation

1. States Parties shall take effective and appropriate measures, including through peer support, to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life. To that end, States Parties shall organize, strengthen, and extend comprehensive habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services, in such a way that these services and programmes:
  - (a) Begin at the earliest possible stage, and are based on the multidisciplinary assessment of individual needs and strengths;
  - (b) Support participation and inclusion in the community and all aspects of society, are voluntary, and are available to persons with disabilities as close as possible to their own communities, including in rural areas.
2. States Parties shall promote the development of initial and continuing training for professionals and staff working in habilitation and rehabilitation services.
3. States Parties shall promote the availability, knowledge and use of assistive devices and technologies, designed for persons with disabilities, as they relate to habilitation and rehabilitation.

## Commentary

This Article is an extension of the traditional rights to education, health, work, and social security and to habilitation and rehabilitation. Habilitation refers to the developmental acquisition of life skills by persons with lifelong disability, whereas rehabilitation refers to the recovery of life skills by persons who have acquired disability as a result of trauma. State Parties are required to ensure the availability of comprehensive habilitation and rehabilitation services and programmes that will enable persons with disability to attain and maintain maximum independence and full physical, mental, social and vocational ability. Peer supported habilitation and rehabilitation is particularly emphasised. The Article places major emphasis on the participation and inclusion of persons with disability in all aspects of the life of the community both during the process of habilitation and rehabilitation, and as an outcome of it. State Parties are required to ensure that habilitation and rehabilitation services are available at the earliest possible time and are locally based, including in rural areas. The Article stresses the multidimensional nature of habilitation and rehabilitation by requiring that service delivery is based on the multidisciplinary assessment of the person's needs and strengths. The Article makes it clear that habilitation and rehabilitation cannot be imposed coercively by insisting that participation must be voluntary. Paragraph 2 of the Article requires State Parties to promote the development of initial and continuing training of habilitation and rehabilitation professionals and other staff. Paragraph 3 requires State Parties to promote the availability, knowledge of, and use of assistive devices and technologies that may facilitate habilitation and rehabilitation.

## Article 26.

### Human Rights Indicators

- Persons with disability have access to habilitation and rehabilitation services that will allow them to:
  - Attain and maintain maximum independence;
  - Full physical, mental, social and vocational ability;
  - Full inclusion and participation in all aspects of life.
- Habilitation and rehabilitation services begin at the earliest possible stage.
- Habilitation and rehabilitation services are based on the multidisciplinary assessment of the person's individual needs and strengths.
- Habilitation and rehabilitation services support persons with disability to participate and be included in the community, and in all aspects of society.
- Habilitation and rehabilitation services are available to persons with disability in local communities, including in rural areas.
- The participation of persons with disability in habilitation and rehabilitation services is voluntary.
- Habilitation and rehabilitation professionals and staff receive comprehensive initial and continuing education.
- Persons with disability are informed about, and have ready access to, assistive devices and technologies to assist them with habilitation and rehabilitation.



## Article 26. Key issues

Issue	Points to consider
<p><b>Do persons with disability have access to habilitation and rehabilitation services that will allow them to attain and maintain:</b></p> <ul style="list-style-type: none"> <li>• maximum independence;</li> <li>• Full physical, mental, social and vocational ability; and</li> <li>• Full inclusion and participation in all aspects of life?</li> </ul>	<ul style="list-style-type: none"> <li>• What habilitation and rehabilitation services are available to persons with disability?</li> <li>• How effective are these services in promoting the realisation of maximum independence and potential?</li> <li>• Are they delivered in ways that facilitate the inclusion and participation of persons with disability in community life?</li> </ul>
<p><b>Is habilitation or rehabilitation available from the earliest possible stage?</b></p>	<ul style="list-style-type: none"> <li>• Are habilitation and rehabilitation services sufficient?</li> <li>• Are service models based on early intervention?</li> <li>• What are their eligibility criteria? Is there a waiting period for access to these services?</li> </ul>
<p><b>Are habilitation and rehabilitation services based on the multidisciplinary assessment of the person's individual needs and strengths?</b></p>	<ul style="list-style-type: none"> <li>• How are habilitation and rehabilitation needs assessed?</li> <li>• Is such assessment multidisciplinary in nature? Or is it limited to medical aspects (for example)?</li> <li>• Does it involve an assessment of both needs and strengths as a basis for individual service plan development?</li> </ul>
<p><b>Do habilitation and rehabilitation services support persons with disability to participate and be included in the community, and in all aspects of society?</b></p>	<ul style="list-style-type: none"> <li>• Are habilitation and rehabilitation services based in the general community (as opposed to institutional or medical settings)?</li> <li>• Do habilitation and rehabilitation services assist persons with disability develop the skills they require for participation and inclusion in community life?</li> </ul>
<p><b>Are habilitation and rehabilitation services available to persons with disability in local communities, including in rural areas?</b></p>	<ul style="list-style-type: none"> <li>• Are habilitation and rehabilitation services locally based?</li> <li>• How does the availability and quality of habilitation and rehabilitation services vary between metropolitan and rural areas?</li> <li>• Do persons with disability living in rural areas experience any disadvantage in their access to habilitation and rehabilitation services?</li> </ul>
<p><b>Is the participation of persons with disability in habilitation and rehabilitation services voluntary?</b></p>	<ul style="list-style-type: none"> <li>• What are the intake procedures for habilitation and rehabilitation services?</li> <li>• Are there any instances in which persons with disability are forced to undertake habilitation or rehabilitation, or a particular form of it?</li> </ul>
<p><b>Do habilitation and rehabilitation professionals and staff receive comprehensive initial and continuing education?</b></p>	<ul style="list-style-type: none"> <li>• What are the skills and qualifications of habilitation and rehabilitation professionals and other staff working in this field?</li> <li>• What is the scope and content of continuing education provided to habilitation and rehabilitation professionals and other staff?</li> <li>• Are persons with disability encouraged and supported to work as habilitation and rehabilitation personnel?</li> </ul>
<p><b>Are persons with disability informed about, and do they have ready access to, assistive devices and technologies to assist them with habilitation and rehabilitation?</b></p>	<ul style="list-style-type: none"> <li>• What sources of information are available to persons with disability in relation to habilitation and rehabilitation related assistive devices and technologies?</li> <li>• Are these information sources comprehensive, up-to-date, and easily accessible to persons with disability?</li> <li>• Do habilitation and rehabilitation professionals and other staff have comprehensive and contemporary knowledge of assistive devices and technologies for persons with disability?</li> <li>• What is the cost and availability of these assistive devices and technologies?</li> </ul>

## ARTICLE 27:

### Work and employment

States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:

- (a) Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;
- (b) Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances;
- (c) Ensure that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others;
- (d) Enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training;
- (e) Promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment;
- (f) Promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business;
- (g) Employ persons with disabilities in the public sector;
- (h) Promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures;
- (i) Ensure that reasonable accommodation is provided to persons with disabilities in the workplace;

- (j) Promote the acquisition by persons with disabilities of work experience in the open labour market;
- (k) Promote vocational and professional rehabilitation, job-retention and return-to-work programmes for persons with disabilities;

2. States Parties shall ensure that persons with disabilities are not held in slavery or in servitude and are protected, on an equal basis with others, from forced or compulsory labour.

### Commentary

This Article applies the right of work and employment to persons with disability. It requires State Parties to recognise the equal right of persons with disability to freely chosen or accepted work in an open and inclusive labour market under just and fair conditions. Reiterating the *CRPD*'s general prohibition on discrimination on the ground of disability, the Article specifically requires State Parties to prohibit discrimination in relation to all aspects of work and employment, including conditions of recruitment, hiring, continuity of employment, career advancement and occupational health and safety. Similarly, State Parties are specifically required to ensure that reasonable accommodation of disability related needs is provided in the workplace. State Parties are also required to ensure that persons with disability are protected from harassment in the workplace, have effective avenues for the redress of work-related grievances, and are able to exercise their labour and trade union rights on an equal basis with others. The Article requires State Parties to ensure that persons with disability have access to comprehensive employment-related support services and education and training, including vocational training, vocational guidance, work-experience, jobseeker and placement services, placement support and job retention services, and return to work rehabilitation and other support services. Additionally, State Parties are required to promote self-employment, work cooperatives, entrepreneurship, and personal business opportunities for persons with disability. State Parties are also required to lead by example by providing employment for persons with disability in the public sector, and to promote their employment in the private sector by adopting policies and measures such as affirmative action programmes and incentives. Paragraph 2 of the Article requires State Parties to ensure that persons with disability are effectively protected from slavery and servitude and from forced and compulsory labour on an equal basis with others.

## Article 27.

### Human rights indicators

- Persons with disability have access to work on an equal basis with others.
- Persons with disability have the opportunity to gain a living in a freely chosen or accepted labour market and work environment.
- Persons with disability have access to open, inclusive and accessible employment.
- Discrimination on the ground of disability is prohibited in all forms and aspects of employment, including:
  - Conditions of recruitment;
  - Hiring and employment;
  - Continuity of employment;
  - Career advancement;
  - Safe and healthy working conditions.
- Persons with disability have access to just and favourable conditions of work on an equal basis with others. This includes
  - Equal opportunities of work;
  - Equal remuneration for work of equal value;
  - Safe and healthy working conditions, including protection from harassment;
  - The redress of grievances.
- Persons with disability exercise their labour and trade union rights on an equal basis with others.
- Persons with disability have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training.
- Career opportunities and career advancement for persons with disability are promoted.
- Persons with disability are provided with assistance to find, obtain, maintain and return to employment.
- Opportunities for self-employment, entrepreneurship, development of cooperatives and personal enterprises are promoted to persons with disability.
- Persons with disability are employed in the public sector.
- There are policies and measures (such as affirmative action and incentives), which promote employment of persons with disability in the private sector.
- Persons with disability have access to reasonable accommodation of their impairment and disability related needs in the workplace.
- Persons with disability have access to work experience in the open labour market.
- Vocational and professional rehabilitation, job-retention and return-to-work programmes for persons with disability are promoted.
- Persons with disability are not held in slavery or in servitude and are protected from forced or compulsory labour on an equal basis with others.

## Article 27. Key issues

Issue	Points to consider
<b>Do persons with disability have access to work on an equal basis with others?</b>	<ul style="list-style-type: none"> <li>• What are the employment rates for persons with disability, and how do these compare with employment rates for the general population?</li> <li>• Are there differences in work outcomes for persons with disability in terms of employment status (for example, part-time, casual, permanence), remuneration, seniority, career advancement etc as compared to others?</li> </ul>
<b>Do persons with disability have the opportunity to gain a living in a freely chosen or accepted labour market and work environment?</b>	<ul style="list-style-type: none"> <li>• Do persons with disability have the same work choices that are available to other persons?</li> <li>• What factors, if any, limit the employment choices available to persons with disability?</li> <li>• Are persons with disability obliged (or forced) to work in any particular work environment?</li> </ul>
<b>Do persons with disability have access to open, inclusive and accessible employment?</b>	<ul style="list-style-type: none"> <li>• Is employment available to persons with disability in the mainstream labour market?</li> <li>• What are the barriers, if any, to the employment of persons with disability in the mainstream labour market?</li> <li>• Are specialist employment services structured and delivered so as to support persons with disability to be included in the mainstream labour market?</li> </ul>
<b>Is discrimination on the ground of disability prohibited in all forms and aspects of employment, including:</b> <ul style="list-style-type: none"> <li>• Conditions of recruitment;</li> <li>• Hiring and employment;</li> <li>• Continuity of employment;</li> <li>• Career advancement;</li> <li>• Safe and healthy working conditions?</li> </ul>	<ul style="list-style-type: none"> <li>• Do persons with disability experience discrimination in any aspect of employment?</li> <li>• Is discrimination on the ground of disability prohibited under the law?</li> <li>• How comprehensive and effective are such prohibitions? Are they effectively enforced?</li> </ul>
<b>Do persons with disability have access to just and favourable conditions of work on an equal basis with others, including:</b> <ul style="list-style-type: none"> <li>• Equal opportunities of work;</li> <li>• Equal remuneration for work of equal value;</li> <li>• Safe and health working conditions, including protection from harassment;</li> <li>• The redress of grievances?</li> </ul>	<ul style="list-style-type: none"> <li>• What conditions of employment are available to persons with disability?</li> <li>• Do persons with disability have the same opportunities as others in terms of employment status, job choice and career advancement?</li> <li>• How are persons with disability remunerated? Are remuneration levels equivalent to other persons? What accounts for any variation?</li> <li>• Are persons with disability effectively protected from workplace harassment?</li> <li>• How safe and healthy are working conditions for persons with disability?</li> <li>• What avenues are available for persons with disability to seek resolution of workplace grievances? How effective are these avenues?</li> </ul>

## Article 27. Key issues

Issue	Points to consider
<b>Are persons with disability able to exercise their labour and trade union rights on an equal basis with others?</b>	<ul style="list-style-type: none"> <li>What workplace rights do persons with disability have? Are these equivalent to others?</li> <li>Do persons with disability have the right and opportunity to join trade unions?</li> <li>Are trade unions accessible and responsive to the workplace needs of persons with disability?</li> </ul>
<b>Do persons with disability have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training?</b>	<ul style="list-style-type: none"> <li>How accessible and inclusive are general technical and vocational guidance programmes to persons with disability?</li> <li>How accessible and inclusive are job placement services?</li> <li>Is general vocational and continuing training accessible and inclusive of persons with disability?</li> </ul>
<b>Are career opportunities and career advancement for persons with disability promoted?</b>	<ul style="list-style-type: none"> <li>Are persons with disability encouraged to seek career advancement?</li> <li>What practical supports and opportunities are available to persons with disability to develop credentials for career progression?</li> <li>Are criteria for career progression free from discrimination on the ground of disability?</li> </ul>
<b>Are persons with disability provided with assistance to find, obtain, maintain and return to employment?</b>	<ul style="list-style-type: none"> <li>What job search support is available to persons with disability?</li> <li>What supports and incentives (for example, assistance with workplace adjustments, or to meet extra costs associated with workforce participation) are available to persons with disability?</li> <li>What 'on-the-job' supports and training are available to persons with disability?</li> <li>What 'return-to-work' policies apply to persons with disability who acquire impairment or disability?</li> </ul>
<b>Are opportunities for self-employment, entrepreneurship, development of cooperatives and personal enterprises promoted to persons with disability?</b>	<ul style="list-style-type: none"> <li>Are there policies and programmes that promote self-employment and cooperatives for persons with disability?</li> <li>Are there policies and programmes that assist persons with disability to develop business and entrepreneurial skills?</li> </ul>
<b>Are persons with disability are employed in the public sector?</b>	<ul style="list-style-type: none"> <li>What are the rates of employment of persons with disability in the public sector?</li> <li>Are there any specific policies and programmes to promote and support the employment of persons with disability in the public sector?</li> </ul>
<b>Are there are policies and measures (such as affirmative action and incentives) that promote employment of persons with disability in the private sector?</b>	<ul style="list-style-type: none"> <li>What policies and programmes are available, if any, to promote the employment of persons with disability by the private sector?</li> <li>What services are available, if any, to promote and support the employment of persons with disability in the private sector?</li> <li>How effective are these measures?</li> </ul>

## Article 27. Key issues

Issue	Points to consider
<b>Do persons with disability have access to reasonable accommodation of their impairment and disability-related needs in the workplace?</b>	<ul style="list-style-type: none"> <li>• What services and supports are available to meet the impairment and disability-related needs of persons with disability in the workplace?</li> <li>• Are employers obliged by law to provide reasonable accommodation of the impairment and disability-related needs of employees and prospective employees?</li> <li>• Are any such obligations effectively enforced?</li> </ul>
<b>Do persons with disability have access to work experience in the open labour market?</b>	<ul style="list-style-type: none"> <li>• What work-experience programmes are available to persons with disability in the open labour market?</li> <li>• Are apprenticeships, internships, and vocational placements available to persons with disability on an equal basis with others?</li> <li>• Are there any specific apprenticeship, internship, or vocational placement programmes designed for persons with disability?</li> </ul>
<b>Are vocational and professional rehabilitation, job-retention and return-to-work programs for persons with disability promoted?</b>	<ul style="list-style-type: none"> <li>• What efforts are made to promote the availability of, and access to, vocational and professional rehabilitation programs for persons with disability?</li> <li>• What efforts are made to promote the availability of, and access to, return to work programs for persons with disability?</li> <li>• How effective is such promotion?</li> </ul>
<b>Are persons with disability held in slavery or in servitude? Are they protected from forced or compulsory labour on an equal basis with others?</b>	<ul style="list-style-type: none"> <li>• Are there any situations where persons with disability are subject to slavery or servitude?</li> <li>• Are there any situations where persons with disability are subject to forced or compulsory labour?</li> <li>• What protection is available to persons with disability against slavery and servitude? Are these protections effective?</li> </ul>



## ARTICLE 28:

# Adequate standard of living and social protection

1. States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take all appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.
2. States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realisation of this right, including measures:
  - (a) To ensure equal access by persons with disabilities to clean water services, and ensure access to appropriate and affordable services, devices and other assistance for disability-related needs;
  - (b) To ensure access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection programmes and poverty reduction programmes
  - (c) To ensure access by persons with disabilities and their families living in situations of poverty to assistance from the State with disability-related expenses, including adequate training, counselling, financial assistance and respite care;
  - (d) To ensure access by persons with disabilities to public housing programmes;
  - (e) To ensure equal access by persons with disabilities to retirement benefits and programmes.

## Commentary

This Article applies and extends the traditional rights to an adequate standard of living and social security to persons with disability. States are required to recognise the right of persons with disability to an adequate standard of living for themselves and for their families, which includes access to adequate food, clothing and housing. Significantly, the Article emphasises the right to continuous improvement of living conditions without discrimination on the ground of disability. Paragraph 2 of the Article requires State Parties to recognise the right of persons with disability to social protection and poverty reduction. 'Social protection' is a new concept, at least so far as core United Nations human rights instruments are concerned, and appears to be more expansive than the concept of 'social security' incorporated into earlier instruments. State Parties are required to safeguard and promote the right to social protection by ensuring that persons with disability have equal access to clean water, to public housing, and to appropriate and affordable services, assistive devices and other assistance for disability-related needs. State Parties are also required to provide persons with disability living in poverty with access to poverty reduction programmes. This includes the public provision of financial assistance, particularly in relation to disability-related expenses, education and support services. State Parties must also ensure that older persons with disability have access on an equal basis with others to retirement benefits and programmes, and to social protection. Reiterating the obligations imposed by *Article 6: Women with Disabilities*, this Article requires State Parties to ensure the social protection of women and girls with disability.

## Article 28.

### Human Rights Indicators

- Persons with disability have access to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, without discrimination on the ground of disability.
- Persons with disability enjoy continuous improvement of living conditions without discrimination on the ground of disability.
- Persons with disability have access to social protection without discrimination on the ground of disability.
- Persons with disability have access to clean water.
- Persons with disability have access to appropriate and affordable services, devices and other assistance for disability-related needs.
- Persons with disability have access to social protection and poverty reduction programmes. In particular, women and girls with disability, and older persons with disability, have access to social protection and poverty reduction programmes.
- Persons with disability and their families living in situations of poverty have access to assistance with disability-related expenses.
- Persons with disability have access to public housing programmes.
- Persons with disability have access to retirement benefits and programmes.



## Article 28. Key issues

Issue	Points to consider
<b>Do persons with disability have access to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, without discrimination on the ground of disability?</b>	<ul style="list-style-type: none"> <li>• What standard of living do persons with disability and their families enjoy? How does this compare with the standard of living available to others?</li> <li>• Do persons with disability and their families have access to adequate food, clothing and housing?</li> <li>• Does discrimination affect the standard of living experienced by persons with disability and their families?</li> </ul>
<b>Do persons with disability enjoy continuous improvement of living conditions without discrimination on the ground of disability?</b>	<ul style="list-style-type: none"> <li>• Is there evidence of continuous improvement in the living conditions of persons with disability?</li> <li>• How does the rate of any such improvement compare with the rate of improvement in the living standards of others?</li> <li>• Are there any instances where the living conditions of persons with disability have declined or regressed?</li> </ul>
<b>Do persons with disability have access to social protection without discrimination on the ground of disability?</b>	<ul style="list-style-type: none"> <li>• Is there a social 'safety net' to protect persons with disability from poverty?</li> <li>• How effective is this safety net?</li> <li>• Is the social 'safety net' equivalent to the protection available to others?</li> <li>• Is this safety net compromised in any way by discrimination on the ground of disability?</li> </ul>
<b>Do persons with disability have access to clean water?</b>	<ul style="list-style-type: none"> <li>• Do persons with disability have access to clean water irrespective of where they live?</li> </ul>
<b>Do persons with disability have access to appropriate and affordable services, devices and other assistance for disability-related needs?</b>	<ul style="list-style-type: none"> <li>• What services, assistive devices, equipment and other assistance is available for persons with disability?</li> <li>• How accessible is such assistance? (for example, is there unmet demand for such assistance, and are there restrictive eligibility criteria?)</li> <li>• What is the cost of these measures to persons with disability and their families?</li> </ul>
<b>Do persons with disability have access to social protection and poverty reduction programmes? In particular, do women and girls with disability, and older persons with disability, have access to social protection and poverty reduction programmes?</b>	<ul style="list-style-type: none"> <li>• What social 'safety net' and poverty reduction programmes are available to persons with disability?</li> <li>• How comprehensive and effective are these programmes?</li> <li>• Are these programmes available to women and girls and older persons with disability?</li> <li>• Are there specialised programmes for these groups?</li> </ul>
<b>Do persons with disability and their families living in situations of poverty have access to assistance with disability-related expenses?</b>	<ul style="list-style-type: none"> <li>• What programmes and services are available to assist persons with disability and their families meet the extra costs of disability?</li> <li>• Who is eligible for this assistance?</li> <li>• How accessible is such assistance?</li> </ul>
<b>Do persons with disability have access to public housing programmes?</b>	<ul style="list-style-type: none"> <li>• Are persons with disability eligible for public social housing programmes?</li> <li>• How available is public housing to persons with disability, in terms of waiting periods, locations etc?</li> <li>• Is public social housing accessible and otherwise 'fit-for-purpose' for persons with disability?</li> </ul>
<b>Do persons with disability have access to retirement benefits and programmes?</b>	<ul style="list-style-type: none"> <li>• What retirement benefits and programmes are available to persons with disability?</li> <li>• Who is eligible for this assistance?</li> <li>• How accessible is such assistance?</li> </ul>

## ARTICLE 29:

# Participation in political and public life

States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake to:

- (a) Ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by:
  - (i) Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;
  - (ii) Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;
  - (iii) Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice;
- (b) Promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:
  - (i) Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties;
  - (ii) Forming and joining organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.

## Commentary

This Article applies traditional political rights to persons with disability on an equal basis with others. In order to realise these rights, State Parties must ensure that persons with disability can effectively and fully participate in political and public life either directly or through freely chosen representatives without discrimination. Persons with disability must be able to effectively hold office and perform all public functions at all levels of government. To facilitate this, State Parties must ensure access to assistive and new technologies where required. Voting must be available to persons with disability by secret ballot, be free from intimidation, and voting procedures, facilities and materials must be accessible and easy to understand. Persons with disability who require assistance to vote must be permitted to obtain such assistance from a person of their choice. State Parties must also actively promote an environment in which persons with disability can effectively and fully participate in the conduct of public affairs. This includes an obligation to encourage the participation of persons with disability in non-governmental organisations and associations concerned with public and political life. It also includes the obligation to encourage the formation and participation of persons with disability in representative organisations at the international, national, regional and local levels.

## Article 29.

### Human Rights Indicators

- Persons with disability effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives.
- Voting procedures, facilities and materials are accessible to persons with disability.
- Persons with disability are able to vote by secret ballot in elections and public referendums.
- Persons with disability are able to vote in elections and public referendums without intimidation.
- Persons with disability are able to stand for election, to effectively hold office, and perform all public functions at all levels of government.
- Persons with disability have access to a personal assistant of their choice to assist in voting.
- Persons with disability can effectively and fully participate in the conduct of public affairs on an equal basis with others without discrimination.
- Participation of persons with disability in public affairs is encouraged.
- Persons with disability are encouraged to participate in non-governmental organisations and associations concerned with public and political life, and in the activities and administration of political parties.
- Persons with disability are encouraged to form and join organisations of persons with disability to represent them at the international, national, regional and local levels.

## Article 29. Key issues

Issue	Points to consider
<b>Are persons with disability able to effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives?</b>	<ul style="list-style-type: none"> <li>• How many people with disability participate in political and public life?</li> <li>• Are persons with disability appointed to public office?</li> <li>• What are the barriers to such participation, if any?</li> <li>• Do persons with disability take active part in democratic processes, for example, in the selection and ‘testing’ of candidates for political office?</li> </ul>
<b>Are voting procedures, facilities and materials accessible to persons with disability?</b>	<ul style="list-style-type: none"> <li>• Are voting venues physically accessible to persons with disability?</li> <li>• Are voting booths physically accessible?</li> <li>• Is voter information available in accessible formats (such as Braille, Large Print and Easy-English)?</li> <li>• Is live assistance available for persons with disability (such as sign language interpreters) at voting venues?</li> <li>• What other adjustments are available to ensure that persons with disability can vote?</li> </ul>
<b>Are persons with disability able to vote by secret ballot in elections and public referendums?</b>	<ul style="list-style-type: none"> <li>• Are all persons with disability, including those who are blind and those who have severe physical disability, able to vote by secret ballot? (That is, cast and verify their vote independently).</li> <li>• What assistive technologies are available to enable them to do so? Is such technology available in all locations?</li> <li>• What are the barriers, if any, to them doing so?</li> </ul>
<b>Are persons with disability able to vote in elections and public referendums without intimidation?</b>	<ul style="list-style-type: none"> <li>• Are persons with disability able to cast their vote without interference, undue influence, or intimidation?</li> <li>• What safeguards are in place to prevent such interference?</li> </ul>
<b>Are persons with disability able to stand for election, to effectively hold office, and perform all public functions at all levels of government?</b>	<ul style="list-style-type: none"> <li>• Does impairment or disability ever disqualify a person from participating in political and public life?</li> <li>• How do the ‘demands’ of political and public life impact on the capacity of persons with disability to hold political and public office?</li> <li>• What impairment and disability-related adjustments are available to assist persons with disability to participate on an equal basis with others?</li> </ul>
<b>Do persons with disability have access to a personal assistant of their choice, where required, to assist in voting?</b>	<ul style="list-style-type: none"> <li>• Do voting procedures allow persons with disability to utilise a personal assistant, if required, in order to cast their vote?</li> <li>• What are the rules relating to the provision and utilisation of such assistance, if any?</li> </ul>
<b>Are persons with disability able to effectively and fully participate in the conduct of public affairs on an equal basis with others without discrimination?</b>	<ul style="list-style-type: none"> <li>• Are persons with disability able to participate in democratic processes and public-policy making processes on an equal basis with others?</li> <li>• What are the barriers to such participation, if any?</li> <li>• What impairment and disability-related adjustments are available to assist persons with disability to participate on an equal basis with others?</li> </ul>

## Article 29. Key issues

Issue	Points to consider
<b>Is the participation of persons with disability in public affairs encouraged?</b>	<ul style="list-style-type: none"> <li>• What measures are in place, if any, to encourage persons with disability to participate in democratic and public policy making processes?</li> <li>• How comprehensive and effective are these measures? Do they apply to all persons with disability, or to some impairment groups, but not others?</li> </ul>
<b>Are persons with disability encouraged to participate in non-governmental organisations and associations concerned with public and political life, and in the activities and administration of political parties?</b>	<ul style="list-style-type: none"> <li>• What measures are in place to encourage persons with disability to participate in non-governmental organisations and associations formed to participate in democratic and public policy making processes?</li> <li>• What measures are in place to prevent discrimination against persons with disability by these organisations and associations?</li> <li>• What impairment and disability-related adjustments are available to assist persons with disability to participate on an equal basis with others?</li> </ul>
<b>Are persons with disability encouraged to form and join organisations of persons with disability to represent them at the international, national, regional and local levels?</b>	<ul style="list-style-type: none"> <li>• What public support is available for representative organisations of and for persons with disability?</li> <li>• Does the level of support facilitate these organisations playing an effective representative role at the international, national, regional and local levels?</li> <li>• What level of recognition is accorded these organisations in public policy making processes?</li> <li>• Are persons with disability otherwise encouraged to participate in such organisations?</li> </ul>



## ARTICLE 30:

# Participation in cultural life, recreation, leisure and sport

1. States Parties shall recognize the right of persons with disabilities to take part on an equal basis with others in cultural life, and shall take all appropriate measures to ensure that persons with disabilities:
  - (a) Enjoy access to cultural materials in accessible formats;
  - (b) Enjoy access to television programmes, films, theatre and other cultural activities, in accessible formats
  - (c) Enjoy access to places for cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, and, as far as possible, enjoy access to monuments and sites of national cultural importance.
2. States Parties shall take appropriate measures to enable persons with disabilities to have the opportunity to develop and utilize their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of society.
3. States Parties shall take all appropriate steps, in accordance with international law, to ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials.
4. Persons with disabilities shall be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including sign languages and deaf culture.
5. With a view to enabling persons with disabilities to participate on an equal basis with others in recreational, leisure and sporting activities, States Parties shall take appropriate measures:
  - (a) To encourage and promote the participation, to the fullest extent possible, of persons with disabilities in mainstream sporting activities at all levels;
  - (b) To ensure that persons with disabilities have an opportunity to organize, develop and participate in disability-specific sporting and recreational activities and, to this end, encourage the provision, on an equal basis with others, of appropriate instruction, training and resources;
  - (c) To ensure that persons with disabilities have access to sporting, recreational and tourism venues;
  - (d) To ensure that children with disabilities have equal access with other children to participation in play, recreation and leisure and sporting activities, including those activities in the school system;
  - (e) To ensure that persons with disabilities have access to services from those involved in the organization of recreational, tourism, leisure and sporting activities.



## Commentary

This Article applies and extends traditional rights in relation to cultural life, recreation and leisure to persons with disability. State Parties must recognise the right of persons with disability to take part in the cultural life of community on an equal basis with others. In order to facilitate this, State Parties must ensure that cultural materials, television programmes, films, theatre and other cultural activities are available in accessible formats. In this respect, paragraph 3 of the Article requires State Parties to take all appropriate steps to ensure that intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disability to cultural materials. State Parties must also ensure that premises and facilities associated with cultural performances and services, such as theatres, museums, cinemas, libraries and tourism services are accessible to persons with disability. Additionally, State Parties must ensure, as far as possible, that persons with disability have access to monuments and sites of national cultural importance. Paragraph 2 of the Article focuses on the potential and contribution of persons with disability to the cultural life of the community. State Parties are required to take appropriate measures to enable persons with disability to develop and utilise their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of society. Paragraph 4 goes further, requiring State Parties to recognise, where applicable, the specific cultural and linguistic identity of persons with disability, including in particular, sign languages and Deaf culture. Paragraph 5 of the Article requires State Parties to take all appropriate measures to ensure that persons with disability can participate on an equal basis with others in recreational, leisure and sporting activities. This includes the obligation to encourage persons with disability to participate in mainstream sport at all levels, and well as to ensure that persons with disability have the opportunity to organise and participate in disability-specific sporting and recreational activities. In order to realise these rights, State Parties must ensure that persons with disability have access to appropriate instruction, training and resources, and to recreation, tourism, leisure and sporting services. State Parties must also ensure that children with disability have equal access with other children to participation in play, recreation and leisure and sporting activities, both within and outside the school system.

## Article 30. Human Rights Indicators

- **Persons with disability take part in cultural life on an equal basis with others.**
- **Cultural materials are available in accessible formats.**
- **Persons with disability have access to television programmes, films, theatre and other cultural activities in accessible formats.**
- **Persons with disability have access to places of cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services.**
- **Persons with disability have access, as far as possible, to monuments and sites of national cultural importance.**
- **Persons with disability have the opportunity to develop and utilise their creative, artistic and intellectual potential.**
- **Intellectual property rights do not constitute an unreasonable or discriminatory barrier to access to cultural materials for persons with disability.**
- **The specific cultural and linguistic identity of persons with disability, including sign languages and Deaf culture, is recognised.**
- **Persons with disability participate in recreational, leisure and sporting activities on an equal basis with others.**
- **The participation to the fullest extent possible of persons with disability in mainstream sporting activities at all levels is encouraged and promoted.**
- **Persons with disability have the opportunity and capacity to organise, develop and participate in disability-specific sporting and recreational activities.**
- **Persons with disability have access to sporting, recreational and tourism venues.**
- **Children with disability have equal access with other children to participation in play, recreation and leisure and sporting activities.**
- **Persons with disability have access to services from those involved in the organisation of recreation, tourism, leisure and sporting activities.**

## Article 30. Key issues

Issue	Points to consider
<b>Are persons with disability able to take part in cultural life on an equal basis with others?</b>	<ul style="list-style-type: none"> <li>• What opportunities exist for persons with disability to participate in the cultural life of the community?</li> <li>• What are the barriers, if any, to such participation?</li> <li>• What impairment and disability-related adjustments are available to assist persons with disability to participate on an equal basis with others?</li> </ul>
<b>Are cultural materials available in accessible formats?</b>	<ul style="list-style-type: none"> <li>• Are cultural materials, such as literature and art, available in accessible formats?</li> <li>• What are the barriers to the accessibility of such materials, if any?</li> <li>• What impairment and disability-related adjustments are available to assist persons with disability to access cultural materials on an equal basis with others?</li> </ul>
<b>Are persons with disability able to access television programmes, films, theatre and other cultural activities in accessible formats?</b>	<ul style="list-style-type: none"> <li>• What impairment and disability related adjustments are available to assist persons with disability to enjoy television programmes, films, theatre and other cultural activities?</li> <li>• How comprehensive and effective are these adjustments?</li> </ul>
<b>Do persons with disability have access to places of cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services?</b>	<ul style="list-style-type: none"> <li>• Are venues and facilities for cultural performances and services accessible to persons with disability?</li> <li>• Are they physically accessible?</li> <li>• Do they have appropriate and effective signage and way finding aids?</li> <li>• Is personal assistance available, if required?</li> <li>• Is sign language interpreting available, if required?</li> </ul>
<b>Do persons with disability have access, as far as possible, to monuments and sites of national cultural importance?</b>	<ul style="list-style-type: none"> <li>• Are all persons with disability able to access cultural monuments and other sites of national cultural importance?</li> <li>• What are the barriers to access, if any?</li> <li>• What impairment and disability-related adjustments are available to assist persons with disability to obtain access on equal basis with others?</li> </ul>
<b>Do persons with disability have the opportunity to develop and utilise their creative, artistic and intellectual potential?</b>	<ul style="list-style-type: none"> <li>• What opportunities exist for persons with disability to develop and utilise their creative, artistic and intellectual potential?</li> <li>• How comprehensive are these opportunities? Are they potentially accessible to all persons with disability in all locations?</li> <li>• What is the level of public financial and other support available for such initiatives?</li> </ul>
<b>Do intellectual property rights constitute an unreasonable or discriminatory barrier to access to cultural materials for persons with disability?</b>	<ul style="list-style-type: none"> <li>• What is the impact of intellectual property rights on access to cultural materials for persons with disability?</li> <li>• What measures are in place to overcome any barriers to access to cultural materials created by intellectual property rights?</li> <li>• How comprehensive and effective are these measures?</li> </ul>

## Article 30. Key issues

Issue	Points to consider
<b>Is the specific cultural and linguistic identity of persons with disability, including sign languages and deaf culture, recognised?</b>	<ul style="list-style-type: none"> <li>Is there official recognition of sign languages?</li> <li>Is there public recognition and support for deaf culture?</li> <li>What other aspects of the specific cultural and linguistic identity of persons with disability (or particular impairment groups) is recognised?</li> </ul>
<b>Do persons with disability participate in recreational, leisure and sporting activities on an equal basis with others?</b>	<ul style="list-style-type: none"> <li>What opportunities are available for persons with disability to participate in recreation, leisure and sport?</li> <li>What are the actual participation rates of persons with disability in recreational, leisure and sporting activity?</li> <li>What impairment and disability-related adjustments are available to assist persons with disability to participate on equal basis with others?</li> </ul>
<b>Is the participation to the fullest extent possible of persons with disability in mainstream sporting activities at all levels encouraged and promoted?</b>	<ul style="list-style-type: none"> <li>Is the participation of persons with disability encouraged in mainstream sporting activities? At what levels?</li> <li>What are the barriers to such participation?</li> <li>What is the level and type of public and other support available for such participation?</li> <li>What impairment and disability-related adjustments are available to assist persons with disability to participate on equal basis with others?</li> </ul>
<b>Do persons with disability have the opportunity and capacity to organise, develop and participate in disability-specific sporting and recreational activities?</b>	<ul style="list-style-type: none"> <li>What opportunities exist for persons with disability to participate in disability specific sporting and recreational activities?</li> <li>What is the level and type of public and other support available for such participation?</li> </ul>
<b>Do persons with disability have access to sporting, recreational and tourism venues?</b>	<ul style="list-style-type: none"> <li>Are sporting, recreational and tourism venues and facilities accessible to persons with disability?</li> <li>Are they physically accessible?</li> <li>Do they have appropriate and effective signage and way finding aids? Is personal assistance available, if required?</li> <li>Is sign language interpreting available, if required?</li> </ul>
<b>Do children with disability have equal access with other children to participation in play, recreation and leisure and sporting activities?</b>	<ul style="list-style-type: none"> <li>What opportunities are available for children with disability to participate in play, recreation and leisure and sporting activities?</li> <li>Are these opportunities available to children with disability on an equal basis with other children?</li> <li>Do such opportunities support the participation and inclusion of children with disability in community life, alongside other children?</li> </ul>
<b>Do persons with disability have access to services from those involved in the organisation of recreation, tourism, leisure and sporting activities?</b>	<p>Are recreation, tourism, leisure and sporting-related services (for example, ticketing, transport, guides) accessible to persons with disability on an equal basis with others?</p> <p>What impairment and disability-related adjustments are available to assist persons with disability to access these services on an equal basis with others?</p>

## ARTICLE 31:

### Statistics and data collection

1. States Parties undertake to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the present Convention. The process of collecting and maintaining this information shall:
  - (a) Comply with legally established safeguards, including legislation on data protection, to ensure confidentiality and respect for the privacy of persons with disabilities;
  - (b) Comply with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles in the collection and use of statistics.
2. The information collected in accordance with this article shall be disaggregated, as appropriate, and used to help assess the implementation of States Parties' obligations under the present Convention and to identify and address the barriers faced by persons with disabilities in exercising their rights.
3. States Parties shall assume responsibility for the dissemination of these statistics and ensure their accessibility to persons with disabilities and others.

## Commentary

This Article requires State Parties to collect statistical and research data that will enable them to formulate, implement, monitor and evaluate policies and programmes to give effect to the *CRPD*. The process of collecting such information must comply with human rights and other ethical safeguards. The Article also requires this data to be broken down in various ways (for example, according to gender, age, geographical location, or impairment group) so as to enable it to be used to assess the effectiveness of implementation efforts in any particular area or with respect to a particular group. Additionally, State Parties must ensure that this information is disseminated to persons with disability in accessible formats and to other interested persons.

## Article 31. Human Rights Indicators

- **Statistical and research data is collected to assist in the formulation and implementation of policies to give effect to the *CRPD*.**
- **Information collection processes comply with human rights and ethical safeguards, including in relation to the confidentiality of personal information.**
- **Information is disaggregated so as to enable it to be used to assess the effectiveness of *CRPD* implementation efforts in a particular area or with respect to a particular group.**
- **Statistical and research data is disseminated to persons with disability in accessible formats, and to interested others.**

## Article 31. Key issues

Issue	Points to consider
Is statistical and research data collected to assist in the formulation and implementation of policies to give effect to the <i>CRPD</i> ?	<ul style="list-style-type: none"> <li>What statistical information is collected in relation to <i>CRPD</i> rights?</li> <li>What research is conducted in relation to <i>CRPD</i> rights?</li> <li>How is any such information used to formulate and implement policies to give effect to the <i>CRPD</i>?</li> </ul>
Do information collection processes comply with human rights and ethical safeguards, including in relation to the confidentiality of personal information?	<ul style="list-style-type: none"> <li>What privacy protections are associated with data collection and research in relation to <i>CRPD</i> rights?</li> <li>What other human rights and ethical safeguards surround these processes?</li> <li>How adequate are these safeguards?</li> </ul>
Is information disaggregated so as to enable it to be used to assess the effectiveness of <i>CRPD</i> implementation efforts in a particular area or with respect to a particular group?	<ul style="list-style-type: none"> <li>How is statistical information disaggregated?</li> <li>Does it enable accurate assessment of the success of <i>CRPD</i> implementation efforts with respect to particular issues or groups?</li> </ul>
Is statistical and research data disseminated to persons with disability in accessible formats, and to interested others?	<ul style="list-style-type: none"> <li>Is statistical and research data concerning <i>CRPD</i> implementation made publicly available?</li> <li>Is it disseminated to persons with disability specifically?</li> <li>Is it made available in formats accessible to persons with disability?</li> </ul>



## ARTICLE 32:

# International cooperation

1. States Parties recognize the importance of international cooperation and its promotion, in support of national efforts for the realization of the purpose and objectives of the present Convention, and will undertake appropriate and effective measures in this regard, between and among States and, as appropriate, in partnership with relevant international and regional organizations and civil society, in particular organizations of persons with disabilities. Such measures could include, inter alia:
  - (a) Ensuring that international cooperation, including international development programmes, is inclusive of and accessible to persons with disabilities;
  - (b) Facilitating and supporting capacity-building, including through exchange and sharing of information, experiences, training programmes and best practices;
  - (c) Facilitating cooperation in research and access to scientific and technical knowledge;
  - (d) Providing, as appropriate, technical and economic assistance, including by facilitating access to and sharing of accessible and assistive technologies, and through the transfer of technologies.
2. The provisions of this article are without prejudice to the obligations of each State Party to fulfil its obligations under the present Convention.

## Commentary

This Article requires State Parties to recognise the importance of, and support, international cooperation by governments, international and regional organisations, and civil society in efforts to implement the *CRPD*. International cooperation could include ensuring that international development programmes are inclusive of persons with disability, sharing best practice information, experience and training to build capacity to implement the *CRPD*, and providing access to research, and scientific and technical knowledge. The aim of these efforts is to enable each State Party to fulfil its obligations under the *CRPD*.

## Article 32. Human Rights Indicators

- **The importance of international cooperation for the realisation of the purpose and objectives of the *CRPD* is recognised and promoted.**
- **International cooperation is undertaken in partnership with civil society, in particular with organisations of persons with disability.**
- **International development programmes are inclusive of and accessible to persons with disability.**
- **Capacity to implement the *CRPD* is built by engaging in the sharing and exchange of information and experience, training and best practice with other nations.**
- **Capacity to implement the *CRPD* is built by sharing and exchanging information, experience, training and best practice with other nations.**
- **Capacity to implement the *CRPD* is built by providing economic and technical assistance to other nations. Such assistance includes the provision of access to, and the sharing of, accessible and assistive technologies.**

## Article 32. Key issues

Issue	Points to consider
<b>Does Australia recognise and promote the importance of international cooperation for the realisation of the purpose and objectives of the <i>CRPD</i>?</b>	<ul style="list-style-type: none"> <li>• What is the attitude of the Australian Government to international cooperation aimed at building capacity to implement the <i>CRPD</i>?</li> <li>• What is the extent of such cooperation?</li> </ul>
<b>Is civil society involved as a partner in international cooperation efforts?</b>	<ul style="list-style-type: none"> <li>• Is civil society involved in the development of policies and programmes in the area of international cooperation?</li> <li>• Is civil society supported to participate in international cooperation activities?</li> <li>• To what extent are civil society organisations of persons with disability involved in international cooperation?</li> </ul>
<b>Does Australia ensure that its international development programmes are inclusive of, and accessible to, persons with disability?</b>	<ul style="list-style-type: none"> <li>• How accessible and inclusive of persons with disability are Australia's international development and humanitarian assistance programmes?</li> <li>• How are disability-related measures incorporated into Australia's international development and humanitarian assistance programmes?</li> <li>• Are any disability-related measures consistent with the human rights approach articulated by the <i>CRPD</i>?</li> </ul>
<b>Does Australia build capacity to implement the <i>CRPD</i> by engaging in the sharing and exchange of information and experience, training and best practice with other nations?</b>	<ul style="list-style-type: none"> <li>• What forms of capacity building does Australia engage in?</li> <li>• How extensive is any such cooperation?</li> <li>• Do such exchanges develop capacity both within Australia and within other countries?</li> </ul>
<b>Does Australia build capacity to implement the <i>CRPD</i> by facilitating cooperation in research and access to scientific and technical knowledge with other nations?</b>	<ul style="list-style-type: none"> <li>• Does Australia cooperate in research aimed at improving <i>CRPD</i> implementation efforts?</li> <li>• Does Australia facilitate access to scientific and technical knowledge aimed at improving <i>CRPD</i> implementation efforts?</li> <li>• How extensive is any such cooperation?</li> <li>• Do such exchanges develop capacity both within Australia and within other countries?</li> </ul>
<b>Does Australia build capacity to implement the <i>CRPD</i> by providing economic and technical assistance to other nations?</b>	<ul style="list-style-type: none"> <li>• Does Australia provide economic and technical assistance to other nations to build capacity to implement the <i>CRPD</i>?</li> <li>• Does such assistance include the provision of access to, and the sharing of, accessible and assistive technologies?</li> <li>• How extensive is any such cooperation?</li> <li>• Do such exchanges develop capacity both within Australia and within other countries?</li> </ul>

**ARTICLE 33:****National implementation and monitoring**

1. States Parties, in accordance with their system of organization, shall designate one or more focal points within government for matters relating to the implementation of the present Convention, and shall give due consideration to the establishment or designation of a coordination mechanism within government to facilitate related action in different sectors and at different levels.
2. States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect, and monitor implementation of the present Convention. When designating or establishing such a mechanism, State sParties shall take into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights.
3. Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process.

<sup>54</sup> United Nations General Assembly A/RES/48/134 85th plenary meeting, 20 December 1993

**Commentary**

This Article requires State Parties to designate focal points and coordination mechanisms within government to facilitate cross-sectoral *CRPD* implementation efforts. It also requires State Parties to designate or establish independent monitoring mechanisms to oversee implementation of the *CRPD*. These monitoring mechanisms are to comply with the *Principles relating to the status and functioning of national institutions for the promotion and protection of human rights* (also known as the *Paris Principles*)<sup>54</sup> so as to ensure their independence. The Article requires State Parties to ensure that civil society, and persons with disability and their representative organisations in particular, are fully involved in the monitoring process.

## Article 33. Human rights indicators

- **There are designated focal points and coordination mechanisms within government to facilitate cross-sectoral *CRPD* implementation.**
- **An independent monitoring mechanism to oversee implementation of the *CRPD*, which complies with the *Paris Principles* has been designated or established.**
- **Persons with disability are fully involved, and participate, in national monitoring of implementation of the *CRPD*.**

**Article 32. Key issues**

Issue	Points to consider
<b>Has Australia designated focal points and coordination mechanisms within government to facilitate cross-sectoral <i>CRPD</i> implementation?</b>	<ul style="list-style-type: none"> <li>• What focal points have been established?</li> <li>• What coordination mechanisms have been established?</li> <li>• What is their scope?</li> <li>• How effective are they?</li> </ul>
<b>Has Australia designated or established an independent monitoring mechanism to oversee implementation of the <i>CRPD</i>?</b>	<ul style="list-style-type: none"> <li>• What is the independent monitoring mechanism designated or established to oversee implementation of the <i>CRPD</i>?</li> <li>• Does this monitoring mechanism comply with the <i>Paris Principles</i>??</li> </ul>
<b>Are persons with disability fully involved in national monitoring of implementation of the <i>CRPD</i>?</b>	<ul style="list-style-type: none"> <li>• To what extent are persons with disability involved in national monitoring of implementation of the <i>CRPD</i>?</li> <li>• How are persons with disability involved in national monitoring efforts?</li> </ul>

## ARTICLE 34:

# Committee on the Rights of Persons with Disabilities

1. There shall be established a Committee on the Rights of Persons with Disabilities (hereafter referred to as “the Committee”), which shall carry out the functions hereinafter provided.
2. The Committee shall consist, at the time of entry into force of the present Convention, of twelve experts. After an additional sixty ratifications or accessions to the Convention, the membership of the Committee shall increase by six members, attaining a maximum number of eighteen members.
3. The members of the Committee shall serve in their personal capacity and shall be of high moral standing and recognized competence and experience in the field covered by the present Convention. When nominating their candidates, States Parties are invited to give due consideration to the provision set out in article 4.3 of the present Convention.
4. The members of the Committee shall be elected by States Parties, consideration being given to equitable geographical distribution, representation of the different forms of civilization and of the principal legal systems, balanced gender representation and participation of experts with disabilities.
5. The membership of the Committee shall be elected by secret ballot from a list of persons nominated by the States Parties from among their nationals at meetings of the Conference of States Parties. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
6. The initial election shall be held no later than six months after the date of entry into force of the present Convention. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit the nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating the State Parties which have nominated them, and shall submit it to the States Parties to the present Convention.
7. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election once. However, the term of six of the

- members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these six members shall be chosen by lot by the chairperson of the meeting referred to in paragraph 5 of this article.
8. The election of the six additional members of the Committee shall be held on the occasion of regular elections, in accordance with the relevant provisions of this article.
9. If a member of the Committee dies or resigns or declares that for any other cause she or he can no longer perform her or his duties, the State Party which nominated the member shall appoint another expert possessing the qualifications and meeting the requirements set out in the relevant provisions of this article, to serve for the remainder of the term.
10. The Committee shall establish its own rules of procedure.
11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention, and shall convene its initial meeting.
12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide, having regard to the importance of the Committee’s responsibilities.
13. The members of the Committee shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

## Commentary

This Article establishes the Committee on the Rights of Persons with Disabilities (sometimes referred to as the ‘treaty body’) whose role it is to monitor implementation of the *CRPD* at the international level. It does this principally by examining reports submitted by State Parties, but it may also examine individual communications (or complaints) and conduct inquiries into allegations of gross or systemic violations of *CRPD* rights if the state has ratified the *CRPD’s Optional Protocol*. The Committee is to be initially comprised of 12 experts with an ultimate maximum of 18 members. Committee members serve in a personal capacity for a four-year term and are eligible for re-election once. The Article also sets out the nomination and election procedure for committee members, and arrangements for their remuneration and logistic support.

## ARTICLE 35:

### Reports by States Parties

1. Each State Party shall submit to the Committee, through the Secretary-General of the United Nations, a comprehensive report on measures taken to give effect to its obligations under the present Convention and on the progress made in that regard, within two years after the entry into force of the present Convention for the State Party concerned.
2. Thereafter, States Parties shall submit subsequent reports at least every four years and further whenever the Committee so requests.
3. The Committee shall decide any guidelines applicable to the content of the reports.
4. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports, repeat information previously provided. When preparing reports to the Committee, States Parties are invited to consider doing so in an open and transparent process and to give due consideration to the provision set out in article 4.3 of the present Convention.
5. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

## Commentary

This Article requires State Parties to submit periodic reports to the Committee on the Rights of Persons with Disabilities on the measures it has taken to implement the *CRPD*, which should include information about any factors or difficulties it is experiencing in fulfilling its obligations. The first report to the Committee must be made within two years of the entry into force of the *CRPD* for that State Party. It must be a comprehensive report. Reports must then be submitted to the Committee at least every four years and whenever the Committee requests. Information submitted in the first comprehensive report need not be repeated in later reports. The Article empowers the Committee to develop guidelines for the content of these reports. It also encourages State Parties to prepare their reports to the Committee in an open and transparent manner in consultation with persons with disability.

## Article 35. Human Rights Indicators

- **A comprehensive report to the Committee on the Rights of Persons with Disabilities in relation to Australia's implementation of the *CRPD* is lodged within two years of the *CRPD* coming into force.**
- **Periodic reports are submitted to the Committee in relation to Australia's implementation of the *CRPD* every four years or when the Committee requests it to do so.**
- **Reports to the Committee are prepared in an open and transparent manner.**
- **Persons with disability are actively consulted in the preparation of Australia's reports to the Committee.**

## Article 35. Key issues

Issue	Points to consider
<b>Has Australia submitted a comprehensive report to the Committee on the Rights of Persons with Disabilities within two years of the CRPD coming into force?</b>	<ul style="list-style-type: none"> <li>• When does the <i>CRPD</i> come into force with respect to Australia?</li> <li>• When does Australia submit its first report to the Committee?</li> <li>• How comprehensive and accurate is this report?</li> </ul>
<b>Does Australia submit reports to the Committee in relation to its implementation of the CRPD every four years or when the Committee requests it to do so?</b>	<ul style="list-style-type: none"> <li>• Does Australia submit its reports to the Committee on the Rights of Persons with Disabilities on time?</li> <li>• Does Australia submit reports to the Committee when it is requested to do so?</li> <li>• How comprehensive and accurate are these reports?</li> </ul>
<b>Does Australia prepare its reports to the Committee in an open and transparent manner?</b>	<ul style="list-style-type: none"> <li>• What process does Australia use to develop its reports to the Committee on the Rights of Persons with Disabilities?</li> <li>• Does this process include public consultation?</li> </ul>
<b>Does Australia involve persons with disabilities in the preparation of reports to the Committee?</b>	<ul style="list-style-type: none"> <li>• Does Australia consult with persons with disability to ascertain their views on progress in the implementation of the <i>CRPD</i> in the preparation of reports to the Committee?</li> <li>• How comprehensive is any such consultation?</li> <li>• Are the views of persons with disability appropriately reflected in the report?</li> </ul>



## ARTICLE 36:

### Consideration of reports

1. Each report shall be considered by the Committee, which shall make such suggestions and general recommendations on the report as it may consider appropriate and shall forward these to the State Party concerned. The State Party may respond with any information it chooses to the Committee. The Committee may request further information from States Parties relevant to the implementation of the present Convention.
2. If a State Party is significantly overdue in the submission of a report, the Committee may notify the State Party concerned of the need to examine the implementation of the present Convention in that State Party, on the basis of reliable information available to the Committee, if the relevant report is not submitted within three months following the notification. The Committee shall invite the State Party concerned to participate in such examination. Should the State Party respond by submitting the relevant report, the provisions of paragraph 1 of this article will apply.
3. The Secretary-General of the United Nations shall make available the reports to all States Parties.
4. States Parties shall make their reports widely available to the public in their own countries and facilitate access to the suggestions and general recommendations relating to these reports.
5. The Committee shall transmit, as it may consider appropriate, to the specialized agencies, funds and programmes of the United Nations, and other competent bodies, reports from States Parties in order to address a request or indication of a need for technical advice or assistance contained therein, along with the Committee's observations and recommendations, if any, on these requests and indications.

## Commentary

The Article sets out the procedure to be followed by the Committee on the Rights of Persons with Disabilities when it considers State Party reports. The Committee is empowered to make suggestions and general recommendations to the State Party, and the State Party may provide any further information in response. The Committee is also empowered to request further information from State Parties in relation to their implementation of the *CRPD*. If a State Party fails to submit a report to the Committee for a significant period after that report is due, the Committee may notify the State Party that it will proceed with its examination on the basis of the information available if the report is not submitted within three months. The Committee must invite the State Party to participate in this examination. All reports to the Committee are to be made available to all State Parties by the Secretary-General. State Parties must also make their reports widely available to the public in their own countries, and facilitate access by their citizens to any comments and recommendations the Committee makes in relation to these reports. The Committee may also provide United Nations specialised agencies and other relevant organisations with State Party reports, and any comments and recommendations it makes in relation to these, where this will assist the State Party to build its capacity to implement the *CRPD*.

## ARTICLE 37:

### Cooperation between States Parties and the Committee

1. Each State Party shall cooperate with the Committee and assist its members in the fulfilment of their mandate.
2. In its relationship with States Parties, the Committee shall give due consideration to ways and means of enhancing national capacities for the implementation of the present Convention, including through international cooperation.

## Commentary

This Article requires each State Party to the *CRPD* to cooperate with the Committee on the Rights of Persons with Disabilities and assist Committee members to carry out their responsibilities. The Article also requires the Committee on the Rights of Persons with Disabilities to consider ways of assisting States to build their capacity to implement the *CRPD*, including through international cooperation.

## Article 37. Human Rights Indicators

- **Australia cooperates with the Committee on the Rights of Persons with Disabilities.**

## Article 37. Key issues

Issue	Points to consider
<b>Does Australia cooperate with the Committee on the Rights of Persons with Disabilities?</b>	<ul style="list-style-type: none"> <li>• What is Australia's attitude to scrutiny of its human rights record by the Committee on the Rights of Persons with Disabilities?</li> <li>• What is the extent of cooperation by Australia with the Committee on the Rights of Persons with Disabilities?</li> <li>• How responsive is Australia to comments and recommendations issued to it by the Committee on the Rights of Persons with Disabilities?</li> </ul>

## ARTICLE 38:

# Relationship of the Committee with other bodies

In order to foster the effective implementation of the present Convention and to encourage international cooperation in the field covered by the present Convention:

- (a) The specialised agencies and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialised agencies and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite specialised agencies and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities.
- (b) The Committee, as it discharges its mandate, shall consult, as appropriate, other relevant bodies instituted by international human rights treaties, with a view to ensuring the consistency of their respective reporting guidelines, suggestions and general recommendations, and avoiding duplication and overlap in the performance of their functions.

## Commentary

This Article empowers the specialised agencies and other organisations of the United Nations (such as UNICEF – the United Nations Children’s Fund, the World Health Organisation, and the International Labour Organisation) to participate in proceedings of the Committee on the Rights of Persons with Disabilities when the Committee is discussing matters in an area of their responsibility. The Committee is also empowered to invite the specialised agencies and any other appropriate bodies to provide it with expert advice and reports on the implementation of the *CRPD* in an area of their responsibilities. Additionally, the Committee on the Rights of Persons with Disabilities is empowered and required to consult with other human rights treaty bodies (such as the Human Rights Committee and the Committee on the Rights of the Child<sup>55</sup>) to ensure consistency between their respective reporting guidelines, and to avoid duplication in the performance of their functions. The overall purpose of these provisions is to promote effective implementation of the *CRPD*.

<sup>55</sup> The Committee on the Rights of the Child is the treaty body for the Convention on the Rights of the Child.

## ARTICLE 39:

### Report of the Committee

The Committee shall report every two years to the General Assembly and to the Economic and Social Council on its activities, and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.

## Commentary

This Article requires the Committee on the Rights of Persons with Disabilities to report to the General Assembly and Economic and Social Council of the United Nations on its activities every two years. The Committee's reports may make suggestions and general recommendations regarding the interpretation and implementation of the CRPD.

## ARTICLE 40:

### Conference of States Parties

1. The States Parties shall meet regularly in a Conference of States Parties in order to consider any matter with regard to the implementation of the present Convention.
2. No later than six months after the entry into force of the present Convention, the Conference of States Parties shall be convened by the Secretary-General of the United Nations. The subsequent meetings shall be convened by the Secretary-General of the United Nations biennially or upon the decision of the Conference of States Parties.

## Commentary

This Article provides that State Parties to the CRPD will meet regularly in a Conference of State Parties to discuss implementation of the Convention. The Secretary-General is to convene the first Conference of State Parties within six months of the CRPD coming into force. The Secretary-General is to convene subsequent Conferences of State Parties every two years, or as decided by State Parties Conference.

## Article 40. Human Rights Indicators

- Australia actively participates in the Conference of State Parties.

## Article 40. Key issues

Issue	Points to consider
Does Australia participate in the Conference of State Parties?	<ul style="list-style-type: none"> <li>• Who attends the Conference of State Parties on behalf of Australia?</li> <li>• Does Australia regularly attend the Conferences of State Parties?</li> <li>• How constructive is Australia's participation in the Conference of State Parties?</li> </ul>

## ARTICLE 41: Depositary

The Secretary-General of the United Nations shall be the depositary of the present Convention.

### Commentary

This Article explains that the Secretary-General of the United Nations is formally responsible for managing the *CRPD*. This means that States must lodge formal documents relating to the *CRPD* with the Secretary-General.

## ARTICLE 42: Signature

The present Convention shall be open for signature by all States and by regional integration organisations at the United Nations Headquarters in New York as of 30 March 2007.

### Commentary

This Article explains that the *CRPD* opened for signature by member States of the United Nations and regional integration organisations on 30 March 2007. The opening ceremony took place at United Nations Headquarters in New York.

## Article 43. Human Rights Indicators

- **Australia is a party to the *Convention on the Rights of Persons with Disabilities*.**

## ARTICLE 43: Consent to be bound

The present Convention shall be subject to ratification by signatory States and to formal confirmation by signatory regional integration organisations. It shall be open for accession by any State or regional integration organisation which has not signed the Convention.

### Commentary

This Article explains that the *CRPD* must be ratified by States, or confirmed by regional integration organisations, that have signed it, before it becomes binding upon them. The Article also explains that States and regional integration organisations that have not signed the *CRPD* before it enters into force can later agree to be bound by it.

### Article 43. Key issues

Issue	Points to consider
Is Australia a Party to the <i>Convention on the Rights of Persons with Disabilities</i> ?	<ul style="list-style-type: none"> <li>• When did Australia become a Party to the <i>CRPD</i>?</li> </ul>

## ARTICLE 44:

### Regional integration organizations

1. “Regional integration organization” shall mean an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by this Convention. Such organizations shall declare, in their instruments of formal confirmation or accession, the extent of their competence with respect to matters governed by this Convention. Subsequently, they shall inform the depositary of any substantial modification in the extent of their competence.
2. References to “States Parties” in the present Convention shall apply to such organizations within the limits of their competence.
3. For the purposes of article 45, paragraph 1, and article 47, paragraphs 2 and 3, any instrument deposited by a regional integration organization shall not be counted.

4. Regional integration organizations, in matters within their competence, may exercise their right to vote in the Conference of States Parties, with a number of votes equal to the number of their member States that are Parties to this Convention. Such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

#### Commentary

This Article defines what is meant by the term “regional integration organisation” and sets out the powers of such an organisation. Regional integration organisations are umbrella bodies that have formally been given certain powers by a number of countries within a region of the world to act on their collective behalf. The European Union is the only current example of such an organisation. The Article makes it clear that the obligations that the *CRPD* places on State Parties also apply to regional integration organisations to the extent that they represent regional States. However, while regional integration organisations can sign and ratify the *CRPD*, their signature and ratification does not count towards the number of ratifications necessary to bring the *CRPD* into force. Only the direct ratifications of its member States can be counted. The same applies to the voting procedure for amending the *CRPD*. Regional integration organisations can vote on behalf of their members, provided the member does not vote.

## ARTICLE 45:

### Entry into force

1. The present Convention shall enter into force on the thirtieth day after the deposit of the twentieth instrument of ratification or accession.
2. For each State or regional integration organisation ratifying, formally confirming or acceding to the Convention after the deposit of the twentieth such instrument, the Convention shall enter into force on the thirtieth day after the deposit of its own such instrument.

#### Commentary

This Article explains that the *CRPD* will come into force on the 30<sup>th</sup> day after the deposit of the 20<sup>th</sup> instrument of ratification or accession. It also explains that once the *CRPD* enters into force it becomes binding on a country that later ratifies or accedes to it on the 30<sup>th</sup> day after the date of that country’s ratification or accession.

## ARTICLE 46:

### Reservations

1. Reservations incompatible with the object and purpose of the present Convention shall not be permitted.
2. Reservations may be withdrawn at any time.

### Commentary

When a State signs, ratifies or accedes to a United Nations treaty, it has a limited right to lodge a 'reservation' against aspects of the treaty obligations it does not want to accept. The effect of this reservation is that the State Party is not bound by that part of the treaty.<sup>56</sup> This Article makes it clear, however, that a State Party cannot lodge a reservation that would seriously contradict the object and purpose of the *CRPD*. It also makes it clear that a reservation, once lodged, can be withdrawn by the State Party at any time.

## Article 46. Human Rights Indicators

- **Australia has not lodged reservations against any aspect of the *CRPD*.**

### Article 46. Key issues

Issue	Points to consider
Has Australia lodged reservations against any <i>CRPD</i> obligation?	<ul style="list-style-type: none"> <li>• What is the purpose and effect of any reservation?</li> <li>• What is its duration?</li> </ul>

<sup>56</sup> See further Article 2(d) and Articles 19 to 23 of the *Vienna Convention on the Law of Treaties 1969*.

## ARTICLE 47:

### Amendments

1. Any State Party may propose an amendment to the present Convention and submit it to the Secretary-General of the United Nations. The Secretary-General shall communicate any proposed amendments to State Parties, with a request to be notified whether they favour a conference of State Parties for the purpose of considering and deciding upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States Parties present and voting shall be submitted by the Secretary-General to the General Assembly for approval and thereafter to all States Parties for acceptance.
2. An amendment adopted and approved in accordance with paragraph 1 of this article shall enter into force on the thirtieth day after the number of instruments of acceptance deposited reached two thirds of the number of States Parties at the date of adoption of the amendment. Thereafter, the amendment shall enter into force for any State Party on the thirtieth day following the deposit of its own instrument of acceptance. An amendment shall be binding only on those States Parties which have accepted it.
3. If so decided by the Conference of States Parties by consensus, an amendment adopted and approved in accordance with paragraph 1 of this article which relates exclusively to articles 34, 38, 39 and 40 shall enter into force for all States Parties on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment.

## Commentary

This Article sets out the procedure that has to be followed if a State Party wants to get agreement to change the text of the *CRPD*. First it must submit its proposal to the Secretary-General who then sends it to all the other Parties to the *CRPD*, asking if they would like to meet to discuss the proposal. If, within four months, at least one-third of the Parties to the *CRPD* are in favour, the Secretary-General will convene such a meeting. The text of the *CRPD* cannot be changed unless at least two-thirds of those State Parties who participate in this meeting vote in favour of the change. The proposed change must also be submitted to the General Assembly of the United Nations for approval. The Secretary-General must then send the proposal to State Parties for formal acceptance. The change enters into force thirty days after two-thirds of State Parties to the *Optional Protocol* lodge formal instruments of acceptance of the change. The amendment is only binding on those State Parties that formally accept it, with the exception of changes to procedures associated with the Committee on the Rights of Persons with Disabilities and the Conference of State Parties which become binding upon all State Parties thirty days after their adoption by a two-third majority.

## ARTICLE 48:

### Denunciation

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. The denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

#### Commentary

This Article sets out the procedure by which a State Party that has ratified the *CRPD* can withdraw from it. The State must notify the Secretary-General of the United Nations in writing of its decision to withdraw from the treaty. This denunciation comes into effect one year later, and in the meantime the State continues to be bound by the obligations of the treaty.

## ARTICLE 49:

### Accessible format

The text of the present Convention shall be made available in accessible formats.

#### Commentary

This Article requires the United Nations to make the text of the *CRPD* available in formats that are accessible to persons with disability.

## ARTICLE 50:

### Authentic texts

The Arabic, Chinese, English, French, Russian and Spanish texts of the present Convention shall be equally authentic.

#### Commentary

This Article provides that the *CRPD* will be published in the six official languages of the United Nations. Each of these translations will be equally authoritative.

# OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

## Human rights indicators and commentary

The States Parties to the present Protocol have agreed as follows:

### Article 1

1. A State Party to the present Protocol ("State Party") recognizes the competence of the Committee on the Rights of Persons with Disabilities ("the Committee") to receive and consider communications from or on behalf of individuals or groups of individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of the provisions of the Convention.
2. No communication shall be received by the Committee if it concerns a State Party to the Convention that is not a party to the present Protocol.

### Commentary

This Article explains that the *Optional Protocol* allows a State Party to recognise the authority of the Committee on the Rights of Persons with Disabilities to receive and consider communications (or complaints) that allege violations of *CRPD* rights. Communications may be lodged with the Committee by, or on behalf of, individuals or groups. Such communications can only be lodged in relation to States that are a Party to the Protocol.

### Article 2

The Committee shall consider a communication inadmissible when:

- (a) The communication is anonymous;
- (b) The communication constitutes an abuse of the right of submission of such communication or is incompatible with the provisions of the Convention;
- (c) The same matter has already been examined by the Committee or has been or is being examined under another procedure of international investigation or settlement;
- (d) All available domestic remedies have not been exhausted. This shall not be the rule where the application of the remedies is unreasonably prolonged or unlikely to bring effective relief;
- (e) It is manifestly ill-founded or not sufficiently substantiated; or when
- (f) The facts that are the subject of the communication occurred prior to the entry into force of the present Protocol for the State Party concerned unless those facts continued after that date.

### Commentary

This Article sets out the requirements that must be met for a communication (or complaint) to be admissible by the Committee on the Rights of Persons with Disabilities. The key requirement is that the complainant must have first exhausted all available domestic remedies before approaching the Committee. However, the Committee may examine a communication where domestic remedies that are still available to the complainant are likely to be unreasonably prolonged or are unlikely to result in a remedy of the problem. Anonymous communications are not permitted, nor are they permitted in relation to alleged violations that occurred before the *CRPD* and *Optional Protocol* entered into force with respect to the State Party, unless the violations continued after these instruments entered into force.

## Article 3

Subject to the provisions of article 2 of the present Protocol, the Committee shall bring any communications submitted to it confidentially to the attention of the State Party. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

### Commentary

This Article sets out the initial procedure to be followed when the Committee on the Rights of Persons with Disabilities receives a communication (or complaint) that alleges a violation of *CRPD* rights. The Committee must confidentially notify the State Party of the communication. The State Party then has six months within which to submit to the Committee a written explanation of its position in relation to the communication, which is to include information about any action it has taken to resolve the matter.

## Article 3. Human Rights Indicators

- **Australia responds to communications received by the Committee on the Rights of Persons with Disabilities within six months of notification of the communication.**

### Article 3. Key issues

Issue	Points to consider
How does Australia respond to communications alleging <i>CRPD</i> violations following notification by the Committee on the Rights of Persons with Disabilities?	<ul style="list-style-type: none"> <li>• Does Australia respond promptly to notifications alleging <i>CRPD</i> violations?</li> <li>• Does Australia respond comprehensively to notifications alleging <i>CRPD</i> violations?</li> </ul>

## Article 4

1. At any time after the receipt of a communication and before a determination on the merits has been reached, the Committee may transmit to the State Party concerned for its urgent consideration a request that the State Party take such interim measures as may be necessary to avoid possible irreparable damage to the victim or victims of the alleged violation.
2. Where the Committee exercises its discretion under paragraph 1 of this article, this does not imply a determination on admissibility or on the merits of the communication.

## Article 4. Human Rights Indicators

- **Australia takes any interim measures requested by the Committee on the Rights of Persons with Disabilities to avoid irreparable damage to the victim or victims of an alleged violation.**

### Commentary

This Article empowers the Committee on the Rights of Persons with Disabilities to request a State Party against whom a communication (or complaint) has been lodged to take interim measures to avoid irreparable damage to the victim or victims of the alleged violation. Such a request does not imply that the Committee has already formed a view that the communication is admissible (that is, can be examined by the Committee), or that the communication has merit.

### Article 4. Key issues

Issue	Points to consider
<b>How does Australia respond to any request from the Committee for interim measures to prevent irreparable damage to the victim or victims or an alleged violation of the CRPD?</b>	<ul style="list-style-type: none"> <li>• Does Australia respond promptly to any such request?</li> <li>• Does Australia respond comprehensively to any such request?</li> <li>• Is irreparable damage to the victim or victims of the alleged violation avoided?</li> </ul>

## Article 5

The Committee shall hold closed meetings when examining communications under the present Protocol. After examining a communication, the Committee shall forward its suggestions and recommendations, if any, to the State Party concerned and to the petitioner.

### Commentary

This Article provides that the Committee on the Rights of Persons with Disabilities will meet to examine communications (complaints) in closed meetings (that is, the Committee will meet in private without observers). When the examination of the communication is complete the Committee forwards suggestions and recommendations, if it has any, to the State Party concerned and to the person who made the complaint.

## Article 6

1. If the Committee receives reliable information indicating grave or systemic violations by a State Party of rights set forth in the Convention, the Committee shall invite that State Party to cooperate in the examination of the information and to this end submit observations with regard to the information concerned.
2. Taking into account any observations that may have been submitted by the State Party concerned as well as any other reliable information available to it, the Committee may designate one or more of its members to conduct an inquiry and to report urgently to the Committee. Where warranted and with the consent of the State Party, the inquiry may include a visit to its territory.
3. After examining the findings of such an inquiry, the Committee shall transmit these findings to the State Party concerned together with any comments and recommendations.
4. The State Party concerned shall, within six months of receiving the findings, comments and recommendations transmitted by the Committee, submit its observations to the Committee.
5. Such an inquiry shall be conducted confidentially and the cooperation of the State Party shall be sought at all stages of the proceedings.

## Commentary

This Article gives the Committee on the Rights of Persons with Disabilities the power to conduct an inquiry into allegations of grave or systemic violations of the *CRPD* by a State Party. Anyone can raise such allegations, but the information they disclose has to be reliable. The Committee may delegate one or more of its members to conduct this inquiry, and these delegates may visit the State Party's territory in the course of the inquiry if need be. The inquiry is to be conducted on a confidential basis, and if possible, in cooperation with the State Party. The Committee may receive information from the State Party in relation to the allegations, but may also receive information from any other reliable source. When the inquiry is complete, the findings are submitted to the Committee, and then issued by the Committee to the State Party together with any comments and recommendations. The State Party then has six months to respond to the findings of the inquiry and to the Committee's comments and recommendations.

## Article 6. Human Rights Indicators

- **Australia cooperates with the Committee on the Rights of Persons with Disabilities in any inquiry into allegations of grave or systemic violations of the *CRPD*.**
- **Australia responds to any findings, comments and recommendations arising from an inquiry into allegations of grave or systemic violations of the *CRPD* within six months of receiving the Committee's report.**

## Article 6. Key issues

Issue	Points to consider
<b>How does Australia respond to any allegations of grave or systemic violations of <i>CRPD</i> rights?</b>	<ul style="list-style-type: none"> <li>• Does Australia cooperate with the Committee in its examination of such allegations at all stages of the Committee's inquiry?</li> <li>• Does Australia welcome scrutiny by the Committee, including any visit of Committee delegates to Australia?</li> <li>• Does Australia provide prompt and comprehensive information to the Committee to assist it to conduct its inquiry?</li> </ul>
<b>How does Australia respond to any report of the Committee in relation to allegations of grave or systemic violations of <i>CRPD</i> rights?</b>	<ul style="list-style-type: none"> <li>• Does Australia treat any report of the Committee with appropriate seriousness?</li> <li>• Does Australia respond to the Committee's report within six months of its receipt?</li> <li>• Is Australia's response consistent with the obligations set down by the <i>CRPD</i>?</li> </ul>

## Article 7

1. The Committee may invite the State Party concerned to include in its report under article 35 of the Convention details of any measures taken in response to an inquiry conducted under article 6 of the present Protocol.
2. The Committee may, if necessary, after the end of the period of six months referred to in article 6.4, invite the State Party concerned to inform it of the measures taken in response to such an inquiry.

### Commentary

This Article empowers the Committee on the Rights of Persons with Disabilities to invite a State Party to include information about measures taken in response to an inquiry conducted under article 6 of the *Optional Protocol* in its periodic reports to the Committee (required by article 35 of the *CRPD*). The Article also empowers the Committee, six months after its inquiry report has been submitted, to request a specific report from the State Party on the measures it has taken to address the Committee's findings and recommendations.

## Article 7. Human Rights Indicators

- **Australia responds to requests from the Committee on the Rights of Persons with Disabilities in relation to measures taken to address inquiry findings and recommendations.**

### Article 7. Key issues

Issue	Points to consider
<b>Does Australia report to the Committee on the Rights of Persons with Disabilities on any measures it has taken to address inquiry findings and recommendations?</b>	<ul style="list-style-type: none"> <li>• Does Australia include information about such measures in periodic reports when requested to do so?</li> <li>• Does Australia provide specific reports about such measures when requested to do so?</li> <li>• Is such information provided in a timely manner?</li> <li>• Is the information provided comprehensive?</li> </ul>

## Article 8

Each State Party may, at the time of signature or ratification of the present Protocol or accession thereto, declare that it does not recognize the competence of the Committee provided for in articles 6 and 7.

### Commentary

This Article allows State Parties not to accept the obligations set out in article 6 and 7 of the *Optional Protocol*. States are able to avoid these obligations by lodging a formal declaration to this effect with the Secretary-General at the time they sign, ratify or accede to the *Optional Protocol*. This means that the Committee on the Rights of Persons with Disabilities cannot conduct inquiries into allegations of grave or systemic violations of the human rights of persons with disability by that State Party. As this Article provides a separate basis for State Parties to opt out of the inquiry procedure provided in clauses 6 and 7 of the *Optional Protocol* the rules relating to reservations generally do not apply. Opting out is therefore not incompatible with the purpose and object of the *Optional Protocol* (see Article 14).

## Article 9

The Secretary-General of the United Nations shall be the depositary of the present Protocol.

### Commentary

This Article explains that the Secretary-General of the United Nations is formally responsible for managing the *Optional Protocol*. This means that State Parties must lodge formal documents relating to the *Optional Protocol* with the Secretary-General.

## Article 10

The present Protocol shall be open for signature by signatory States and regional integration organisations of the Convention at United Nations Headquarters in New York as of 30 March 2007.

### Commentary

This Article explains that the *Optional Protocol* opened for signature by member states of the United Nations and regional integration organisations on 30 March 2007. The opening ceremony took place at United Nations Headquarters in New York.

## Article 11

The present Protocol shall be subject to ratification by signatory States of this Protocol which have ratified or acceded to the Convention. It shall be subject to formal confirmation by signatory regional integration organizations of this Protocol which have formally confirmed or acceded to the Convention. It shall be open for accession by any State or regional integration organization which has ratified, formally confirmed or acceded to the Convention and which has not signed the Protocol.

### Commentary

This Article explains that only States that have ratified or acceded to the *CRPD* itself can ratify or accede to the *Optional Protocol*. Similarly, regional integration organisations can only formally confirm their acceptance of the *Optional Protocol* if they have formally confirmed their acceptance of the *CRPD* first. The Article also explains that States and regional integration organisations that have ratified, formally confirmed or acceded to the *CRPD*, can accede to the *Optional Protocol* even if they have not signed it first.

## Article 11. Human Rights Indicators

- **Australia is a party to the *Optional Protocol to the Convention on the Rights of Persons with Disabilities*.**

### Article 11. Key issues

Issue	Points to consider
Is Australia a Party to the <i>Optional Protocol to the Convention on the Rights of Persons with Disabilities</i> ?	<ul style="list-style-type: none"> <li>• When did Australia become a Party to the <i>Optional Protocol</i>?</li> </ul>

## Article 12

1. “Regional integration organization” shall mean an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by the Convention and this Protocol. Such organizations shall declare, in their instruments of formal confirmation or accession, the extent of their competence with respect to matters governed by the Convention and this Protocol. Subsequently, they shall inform the depositary of any substantial modification in the extent of their competence.
2. References to “States Parties” in the present Protocol shall apply to such organizations within the limits of their competence.
3. For the purposes of article 13, paragraph 1, and article 15, paragraph 2, any instrument deposited by a regional integration organization shall not be counted.
4. Regional integration organizations, in matters within their competence, may exercise their right to vote in the meeting of States Parties, with a number of votes equal to the number of their member States that are Parties to this Protocol. Such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

### Commentary

This Article defines what is meant by the term “regional integration organisation” and sets out the powers of such an organisation. Regional integration organisations are umbrella bodies that have formally been given certain powers by a number of countries within a region of the world to act on their collective behalf. The European Union is the only current example of such an organisation. The Article makes it clear that the obligations that the *Optional Protocol* places on State Parties also apply to regional integration organisations to the extent that they represent regional states. However, while regional integration organisations can sign and ratify the *Optional Protocol*, their signature and ratification does not count towards the number of ratifications necessary to bring the *Optional Protocol* into force. Only the direct ratifications of its member States can be counted. The same applies to the voting procedure for amending the *Optional Protocol*. Regional integration organisations can vote on behalf of their members, provided the member does not vote.

## Article 13

1. Subject to the entry into force of the Convention, the present Protocol shall enter into force on the thirtieth day after the deposit of the tenth instrument of ratification or accession.
2. For each State or regional integration organization ratifying, formally confirming or acceding to the Protocol after the deposit of the tenth such instrument, the Protocol shall enter into force on the thirtieth day after the deposit of its own such instrument.

### Commentary

This Article sets out when the *Optional Protocol* comes into force (that is, becomes law). The *Optional Protocol* cannot come into force until after the *CRPD* itself comes into force. Provided the *CRPD* has come into force, the *Optional Protocol* comes into force 30 days after the 10<sup>th</sup> country lodges its instrument of ratification or accession with the United Nations. Once the *Optional Protocol* is in force, it becomes binding on new State Parties 30 days after they lodge their instrument of ratification or accession.

## Article 14

1. Reservations incompatible with the object and purpose of the present Protocol shall not be permitted.
2. Reservations may be withdrawn at any time.

### Commentary

When a state signs, ratifies or accedes to a United Nations treaty, it has a limited right to lodge a 'reservation' against aspects of the treaty obligations it does not want to accept. The effect of this reservation is that the State Party is not bound by that part of the treaty.<sup>57</sup> This article makes it clear, however, that a State Party cannot lodge a reservation that would seriously contradict the object and purpose of the Protocol. It also makes it clear that a reservation, once lodged, can be withdrawn by the State Party at any time.

## Article 14. Human Rights Indicators

- **Australia has not lodged reservations against any aspect of the *Optional Protocol*.**

### Article 14. Key issues

Issue	Points to consider
<b>Has Australia lodged any reservation against any aspect of the <i>Optional Protocol</i>?</b>	<ul style="list-style-type: none"> <li>• What is the purpose and effect of the reservation?</li> <li>• Does it avoid or diminish the effectiveness any of the international monitoring regime encompassed by the <i>Optional Protocol</i>?</li> </ul>

<sup>57</sup> See further Article 2(d) and Articles 19 to 23 of the *Vienna Convention on the Law of Treaties* 1969 Entered into force on 27 January 1980, United Nations *Treaty Series*, vol 1155, at p.331.

## Article 15

1. Any State Party may propose an amendment to the present Protocol and submit it to the Secretary-General of the United Nations. The Secretary-General shall communicate any proposed amendments to States Parties, with a request to be notified whether they favour a meeting of States Parties for the purpose of considering and deciding upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a meeting, the Secretary-General shall convene the meeting under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States Parties present and voting shall be submitted by the Secretary-General to the General Assembly for approval and thereafter to all States Parties for acceptance.
2. An amendment adopted and approved in accordance with paragraph 1 of this article shall enter into force on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment. Thereafter, the amendment shall enter into force for any State Party on the thirtieth day following the deposit of its own instrument of acceptance. An amendment shall be binding only on those States which have accepted it.

### Commentary

This Article sets out the procedure that has to be followed if a State Party wants to get agreement to change the text of the *Optional Protocol*. First it must submit its proposal to the Secretary-General who then sends it to all the other Parties to the *Optional Protocol*, asking if they would like to meet to discuss the proposal. If, within four months, at least one-third of the State Parties to the *Optional Protocol* are in favour, the Secretary General will convene such a meeting. The text of the *Optional Protocol* cannot be changed unless at least two-thirds of those State Parties who participate in this meeting vote in favour of the change. The proposed change must also be submitted to the General Assembly of the United Nations for approval. The Secretary-General must then send the proposal to State Parties for formal acceptance. The change enters into force thirty days after two-thirds of State Parties to the *Optional Protocol* lodge formal instruments of acceptance of the change. The change is only binding on those State Parties that formally accept it.

## Article 16

A State Party may denounce the present Protocol by written notification to the Secretary-General of the United Nations. The denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

### Commentary

This Article sets out the procedure by which a State Party that has ratified the Protocol can withdraw ('denounce') from it. The State Party must notify the Secretary-General of the United Nations in writing of its decision to withdraw from the treaty. This denunciation comes into effect one year later, and in the meantime the State continues to be bound by the obligations of the treaty.

## Article 17

The text of the present Protocol shall be made available in accessible formats.

### Commentary

This Article requires the United Nations to make the text of the Protocol available in formats that are accessible to persons with disability

## Article 18

The Arabic, Chinese, English, French, Russian and Spanish texts of the present Protocol shall be equally authentic.

### Commentary

This Article provides that the Protocol will be published in the six official languages of the United Nations. Each of these translations is equally authoritative.

# Convention on the Rights of Persons with Disabilities

### Preamble

*The States Parties to the present Convention,*

- (a) *Recalling* the principles proclaimed in the Charter of the United Nations which recognize the inherent dignity and worth and the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world,
- (b) *Recognizing* that the United Nations, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, has proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind,
- (c) *Reaffirming* the universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms and the need for persons with disabilities to be guaranteed their full enjoyment without discrimination,
- (d) *Recalling* 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 on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,
- (e) *Recognizing* 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,
- (f) *Recognizing* the importance of the principles and policy guidelines contained in the World Programme of Action concerning Disabled Persons and in the Standard Rules on the Equalization of Opportunities for Persons with Disabilities in influencing the promotion, formulation and evaluation of the policies, plans, programmes and actions at the national, regional and international levels to further equalize opportunities for persons with disabilities,
- (g) *Emphasizing* the importance of mainstreaming disability issues as an integral part of relevant strategies of sustainable development,
- (h) *Recognizing also* that discrimination against any person on the basis of disability is a violation of the inherent dignity and worth of the human person,
- (i) *Recognizing further* the diversity of persons with disabilities,
- (j) *Recognizing* the need to promote and protect the human rights of all persons with disabilities, including those who require more intensive support,
- (k) *Concerned* that, despite these various instruments and undertakings, persons with disabilities continue to face barriers in their participation as equal members of society and violations of their human rights in all parts of the world,
- (l) *Recognizing* the importance of international cooperation for improving the living conditions of persons with disabilities in every country, particularly in developing countries,
- (m) *Recognizing* the valued existing and potential contributions made by persons with disabilities to the overall well-being and diversity of their communities, and that the promotion of the full enjoyment by persons with disabilities of their

human rights and fundamental freedoms and of full participation by persons with disabilities will result in their enhanced sense of belonging and in significant advances in the human, social and economic development of society and the eradication of poverty,

- (n) *Recognizing* the importance for persons with disabilities of their individual autonomy and independence, including the freedom to make their own choices,
- (o) *Considering* that persons with disabilities should have the opportunity to be actively involved in decision-making processes about policies and programmes, including those directly concerning them,
- (p) *Concerned* about the difficult conditions faced by persons with disabilities who are subject to multiple or aggravated forms of discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age or other status,
- (q) *Recognizing* that women and girls with disabilities are often at greater risk, both within and outside the home of violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation,
- (r) *Recognizing* that children with disabilities should have full enjoyment of all human rights and fundamental freedoms on an equal basis with other children, and recalling obligations to that end undertaken by States Parties to the Convention on the Rights of the Child,
- (s) *Emphasizing* the need to incorporate a gender perspective in all efforts to promote the full enjoyment of human rights and fundamental freedoms by persons with disabilities,
- (t) *Highlighting* the fact that the majority of persons with disabilities live in conditions of poverty, and in this regard recognizing the critical need to address the negative impact of poverty on persons with disabilities,
- (u) *Bearing in mind* that conditions of peace and security based on full respect for the purposes and principles contained in the Charter of the United Nations and observance of applicable human rights instruments are indispensable for the full

protection of persons with disabilities, in particular during armed conflicts and foreign occupation,

- (v) *Recognizing* the importance of accessibility to the physical, social, economic and cultural environment, to health and education and to information and communication, in enabling persons with disabilities to fully enjoy all human rights and fundamental freedoms,
- (w) *Realizing* that the individual, having duties to other individuals and to the community to which he or she belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the International Bill of Human Rights,
- (x) *Convinced* that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State, and that persons with disabilities and their family members should receive the necessary protection and assistance to enable families to contribute towards the full and equal enjoyment of the rights of persons with disabilities,
- (y) *Convinced* that a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities will make a significant contribution to redressing the profound social disadvantage of persons with disabilities and promote their participation in the civil, political, economic, social and cultural spheres with equal opportunities, in both developing and developed countries,

*Have agreed as follows :*

### Article 1 Purpose

The purpose of the present Convention 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.

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.

### Article 2

#### Definitions

For the purposes of the present Convention:

“Communication” includes languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology;

“Language” includes spoken and signed languages and other forms of non-spoken languages;

“Discrimination on the basis of disability” means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation;

“Reasonable accommodation” means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms;

“Universal design” means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. “Universal design” shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.

### Article 3

#### General principles

The principles of the present Convention shall be:

- (a) Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
- (b) Non-discrimination;
- (c) Full and effective participation and inclusion in society;

- (d) Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- (e) Equality of opportunity;
- (f) Accessibility;
- (g) Equality between men and women;
- (h) Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

### Article 4

#### General obligations

1. States Parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability. To this end, States Parties undertake:
  - (a) To adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention;
  - (b) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities;
  - (c) To take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes;
  - (d) To refrain from engaging in any act or practice that is inconsistent with the present Convention and to ensure that public authorities and institutions act in conformity with the present Convention;
  - (e) To take all appropriate measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise;
  - (f) To undertake or promote research and development of universally designed goods, services, equipment and facilities, as defined in article 2 of the present Convention, which

should require the minimum possible adaptation and the least cost to meet the specific needs of a person with disabilities, to promote their availability and use, and to promote universal design in the development of standards and guidelines;

- (g) To undertake or promote research and development of, and to promote the availability and use of new technologies, including information and communications technologies, mobility aids, devices and assistive technologies, suitable for persons with disabilities, giving priority to technologies at an affordable cost;
  - (h) To provide accessible information to persons with disabilities about mobility aids, devices and assistive technologies, including new technologies, as well as other forms of assistance, support services and facilities;
  - (i) To promote the training of professionals and staff working with persons with disabilities in the rights recognized in this Convention so as to better provide the assistance and services guaranteed by those rights.
- 2. With regard to economic, social and cultural rights, each State Party undertakes to take measures to the maximum of its available resources and, where needed, within the framework of international cooperation, with a view to achieving progressively the full realization of these rights, without prejudice to those obligations contained in the present Convention that are immediately applicable according to international law.
  - 3. In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.
  - 4. Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of persons with disabilities and which may be contained in the law of a State Party or international law in force

for that State. There shall be no restriction upon or derogation from any of the human rights and fundamental freedoms recognized or existing in any State Party to the present Convention pursuant to law, conventions, regulation or custom on the pretext that the present Convention does not recognize such rights or freedoms or that it recognizes them to a lesser extent.

- 5. The provisions of the present Convention shall extend to all parts of federal states without any limitations or exceptions.

### Article 5 Equality and non-discrimination

- 1. States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.
- 2. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.
- 3. In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.
- 4. Specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention.

### Article 6 Women with disabilities

- 1. States Parties recognize that women and girls with disabilities are subject to multiple discrimination, and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms.
- 2. States Parties shall take all appropriate measures to ensure the full development, advancement and empowerment of women, for the purpose of guaranteeing them the exercise and enjoyment of the human rights and fundamental freedoms set out in the present Convention.

### Article 7

#### Children with disabilities

1. States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.
2. In all actions concerning children with disabilities, the best interests of the child shall be a primary consideration.
3. States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right.

### Article 8

#### Awareness-raising

1. States Parties undertake to adopt immediate, effective and appropriate measures:
  - (a) To raise awareness throughout society, including at the family level, regarding persons with disabilities, and to foster respect for the rights and dignity of persons with disabilities;
  - (b) To combat stereotypes, prejudices and harmful practices relating to persons with disabilities, including those based on sex and age, in all areas of life;
  - (c) To promote awareness of the capabilities and contributions of persons with disabilities.
2. Measures to this end include:
  - (a) Initiating and maintaining effective public awareness campaigns designed:
    - (i) To nurture receptiveness to the rights of persons with disabilities;
    - (ii) To promote positive perceptions and greater social awareness towards persons with disabilities;
    - (iii) To promote recognition of the skills, merits and abilities of persons with disabilities, and of their contributions to the workplace and the labour market;

- (b) Fostering at all levels of the education system, including in all children from an early age, an attitude of respect for the rights of persons with disabilities;
- (c) Encouraging all organs of the media to portray persons with disabilities in a manner consistent with the purpose of the present Convention;
- (d) Promoting awareness-training programmes regarding persons with disabilities and the rights of persons with disabilities.

### Article 9

#### Accessibility

1. To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:
  - (a) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;
  - (b) Information, communications and other services, including electronic services and emergency services.
2. States Parties shall also take appropriate measures to:
  - (a) Develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;
  - (b) Ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities;

- (c) Provide training for stakeholders on accessibility issues facing persons with disabilities;
- (d) Provide in buildings and other facilities open to the public signage in Braille and in easy to read and understand forms;
- (e) Provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public;
- (f) Promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information;
- (g) Promote access for persons with disabilities to new information and communications technologies and systems, including the Internet;
- (h) Promote the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost.

### Article 10 Right to life

States Parties reaffirm that every human being has the inherent right to life and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others.

### 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.

### Article 12 Equal recognition before the law

1. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.
2. States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.
3. States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.
4. States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body. The safeguards shall be proportional to the degree to which such measures affect the person's rights and interests.
5. Subject to the provisions of this article, States Parties shall take all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and shall ensure that persons with disabilities are not arbitrarily deprived of their property.

### Article 13 Access to justice

1. States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.

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2. In order to help to ensure effective access to justice for persons with disabilities, States Parties shall promote appropriate training for those working in the field of administration of justice, including police and prison staff.

### Article 14

#### Liberty and security of the person

1. States Parties shall ensure that persons with disabilities, on an equal basis with others:
  - (a) Enjoy the right to liberty and security of person;
  - (b) Are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the existence of a disability shall in no case justify a deprivation of liberty.
2. States Parties shall ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of this Convention, including by provision of reasonable accommodation.

### Article 15

#### Freedom from torture or cruel, inhuman or degrading treatment or punishment

1. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his or her free consent to medical or scientific experimentation.
2. States Parties shall take all effective legislative, administrative, judicial or other measures to prevent persons with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman or degrading treatment or punishment.

### Article 16

#### Freedom from exploitation, violence and abuse

1. States Parties shall take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home,

from all forms of exploitation, violence and abuse, including their gender-based aspects.

2. States Parties shall also take all appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring, inter alia, appropriate forms of gender- and age-sensitive assistance and support for persons with disabilities and their families and caregivers, including through the provision of information and education on how to avoid, recognize and report instances of exploitation, violence and abuse. States Parties shall ensure that protection services are age-, gender- and disability-sensitive.
3. In order to prevent the occurrence of all forms of exploitation, violence and abuse, States Parties shall ensure that all facilities and programmes designed to serve persons with disabilities are effectively monitored by independent authorities.
4. States Parties shall take all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disabilities who become victims of any form of exploitation, violence or abuse, including through the provision of protection services. Such recovery and reintegration shall take place in an environment that fosters the health, welfare, self-respect, dignity and autonomy of the person and takes into account gender- and age-specific needs.
5. States Parties shall put in place effective legislation and policies, including women- and child-focused legislation and policies, to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted.

### Article 17

#### Protecting the integrity of the person

Every person with disabilities has a right to respect for his or her physical and mental integrity on an equal basis with others.

### Article 18

#### Liberty of movement and nationality

1. States Parties shall recognize the rights of persons with disabilities to liberty of movement, to freedom to choose their residence and to a nationality, on an equal basis with others, including by ensuring that persons with disabilities:
  - (a) Have the right to acquire and change a nationality and are not deprived of their nationality arbitrarily or on the basis of disability;
  - (b) Are not deprived, on the basis of disability, of their ability to obtain, possess and utilize documentation of their nationality or other documentation of identification, or to utilize relevant processes such as immigration proceedings, that may be needed to facilitate exercise of the right to liberty of movement;
  - (c) Are free to leave any country, including their own;
  - (d) Are not deprived, arbitrarily or on the basis of disability, of the right to enter their own country.
2. Children with disabilities shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by their parents.

### Article 19

#### Living independently and being included in the community

States Parties to this Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community, including by ensuring that:

- (a) Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement;

- (b) Persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community;
- (c) Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.

### Article 20

#### Personal mobility

States Parties shall take effective measures to ensure personal mobility with the greatest possible independence for persons with disabilities, including by:

- (a) Facilitating the personal mobility of persons with disabilities in the manner and at the time of their choice, and at affordable cost;
- (b) Facilitating access by persons with disabilities to quality mobility aids, devices, assistive technologies and forms of live assistance and intermediaries, including by making them available at affordable cost;
- (c) Providing training in mobility skills to persons with disabilities and to specialist staff working with persons with disabilities;
- (d) Encouraging entities that produce mobility aids, devices and assistive technologies to take into account all aspects of mobility for persons with disabilities.

### Article 21

#### Freedom of expression and opinion, and access to information

States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice, as defined in article 2 of the present Convention, including by:

- (a) Providing information intended for the general public to persons with disabilities in accessible

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formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost;

- (b) Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions;
- (c) Urging private entities that provide services to the general public, including through the Internet, to provide information and services in accessible and usable formats for persons with disabilities;
- (d) Encouraging the mass media, including providers of information through the Internet, to make their services accessible to persons with disabilities;
- (e) Recognizing and promoting the use of sign languages.

### Article 22

#### Respect for privacy

1. No person with disabilities, regardless of place of residence or living arrangements, shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence or other types of communication or to unlawful attacks on his or her honour and reputation. Persons with disabilities have the right to the protection of the law against such interference or attacks.
2. States Parties shall protect the privacy of personal, health and rehabilitation information of persons with disabilities on an equal basis with others.

### Article 23

#### Respect for home and the family

1. States Parties shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others, so as to ensure that:

- (a) The right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognized;
- (b) The rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children and to have access to age-appropriate information, reproductive and family planning education are recognized, and the means necessary to enable them to exercise these rights are provided;
- (c) Persons with disabilities, including children, retain their fertility on an equal basis with others.

2. States Parties shall ensure the rights and responsibilities of persons with disabilities, with regard to guardianship, wardship, trusteeship, adoption of children or similar institutions, where these concepts exist in national legislation; in all cases the best interests of the child shall be paramount. States Parties shall render appropriate assistance to persons with disabilities in the performance of their child-rearing responsibilities.
3. States Parties shall ensure that children with disabilities have equal rights with respect to family life. With a view to realizing these rights, and to prevent concealment, abandonment, neglect and segregation of children with disabilities, States Parties shall undertake to provide early and comprehensive information, services and support to children with disabilities and their families.
4. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. In no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents.
5. States Parties shall, where the immediate family is unable to care for a child with disabilities, undertake every effort to provide alternative care within the wider family, and failing that, within the community in a family setting.

### Article 24 Education

1. States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and life long learning directed to:
  - (a) The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;
  - (b) The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;
  - (c) Enabling persons with disabilities to participate effectively in a free society.
2. In realizing this right, States Parties shall ensure that:
  - (a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;
  - (b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;
  - (c) Reasonable accommodation of the individual's requirements is provided;
  - (d) Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;
  - (e) Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.
3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including:
  - (a) Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;
  - (b) Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;
  - (c) Ensuring that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.
4. In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.
5. States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.

### Article 25 Health

States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation. In particular, States Parties shall:

- (a) Provide persons with disabilities with the same

range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health and population-based public health programmes;

- (b) Provide those health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimize and prevent further disabilities, including among children and older persons;
- (c) Provide these health services as close as possible to people's own communities, including in rural areas;
- (d) Require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, inter alia, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care;
- (e) Prohibit discrimination against persons with disabilities in the provision of health insurance, and life insurance where such insurance is permitted by national law, which shall be provided in a fair and reasonable manner;
- (f) Prevent discriminatory denial of health care or health services or food and fluids on the basis of disability.

### Article 26

#### Habilitation and rehabilitation

1. States Parties shall take effective and appropriate measures, including through peer support, to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life. To that end, States Parties shall organize, strengthen and extend comprehensive habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services, in such a way that these services and programmes:

- (a) Begin at the earliest possible stage, and are based on the multidisciplinary assessment of individual needs and strengths;
  - (b) Support participation and inclusion in the community and all aspects of society, are voluntary, and are available to persons with disabilities as close as possible to their own communities, including in rural areas.
2. States Parties shall promote the development of initial and continuing training for professionals and staff working in habilitation and rehabilitation services.
  3. States Parties shall promote the availability, knowledge and use of assistive devices and technologies, designed for persons with disabilities, as they relate to habilitation and rehabilitation.

### Article 27

#### Work and employment

1. States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:
  - (a) Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;
  - (b) Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances;

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- (c) Ensure that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others;
  - (d) Enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training;
  - (e) Promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment;
  - (f) Promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business;
  - (g) Employ persons with disabilities in the public sector;
  - (h) Promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures;
  - (i) Ensure that reasonable accommodation is provided to persons with disabilities in the workplace;
  - (j) Promote the acquisition by persons with disabilities of work experience in the open labour market;
  - (k) Promote vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities.
2. States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.

### Article 28

#### Adequate standard of living and social protection

1. States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard

and promote the realization of this right without discrimination on the basis of disability.

2. States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures:

- (a) To ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs;
- (b) To ensure access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection programmes and poverty reduction programmes;
- (c) To ensure access by persons with disabilities and their families living in situations of poverty to assistance from the State with disability-related expenses, including adequate training, counselling, financial assistance and respite care;
- (d) To ensure access by persons with disabilities to public housing programmes;
- (e) To ensure equal access by persons with disabilities to retirement benefits and programmes.

### Article 29

#### Participation in political and public life

States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake to:

- (a) Ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by:
  - (i) Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;

- (ii) Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;
  - (iii) Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice;
  - (b) Promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:
    - (i) Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties;
    - (ii) Forming and joining organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.
- 2. States Parties shall take appropriate measures to enable persons with disabilities to have the opportunity to develop and utilize their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of society.
  - 3. States Parties shall take all appropriate steps, in accordance with international law, to ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials.
  - 4. Persons with disabilities shall be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including sign languages and deaf culture.
  - 5. With a view to enabling persons with disabilities to participate on an equal basis with others in recreational, leisure and sporting activities, States Parties shall take appropriate measures:
    - (a) To encourage and promote the participation, to the fullest extent possible, of persons with disabilities in mainstream sporting activities at all levels;
    - (b) To ensure that persons with disabilities have an opportunity to organize, develop and participate in disability-specific sporting and recreational activities and, to this end, encourage the provision, on an equal basis with others, of appropriate instruction, training and resources;
    - (c) To ensure that persons with disabilities have access to sporting, recreational and tourism venues;
    - (d) To ensure that children with disabilities have equal access with other children to participation in play, recreation and leisure and sporting activities, including those activities in the school system;
    - (e) To ensure that persons with disabilities have access to services from those involved in the organization of recreational, tourism, leisure and sporting activities.

### Article 30

#### Participation in cultural life, recreation, leisure and sport

- 1. States Parties recognize the right of persons with disabilities to take part on an equal basis with others in cultural life, and shall take all appropriate measures to ensure that persons with disabilities:
  - (a) Enjoy access to cultural materials in accessible formats;
  - (b) Enjoy access to television programmes, films, theatre and other cultural activities, in accessible formats;
  - (c) Enjoy access to places for cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, and, as far as possible, enjoy access to monuments and sites of national cultural importance.

### Article 31

#### Statistics and data collection

1. States Parties undertake to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the present Convention. The process of collecting and maintaining this information shall:
  - (a) Comply with legally established safeguards, including legislation on data protection, to ensure confidentiality and respect for the privacy of persons with disabilities;
  - (b) Comply with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles in the collection and use of statistics.
2. The information collected in accordance with this article shall be disaggregated, as appropriate, and used to help assess the implementation of States Parties' obligations under the present Convention and to identify and address the barriers faced by persons with disabilities in exercising their rights.
3. States Parties shall assume responsibility for the dissemination of these statistics and ensure their accessibility to persons with disabilities and others.

### Article 32

#### International cooperation

1. States Parties recognize the importance of international cooperation and its promotion, in support of national efforts for the realization of the purpose and objectives of the present Convention, and will undertake appropriate and effective measures in this regard, between and among States and, as appropriate, in partnership with relevant international and regional organizations and civil society, in particular organizations of persons with disabilities. Such measures could include, inter alia:
  - (a) Ensuring that international cooperation, including international development programmes, is inclusive of and accessible to persons with disabilities;

- (b) Facilitating and supporting capacity-building, including through the exchange and sharing of information, experiences, training programmes and best practices;
  - (c) Facilitating cooperation in research and access to scientific and technical knowledge;
  - (d) Providing, as appropriate, technical and economic assistance, including by facilitating access to and sharing of accessible and assistive technologies, and through the transfer of technologies.
2. The provisions of this article are without prejudice to the obligations of each State Party to fulfil its obligations under the present Convention.

### Article 33

#### National implementation and monitoring

1. States Parties, in accordance with their system of organization, shall designate one or more focal points within government for matters relating to the implementation of the present Convention, and shall give due consideration to the establishment or designation of a coordination mechanism within government to facilitate related action in different sectors and at different levels.
2. States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the present Convention. When designating or establishing such a mechanism, States Parties shall take into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights.
3. Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process.

### Article 34

#### Committee on the Rights of Persons with Disabilities

1. There shall be established a Committee on the Rights of Persons with Disabilities (hereafter referred to as “the Committee”), which shall carry out the functions hereinafter provided.
2. The Committee shall consist, at the time of entry into force of the present Convention, of twelve experts. After an additional sixty ratifications or accessions to the Convention, the membership of the Committee shall increase by six members, attaining a maximum number of eighteen members.
3. The members of the Committee shall serve in their personal capacity and shall be of high moral standing and recognized competence and experience in the field covered by the present Convention. When nominating their candidates, States Parties are invited to give due consideration to the provision set out in article 4.3 of the present Convention.
4. The members of the Committee shall be elected by States Parties, consideration being given to equitable geographical distribution, representation of the different forms of civilization and of the principal legal systems, balanced gender representation and participation of experts with disabilities.
5. The members of the Committee shall be elected by secret ballot from a list of persons nominated by the States Parties from among their nationals at meetings of the Conference of States Parties. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
6. The initial election shall be held no later than six months after the date of entry into force of the present Convention. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit the nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating the State Parties which have nominated them, and shall submit it to the States Parties to the present Convention.
7. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election once. However, the term of six of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these six members shall be chosen by lot by the chairperson of the meeting referred to in paragraph 5 of this article.
8. The election of the six additional members of the Committee shall be held on the occasion of regular elections, in accordance with the relevant provisions of this article.
9. If a member of the Committee dies or resigns or declares that for any other cause she or he can no longer perform her or his duties, the State Party which nominated the member shall appoint another expert possessing the qualifications and meeting the requirements set out in the relevant provisions of this article, to serve for the remainder of the term.
10. The Committee shall establish its own rules of procedure.
11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention, and shall convene its initial meeting.
12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide, having regard to the importance of the Committee's responsibilities.
13. The members of the Committee shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

### Article 35

#### Reports by States Parties

1. Each State Party shall submit to the Committee, through the Secretary-General of the United Nations, a comprehensive report on measures taken to give effect to its obligations under the present Convention and on the progress made in that regard, within two years after the entry into force of the present Convention for the State Party concerned.
2. Thereafter, States Parties shall submit subsequent reports at least every four years and further whenever the Committee so requests.
3. The Committee shall decide any guidelines applicable to the content of the reports.
4. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports, repeat information previously provided. When preparing reports to the Committee, States Parties are invited to consider doing so in an open and transparent process and to give due consideration to the provision set out in article 4.3 of the present Convention.
5. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

### Article 36

#### Consideration of reports

1. Each report shall be considered by the Committee, which shall make such suggestions and general recommendations on the report as it may consider appropriate and shall forward these to the State Party concerned. The State Party may respond with any information it chooses to the Committee. The Committee may request further information from States Parties relevant to the implementation of the present Convention.
2. If a State Party is significantly overdue in the submission of a report, the Committee may notify the State Party concerned of the need to examine the implementation of the present Convention in that State Party, on the basis of reliable information available to the

Committee, if the relevant report is not submitted within three months following the notification. The Committee shall invite the State Party concerned to participate in such examination. Should the State Party respond by submitting the relevant report, the provisions of paragraph 1 of this article will apply.

3. The Secretary-General of the United Nations shall make available the reports to all States Parties.
4. States Parties shall make their reports widely available to the public in their own countries and facilitate access to the suggestions and general recommendations relating to these reports.
5. The Committee shall transmit, as it may consider appropriate, to the specialized agencies, funds and programmes of the United Nations, and other competent bodies, reports from States Parties in order to address a request or indication of a need for technical advice or assistance contained therein, along with the Committee's observations and recommendations, if any, on these requests or indications.

### Article 37

#### Cooperation between States Parties and the Committee

1. Each State Party shall cooperate with the Committee and assist its members in the fulfilment of their mandate.
2. In its relationship with States Parties, the Committee shall give due consideration to ways and means of enhancing national capacities for the implementation of the present Convention, including through international cooperation.

### Article 38

#### Relationship of the Committee with other bodies

In order to foster the effective implementation of the present Convention and to encourage international cooperation in the field covered by the present Convention:

- (a) The specialized agencies and other United Nations organs shall be entitled to be represented at the consideration of the

implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite specialized agencies and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

- (b) The Committee, as it discharges its mandate, shall consult, as appropriate, other relevant bodies instituted by international human rights treaties, with a view to ensuring the consistency of their respective reporting guidelines, suggestions and general recommendations, and avoiding duplication and overlap in the performance of their functions.

### **Article 39** **Report of the Committee**

The Committee shall report every two years to the General Assembly and to the Economic and Social Council on its activities, and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.

### **Article 40** **Conference of States Parties**

1. The States Parties shall meet regularly in a Conference of States Parties in order to consider any matter with regard to the implementation of the present Convention.
2. No later than six months after the entry into force of the present Convention, the Conference of the States Parties shall be convened by the Secretary-General of the United Nations. The subsequent meetings shall be convened by the Secretary-General of the United Nations biennially or upon the decision of the Conference of States Parties.

### **Article 41** **Depositary**

The Secretary-General of the United Nations shall be the depositary of the present Convention.

### **Article 42** **Signature**

The present Convention shall be open for signature by all States and by regional integration organizations at United Nations Headquarters in New York as of 30 March 2007.

### **Article 43** **Consent to be bound**

The present Convention shall be subject to ratification by signatory States and to formal confirmation by signatory regional integration organizations. It shall be open for accession by any State or regional integration organization which has not signed the Convention.

### **Article 44** **Regional integration organizations**

1. "Regional integration organization" shall mean an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by this Convention. Such organizations shall declare, in their instruments of formal confirmation or accession, the extent of their competence with respect to matters governed by this Convention. Subsequently, they shall inform the depositary of any substantial modification in the extent of their competence.
2. References to "States Parties" in the present Convention shall apply to such organizations within the limits of their competence.
3. For the purposes of article 45, paragraph 1, and article 47, paragraphs 2 and 3, any instrument deposited by a regional integration organization shall not be counted.
4. Regional integration organizations, in matters within their competence, may exercise their right to vote in the Conference of States Parties, with a number of votes equal to the number of their member States that are Parties to this Convention. Such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

### Article 45

#### Entry into force

1. The present Convention shall enter into force on the thirtieth day after the deposit of the twentieth instrument of ratification or accession.
2. For each State or regional integration organization ratifying, formally confirming or acceding to the Convention after the deposit of the twentieth such instrument, the Convention shall enter into force on the thirtieth day after the deposit of its own such instrument.

### Article 46

#### Reservations

1. Reservations incompatible with the object and purpose of the present Convention shall not be permitted.
2. Reservations may be withdrawn at any time.

### Article 47

#### Amendments

1. Any State Party may propose an amendment to the present Convention and submit it to the Secretary-General of the United Nations. The Secretary-General shall communicate any proposed amendments to States Parties, with a request to be notified whether they favour a conference of States Parties for the purpose of considering and deciding upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States Parties present and voting shall be submitted by the Secretary-General to the General Assembly for approval and thereafter to all States Parties for acceptance.
2. An amendment adopted and approved in accordance with paragraph 1 of this article shall enter into force on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment. Thereafter, the amendment shall

enter into force for any State Party on the thirtieth day following the deposit of its own instrument of acceptance. An amendment shall be binding only on those States Parties which have accepted it.

3. If so decided by the Conference of States Parties by consensus, an amendment adopted and approved in accordance with paragraph 1 of this article which relates exclusively to articles 34, 38, 39 and 40 shall enter into force for all States Parties on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment.

### Article 48

#### Denunciation

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. The denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

### Article 49

#### Accessible format

The text of the present Convention shall be made available in accessible formats.

### Article 50

#### Authentic texts

The Arabic, Chinese, English, French, Russian and Spanish texts of the present Convention shall be equally authentic.

# Optional Protocol to the Convention on the Rights of Persons with Disabilities

*The States Parties to the present Protocol have agreed as follows :*

### Article 1

1. A State Party to the present Protocol (“State Party”) recognizes the competence of the Committee on the Rights of Persons with Disabilities (“the Committee”) to receive and consider communications from or on behalf of individuals or groups of individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of the provisions of the Convention.
2. No communication shall be received by the Committee if it concerns a State Party to the Convention that is not a party to the present Protocol.

### Article 2

The Committee shall consider a communication in admissible when:

- (a) The communication is anonymous;
- (b) The communication constitutes an abuse of the right of submission of such communications or is incompatible with the provisions of the Convention;
- (c) The same matter has already been examined by the Committee or has been or is being examined under another procedure of international investigation or settlement;
- (d) All available domestic remedies have not been exhausted. This shall not be the rule where the

application of the remedies is unreasonably prolonged or unlikely to bring effective relief;

- (e) It is manifestly ill-founded or not sufficiently substantiated; or when
- (f) The facts that are the subject of the communication occurred prior to the entry into force of the present Protocol for the State Party concerned unless those facts continued after that date.

### Article 3

Subject to the provisions of article 2 of the present Protocol, the Committee shall bring any communications submitted to it confidentially to the attention of the State Party. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

### Article 4

1. At any time after the receipt of a communication and before a determination on the merits has been reached, the Committee may transmit to the State Party concerned for its urgent consideration a request that the State Party take such interim measures as may be necessary to avoid possible irreparable damage to the victim or victims of the alleged violation.
2. Where the Committee exercises its discretion under paragraph 1 of this article, this does not imply a determination on admissibility or on the merits of the communication.

### Article 5

The Committee shall hold closed meetings when examining communications under the present Protocol. After examining a communication, the Committee shall forward its suggestions and recommendations, if any, to the State Party concerned and to the petitioner.

### Article 6

1. If the Committee receives reliable information indicating grave or systematic violations by a State Party of rights set forth in the Convention, the Committee shall invite that State Party to cooperate in the examination of the information and to this end submit observations with regard to the information concerned.
2. Taking into account any observations that may have been submitted by the State Party concerned as well as any other reliable information available to it, the Committee may designate one or more of its members to conduct an inquiry and to report urgently to the Committee. Where warranted and with the consent of the State Party, the inquiry may include a visit to its territory.
3. After examining the findings of such an inquiry, the Committee shall transmit these findings to the State Party concerned together with any comments and recommendations.
4. The State Party concerned shall, within six months of receiving the findings, comments and recommendations transmitted by the Committee, submit its observations to the Committee.
5. Such an inquiry shall be conducted confidentially and the cooperation of the State Party shall be sought at all stages of the proceedings.

### Article 7

1. The Committee may invite the State Party concerned to include in its report under article 35 of the Convention details of any measures taken in response to an inquiry conducted under article 6 of the present Protocol.

2. The Committee may, if necessary, after the end of the period of six months referred to in article 6.4, invite the State Party concerned to inform it of the measures taken in response to such an inquiry.

### Article 8

Each State Party may, at the time of signature or ratification of the present Protocol or accession thereto, declare that it does not recognize the competence of the Committee provided for in articles 6 and 7.

### Article 9

The Secretary-General of the United Nations shall be the depositary of the present Protocol.

### Article 10

The present Protocol shall be open for signature by signatory States and regional integration organizations of the Convention at United Nations Headquarters in New York as of 30 March 2007.

### Article 11

The present Protocol shall be subject to ratification by signatory States of this Protocol which have ratified or acceded to the Convention. It shall be subject to formal confirmation by signatory regional integration organizations of this Protocol which have formally confirmed or acceded to the Convention. It shall be open for accession by any State or regional integration organization which has ratified, formally confirmed or acceded to the Convention and which has not signed the Protocol.

### Article 12

1. "Regional integration organization" shall mean an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by the Convention and this Protocol. Such organizations shall declare, in their instruments of formal confirmation or accession, the extent of their competence with respect to matters governed by the Convention and this Protocol. Subsequently, they shall inform the depositary of any substantial modification in the extent of their competence.

2. References to “States Parties” in the present Protocol shall apply to such organizations within the limits of their competence.
3. For the purposes of article 13, paragraph 1, and article 15, paragraph 2, any instrument deposited by a regional integration organization shall not be counted.
4. Regional integration organizations, in matters within their competence, may exercise their right to vote in the meeting of States Parties, with a number of votes equal to the number of their member States that are Parties to this Protocol. Such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

#### **Article 13**

1. Subject to the entry into force of the Convention, the present Protocol shall enter into force on the thirtieth day after the deposit of the tenth instrument of ratification or accession.
2. For each State or regional integration organization ratifying, formally confirming or acceding to the Protocol after the deposit of the tenth such instrument, the Protocol shall enter into force on the thirtieth day after the deposit of its own such instrument.

#### **Article 14**

1. Reservations incompatible with the object and purpose of the present Protocol shall not be permitted.
2. Reservations may be withdrawn at any time.

#### **Article 15**

1. Any State Party may propose an amendment to the present Protocol and submit it to the Secretary-General of the United Nations. The Secretary-General shall communicate any proposed amendments to States Parties, with a request to be notified whether they favour a meeting of States Parties for the purpose of considering and deciding upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a meeting, the

Secretary-General shall convene the meeting under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States Parties present and voting shall be submitted by the Secretary-General to the General Assembly for approval and thereafter to all States Parties for acceptance.

2. An amendment adopted and approved in accordance with paragraph 1 of this article shall enter into force on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment. Thereafter, the amendment shall enter into force for any State Party on the thirtieth day following the deposit of its own instrument of acceptance. An amendment shall be binding only on those States Parties which have accepted it.

#### **Article 16**

A State Party may denounce the present Protocol by written notification to the Secretary-General of the United Nations. The denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

#### **Article 17**

The text of the present Protocol shall be made available in accessible formats.

#### **Article 18**

The Arabic, Chinese, English, French, Russian and Spanish texts of the present Protocol shall be equally authentic.



