



Convention on the Rights of Persons with Disabilities: Its Implementation and Relevance for the World Bank

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Acronyms

AHC – Ad Hoc Committee

CRPD – Convention on the Rights of Persons with Disabilities

DPOs – Disabled People's Organizations

GA – General Assembly

GEF – Global Environment Facility

ILO – International Labour Organization

NGOs – Non-governmental organizations

NHRIs – National Human Rights Institutions

PRSP – Poverty Reduction Strategy Paper

UN – United Nations

UNMAS – United Nations Mine Action Service

WHO – World Health Organization

Introduction

1.1 This review and commentary is intended to provide World Bank staff with informational resources to understand the relevance of the United Nations (UN) Convention on the Rights of Persons with Disabilities (CRPD) for the World Bank, and to support them in implementation activities. Given that it is estimated that fewer than 50 countries currently have disability non-discrimination legislation, and that many countries will have to engage in legislative reform in order to ensure compliance with the CRPD, it is anticipated that client countries will increasingly call upon the Bank to assist them in CRPD-related legislative and other associated reform initiatives. In addition, Bank staff engaged in operations addressing issues covered by the CRPD will need to be aware of legal obligations for client countries arising under the CRPD, as well as benchmark principles set at international level, so that they can ensure that on-going initiatives will not inadvertently compromise client country compliance with the treaty.

This review and commentary complements existing resources on disability and development already available to assist Bank staff, including:

- **Disability Knowledge Kit** – available on the World Bank intranet at <http://disabilitytoolkit>
- **“Making Inclusion Operational: Legal and Institutional Resources for World Bank Staff on the Inclusion of Disability Issues in Investment Projects”** – Law & Development Working Paper Series, No. 1

Background

Process

2.1 The process to draft the CRPD began in December 2001, when the government of Mexico sponsored a General Assembly resolution calling for the establishment of an Ad Hoc Committee (AHC) “to consider proposals for a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities, based on the holistic approach in the work done in the fields of social development, human rights and non-discrimination and taking into account the recommendations of the Commission on Human Rights and the Commission for Social Development.”¹ Previous attempts to secure an international convention had resulted in the adoption of non-binding documents,² and therefore this initiative marked the first process to successfully result in a *legally binding* standards-setting instrument.

¹ GA Res 56/168. It should be noted that the Commission on Human Rights no longer exists, and has instead been replaced by the Human Rights Council as part of initiatives to reform and improve the effectiveness of UN human rights bodies.

² The first such instrument was the Declaration on the Rights of Mentally Retarded Persons, adopted by the General Assembly in 1971. Later documents reflected the evolving understanding of disability, with the UN Standard Rules on the Equalization of Opportunities for Disabled Persons (adopted by General Assembly resolution 48/96 of 20 December 1993) arguably being the most progressive non-binding international standards-setting document to have been adopted prior to the CRPD. The *Context* section provide more information on the existing body of international disability “soft law.”

2.2 The AHC met for a total of eight sessions at UN Headquarters in New York between July 2002 and December 2006, with each session lasting approximately two weeks.³ In addition, a temporary sub-body of the AHC, known as the Working Group, met for two weeks in January 2004, for the purpose of drafting the “Working Group Text” that would form the basis for future negotiations. Subsequent AHC sessions conducted readings of the text, during which time delegations had the opportunity to propose amendments. Those amendments that garnered sufficient support were later synthesized in two further texts, the “Chair’s Text” (issued in October 2005) and the “Working Text” (issued in February 2006). In August 2006 the AHC finalized the substance of the Convention and forwarded the consensus text to a technical Drafting Committee: a temporary sub-body of the AHC mandated to format and proofread the text, ensure linguistic concordance between the six official UN languages, and ensure internal consistency in use of concepts and terms. The work of this Drafting Committee was accepted by consensus by the AHC at a brief “resume” meeting of its Eighth Session on December 5, 2006, and immediately transmitted to the General Assembly (GA). The GA unanimously adopted the CRPD on December 13, 2006, making it, as UN Secretary General Kofi Annan noted, the most rapidly negotiated treaty of its type in the history of international law.⁴ The Convention will be opened for signature at UN Headquarters in New York on March 30, 2007, and will enter into force on the thirtieth day after the deposit of the twentieth instrument of ratification or accession.⁵

Context and rational

2.3 In considering why UN Member States embarked upon the process to draft the CRPD, it is necessary to examine some of the prevailing trends over the last five to ten years. During that time, an increasing number of countries (including many World Bank shareholders) have increased their commitment to disability,⁶ particularly in the area of international development assistance. Some countries, such as the United States, have adopted mandatory policies requiring the inclusion of persons with disabilities and disability issues in all development agency financed programming. Other countries, such as Norway, have developed guidelines to promote the inclusion of disability issues in their development activities. At the same time, many developing countries began to realize that they would not be able to reach their Millennium Development Goals as long as persons with disabilities continued to be discriminated against and marginalized from society. It is notable that the vast majority of co-sponsors of Mexico’s GA Resolution establishing the AHC were developing countries, and that developing countries continued to play a leadership role throughout the CRPD negotiations process.

³ All AHC sessions were for ten working days each, with the exception of AHC7 which lasted for fifteen working days in order to facilitate a complete reading of the Chair’s Text.

⁴ “Secretary General Hails Adoption of Landmark Convention on Rights of People with Disabilities,” Official Statement of the UN Secretary General, SG/SM/10797, 13 December, 2006. Available at: <http://www.un.org/News/Press/docs/2006/sgsm10797.doc.htm>

⁵ The full text of the adopted instrument is attached in Annex II.

⁶ The European Union has adopted a “Disability Strategy” intended to promote a “society open and accessible to all.” The Strategy entails: cooperation between the Commission and EU Member States in the disability field; full participation of people with disabilities in the planning, monitoring and evaluation of changes in policies, practices and programmes; and the mainstreaming of disability in policy formulation by the Commission. More information on the EU Disability Strategy is available at: http://ec.europa.eu/employment_social/disability/strategy_en.html

Not only did the international community begin to see disability as a necessary component in successful development, it also began to realize that disabled persons have essentially been excluded even within the public international law system. As noted above, an extensive body of non-binding international documents addressing people with disabilities was already in existence when the CRPD was being contemplated by UN Member States. However, the philosophical approach of many of these documents (particularly the older Declarations) was inconsistent with the principle of equality and full societal inclusion of disabled persons, and their non-binding nature meant that they were infrequently implemented by governments.⁷ There was also a paucity of monitoring mechanisms to gauge the implementation of these documents, with only the UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities having a Special Rapporteur to monitor its implementation. In addition, despite the fact that binding international law has always been equally applicable to persons with disabilities, governments and treaty monitoring bodies have not historically been attentive to the situation of persons with disabilities and the barriers they have faced, e.g. to full enjoyment of their human rights. This was illustrated in depth by a study commissioned by the Office of the High Commissioner for Human Rights, which concluded that disabled persons had been “invisible” in, for example, the international human rights system.⁸ The report recommended that a specific thematic convention would help to clarify the obligations of governments related to disabled persons, and also encourage the mainstreaming of disability throughout the public international law system.

2.4 In parallel to these developments came increasing discussions of the relevance of human rights as a tool for achieving international development goals, encompassing such principles as accountability, empowerment, participation, non-discrimination, and attention to vulnerable groups.⁹ Given the confluence of these various developments, along with prevailing disability-specific trends,¹⁰ it is not surprising that the international community came to see a convention such as the CRPD as an important tool to utilize in both ensuring full equality and inclusion of persons with disabilities, and in achieving a wide variety of development goals.

Notable aspects of the negotiations

2.5 One of the most striking aspects of the negotiations process was its inclusion of all relevant stakeholders as active and meaningful participants in all stages of the process, including in the end-stage negotiations that have historically been open only to government delegations. Not only did UN Member States participate as members of the AHC, but UN agencies and intergovernmental organizations (such as the World Bank, ILO, UNMAS, and the WHO), National Human Rights Institutions (NHRIs), and most importantly disabled persons and their representative organizations all participated in the negotiations process. Many government

⁷ The first of these documents was the 1971 UN Declaration on the Rights of Mentally Retarded Persons. See ANNEX for a complete listing of the relevant “soft law” documents in existence prior to the drafting of the CRPD.

⁸ See generally “Human Rights Are for All: A Study on the Current Use and Future Potential of the UN Human Rights Instruments in the Context of Disability,” Gerard Quinn & Theresia Degener et al (study commissioned by the OHCHR), 2002. Available at: <http://www.ohchr.org/english/issues/disability/study.htm>

⁹ See e.g. “Human Rights in Development: Rights based approaches,” OHCHR, available at: <http://www.unhchr.ch/development/approaches-04.html>

¹⁰ For example, over the last several years many countries have begun to take steps to address the historic marginalization of persons with disabilities within society, moving from: institutionalization to community living; from segregated education to inclusive education; from separate transport to transportation that is accessible to all; and from segregated care to community care and support, together with community-base rehabilitation.

delegations included persons with disabilities (both government employees and representatives of civil society) as members of their delegations, whilst disabled people's organizations (DPOs) comprised the majority of non-governmental organizations (NGOs) taking part in the process. NGOs were permitted to address the AHC during its sessions, and most remarkably they made up twelve of the forty members of the Working Group,¹¹ with equal rights of participation as government delegates to that body. The process to draft the CRPD therefore constituted the first such process to so extensively facilitate the participation of civil society, and it was noted by numerous government delegations during the General Assembly's adoption of the CRPD, that the participation of disabled persons was critical to ensuring delegates' understanding of the issues at stake. Louise Arbour, the High Commissioner for Human Rights, characterized the negotiations process as "one of the most successful collaborations between States, civil society organizations, national human rights institutions and inter-governmental organizations in any UN forum," and that "the negotiation process has clearly demonstrated that the principles of participation and inclusion enshrined in the Convention are both achievable and beneficial."¹² The High Commissioner noted that continued collaboration would be necessary to ensure the successful implementation of the CRPD, and stressed her "commitment to work with States, other UN agencies, the World Bank and civil society as we move towards implementation of the Convention."¹³

Overview of the CRPD and its importance to the international community

General overview

3.1 The CRPD consists of 50 articles addressing the full array of civil and political, economic, social, and cultural rights. The Convention does not seek to create new rights for disabled persons, but rather elaborates and clarifies existing obligations for countries within the disability context. It establishes a committee of experts to monitor its implementation at the international level, and it also provides for the operation of independent national level monitoring mechanisms. The CRPD is also joined by an Optional Protocol that recognizes "the competence of the Committee on the Rights of Persons with Disabilities 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."¹⁴ The CRPD is therefore comprehensive not only in terms of its substantive content, but also in the manner in which monitoring and implementation at all levels is addressed.

Importance to the international community

3.2 As the first comprehensive international legal instrument specifically for persons with disabilities, the provisions of the CRPD reflect global consensus and are an authoritative commentary on the manner in which countries should fulfill their obligations towards persons

¹¹ The Working Group consisted of 27 governments (equally distributed among the five UN regions), 12 NGOs, and 1 NHRI representative.

¹² Statement by Louise Arbour, UN High Commissioner for Human Rights, General Assembly Ad Hoc Committee, 8th session, New York, 5 December 2006.

¹³ *Id.*

¹⁴ Optional Protocol to the Convention on the Rights of Persons with Disabilities, Article 1(1).

with disabilities. As noted by Secretary General, Kofi Annan, “We have already learnt from experience, in countries that have implemented legislation related to disability, that change comes more rapidly when laws are in place.”¹⁵ It is therefore anticipated that the CRPD will both prompt as well as guide the passage and reform of domestic legislation ensuring substantive equality and non-discrimination for persons with disabilities.

3.3 By virtue of the inclusive and extensive nature of the negotiations process, the provisions contained within the CRPD are also reflective of issues of concern to *both* developed and developing countries. Furthermore, as noted by José Antonio Ocampo, Under-Secretary-General for Economic and Social Affairs, the convention:

calls for a series of development interventions, and sets forth the principles on which those actions should be based to create the material conditions necessary for persons with disabilities to enjoy and exercise their rights. ... Quite simply, the Convention calls for a change in the way that development actors do business, and that includes the United Nations. Development will have to be, from now on, truly inclusive, and the measure of the Convention’s success will be precisely in the changes in the lives of persons with disabilities in their national contexts.¹⁶

3.4 The CRPD is thus expected to have development implications not only for countries, but also for development actors.

Articles of the CRPD and Their Relevance to Client Countries and the World Bank

4.1 The following section briefly examines some of the articles in the CRPD, and in particular their relevance to client countries and the World Bank. It should be noted that the coverage of articles here is non-exhaustive, and should not be interpreted as an indication of the relative importance of certain articles over others. Rather, the articles selected have been chosen in light of their perceived relevance to the thematic and sectoral work of the World Bank with client countries. Indeed, several of the articles highlighted (specifically those addressing education, health, and women) are reflective of rights identified by Former General Counsel, Ibrahim Shihata, as being rights promoted by the Bank’s operations.¹⁷ Such rights have recently been addressed in current terms by Ana Palacio, Senior Vice President and World Bank Group General Counsel.¹⁸ Where relevant, examples of Bank sectors and/or projects of relevance to the issues identified in the articles are referenced in the footnotes. In all instances it has been assumed that in working with client countries that are States Parties to the CRPD, the Bank would of course seek to avoid engaging in any activities that would cause the client country to violate their CRPD obligations.

¹⁵ “Secretary General Hails Adoption of Landmark Convention on Rights of People with Disabilities,” Official Statement of the UN Secretary General, SG/SM/10797, 13 December, 2006. Available at: <http://www.un.org/News/Press/docs/2006/sgsm10797.doc.htm>

¹⁶ Statement by José Antonio Ocampo, Under-Secretary-General for Economic and Social Affairs, General Assembly Ad Hoc Committee, 8th session, New York, 5 December 2006.

¹⁷ *Chapter three: The World Bank and Human Rights*, by Ibrahim Shihata, in “The World Bank in a Changing World: Selected Essays,” p. 109 (Editors Franziska Tschofen and Antonio R. Parra, 1991).

¹⁸ See, e.g. “The Way Forward: Human Rights and the World Bank,” Ana Palacio, in *Development Outreach*, October 2006, p. 35.

Human Rights and the World Bank in Context

When examining the substantive content of the CRPD it may be helpful to keep in mind the context in which human rights are addressed by the World Bank

- The Bank has always sought to comply with the provisions in its Articles of Agreement prohibiting it from interfering in a country's political affairs – some external actors have called for the Bank to instead participate in compelling country compliance with, e.g. civil and political rights obligations
- In recent years the position of the World Bank regarding human rights has moved from what may be termed a “restrictive interpretation” to a “permissive” one, involving increased identification of synergies between human rights and economic development.
- Processes within the World Bank responding to human rights are consistent with similar developments within the UN system:
 - In 2003 a group of UN agencies issued a “Common Understanding on a Human Right-based Approach to Development Cooperation”;
 - Lately incorporated into operational guidelines by the UN Development Group;
 - The 2005 World Summit recommended that human rights be mainstreamed into national development policies;
 - The OHCHR is developing guidelines on a human rights approach to Poverty Reduction Strategies;
 - Creation of the UN Human Right Council as third institutional pillar (with the Security and the Development Councils)

Preamble

4.2 Though not a legally binding provision of the CRPD, the Preamble nevertheless addresses important issues of relevance for client countries and the Bank when considering the anticipated value of the Convention, the nature of the concept of disability, as well as additional contexts in which disabled persons should be included. For example, the Preamble notes that despite “various instruments and undertakings” persons with disabilities continue to face human rights violations and barriers to their full inclusion and participation as equal members of society,¹⁹ and that the majority of disabled persons live in “conditions of poverty.”²⁰ It also anticipates that promoting the full participation of persons with disabilities “will result in ... significant advances in the human, social and economic development of society and the eradication of poverty,”²¹ and notes the “importance of mainstreaming disability issues as an integral part of relevant strategies of sustainable development.”²² With regard to the concept of disability, the Preamble recognizes “that disability is an evolving concept” resulting from “the

¹⁹ CRPD Preambular para. (k).

²⁰ CRPD Preambular para. (t).

²¹ CRPD Preambular para. (m).

²² CRPD Preambular para. (g).

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.”²³ Thus, the Preamble reflects the ‘social model of disability,’²⁴ and leaves room for those interpreting and implementing the CRPD to utilize differing conceptualizations of disability as they evolve over time. Furthermore, the Preamble recognizes the “diversity of persons with disabilities,”²⁵ thus reminding those implementing the CRPD that disabled persons are a heterogeneous group encompassing people with a range of impairments/functional capacities from a wide variety of social, ethnic and religious contexts.

4.3 The Preamble also references numerous themes that are elaborated upon further in the substantive articles. For example, it addresses “the importance of international cooperation for improving the living conditions of persons with disabilities in every country, particularly in developing countries”²⁶ – a concept that is addressed again in more detail in Article 32. The Preamble addresses discrimination on the basis of disability as a “violation of the inherent dignity and worth of the human person”²⁷ – a concept addressed specifically in Article 5 – and it highlights the importance of accessibility,²⁸ which is taken up again in Article 9. The Preamble also emphasizes the need to address the specific situations faced by women and girls with disabilities,²⁹ as well as children with disabilities,³⁰ and 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.”³¹ These issues are taken up again in Articles 3 (principles (g) and (h)), 6 and 7 specifically, as well as throughout the text to the extent possible.

4.4 Lastly, the Preamble also draws attention to two issues that were not addressed further in the substantive provisions of the CRPD. Firstly, Preambular paragraph (p) notes concern about “the difficult conditions faced by persons with disabilities who are subject to multiple or aggravated forms of discrimination,” and it includes in its list of unacceptable bases of discrimination “indigenous or social origin.” Though the AHC discussed the possibility of including an article specifically addressing indigenous persons with disabilities, this proposal did not gain sufficient support for its inclusion in the final text. Thus, indigenous persons with disabilities are not accorded the same treatment in the text as other sub-population groups, such as women with disabilities and children with disabilities, who secured specific articles. That said indigenous disabled persons are certainly not excluded from the coverage of the CRPD, and the Preamble continues to serve as a reminder of the need to be attentive to issues faced by indigenous disabled persons. Secondly, Preambular paragraph (x) discusses the family “as the natural and fundamental group unit of society … and that persons with disabilities and their family members should receive the necessary protection and assistance to enable families to

²³ CRPD Preambular para. (e).

²⁴ The social model of disability understands disability as a social construct, not an inherent quality. Rather than seeking to change or alter the disabled person, the social model instead emphasizes the removal of societal barriers that exclude people with disabilities, including environmental, institutional and attitudinal barriers.

²⁵ CRPD Preambular para. (i).

²⁶ CRPD Preambular para. (l).

²⁷ CRPD Preambular para. (h).

²⁸ CRPD Preambular para. (v).

²⁹ CRPD Preambular para. (q).

³⁰ CRPD Preambular para. (r).

³¹ CRPD Preambular para. (s).

contribute towards the full and equal enjoyment of the rights of persons with disabilities.” During the AHC sessions there were numerous discussions of how the text could appropriately address the role of families. For cultural reasons some delegations sought extensive references to the family in the text, whilst others expressed concern that families are often responsible for discrimination and ill treatment experienced by disabled persons. In the end the Committee agreed that the focus of the substantive articles should be disabled persons themselves, and references to support for the family are largely limited to Article 23 (Respect for home and the family), where the purpose of the support is to further the equal enjoyment of the right to family life by children with disabilities, and to “prevent concealment, abandonment, neglect and segregation of children with disabilities.”³² The Committee also agreed though that it was important to convey the positive role that families have the potential to play in the lives of persons with disabilities, and thus Preambular paragraph (x) was included.

Articles of general application

4.5 The following articles appear in the first half of the CRPD, and along with Articles 1 (Purpose), 2 (Definitions) 4 (General Obligations), and 5 (Equality and non-discrimination), they are intended to be applied generally to the rest of the Convention. In other words, the specific articles contained in Article 10 (Right to life) onwards are intended to be interpreted in a manner consistent with the concepts addressed in Articles 1-9.

Article 3 – General principles

4.6 The CRPD is unique amongst conventions of its kind for its inclusion of an article outlining general principles. Typically, the principles associated with such conventions must be ‘divined’ from the tenor and content of the articles. In contrast, the drafters of the CRPD specifically sought to limit ambiguity in interpretation, by following the prevailing practice in international environmental law and specifically outlining the pertinent principles. As is the case in other fields of international law, the purpose of these general principles is to aid interpretation of the convention’s substantive obligations. Article 3 should be particularly helpful for both client countries and bank staff attempting to choose between alternative courses of action, for whichever action is most consistent with the general principles is the action that may be deemed most in keeping with the object and purpose of the CRPD.

4.7 The principles as outlined in Article 3 include the following:

- (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.

³² CRPD Article 23(3).

4.8 Therefore, if a client country were a party to the CRPD, and they were working with Bank staff on e.g. an HIV/AIDS-related project, for the client country to comply with their CRPD obligations it would be important to ensure (amongst other things) that persons with disabilities were equally able to enjoy the benefits of the project, and that the inherent dignity of persons with disabilities was respected.

Article 6 – Women with disabilities

4.9 Women with disabilities are one of only two sub-population groups of persons with disabilities to be explicitly referenced in the CRPD. Although issues of particular relevance to women with disabilities are addressed throughout the various articles of the CRPD, given that women comprise such a sizeable group and that they are frequently subjected to multiple discrimination (both disability and gender-based), the drafters felt that it was important to also include a separate article to draw attention to the needs of women with disabilities.³³ Whilst proposals for such an article (championed by the Republic of Korea) were initially tepidly received by delegations (who felt that mainstreaming of gender issues in the text was sufficient), compelling testimony by women with disabilities convinced the AHC that a separate article was indeed needed to highlight the need to address this group.

4.10 The article is relatively short in length, and adopts a principled approach, calling on States Parties to, for example, “take all appropriate measures to ensure the full development, advancement and empowerment of women.”³⁴ Within the development context, a client country and CRPD State Party would need to ensure that projects addressing e.g. gender inclusion, or maternal health, were inclusive of, and accessible to, women with disabilities, and that such inclusion was both meaningful and empowering.

Article 7 – Children with disabilities

4.11 Children with disabilities comprise the second sub-population group of persons with disabilities to be explicitly referenced in a separate article in the CRPD. As with issues of relevance to women with disabilities, attempts were made to mainstream the concerns of children with disabilities throughout the substantive articles, as some delegations wished to avoid including articles focusing on specific groups. However, it was ultimately agreed that in order to call attention to children with disabilities as a group, and also to provide a more up-to-date and principled perspective on the rights of children with disabilities than that currently provided in Article 23 of the Convention on the Rights of the Child, an additional separate article would be desirable.³⁵ In terms of the types of Bank-funded projects for which Article 7 would be relevant, those addressing such issues as child health, communicable diseases, and education for all would

³³ Discussions of the Ad Hoc Committee on the issue of women with disabilities and the desirability of including a separate article make clear that the rights of women with disabilities should not be interpreted as being limited to those outlined in Article 6. Rather, Article 6 should be read in concert with all other articles within the CRPD, as well as any other human rights conventions to which a client country is a State Party, in order to better highlight the specific needs of women with disabilities and the manner in which those needs should be met.

³⁴ CRPD Article 6(2).

³⁵ As with Article 6 and the human rights of women with disabilities, Article 7 is not intended to be the sole repository of all human rights for children with disabilities. Rather, Article 7 should be read in concert with the other articles of the CRPD, as well as any other human rights conventions to which a client country is a State Party.

certainly be relevant, in addition to any other projects where children and youth more broadly would be included and their development needs addressed.³⁶

Article 8 – Awareness-raising

4.12 Article 8 was included in the Convention in part to try to address the underlying causes of discrimination on the basis of disability – namely the prevailing attitudes towards persons with disabilities in many societies. Even in countries where disability-related legislation exists (such as non-discrimination legislation), the efficacy of such legislation is often hindered by public assumptions and stereotypes of persons with disabilities. Such was the concern of delegates about these problems that a version of the article was included in the original draft prepared by the Working Group of the AHC.³⁷

4.13 In order to enhance the implementation of both domestic legislation as well as the CRPD, Article 8 sets forth the objectives for awareness-raising measures (e.g. to foster respect for the rights and dignity of persons with disabilities³⁸), as well as examples of such measures (e.g. “encouraging all organs of the media to portray persons with disabilities in a manner consistent with the purpose of the present Convention.”³⁹). Client countries that are States Parties to the CRPD may need Bank assistance in order to help implement their obligations under Article 8. In addition, where other projects seek to be inclusive of persons with disabilities, engaging in some of the activities addressed in Article 8 may assist in enhancing the overall efficacy of such projects. For example, where an education project seeks to be inclusive of persons with disabilities, the addition of a public awareness-raising component to the project could be beneficial in helping to dispel stereotypes or inaccurate assumptions, e.g. of teachers and/or parents, regarding persons with disabilities in educational environments. Thus, compliance with Article 8 could be viewed as a tool for enhancing the achievement of wider development objectives.⁴⁰

Article 9 – Accessibility

4.14 Article 9 addresses an overarching concern for the effective implementation of obligations for persons with disabilities – that of accessibility. In this regard it takes a broad approach to the issue, addressing not only physical accessibility but also accessibility of, e.g. information. Article 9 also highlights the need for accessibility issues to be considered early on, for example in the development of information and communications technologies, so that

³⁶ For an examination of the Bank’s role in addressing the rights of children more broadly, *see generally, Chapter fourteen: The World Bank’s Protection and Promotion of Children’s Rights*, by Ibrahim Shihata, in “The World Bank in a Changing World: Vol. III,” p. 441, (2000).

³⁷ The article was initially included in the Working Group Text (which formed the basis for all further negotiations) as Article 5, “Promotion of positive attitudes towards persons with disabilities.” During subsequent debates a number of governmental and civil society organizations noted concerns regarding the prominent use of the term “positive,” and the risk of potentially paternalistic interpretations of the article’s terms. The final version of Article 8 therefore adopts a broader approach, focusing on awareness-raising more generally, of which promoting positive perceptions is just one element.

³⁸ CRPD Article 8(1)(a).

³⁹ CRPD Article 8(2)(c).

⁴⁰ In this regard the Bank sector that could be of assistance is the Communication Network, “CommNet.” CommNet is the World Bank’s professional association of communications staff working worldwide. CommNet has more than 300 members across the Bank Group (40 percent of whom are working outside Bank Headquarters in 73 Bank Country Offices), who are engaged in a broad spectrum of communications and outreach activities.

accessible technologies can be made available at minimum cost. In addition, Article 9 captures both public and private actors, as it is applicable to either actor making their products or services “open or available to the public.” Although some delegations expressed concern about their capacity to uphold their obligations under Article 9, by the end of the negotiations there was general agreement that omitting the article would likely lead to accessibility issues being forgotten about in many planning activities, resulting in the inadvertent creation of further societal barriers for persons with disabilities. Given that it is almost always more cost-effective for such barriers to be avoided in the first place rather than removed at a later juncture, Article 9 came to be seen as a useful reminder to public and private actors of the need to address accessibility issues in an inclusive manner and early in planning processes.

4.15 In seeking to comply with Article 9, some client countries may wish to develop national accessibility guidelines and standards, or adopt existing standards (of which there are many) and adapt them in light of their own contexts, and in this regard they may seek technical assistance from the Bank. However, Article 9 has ramifications for both client countries and the Bank more broadly, as any projects conducted with CRPD States Parties would need to be implemented in a manner that ensures accessibility for persons with disabilities, either through the removal of existing barriers to accessibility, or the avoidance of new barriers. Such considerations are particularly relevant for projects impacting country infrastructure, such as transportation and telecommunications projects, but are also equally relevant for any project that seeks to be inclusive of persons with disabilities and ensure that they benefit equally from development outcomes.⁴¹

Specific articles

4.16 The following articles comprise just a few of the specific articles addressed in the CRPD from Article 10 onwards. As already noted, they are intended to be interpreted in a manner consistent with the articles of general application (ie. Articles 1-9).

Article 11 – Situations of risk and humanitarian emergencies

4.17 The genesis for Article 11 arose during the Working Group’s discussions of the article on the right to life, at which time some delegations suggested the addition of a separate article to address the rights of persons with disabilities during situations of armed conflict. It was felt that such an approach would be consistent with, for example, Article 38(4) of the Convention on the Rights of the Child, which addresses the protection and care of children affected by armed conflict. However, some delegations were opposed to the inclusion of such an article, as they feared that the language could too readily become politicized. Other delegations felt that such an article should be included, but that it should be broader in scope in order to address a wider variety of instances in which disabled persons could be at risk.

4.18 The latter approach gathered widespread support at the Fifth Session of the AHC, which took place at the end of January 2005, following the devastating Asian tsunamis in December 2004. Article 11 therefore highlights a broader array of situations of risk for persons with

⁴¹ Current Bank projects inclusive of related issues include: 108 Transport projects , 78 Urban Development projects, 65 Water Supply projects, and 63 Information Communication Technologies & Communication projects. In terms of Bank sectors relevant to implementation of Article 9, these would include Infrastructure, the Information Solutions Group, and External Affairs.

disabilities, “including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.” The article requires States Parties to “take all necessary measures to ensure the protection and safety of persons with disabilities” in such situations, in accordance with States Parties’ existing obligations under international law “including international humanitarian and international human rights law.”

4.19 In order to comply with Article 11, some client countries will need assistance in developing disaster preparedness plans that are inclusive of persons with disabilities, as well as assistance during and immediately following the types of situations of risk outlined in the article. The Bank therefore may be called upon to provide technical and other assistance in these regards.⁴² In addition, there may be opportunities for the Bank to use its convening power to help facilitate dialogue between the wide number of actors (including UN agencies, humanitarian NGOs, governments, the Bank and others) typically called upon to respond to the types of humanitarian emergencies highlighted in Article 11. Further cooperation between such actors, as well as DPOs and States Parties, could help to ensure a more coordinated and effective inclusion of persons with disabilities in emergency response activities.

Article 12 – Equal recognition before the law

4.20 Article 12 addresses issues related to the legal capacity of persons with disabilities. Specifically, it clarifies that persons with disabilities not only have the “right to recognition everywhere as persons before the law,”⁴³ but that “persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life,”⁴⁴ and that “States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.”⁴⁵ Article 12 therefore marks an important paradigm shift, as historically many societies have deprived people of their legal capacity simply on the basis of their disability. During the negotiations many disabled people spoke passionately about the terrible consequences faced by those deprived of their ability to exercise their legal capacity, and though some delegations expressed reservations, ultimately the AHC found the personal testimony compelling enough to warrant pursuit of a new approach. This new approach calls for States Parties to focus not on denying people their legal capacity, but instead on the provision of supports, where necessary, to enable persons with disabilities to exercise their legal capacity. Thus, instead of a ‘spectrum of legal capacity,’ with those who have it at one end and those who do not at the other, there is envisioned a ‘spectrum of measures to support exercise of legal capacity,’ with those requiring no such support at one end and those requiring one hundred percent support at the other. Measures to protect against abuse of support provided are similarly scaled and proportionate to the amount of support required.

4.21 Whilst Article 12 does not explicitly prohibit guardianship laws, it is anticipated that many States Parties will move away from traditional guardianship approaches, and/or utilize

⁴² It should be noted that the Bank’s Disability and Development Team has hosted briefings and e-discussions on the topic of disability in emergency response settings, and offers materials to assist those working on these issues, such as an overview of DPOs working in tsunami-affected areas, available at:

<http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTSOCIALPROTECTION/EXTDISABILITY/0,,contentMDK:20319525~pagePK:210058~piPK:210062~theSitePK:282699,00.html>

⁴³ CRPD Article 12(1).

⁴⁴ CRPD Article 12(2).

⁴⁵ CRPD Article 12(3).

such procedures only in rare circumstances where an individual is in need of extensive or ‘one hundred percent support.’ It is therefore reasonable to expect that a number of client countries will need assistance in engaging in legislative reform initiatives to effect these changes, as well as assistance in developing programmes and policies to implement the obligation to provide supports to those requiring assistance to exercise their legal capacity. In addition, the provisions of Article 12 ensuring the equal right of disabled persons “to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit,”⁴⁶ have potential development implications, as they may help facilitate the participation of persons with disabilities in micro-credit, small business, and other income generation initiatives.

Article 13 – Access to justice

4.22 Article 13 seeks to respond to the historic exclusion, in many societies, of persons with disabilities from the justice system. For example, disabled persons are often denied the opportunity to serve as jurors, and those who are victims of crime are often unable to seek redress, either because the police or other officials do not know how to accommodate them, or because their experiences are discounted out of hand, or even because of explicit prohibitions on their participation as witnesses. Given that persons with disabilities are often at higher risk of being victims of violence, delegates to the AHC found the additional barriers faced by many in their access to justice particularly troubling. Article 13 thus requires States Parties “to ensure effective access to justice for persons with disabilities on an equal basis with others,” through the provision of accommodations and the facilitation of “their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.”⁴⁷ To this end States Parties must also “promote appropriate training for those working in the field of administration of justice, including police and prison staff.”⁴⁸ A number of client countries may well look to the Bank for assistance in undertaking the necessary legislative reforms to give effect to Article 13, as well as for assistance in conducting the necessary training for officials, such as the police and judiciary.

Article 24 – Education

4.23 Though accurate figures are not yet available for all countries, the prevailing trend is that children and adults with disabilities tend to have much less access to education (at any level) than their non-disabled peers. As noted by Stephen Lewis, the former UN Secretary General’s Special Envoy to Africa on AIDS, “universal primary education is the ultimate vector of human progress,”⁴⁹ and as was highlighted by many delegates to the AHC, the exclusion of disabled persons from education results in life-long barriers to meaningful employment, health, political participation, etc. For this reason the main focus of Article 24 is on the elimination of disability-based discrimination in educational settings, as well as the provision of inclusive education at all levels. In addition, Article 24 focuses primarily on access of persons with disabilities to the general education system, rather than separate or segregated educational settings, though a few DPOs noted during the negotiations that flexibility should exist for those individuals still wishing to opt-out of mainstream settings. With reference to how these obligations may be met, Article

⁴⁶ CRPD Article 12(5).

⁴⁷ CRPD Article 13(1).

⁴⁸ CRPD Article 13(2).

⁴⁹ “Race Against Time: Searching for hope in AIDS-ravaged Africa (CBC Massey Lectures),” by Stephen Lewis, 2nd ed., 2006, p. 75.

24 references not only the need for increased accessibility of educational settings, but also the need to train teachers and staff, as well as hire teachers with disabilities.

4.24 Article 24 has particular relevance for the Bank and client countries in light of the Millennium Development Goal of “education for all,” which by definition cannot be attained if an entire segment of any given population is denied equal access to education. For some client countries, meeting their Article 24 obligations will require increasing the accessibility of their educational spaces, developing inclusive curricula and providing adequate learning assistance, whilst others will also have to remove legislative barriers to the inclusion of persons with disabilities in mainstream education settings. In both cases Bank programmes addressing education and legislative reform have the potential to be of great assistance and, as noted above, the addition of public awareness campaigns may be of additional assistance in removing attitudinal barriers that could impede the success of the projects.⁵⁰

Article 25 – Health and Article 26 – Habilitation and rehabilitation

4.25 Articles 25 and 26 are addressed together here, because both have direct relevance to the achievement of the various health indicators referenced in the Millennium Goals, as well to the achievement of education and poverty-reduction Goals. However, it should be noted that the AHC chose, in response to numerous requests from participating DPOs, to address these issues in separate articles in order to reflect changing philosophies regarding habilitation and rehabilitation; specifically the move from a professional-centered approach to one in which the disabled person is the prime decision-maker in establishing their own habilitation and rehabilitation goals and objectives.

4.26 In the context of the Bank’s work with client countries, Articles 25 and 26 may impact States Parties in a number of ways. For instance, projects addressing, for example, health generally, child and maternal health, health system performance, HIV/AIDS, and population and reproductive health, will need to be accessible to persons with disabilities. Although Article 25 does address the need to help prevent secondary disabilities, the main focus of the article is not on providing disability-specific/segregated health services, but rather ensuring that persons with disabilities have access “to the same range, quality and standard of free or affordable health care programmes as provided to other persons,”⁵¹ and that such services be “gender-sensitive.”⁵² Articles 25 and 26 also reference the need to ensure access to such services “as close as possible to people’s/their own communities, including in rural areas,”⁵³ meaning that these articles could also be of relevance to infrastructure projects which have the potential to impact rural areas.⁵⁴

Article 27 – Work and employment

4.27 Article 27 addresses the need of States Parties to recognize the right of persons with disabilities to work, on an equal basis with others, and prohibits discrimination on the basis of

⁵⁰ Current Bank projects inclusive of related issues include: 121 Education projects. In terms of Bank sectors relevant to implementation of Article 24, these would include Infrastructure, and the Human Development Network.

⁵¹ CRPD Article 25(a).

⁵² CRPD Article 25 (chapeau).

⁵³ CRPD Article 25(c) and 26(1)(b).

⁵⁴ Current Bank projects inclusive of related issues include: 164 HIV/AIDS projects and Health projects too numerous to convey here. In terms of Bank sectors relevant to implementation of Articles 25 and 26, these would include the Human Development Network’s Health, Nutrition and Population unit as well as HIV/AIDS unit.

disability in all matters of employment, including the “conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions.”⁵⁵ Furthermore, States Parties must ensure the provision of reasonable accommodation to persons with disabilities in the workplace.⁵⁶ During the negotiations it was noted, by both governmental and civil society delegates, that discrimination in the employment context constitutes one of the most pervasive and insidious forms of discrimination faced by persons with disabilities in many societies, and for this reason Article 27 was considered of great importance in combating such discrimination.

4.28 Although Article 27 has relevance for Bank projects promoting active labour market policies, during initial stages of CRPD implementation many client countries will likely need assistance conducting the legislative reforms necessary to translate their CRPD obligations to domestic legislation. Thus, Bank staff engaged in legislative reform initiatives may also be requested to provide technical assistance in this regard.⁵⁷

Article 28 – Adequate standard of living and social protection

4.29 Article 28 is of particular relevance, given that there is a clear indication that persons with disabilities are more likely to be caught in a vicious cycle of poverty and disability, each of which is both a cause and consequence of the other.⁵⁸ The article focuses on ensuring equal access by persons with disabilities to, e.g. adequate food, clothing, housing (including public housing programmes), clean water, retirement benefits and programmes, and social protection and poverty reduction programmes (particularly by women and girls with disabilities, as well as older persons with disabilities). Article 28 is therefore of particular relevance where client countries are formulating such programmes, and also where they are engaged in PRSP processes. Not only does the CRPD call for equal access of persons with disabilities to such programmes, but Article 4(3) (General Obligations) calls for States Parties to “closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations,” 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.” Thus, not only does the CRPD require that the policies and programmes themselves be inclusive of persons with disabilities, it also calls for the decision-making processes used by client countries to formulate those policies and programmes to be inclusive of persons with disabilities and their representative organizations.

⁵⁵ CRPD Article 27(1)(a).

⁵⁶ As defined in CRPD Article 2, “‘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.”

⁵⁷ Current Bank projects inclusive of related issues include: 157 Work/Employment projects, of which 49 entail Economic and Sector Work whilst 35 provide Technical Assistance. In terms of Bank sectors relevant to implementation of Article 24, these would include the Human Development Network Social Protection Labor Thematic Group and the Development Economics Vice-Presidency.

⁵⁸ This relationship is explored in more depth in the publication “Disability, Poverty and Development,” UK Department for International Development (February 2000).

Implementation and monitoring measures

4.30 The following articles appear in the second half of the CRPD, and address a number of activities to monitor and enhance the effective implementation of the Convention. As with the specific articles addressed above, articles addressing implementation measures are intended to be implemented in a manner consistent with the articles of general application (ie. Articles 1-9).

Article 31 – Statistics and data collection

4.31 Responding to the historical lack of data available regarding persons with disabilities, Article 31 addresses the need to collect data and statistics not only to monitor implementation of the CRPD, but to facilitate its implementation by supporting the formulation of policies to give effect to CRPD obligations. Discussions of the AHC noted that there are many avenues (such as national censuses) for collecting information about populations of disabled persons that have not been effectively utilized in the past. The Bank's experience with such data collection methods (as well as methodologies for analyzing data) may well be of great assistance to client countries seeking to meet their Article 31 obligations. In addition, the Bank itself is engaged in data collection, and it may well be possible to take advantage of these data collection opportunities to be more inclusive of disability and thus contribute to the body of information available. As noted by some of the DPOs that participated in the discussions, all such information collection activities should be consistent with internationally accepted norms and ethical principles, in order to ensure respect for the privacy of individuals about whom data is collected.⁵⁹ Also, it was noted (particularly by DPOs from developing countries) that such activities should complement and facilitate policy and programme development, as well as monitoring mechanisms, rather than be a substitute for such activities.

Article 32 – International cooperation

4.32 During the negotiations Article 32 was characterized by some as ‘controversial’ because of the novelty of including such an extensive article in a convention of this type. Traditionally, such conventions have made only brief references to the concept of international cooperation. However, because disability “is a major cross-cutting development issue for all development partners,”⁶⁰ and because international cooperation that is not inclusive of disability issues has the potential to lead to the inadvertent creation of long-term barriers for persons with disabilities, the AHC chose to include Article 32. It is also worth noting that all government delegations, including those with extensive development aid programmes (such as the EU and United States) joined in the consensus for the adoption of this article.

4.33 In terms of the obligations for States Parties under Article 32, it calls for “international cooperation, including international development programmes” to be “inclusive of and accessible to persons with disabilities.”⁶¹ In this context the term “international cooperation” is

⁵⁹ Current Bank projects inclusive of related issues include: 137 Statistics and Data Collection projects, of which 26 relate to Economic and Sector Work and 50 involve Technical Assistance. In terms of Bank sectors relevant to implementation of Article 24, these would include the Human Development Network Social Protection unit’s Disability and Development Team, the Development Economics Vice-Presidency, and the Washington City Group. The latter group (of which the World Bank is a member) has been particularly active in assisting countries to meaningfully and appropriately include disability-related questions in national censuses.

⁶⁰ Statement by José Antonio Ocampo, Under-Secretary-General for Economic and Social Affairs, General Assembly Ad Hoc Committee, 8th session, New York, 5 December 2006.

⁶¹ CRPD Article 32(1)(a).

interpreted broadly, including not only aid programmes but also the “exchange and sharing of information, experiences, training programmes and best practices.”⁶² Indeed, during the AHC’s discussions it was noted on numerous occasions that developing countries have as much to learn from each other as from developed countries. Thus, not only can the Bank be of assistance to client countries in the inclusive implementation of projects, but there is also scope for the Bank to utilize its convening power to help foster the sharing of information, expertise and best practices between actors in this field.

Article 34 – Committee on the Rights of Persons with Disabilities, Article 38 – Relationship of the Committee with other bodies, and the Optional Protocol to the Convention on the Rights of Persons with Disabilities

4.34 As noted above, the CRPD is comprehensive not only in terms of its substantive content, but also in the manner in which monitoring and implementation at all levels is addressed. Article 34 specifically addresses monitoring at the international level (Article 33 addresses national level implementation and monitoring), and establishes a committee of experts (including experts with disabilities) to monitor the convention’s implementation, e.g. through the examination of periodic reports⁶³ by States Parties. The Optional Protocol to the CRPD also recognizes the competence of the Committee established in Article 34 “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,”⁶⁴ and also to conduct inquiry procedures into “grave or systemic violations” by a States Party.⁶⁵ Though these articles would not seem to directly impact the World Bank, Article 38 addresses the relationship of the Committee with other bodies, and entitles specialized agencies and other United Nations organs “to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate.” In addition, 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,” as well as “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.” As a UN agency,⁶⁶ the World Bank is therefore entitled to be represented in the work of the Committee to monitor implementation of the CRPD, and also to provide expert advice and information where pertinent.

Article 40 – Conference of States Parties

4.35 Article 40, like Article 3 (General Principles) and Article 32 (International Cooperation), is somewhat unusual in the context of a convention of this type. Indeed, such provisions have been more common in the environmental and weapons control areas of international law. However, many AHC delegates noted the advantages of the inclusive nature of the CRPD negotiations process, and how their understanding of the issues had benefited from discussions with governmental, inter-governmental, and non-governmental delegations. Providing for a

⁶² CRPD Article 1(b).

⁶³ CRPD Article 35.

⁶⁴ Optional Protocol to the Convention on the Rights of Persons with Disabilities, Article 1(1).

⁶⁵ Optional Protocol to the Convention on the Rights of Persons with Disabilities, Article 6.

⁶⁶ For a full articulation of the World Bank’s status as a specialized agency of the UN, see Agreement between the United Nations and the International Bank for Reconstruction and Development, No. 15, 1947, 16 U.N.T.S. 346.

Conference of States Parties was therefore seen as mechanism through which such consultation and information sharing could continue during the implementation phase.

4.36 Earlier iterations of draft Article 40 were more detailed than the final text, indicating the types of actors it was anticipated would participate in the regular Conferences. Though the final text is more streamlined than earlier versions, it is anticipated that implementation of Article 40 will ensure the participation of a wide variety of actors, including the World Bank, other UN agencies and development actors, NGOs, and of course client country States Parties. It is anticipated that the Conferences will provide an additional forum for the type of information sharing and sharing of experiences outlined in Article 32 (International cooperation).

The CRPD within the Context of the Articles of Agreement of the World Bank

4.37 Before examining the relevance of the CRPD to the mandate and overall mission of the Bank, it is perhaps useful to note that there is nothing to indicate that the Articles of Agreement would be contravened by the Bank’s engagement in activities to assist client countries in implementing the CRPD. As explained by Former General Counsel, Ibrahim Shihata, the World Bank contributes to the promotion and protection of human rights (particularly the promotion and protection of economic, social and cultural rights) to the extent that such activities do not violate Article IV, Section 10 of the Articles of Agreement, which explicitly prohibits the Bank and its officers from interfering “in the political affairs of any member” or being “influenced in their decisions by the political character of the member or members concerned.”⁶⁷ Over the fifteen years since Ibrahim Shihata articulated this position, the interpretation of the Articles of Agreement has evolved and the current interpretation of the Articles provides a more permissive approach to human rights considerations in the Bank’s work, though one that continues to respect the legal and institutional limits of the Bank as a specialized financial agency.⁶⁸

4.38 As noted by Roberto Dañino, Former Senior Vice President and General Counsel, any interpretation of the Articles of Agreement must “maintain a focus on the purposes of Article I and the overall mission of the Bank.”⁶⁹ Furthermore, poverty should be understood as “multidimensional and relational,” and should encapsulate the concept of social equity which “has an obvious human rights content.”⁷⁰ Given the Bank’s efforts to increasingly address the situation of poverty experienced by many persons with disabilities around the globe, given that it may be said the Bank’s “role is a collaborative one in the implementation of ... member

⁶⁷ See generally, *Chapter Eighteen: Human Rights, Development, and International Financial Institutions*, by Ibrahim Shihata, in “The World Bank in a Changing World: Selected Essays and Lectures Vol. II,” p. 553-566 (1995); *Chapter Nineteen: The World Bank and Human Rights*, by Ibrahim Shihata, in “The World Bank in a Changing World: Selected Essays and Lectures Vol. II,” p. 567-578 (1995); *Chapter three: The World Bank and Human Rights*, by Ibrahim Shihata, in “The World Bank in a Changing World: Selected Essays,” p. 97-134 (Editors Franziska Tschofen and Antonio R. Parra, 1991).

⁶⁸ *Chapter Twenty: The Legal Aspects for the World Bank’s Work on Human Rights: Some Preliminary Thoughts*, by Roberto Dañino, in “Human Rights and Development: Towards Mutual Reinforcement,” p. 523 (Editors Philip Alston and Mary Robinson, 2005).

⁶⁹ “The Legal Aspects of the World Bank’s Work on Human Rights,” Roberto Dañino, in Development Outreach, October 2006, p. 30. See also, *Chapter Twenty: The Legal Aspects for the World Bank’s Work on Human Rights: Some Preliminary Thoughts*, by Roberto Dañino, in “Human Rights and Development: Towards Mutual Reinforcement,” (Editors Philip Alston and Mary Robinson, 2005).

⁷⁰ *Id.* (referencing “Development as Freedom,” Amartya Sen, 1999).

countries' human rights obligations,"⁷¹ and given that "many areas of Bank activity have a *human rights* dimension,"⁷² the guidance offered by the CRPD has the potential to assist the Bank in promoting social equity for disabled persons by addressing their enjoyment of human rights. Thus, the CRPD may be seen as a tool for the Bank in helping to ensure that its Country Assistance Strategies, lending and non-lending products are effective in their promotion of social equity for persons with disabilities.

4.39 Furthermore, as highlighted by Ana Palacio, Senior Vice President and World Bank Group General Counsel, "in certain cases and under certain circumstances, human rights generate *actionable legal obligations*. Such obligations may arise from international treaties, or from rights enshrined in national laws. Here the Bank's role is to support its Members to fulfill those obligations where they relate to Bank projects and policies."⁷³ Given that it is anticipated that many of the Bank's shareholders and client countries will move to become States Parties to the new CRPD, the Bank may well be called upon to help those client countries ensure that their legal obligations are effectively respected and fulfilled. In this regard the larger implementation measures and mechanisms established by the CRPD can act as a further resource for the Bank.

The CRPD within the Context of the Operational Policies of the World Bank

5.1 During a project's cycle the preparation of an Integrated Safeguards Data Sheet (ISDS) identifies key issues under the World Bank's Safeguard Policies for environmental and social issues, and also provides information about how such issues will be addressed during project preparation. The four Operational Policies implicated in this process that offer specific opportunities for incorporation and implementation of the CRPD into Bank activities with client countries include: OP 4.01 (Environmental Assessment), OP 4.10 (Indigenous Peoples), OP 4.12 (Involuntary Resettlement), and OP 4.20 (Gender and Development). All four Operational Policies provide avenues for the consideration of such questions as:

- Does the project avoid potentially adverse effects for persons with disabilities?
- Have project alternatives been considered?
- When avoidance of potentially adverse effects is not possible, can such effect be minimized, mitigated or compensated?
- Has the impact to, and the livelihood of, persons with disabilities been sufficiently explored?
- Will the social and economic benefits of the project extend to persons with disabilities?

5.2 During the implementation of these Operational Policies the World Bank information disclosure policy, BP 17.50 (Public Disclosure) also offers a process for interacting with the public, NGOs, DPOs and other interested parties, so that they may provide important input regarding disability-related aspects of a project. Such a process is consistent with Article 4(3) of the CRPD, which calls for consultation with persons with disabilities and their representative

⁷¹ *Chapter Twenty: The Legal Aspects for the World Bank's Work on Human Rights: Some Preliminary Thoughts*, by Roberto Dañino, in "Human Rights and Development: Towards Mutual Reinforcement," p. 524 (Editors Philip Alston and Mary Robinson, 2005).

⁷² "The Way Forward: Human Rights and the World Bank," Ana Palacio, in Development Outreach, October 2006, p. 36.

⁷³ *Id.*

organizations in “decision-making processes concerning issues relating to persons with disabilities.”

5.3 It may therefore be said that the Operational Policies of the World Bank offer a ready framework to help implement the CRPD with client countries, as they establish processes and methodologies that may be used to include persons with disabilities and disability issues in investment projects. Where further guidance is needed to understand the nature of the disability issues and how they may meaningfully be addressed, the CRPD itself (as well as the existing body of non-binding international disability instruments) provides a useful resource, and it may be anticipated that the CRPD implementation and monitoring mechanisms will also provide a source of further guidance in the future.

Conclusion

6.0 In sum, this review indicates that the World Bank legal framework, comprised of its Articles of Agreement, Operational Policies and Bank Procedures, does not preclude the integration of disability issues as reflected in the CRPD in support of its operations. Indeed, the Bank’s OP/BP framework presents a number of opportunities to further foster the integration of disability issues into the development agenda of the Bank, consistent with the Bank’s evolving approach to the international human rights agenda. As recently noted by Ana Palacio, General Counsel, “There are wide zones of overlap between substantive areas covered by core human rights treaties and areas in which the Bank operates. The Bank contributes to the realization of human rights in these different areas, even though its policies, programs and projects have never been explicitly or deliberately aimed towards the realization of human rights.”⁷⁴ Perhaps most significantly, full integration of disability issues in Bank operations will assist the Bank to fully realize its poverty alleviation mission.

⁷⁴ “The Way Forward: Human Rights and the World Bank,” Ana Palacio, in Development Outreach, October 2006, p. 36.

ANNEX I – Non-binding international disability documents preceding the CRPD

The following list represents a time-line of those non-binding, disability-specific international instruments in existence prior to the adoption of the CRPD.⁷⁵

1971: UN General Assembly adopts the Declaration on the Rights of Mentally Retarded Persons, promoting community living where possible

1975: UN General Assembly adopts the Declaration on the Rights of Disabled Persons, promoting the political and civil rights of persons with disabilities

1982: UN General Assembly adopts the World Programme of Action Concerning Disabled Persons and proclaims 1983-92 as the UN Decade of Disabled Persons

1990: UN General Assembly adopts the Tallinn Guidelines for Action on Human Resources Development in the Field of Disability

1991: US General Assembly adopts the Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care

1993: The General Assembly adopted the Standard Rules on the Equalization of Opportunities for Persons with Disabilities

1998: UN Commission on Human Rights passes Resolution Number 1998 / 31, entitled “Human rights of persons with disabilities,” acknowledging general responsibility for Persons with Disabilities in its mandate

⁷⁵ When considering the full body of public international law relevant to persons with disabilities it is of course necessary to include legally binding instruments, such as international human rights treaties. It should also be noted that this list does not include binding and non-legally binding disability instruments adopted at the regional level, such as the Biwako Millennium Framework adopted by UNESCAP.

ANNEX II – Text of the UN Convention on the Rights of Persons with Disabilities and its Optional Protocol

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.
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 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;
- (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.

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.
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 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.

In witness thereof the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

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 inadmissible 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.

In witness thereof the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Protocol.



Summary Findings

This review and commentary is intended to provide World Bank staff with informational resources to understand the relevance of the United Nations (UN) Convention on the Rights of Persons with Disabilities (CRPD) for the World Bank, and to support them in implementation activities. Given that it is estimated that fewer than 50 countries currently have disability non-discrimination legislation, and that many countries will have to engage in legislative reform in order to ensure compliance with the CRPD, it is anticipated that client countries will increasingly call upon the Bank to assist them in CRPD-related legislative and other associated reform initiatives. In addition, Bank staff engaged in operations addressing issues covered by the CRPD will need to be aware of legal obligations for client countries arising under the CRPD, as well as benchmark principles set at international level, so that they can ensure that on-going initiatives will not inadvertently compromise client country compliance with the treaty.

HUMAN DEVELOPMENT NETWORK

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