Promoting the Rights of Persons with Disabilities through the Sustainable Development Goals

A RESOURCE PACKAGE

FOUNDATIONS

Policy Guidance for Inclusive Sustainable Development Goals

UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

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Foundations: key concepts and structural requirements to create an enabling legal, policy and programming environment







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Overview

Promoting the Rights of Persons with Disabilities through the Sustainable Development Goals: a Resource Package provides guidance on the implementation of the Sustainable Development Goals with a view to advancing the development and rights of persons with disabilities in relation to policymaking, training, awareness-raising and monitoring.

The Resource Package comprises the following:

- Policy Guidance for Inclusive Sustainable Development Goals
- Overview of Thematic Issues and Policy Recommendations
- Indicators on the Convention on the Rights of Persons with Disabilities
- Frequently asked questions on the indicators on the Convention
- Data sources guidance
- Training materials on disability-inclusive Sustainable Development Goals

The Policy Guidance for Inclusive Sustainable Development Goals begins with an introduction supporting the navigation of the Resource Package. The Foundations component should be read prior to the Goal-specific guidance and the Overview of Thematic Issues and Policy Recommendations. A set of human rights indicators for each article of the Convention on the Rights of Persons with Disabilities is offered to provide guidance on how to measure the implementation of the Convention. These indicators are also referred to in the Policy Guidance and the Overview as guidance for policy implementation. Each human rights indicator is accompanied by data sources guidance and examples thereof to inform the measure of an outcome. Lastly, the Resource Package includes training materials to build capacity in the areas covered by the Policy Guidance.

Introduction

To ensure a rights-based, disability-inclusive implementation of the 2030 Agenda for Sustainable Development (2030 Agenda), key human rights concepts must be applied. The Sustainable Development Goals provide us with goals and targets, and the Convention on the Rights of Persons with Disabilities offers guidance on how to meet those goals and targets in order to ensure persons with disabilities are not left behind. The present guidance underpins all other sector-specific guidance by outlining two main areas:

- **Part I** explains the human rights model of disability and key concepts that underpin a rights-based approach to disability-inclusive development.
- **Part II** explains how to implement general requirements and foundations for the inclusion of persons with disabilities and describes the structural requirements that enable the implementation of all the Goals.

The present guidance should be read prior to the Goal-specific guidance. The concepts explained here are assumed knowledge within the Goal-specific guidance, which build on these concepts and apply them in sector-specific ways.

Part I.
Key concepts from the Convention on the Rights of Persons with Disabilities

1. Human rights model of disability

The human rights model of disability is enshrined in the Convention on the Rights of Persons with Disabilities, which entered into force in 2008. The Convention provides a framework for the promotion and protection of the rights of persons with disabilities and fosters inclusion through respect for difference and the recognition of human diversity as a part of humanity.

The Convention had an impact on the negotiations and adoption of the Sustainable Development Goals contained in the 2030 Agenda in 2015 and supported the principle of "leaving no one behind", which is firmly embedded in the Goals. In contrast to the Millennium Development Goals, the Sustainable Development Goals explicitly consider and reference persons with disabilities. The Goals and the Convention reinforce each other. The Convention provides a human rights perspective on the inclusion of persons with disabilities in the implementation of the Goals. In addition, it outlines the ways in which Governments can remove barriers and promote the inclusion and participation of persons with disabilities in development.

1.1 What is disability?

A human rights approach to disability

According to paragraph (e) of the preamble to the Convention on the Rights of Persons with Disabilities:

> "Disability is an evolving concept and [it also] 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."

This recognizes disability as a restriction to participation, which results from persons with impairments experiencing barriers in their environment.

This interrelational way of describing how disability works is known as the "human rights model of disability".

Barriers can be broadly categorized into:

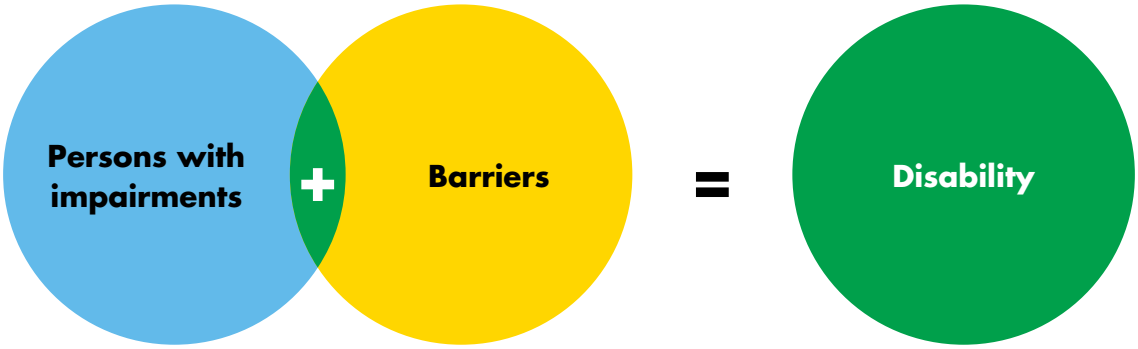
1. **Environmental barriers**, which are imposed by the context and can be subcategorized as:
    a. **Physical barriers**, such as the presence of steps, preventing access for someone using a wheelchair or others with mobility difficulties
    b. **Communication barriers**, such as the barriers to participation for a sign language user in a meeting, if sign language interpreters are not provided, or the barrier to accessing information experienced by blind persons when written text is not provided in accessible formats
    c. **Policy barriers**, such as educational systems that prevent the enrolment of children with disabilities in their local school

2. **Attitudinal barriers**, such as the belief that persons with disabilities cannot learn or work. Attitudinal barriers are particularly pervasive and disabling, as they can lead to apathy towards addressing the other barriers.

In order to allow persons with disabilities to participate fully and have access to opportunities for development, the barriers that limit the participation of persons with disabilities should be systematically addressed. Persons with disabilities themselves are experts in identifying the factors that prevent full participation and in coming up with solutions to overcome them.

FIGURE I

Human rights model of disability



1.2 Who is protected by the Convention on the Rights of Persons with Disabilities?

The Convention on the Rights of Persons with Disabilities primarily protects persons with disabilities against exclusion from participation. Article 1 sets out the following:

> "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."

This group is defined openly, without a list of specific impairments, hence giving broad protection to persons with an array of impairments, whether actual (connected to a health condition) or perceived (a characteristic that is considered an impairment).

The impairments referred to in the Convention are usually well represented in law and policy. Nevertheless, certain parts of the population are commonly overlooked. Policymakers should ensure the consideration of underrepresented constituencies, such as persons who are deafblind, persons with impairments arising from rare medical conditions, persons with psychosocial disabilities, persons with autism, persons with developmental disabilities and persons with albinism. The representation of women and girls should also be ensured within all underrepresented constituencies.

The Convention also protects persons who do not have an impairment but who are nevertheless affected by disability-based discrimination as a consequence of their association with a person with disability, such as a parent who is dismissed from work or treated less favourably because they have a child with disability. To protect persons from discrimination based on disability, Governments should adopt a similar approach.

1.3 Paradigm shift: what we leave behind

The Convention on the Rights of Persons with Disabilities describes disability as an evolving concept. Over the years, the participation of persons with disabilities has been explained in different ways, affecting how disability is understood.

Historically, underlying values and beliefs have mainly been reflected through two perspectives:

1. **Medical model of disability.** This approach sees persons with impairments as sick or subjects of rehabilitation. It conditions participation on being rehabilitated or "fixed" to meet societal norms and to fit back into society;
2. **Charity model of disability.** This approach sees persons with impairments as objects of benevolence who cannot take care of themselves. It conditions participation on receiving "help" or charity.

Both of these models focus on the individual and require changing them to meet societal demands, as opposed to society eliminating barriers for them to participate in recognition of human diversity.

Following the medical and charity approaches, policymakers have limited or no responsibility, and those responsible (such as charities or medical experts) have a stronger voice in deciding over the lives of persons with disabilities than the persons with disabilities themselves.

These perspectives continue to exist in policies; they need to be identified and changed to reflect the human rights model of disability.

Underlying value systems: ableism

> The reason the human rights model of disability is such a paradigm shift is because it challenges the discriminatory value systems that underlie medical and charity approaches to disability, such as "ableism".

What is ableism?

Ableism considers "certain typical characteristics of body and mind as essential for living a life of value" (report of the Special Rapporteur on the rights of persons with disabilities (A/HRC/43/41), para. 9). Having an impairment is different from having the desired standards of appearance, behaviour and functioning. This leads to the lives and experiences of persons with disabilities being less valued and results in prejudice, discrimination and exclusion. Ableism is usually behind negative perceptions and stereotypes about persons with disabilities. It causes an unconscious bias, similar to unconscious biases relating to gender or race.

This value system, which assumes that the lives of persons with disabilities are of lesser value, can lead to stigma and significant discrimination, including, for example, segregation, forced sterilization, the deprivation of liberty, the denial of legal capacity or the failure to consider persons with disabilities as credible experts on their own lives.

In this way, ableism is to persons with disabilities what racism, sexism and xenophobia are to persons of ethnic minorities, women and foreigners/migrants, respectively. Each of these "-isms" gives less value to certain persons when compared to others. While some advances have been made in recognizing and calling out racism, sexism and xenophobia in society today, there is little awareness about ableism and its discriminatory consequences.

TABLE 1

Systems of oppression leading to different forms of discrimination

Racism	Considers persons as inferior on the basis of race, legitimizing discrimination
Sexism	Assigns women stereotypical roles and legitimizes their exclusion from other roles, discrimination and violence
Xenophobia	Promotes and justifies discrimination against foreigners
Ableism	Attributes less value to the life of persons with disabilities and legitimizes discrimination

See the video on ableism developed by the Special Rapporteur on the rights of persons with disabilities.

1.4 Principles of a human rights-based approach to disability inclusion

Applying the human rights model of disability in policy requires a human rights-based approach to disability. Such an approach to policy development requires participation, accountability, non-discrimination and empowerment and is rooted in the legal standards set by the Convention on the Rights of Persons with Disabilities. This guidance describe these dimensions as applied to persons with disabilities.

To support this process, the Convention outlines eight overarching principles, which, in addition to supporting the interpretation of the Convention, facilitate the implementation of the Sustainable Development Goals. These principles are useful in verifying whether a policy is rights-based. When these principles are referred to in other parts of the guidance, hyperlinks are provided.

TABLE 2

General principles

Principle	Examples of policy application
Respect for inherent dignity, individual autonomy (including the freedom to make one's own choices) and independence of persons with disabilities	Laws, policies and programmes should enable persons with disabilities to make their own choices, as their peers do. Policies that limit the choices of persons with disabilities, or promote others making decisions on behalf of persons with disabilities, are not in line with a rights-based approach. For example, skills training programmes that limit persons with disabilities to only three possible vocations, while others can have access to a wide variety of vocational training, are not rights-based.
Non-discrimination	Persons with disabilities should be able to have access to services and programmes as their peers do. If reasonable accommodation is required to enable this, not providing it would be discriminatory. If specific actions are required to close the gap between persons with disabilities and the broader population, these specific actions are not considered to be discrimination.

Full and effective participation and inclusion in society	Laws, policies and programmes should promote inclusion and participation, not segregation and exclusion (such as segregated housing, education or employment).
Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity	Laws, policies and programmes should celebrate human diversity and not promote ableist attitudes. For example, persons with disabilities should be regularly portrayed positively as members of their community, not as victims of tragedy or inspirational figures.
Equality of opportunity	Persons with disabilities should have the same opportunities as others. To enable this, non-discrimination measures, including reasonable accommodation, accessibility and support measures, should be in place.
Accessibility	To enable participation, persons with disabilities must have access to the environment, transportation, information and communications, including information and communications technology (ICT), as well as all the facilities and services open to the public. Actions that do not promote accessibility and contribute to the perpetuation of further barriers and inaccessibility (such as the building of new inaccessible infrastructure or the creation of inaccessible ICT) are not rights-based.
Equality between men and women	A human rights-based approach also considers gender inequalities and recognizes the right to full participation for all genders. Persons with disabilities of all genders have different experiences and may require different policy and programming solutions.
Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities	Children with disabilities should be respected and given the same rights as other children. Children with disabilities have the right to their own identity and should not be expected to conform to prevailing notions of what is "normal". For example, a deaf child should be supported to identify with Deaf culture and their Deaf identity.

2. Core pillars for all policies

This section describes five core pillars that are necessary to construct an inclusive policy framework. They should also be considered in the design and implementation of any public policy or programme.

- **Non-discrimination:** a non-discrimination framework that prohibits discrimination across all areas of life and ensures that reasonable accommodation is available to persons with disabilities is essential.
- **Accessibility** involves addressing and preventing barriers that restrict the participation of persons with disabilities.

- **Support for persons with disabilities** (assistive technology and support services) allows them to benefit from policies and programmes alongside their peers and partially remedies limitations in accessibility.
- **Participation of persons with disabilities** ensures that their valuable expertise and experiences shape policy and programmes to ensure the most effective solutions.
- **Awareness-raising for and about persons with disabilities** contributes to combating negative stereotypes and promotes knowledge about, and respect for, their rights and dignity.

Each set of guidance focusing on the Sustainable Development Goals has a general section with actions applicable across all targets, in which these core pillars are reflected. In addition, certain targets refer to these core pillars when they are essential to meeting the target. The concepts are explained in greater detail below.

2.1 Non-discrimination

Discrimination on the basis of disability

Article 2 of the Convention on the Rights of Persons with Disabilities describes discrimination on the basis of disability as:

> "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."

This means that persons with disabilities should have access to and enjoy the full range of human rights, including legal recognition and protection and access to services and programmes, on an equal basis with others. Due to the range of barriers that prevent full access and participation, reasonable accommodation must be provided to individuals who require it. The denial of reasonable accommodation is considered discrimination.

Reasonable accommodation

"Reasonable accommodation" refers to modifications or adjustments made for a person with disability who requires them in a particular case, to facilitate participation on an equal basis with others.

Reasonable accommodation must be provided on demand; that is, entities responsible for providing it cannot deny reasonable accommodation by claiming that they are progressively implementing it. The arbitrary denial of reasonable accommodation constitutes discrimination.

Reasonable accommodation has legal and technical implications that should be taken into account in developing legal and regulatory frameworks. In practice, however, most forms of reasonable accommodation are simple and practical measures, with low costs, that demand only some flexibility. Furthermore, facilities, procedures and services that are accessible reduce the need for reasonable accommodation. For more information, see Committee on the Rights of Persons with Disabilities general comment No. 6 (2018) on equality and non-discrimination.

Examples of reasonable accommodation in different areas of life

- A person with disability is granted permission to start the school or working day one hour later than others, to have more time in the morning to prepare.
- A blind employee requests screen reader software for their work computer to perform the core functions of the job. The employer buys the software for the employee.
- A deaf person requires sign language interpretation to participate in some work meetings, as their hearing colleagues do not sign and, while they can lip read, this is too difficult in large groups. The employer provides an interpreter for meetings.
- A wheelchair user requires that a removable ramp be provided to enter an otherwise inaccessible public building (such as a courthouse). Staff ensure that the removable ramp is in place.

For more on how to provide reasonable accommodation, including determining what is "reasonable", see "Determining what is reasonable" in part II.

How does reasonable accommodation differ from accessibility?

TABLE 3

Differences between reasonable accommodation and accessibility

Reasonable accommodation	Accessibility
Reasonable accommodation is an individual modification or adjustment of existing structures and practices for a person with disability.	The built environment, transportation, and information and communications are accessible to all persons, including persons with disabilities. Accessibility draws upon universal design principles.
Must be implemented immediately to avoid discrimination.	Can be implemented gradually.
Applies to an individual upon demand (e.g. a removable ramp used in a particular situation).	Applies to all people and is part of the structure or system (e.g. designing or reforming a building using universal design principles, such as installing permanent ramps).
Is limited by proportionality, i.e. what is "reasonable" (e.g. if the accommodation risks the bankruptcy of a small business, it is disproportional).	Is unconditional (e.g. if legislation indicates how a building must be designed, the design and construction must comply with existing construction rules for accessibility without a proportionality assessment).

In some instances, there is confusion between reasonable accommodation and accessibility because reasonable accommodation can be used as a means of ensuring accessibility for an individual with disability in a particular situation. It may also benefit a collective of persons with disabilities at the same time. For example:

> A wheelchair user approaches a restaurant. As it has two steps at the entrance, the restaurant is inaccessible. However, the person calls the waiter who, noticing the barrier, brings a removable ramp and places it to allow the person to enter. Once the person has entered the restaurant, the waiter picks up the ramp and stores it.
>
> The built environment continues to be inaccessible to wheelchair users, as the restaurant still has two steps at its entrance. However, the restaurant provided the person with reasonable accommodation (through the use of a removable ramp), avoided incurring discrimination, ensured an accommodation that satisfied the individual demand and is prepared to provide such accommodation to other wheelchair users to allow them to enter the restaurant.

Multiple and intersecting discrimination

Persons with disabilities encompass a diverse group of people: people with different impairments; women; children and young people; older persons; persons living in urban, rural or remote settings; members of ethnic minorities; indigenous peoples; migrants; people from different social classes; lesbian, gay, bisexual, transgender, queer and intersex persons; and persons at one or more of the intersections of these identities.

Intersectional discrimination refers to situations where discrimination occurs on the basis of multiple and intersecting factors, such as those listed above. While the concept may seem complex, in practice it means that people are not homogenous and experience discrimination and marginalization in different and intersecting ways. A person with disability also has a gender identity, may come from an indigenous group and may be young, old, a migrant or live in poverty. For example, a person with disability belonging to an ethnic minority may be overlooked for a job due to stigma about both their disability and their ethnicity.

Women and girls with disabilities often face heightened barriers in their access to basic human rights and are often underrepresented in both women's and disability movements. A woman with disability who experiences gender-based violence has to counter the stigma that most women face when reporting it. In addition, she may face communication and/or physical accessibility barriers, as well as further attitudinal barriers due to misperceptions of asexuality. This combination of factors compounds in a way that means that access to medical, psychological and legal support is severely restricted, and that justice is often not reached.

Policymakers should be aware that persons with disabilities have intersecting identities and may experience multiple forms of discrimination that compound one another.

2.2 Accessibility

Accessibility is central to being able to live independently and participate fully in life. It is required to make sure that persons with disabilities can have access to:

- The physical environment
- Transportation
- Information and communications
- Facilities and services open or provided to the public, in both urban and rural settings

Accessibility also applies to systems and procedures, and Governments need to ensure that they are designed for the equal access and participation of persons with disabilities. For example, physical access to schools and the accessibility of communications in classrooms will have less impact on increasing the number of students with disabilities if registration procedures and admission tests are not accessible.

While changes cannot be made overnight, Governments are obligated to progressively improve accessibility over time – for example, by ensuring that all new buildings, ICT systems and transport systems, among others, are accessible. Procurement processes should reference accessibility requirements and standards. For more information, see the section on public procurement in part II.

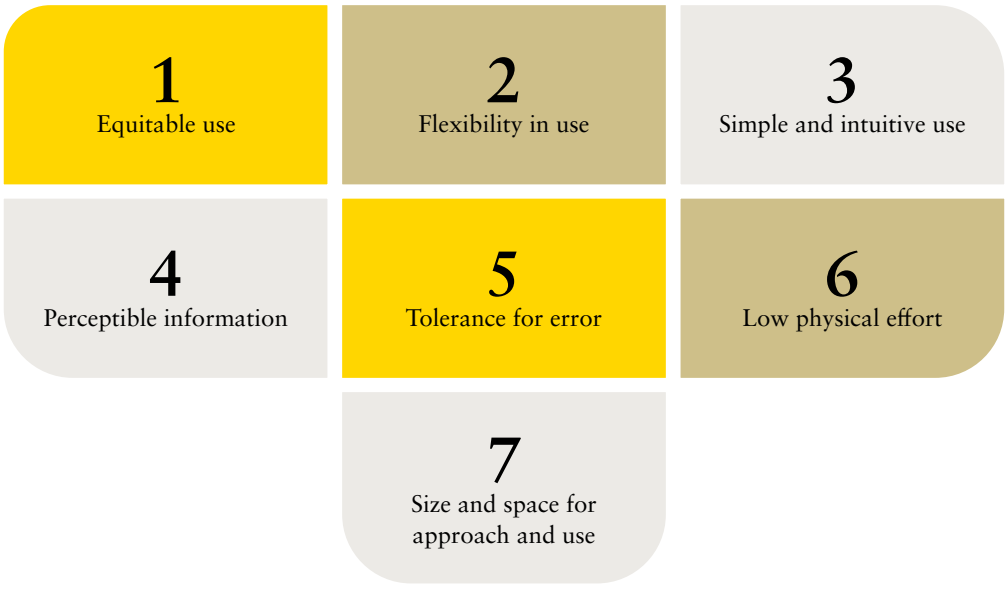
Increased accessibility will reduce the need for reasonable accommodation and some forms of live support. To improve accessibility over time, Governments should develop, promote and monitor minimum standards and guidance on the accessibility of facilities and services, regulatte private facilities and services open to the public, raise awareness and provide training. For more information, see the Policy Guidance on Sustainable Development Goal 11 and Committee on the Rights of Persons with Disabilities general comment No. 2 (2014) on accessibility.

It is important to highlight that accessibility benefits not only persons with disabilities but also wider groups, including older persons and persons who may face a temporary reduction in mobility due to injury. In this context, it should be noted that a "universal design" or "design for all" approach to accessibility is important so that services and products can serve the needs of a wide range of consumers.

The Convention on the Rights of Persons with Disabilities requires that accessibility be planned from the onset using universal design principles. Designing ICT or other goods and services using universal design from the start reduces costs, which improves affordability and supports the enhanced participation of persons with disabilities.

FIGURE II

Principles of universal design



Source: Centre for Excellence in Universal Design, "The 7 Principles" (National Disability Authority, 2020).

The Policy Guidance is complemented by a number of human rights indicators on the Convention on the Rights of Persons with Disabilities that refer to accessibility as described in, inter alia, article 9 of the Convention. The indicators offer guidance on the measures that need to be taken in implementing the Convention and in facilitating the assessment of its progress.

2.3 Support for persons with disabilities: assistive technology and support services

According to the Special Rapporteur on the rights of persons with disabilities:

> "Support for persons with disabilities encompasses a wide range of formal and informal interventions, including live assistance and intermediaries, mobility aids and assistive devices and technologies. It also includes personal assistance; support in decision-making; communication support, such as sign language interpreters and alternative and augmentative communication; mobility support, such as assistive technology or service animals; living arrangements services for securing housing and household help; and community services. Persons with disabilities may also need support in accessing and using general services, such as health, education and justice." (A/HRC/34/58, para. 14)

Many persons with disabilities require support services and/or assistive technology to perform daily life activities and participate in society. Alongside non-discrimination and accessibility, support enables persons with disabilities to benefit equally from policies, programmes and services. Prioritizing support and assistive technology contributes to inclusive implementation across many of the Sustainable Development Goals.

Assistive technology, products and services

"Assistive technology" is an umbrella term that comprises all systems and services relating to the delivery of assistive products and services. More specifically, assistive products are those designed to "maintain or improve an individual's functioning and independence, thereby promoting their well-being" (World Health Organization, "Assistive technology", 18 May 2018), such as wheelchairs, canes and communication aids. Assistive technology contributes to the prevention of secondary impairments, the reduction in the need for formal health care and the reduction in the need for live support services. Related services include fitting, training (including habilitation and rehabilitation services), maintenance and repair services.

At the global level, the World Health Organization has developed the Priority Assistive Products List. In addition, the World Health Assembly adopted in 2018 resolution 71.8 on improving access to assistive technology, in which it urged Governments to increase access to assistive technology through universal health-care coverage and/or social services.

While relevant for most of the Sustainable Development Goals, policy recommendations in this area (which usually pertain to ministries of social welfare and health) are provided under the specific sections on Goal 1 (no poverty) and Goal 3 (good health and well-being). In addition, given the need for the continuous development and improvement of assistive technology, this subject is addressed in the Overview of Thematic Issues and Policy Recommendations on Research and Innovation.

> Related indicators on the Convention: 20.1–20.3, 20.11, 20.12, 20.19–20.21, 28.1, 28.20, 28.21, 28.27, 1/4.14, 1/4.25 and 19.31

Support services for persons with disabilities

Interdependence is an intrinsic aspect of the human experience. Many persons with disabilities require human support to perform daily life activities. Currently, technology is not able to cover all areas of support for persons with disabilities, although accessibility and assistive technologies do reduce the need for human support (e.g. if a person with reduced mobility lives in inaccessible housing, they might require personal support; however, if they live in accessible housing their support needs would be greatly reduced).

Globally, the main sources of support are families and the broader immediate community, such as friends, schoolmates, co-workers and extended family. While solidarity among family members and communities should be encouraged, dependence that leads to negative living environments should not. Persons with disabilities should therefore have support options beyond solidarity networks.

Human support is the most basic form of support and, in certain contexts, the only type of support available; when that is the case, it should be considered a basic life-saving service.

Inadequate support increases the risk of neglect, violence and abuse, and may lead to living in segregated settings, such as institutions. Conversely, support services increase independence and the participation of persons with disabilities, thereby ensuring that no one is left behind.

Support is key to promoting development. It enables the supported person to participate in development, provides employment prospects for people who provide support, and frees up family members to pursue education and employment.

Some forms of support, such as support relating to civil and political rights, should be provided immediately, including support to exercise legal capacity, to have access to justice and to vote. Other types of support can be implemented progressively over time, using the maximum available resources, including through international cooperation.



Categories and types of support

Persons with disabilities are diverse, as are the barriers that affect them. Support should be aimed at improving their individual autonomy and minimizing environmental barriers. Consequently, there are different types of support, applicable in different contexts, for different people. Some examples of support, categorized by common barriers, are:

Mobility and physical barriers:

- Assistive products, such as wheelchairs and crutches
- Animal support, such as guide dogs
- Human support, such as personal assistants

Communication and accessibility barriers:

- Assistive products, such as ICT, smartphones and augmentative communication devices
- Human support, such as sign language and tactile interpreters, and plain language support

Emotional-support and self-management barriers:

- Assistive products, such as software to organize tasks, and emergency caller
- Human support, such as peer support, administrative support and emergency support
- Emotional support animals

Legal and institutional barriers:

- Support for decision-making
- Support to vote

Support can be formal, that is, ruled by a contract or agreement (such as service provision), or informal (e.g. through family and friends). It can be administered by the public sector (such as sign language interpreters provided by the Government) or the private sector (such as an association that organizes peer-support services).

The provision of support always has a cost, whether it is provided formally (i.e. requiring payment) or informally (such as unpaid care – see the section on disability-related extra costs in the Policy Guidance on Sustainable Development Goal 1). Informal support is disproportionately provided by women.

The Convention on the Rights of Persons with Disabilities acknowledges the requirement of support and entitles persons with disabilities to support measures in connection with specific rights. Several of the accompanying indicators on the Convention are focused on the adoption of policies to provide support to persons with disabilities.

Governments should adopt policies to promote the development of a diverse array of support services (both public and private) directed at facilitating inclusion and participation in society, which span all aspects of life. Furthermore, the requirement of support should be factored into policymaking and implementation, in order to ensure its effectiveness towards persons with disabilities. For example, the provision, to a person with disability, of a social housing unit to promote their independent living would be incomplete or ineffective without ensuring the availability of the personal assistance services that the person might require.

Community-based inclusive development

Community-based inclusive development is a multisector, bottom-up approach aimed at development by operationalizing the Convention on the Rights of Persons with Disabilities at the community level. It expanded from a single-sector approach (community-based rehabilitation) and is now aimed at supporting the inclusion of persons with disabilities in all aspects of community life. It uses community mobilization and networks to address the barriers faced by persons with disabilities in accessing mainstream services and programmes within their communities. It is also aimed at ensuring that persons with disabilities have the support networks, services and assistive technology required to support their participation.

Often initiated by non-governmental organizations and, in some cases, adopted as a strategy by Governments, this community-based strategy can provide good models and solutions for locally appropriate forms of disability support services that fit in with local cultures and contexts and use locally available resources.

2.4 Participation

Consultation with persons with disabilities and their representative organizations

The involvement of targeted populations is key to the effectiveness and success of policies, including at the stages of design, implementation and evaluation. Not only is it practical to know and understand the experiences of those concerned, but it is also a human rights imperative.

Persons with disabilities have historically been excluded from public decision-making, particularly in policy development. Often, they have had no voice and have been considered mere "recipients", not as the rights holders and contributors they are. Charities, religious organizations and professionals have often represented "the best interests" of persons with disabilities in decision-making processes.

The Convention on the Rights of Persons with Disabilities brings about change. It puts into practice the motto "nothing about us without us", which recognizes persons with disabilities as integral to decision-making processes.

What are representative organizations of persons with disabilities?

Organizations of persons with disabilities are led, directed and governed by persons with disabilities. The clear majority of their membership should be recruited among persons with disabilities themselves. Organizations that do not meet these criteria but work on disability inclusion are considered organizations "for" persons with disabilities and consulting with them is not a requirement under the Convention, although they are important partners for policy development.

There is a wide range of types of organizations of persons with disabilities: umbrella (global, regional and national); cross-disability (bringing together persons with different impairments); self-advocacy (commonly informal and representing persons with intellectual disabilities); sectoral (representing women and girls, children or young people); and those including family members (when groups of persons with disabilities wish to be supported by their families as united networks or organizations).

"Nothing about us without us"

The Convention ensures the participation of persons with disabilities and specifically states:

> "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." (article 4 (3))

> "Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process." (article 33 (3))

The Committee on the Rights of Persons with Disabilities has developed standards for the implementation of these obligations in its general comment No. 7 (2018) on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention.

> "Meaningful participation is participation that respects, values and considers the unique role and perspective of OPDs as organizations representing the diversity of persons with disabilities, and enables their regular and effective engagement, by ensuring equal opportunities to contribute to decision-making." (*International Disability Alliance, Increasingly Consulted but Not yet Participating: IDA Global Survey on Participation of Organisations of Persons with Disabilities in Development Programmes and Policies* (2020))

Recognizing persons with disabilities as experts on their own lives

The priorities and perspectives of persons with disabilities should be meaningfully considered and included in policy design, implementation and evaluation.

Recommendations

Policymakers should:

1. Promote the involvement of representative organizations in flexible ways, according to capacity, context and priorities;
2. Systematically elicit and take into account the perspectives of persons with disabilities in all their diversity;
3. Acknowledge that the responsibility to put into action the priorities and perspectives of persons with disabilities falls on them, according to the obligations they have as government officials;
4. Support the engagement of representative organizations in policymaking processes, building their capacity and simplifying the mechanisms to provide input;
5. Support the formation and functioning of representative organizations, including through straightforward and free registration processes;
6. Support the ability of representative organizations to seek and secure funds and resources to support their operations.

Related indicators on the Convention: 1/4.9–1/4.11, 1/4.15–1/4.18 and 1/4.26–1/4.28

This guidance, and the human rights indicators accompanying it, systematically incorporates the obligation to consult with, and actively involve, persons with disabilities and their representative organizations. (For further guidance, see International Disability Alliance, *Increasingly Consulted but Not Yet Participating* and the video on participation and decision-making developed by the Special Rapporteur on the rights of persons with disabilities.)

2.5 Awareness-raising

Attitudinal barriers restrict participation in society and the enjoyment of rights. A lack of knowledge about the rights of persons with disabilities can also lead to discrimination. Awareness-raising among persons with disabilities and the broader population is therefore critical to achieving the inclusive implementation of the Sustainable Development Goals.

Underlying attitudes, values and beliefs, as well as the level of awareness of rights among the population, should be addressed in the planning of awareness-raising campaigns. General campaigns

have proven effective in informing about rights and raising awareness about particular issues, but they have not resulted in changing attitudes.

Changing attitudes requires longer processes, such as training and human rights education. In addition, involving persons with disabilities in awareness-raising is fundamental to change perceptions of persons with disabilities and to combat stereotypes.

In recognition of the central importance of awareness-raising, the report of the Office of the United Nations High Commissioner for Human Rights on awareness-raising under article 8 of the Convention on the Rights of Persons with Disabilities addresses this issue (A/HRC/43/27). The human rights indicators on the Convention complementing the present guidance include a set focusing on awareness-raising, corresponding with article 8. Indicators on awareness-raising are also featured in the Convention articles on substantive rights, as an essential element of ensuring their effective implementation through the carrying out of campaigns, communications, training and educational activities relating to those rights.

- Related indicators on the Convention: 8.1, 8.2, 8.5 and 8.6

Part II.
Structural requirements to create an enabling legal, policy and programming environment: implementing Sustainable Development Goals 10, 16 and 17

What is included in this section?

A range of foundational issues underpins progress towards the disability-inclusive achievement of all the Sustainable Development Goals, including governance, coordination, budgets, data, legislation, policy, participation, accountability, capacity-building and international cooperation. These are critical to the commitment to "leave no one behind" made in the 2030 Agenda. These foundations relate particularly to Goal 10 ("reduced inequalities"), Goal 16 ("peace, justice and strong institutions") and Goal 17 ("partnerships for the Goals"). This section builds upon the previous one by explaining what cross-sectoral actions, systems and frameworks are required to implement rights-based, disability-inclusive development. Each section includes key recommendations for Governments.



1. Governance



Target 16.6: Develop effective, accountable and transparent institutions at all levels

Good governance structures are key to the design, implementation and sustainability of the policy measures required for the disability-inclusive achievement of the Sustainable Development Goals.

Without a good coordination mechanism, disability-related issues can be overlooked, as policies affect persons with disabilities in all aspects of society and life.

1.1 Institutional framework for good governance inclusive of persons with disabilities

Table 4 shows the institutional framework outlined in the Convention on the Rights of Persons with Disabilities to ensure that disability is considered in policy design in all areas and at all levels. Governance that promotes the inclusion of persons with disabilities requires institutional frameworks and clear roles and responsibilities.

TABLE 4

Insitutional framework for good governance inclusive of persons with disabilities

Government	Monitoring mechanism	Organizations of persons with disabilities
• Disability focal point at the highest level possible in the administration • Disability focal points in ministries • Coordination mechanism among ministries	• National human rights institution • Other independent monitoring mechanism compliant with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles)	• Granted full consultative status by the government focal point and the monitoring mechanism • Allocation of funds to sustain their independent functioning

A **Government's disability focal point** is the central reference on the issue within a Government.

Ministry disability focal points (officials and/or staff within departments with expertise on disability in the area of competence within the ministry) should be appointed.

Countries with a federal system of government should appoint focal points by state/province. Local government focal points can also bring value and coordinate at the local level.

The **coordination mechanism** should be aimed at facilitating the coordination and coherence of policies among ministries, departments, agencies and federal Governments to ensure that persons with disabilities are included and enjoy the same rights, regardless of the level of government.

Source: Thematic study by the Office of the United Nations High Commissioner for Human Rights on the structure and role of national mechanisms for the implementation and monitoring of the Convention on the Rights of Persons with Disabilities (A/HRC/13/29).

Related indicators on the Convention: 1/4.1, 1/4.2, 1/4.7–1/4.9, 33.1, 33.2, 33.6 and 33.8

1.2 Results-based strategic planning for policy implementation

Meeting the Sustainable Development Goals and implementing the Convention on the Rights of Persons with Disabilities requires strategic policy development and innovation. Results-based planning is key to ensuring policy coherence and to monitoring implementation.

For policies relating to persons with disabilities, policy coherence depends on:

1. Adopting the Convention as the common framework that guides the development of plans and the implementation process(es);
2. Prioritizing the lived experiences of persons with disabilities to inform planning;
3. Appointing responsible entities and allocating budgets to meet the outcomes of the country-owned results framework, which includes agreed objectives and results indicators (i.e. output, outcome and/or impact). See the metadata for Sustainable Development Goal indicator 17.15.1;
4. Monitoring and measuring progress and pitfalls. The accompanying indicators on the Convention can support strategic planning by identifying key areas of policy development and providing a measurable results framework on disability policies.

Related indicators on the Convention: 1/4.4 and 1/4.6

1.2.1 Twin-track approach

The twin-track approach is a key concept that supports the strategic planning of inclusive development and the implementation of the Convention. The twin-track approach includes:

1. Systematically mainstreaming the interests and rights of persons with disabilities in policy design and implementation across all sectors and areas of life;
2. Adopting targeted policies and programming measures aimed specifically at persons with disabilities.

The balance between mainstreaming strategies and targeted support should be tailored to address the needs of specific communities; however, the overall goal should always be to include persons with disabilities in all aspects of society and development.

FIGURE III

Twin-track approach



Related indicators on the Convention: 5.2, 5.5, 6.3 and 7.2

1.2.2 Disability assessment and determination as a tool for policymaking

Disability assessment and determination are processes used to collect information about persons with disabilities for policymaking and planning and budget allocation, and to determine eligibility for certain benefits and entitlements. Disability assessment can also be used for the purpose of providing services, such as rehabilitation or education. The data collected through assessment and determination can be compiled into a national database or registry and used to inform policymaking, service planning and budgeting. However, in many countries, a coordinated system has not yet been established.

Disability assessment is the process of collecting disability-related information about an individual.

Disability determination is the official decision (using the assessment findings) on whether someone is identified as a person with disability, often subclassified according to their functionality. In some countries, the determination or classification can become an official status, symbolized by a disability card or similar, which can provide access to services and benefits, among other things.

There are often additional processes to determine eligibility for different types of social protection, insurance, and health and support services.

FIGURE IV

Assessment, determination and eligibility



A human rights-based approach to disability assessment seeks to ensure the exercise of rights (purpose) by assessing the individual situation of the person (person-centred) and to provide the support necessary to bridge the barriers (means). Assessing the impairment of a person without meeting these requirements has been contested by the United Nations through recommendations to States, leading to reviews in multiple countries.

Example of how a disability assessment fits into the process of ensuring an adequate standard of living

Policy analysis	A survey shows that households with a person with disability have 20 per cent less available income to pay for basic services than other households, pushing many below the poverty line.
Support	Households with incomes at the poverty line or below require a social protection benefit when they have a member with disability.
Assessment purpose	Determine if the household has a member who can be considered a person with disability and the level of income, to ensure an equal standard of living in the segment of the population below the poverty line.
Assessment	• The assessment is aimed at collecting relevant data to inform policymakers. • The tool used to make the assessment should match the purpose defined in the policy analysis

- Policymakers should assess the tool based on cost, the proportionality of the information collected and implementation functionality, among others.

Determination	The person assessed meets the criteria to be considered a person with disability.
Eligibility	The household meets the requirement of having a member with disability and its income is below the poverty line.
Attribution	The household is granted a financial benefit that puts it above the poverty line.

Recommendations

When developing disability assessments and processes for determining eligibility for benefits, Governments should:

1. Follow a human rights-based approach, based on the principles of article 3 of the Convention on the Rights of Persons with Disabilities;
2. Respect the privacy of persons with disabilities by keeping the information confidential;
3. Ensure that procedures are accessible, to prevent barriers and exclusion;
4. Include persons with disabilities in the design and monitoring of the process;
5. Respect the freedom to make one's own choices;
6. Ensure that assessments are available for persons everywhere in the country;
7. Ensure that the assessment method is reliable and proportional to its needs;
8. Ensure that the outcome of the assessment and determination process is not used to restrict rights (e.g. deny access to employment).

The data gathered and disclosed for disability assessments should comply with the highest standards applicable to personal data protection.

Related indicators on the Convention: 1/4.12, 22.4 and 31.1

1.2.3 Using multi-stakeholder partnerships to achieve strategic objectives



Target 17.16: Enhance the Global Partnership for Sustainable Development, complemented by multi-stakeholder partnerships that mobilize and share knowledge, expertise, technology and financial resources, to support the achievement of the Sustainable Development Goals in all countries, in particular developing countries

Target 17.17: Encourage and promote effective public, public-private and civil society partnerships, building on the experience and resourcing strategies of partnerships

Increasingly, Governments partner with other stakeholders to provide goods and services to the population, including companies, universities and civil society organizations. In low- and middle-income countries, international cooperation stakeholders are also often involved. Public-private partnerships have become a common model in funding and implementing development programmes.

Given the impact of these stakeholders on the delivery of products and services for persons with disabilities, it is important that all of them are operating with a rights-based perspective.

Unfortunately, charity and medical approaches to disability often dominate over goods and services provided through multi-stakeholder partnerships for persons with disabilities, such as public funding directed at financing segregated education, institutionalized services or sheltered employment.

Results-based strategic planning for policy implementation that leads to multi-stakeholder partnerships should follow a human rights-based approach, setting objectives that are aligned with the Convention on the Rights of Persons with Disabilities and progressively departing from practices and business models that prevent the enjoyment of rights and of the benefits of development. Public procurement and sector-specific regulations can support relationship-building processes with the private sector that create better practices.

- Related indicators on the Convention: 9.1, 9.17, 19.2, 19.6, 19.12, 19.13, 27.1–27.4 and 32.1

Example of a community of practice: International Labour Organization Global Business and Disability Network

The International Labour Organization Global Business and Disability Network is aimed at creating an inclusive global workforce culture. Its goal is to ensure that employment policies and practices in companies around the world, of all types, are inclusive of persons with disabilities. It promotes business-to-business support and peer learning through global, regional and national meetings, working groups, joint publications and tools. It supports national-level business initiatives, provides technical assistance and collates national-level information about business and disability.

The Bangladesh Business and Disability Network includes employers, employers' associations, representative organizations of persons with disabilities, non-governmental organizations and development partners. The network shares knowledge and experiences to increase the capacity of Bangladeshi businesses to address diversity and inclusion, corporate social responsibility, adherence to laws and human resource management.

1.3 Finance and budgeting

Having the strongest and most inclusive policies will have no impact unless resources are allocated to put commitments into practice. The paradigm shift reflected in the Convention on the Rights of Persons with Disabilities requires innovative approaches, as well as budgeting and financial management, that contribute to delivering its objectives. Disability-related extra costs must be factored in when developing disability-reflective budgets. See part II, section 5.1.2 on disability-related extra costs in the Policy Guidance on Sustainable Development Goal 1.

The rights to inclusive education, health, employment, social protection and an adequate standard of living, among other social and economic rights, will not be achieved overnight. However, according

to international human rights standards, Governments must take steps as soon as possible (e.g. by adopting health policies inclusive of persons with disabilities) and devote the maximum resources available to meet the minimum core obligations to satisfy the rights of all persons.

Budgeting in times of financial crisis can be difficult. Governments should ensure that cuts that may force restrictions in service delivery do not have a negative or disproportionate impact on persons with disabilities when compared to others. Governments should refrain from adopting measures that limit or reduce the exercise of existing rights and they should plan for alternatives.

- Related indicators on the Convention: 1/4.13, 24.24, 26.7 and 28.11

1.3.1 Rights-based budgeting

Importance of rights-based budgeting

Often, budget allocations that target persons with disabilities are underexecuted or spent in ways that contradict the principles and foundations of the Convention. For example, funds are often allocated to initiatives that further segregation and exclusion (such as sheltered workshops and segregated education and training programmes), as opposed to those that support inclusion. This is often due to a historical legacy of spending that has not been critically reviewed. Resource constraints or the reallocation of funds, particularly due to austerity measures, can undermine policies and restrict the rights of persons with disabilities. Conversely, rights-based budgeting can contribute significantly to the inclusion of persons with disabilities (see *Realizing Human Rights through Government Budgets* (United Nations publication, 2017)).

Rights-based budgeting: transitioning over time

Budgeting for inclusion requires a transition plan that allows for the orderly transformation of systems. The level of exclusion that persons with disabilities face is such that, even by creating a battery of services compliant with human rights, a large number of persons with disabilities would not be able to have access to services immediately. Consequently, budgeting for inclusion requires an evaluation of the increase in demand for services by persons with disabilities over time.

Planning for rights-based budgeting

Budgeting for inclusion does not happen in isolation. Disability-related budgets are affected by general tax policies and foreign debt and by how resources are prioritized and weighed against each other. Governments aiming for human rights compliance should evaluate their existing economic and financial structures and evaluate possible reforms following international standards (see the guiding principles on human rights impact assessments of economic reforms (A/HRC/40/57)). Moreover, they should include an international cooperation component, including by supporting implementation through South-South, triangular and North-South cooperation to complement national resources, relating to technical cooperation in particular.

Fighting corruption and tax evasion, implementing transparency mechanisms, and engaging persons with disabilities themselves and national human rights institutions in monitoring processes can further support the appropriate investment of the budget, particularly when the proportion of the national budget is small. As disability-related policies are usually underfunded, improving efficiency and efficacy in the administration of funds is fundamental to increasing their impact.

To ensure the optimum use of the budget, public expenditure on persons with disabilities, both from mainstream programmes and disability-specific programmes, should be trackable through disability markers (see the section on disability markers below) in order to assess whether the use of original budget allocations was appropriate, to detect reallocations (diverting funds to other purposes) and to inform future budget needs and decisions.

Recommendations

To budget for inclusion, Governments should:

1. **Do no harm:** stop investing in harmful practices that discriminate against persons with disabilities;
2. **Use progressive/non-retrogressive budgeting:** ensure that the rights-based policies in place are not disrupted by the creation of new policies or by austerity measures;
3. **Plan ahead:** evaluate the actual demand (not only the general statistical base) when planning for services and plan incremental investments to follow increases in demand;
4. **Enhance monitoring:** establish markers that allow the tracking of investment in disability-specific and disability-inclusive policies;
5. **Use rights-based budgeting:** focus investment in policies that advance the rights of persons with disabilities, following the Convention;
6. **Plan for reallocation:** reallocate funds from policies that do not meet Convention standards to disability-inclusive policies;
7. **Consider the proportionality of the budget, taking into account the population and requirements:** when evaluating the budget, ensure that persons with disabilities are properly represented as a significant population group and, if cuts or austerity measures are implemented, ensure that their negative effects do not have a disproportionate impact on this population.

> Related indicators on the Convention: 1/4.11, 1/4.13, 1/4.14, 1/4.16, 5.4, 31.3, 32.1–32.3, 33.5, 33.7 and 33.8

1.3.2 Disability markers

Disability markers are a key budgetary tool to track and monitor public expenditures on persons with disabilities. They should be designed to cover inclusive mainstream policies and disability-specific policies. International cooperation agencies have started to promote and make use of them (see the example of disability policy marker good practice of the Organization for Economic Cooperation and Development (OECD) Development Assistance Committee, presented below).

Many of the accompanying indicators on the Convention call for the development of markers that allow for the tracking of expenditures on persons with disabilities in different policy areas, such as Convention indicator 19.5 – the legal requirement to establish a marker on all spending relating to the exercise by persons with disabilities of the right to choose their living arrangements and to have access to support services for living independently.

OECD Development Assistance Committee disability policy marker (inclusion and empowerment of persons with disabilities)

Definition

Development cooperation activities are classified as being inclusive of persons with disabilities (scores "principal" or "significant") if:

- They have a deliberate objective on ensuring that persons with disabilities are included, and able to share the benefits, on an equal basis to persons without disabilities; or
- If they contribute to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and promote respect for their inherent dignity in line with article 1 of the Convention; or
- If they support the ratification, implementation and/or monitoring of the Convention

In accordance with the Convention on the Rights of Persons with Disabilities, persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments that in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

Classification

2 – Principal objective

An activity should be marked as "principal" (score 2) if disability inclusion, as per the definition above, is the main objective of the development cooperation activity and is fundamental in its design and expected results. The activity would not have taken place without this disability inclusion perspective.

Examples of activities that could be marked as principal objective include:

- Support to inclusive education as defined by article 24 of the Convention
- Support to health and social projects specifically designed to reduce the vulnerability of persons with disabilities
- Support to reduce architectural barriers in urban areas

1 – Significant objective

An activity should be marked as "significant" (score 1) if disability inclusion, as per the above definition, is an important and deliberate objective, but not the principal reason for undertaking the development cooperation activity.

Examples of activities that could be marked as significant objective include:

- A new or refurbished infrastructure project that is fully accessible to persons with disabilities
- A local library/school that makes cultural and education material also available in a form accessible to persons with visual or hearing impairments
- A social inclusion project that includes persons with disabilities among the target groups

0 – Non-targeted

An activity should be marked as "non-targeted" (score 0) if it has been screened against the marker but has not been found to target disability inclusion.

Examples of activities that could be marked as non-targeted are:

- A programme or activity aimed at improving basic services for the poor that states that it would also reach persons with disabilities because they tend to be among the poorest, but does not contain specific mechanisms or activities to ensure inclusion
- A programme establishing a segregated school for children with disabilities

Source: Development Assistance Committee Working Party on Development Finance Statistics, Proposal to introduce a policy marker in the CRS to track development finance that promotes the inclusion and empowerment of persons with disabilities (DCD/DAC/STAT(2018)39/REV1).

Related indicators on the Convention: 1/4.11, 1/4.13, 1/4.14, 1/4.16, 5.4, 31.3, 32.1–32.3, 33.5 and 33.7

1.4 Public procurement

Public procurement regulations and practices are key to improving the accessibility of facilities, products and services in terms of the physical environment, information, communication, systems and procedures. Public authorities should include accessibility and universal design within appropriate technical specifications in bid solicitation and procurement plans.

Among other things, accessibility and universal design requirements ensure that:

1. Products and services purchased by public authorities are usable by, and accessible to, persons with disabilities;
2. Any construction/renovation of public facilities enhances accessibility (through construction codes);
3. Private companies that apply for licences with regulatory authorities ensure accessibility in their bid and service provision.

In addition, the public procurement of products that contribute to facilitating accessibility for persons with disabilities can have a positive impact on the specific market by lowering prices and thus enhancing their affordability. It can also contribute to promoting the employment of persons with disabilities when procurement policies include an eligibility criterion that benefits companies that hire persons with disabilities.

Public procurement is also key to preventing multi-stakeholder partnerships, including public-private partnerships, from engaging in practices that support discrimination against persons with disabilities. Sector-specific regulations and public bids should include rights-based standards to counter violations of the Convention on the Rights of Persons with Disabilities.

Related indicators on the Convention: 9.17, 9.18 and 32.1

1.5 Data collection and disaggregation by disability



Target 17.18: By 2020, enhance capacity-building support to developing countries, including for least developed countries and small island developing States, to increase significantly the availability of high-quality, timely and reliable data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts

Information on persons with disabilities and their situations is critical for the development of effective policies. Persons with disabilities are estimated to represent 15 per cent of the global population. Countries present variations in the prevalence of disability mainly due to the methodology they use to assess it.

The method used to identify persons with disabilities will vary depending on the intended purpose of the data. To identify persons with disabilities who qualify for a restricted disability allowance, a different threshold of what constitutes disability would be recommended, when compared to the data generated to estimate how many persons with disabilities there are in a country, their health, education and other outcomes. This latter set of data is preferable for policy and budget planning purposes.

From diagnosis, to self-identification, to functioning

Over time, there have been three main approaches used in relation to disability data. First, disability data were generated from administrative health data. Persons with certain diagnoses were classified as persons with disabilities. This method of collecting disability data was inconsistent, did not allow for reliable and comparable data, and was inefficient.

Disability data became increasingly part of the statistical work of countries. In the second approach, persons with disabilities were identified through self-identification. Respondents were asked questions such as "Are you a person with disability?" to distinguish persons with disabilities for disaggregation purposes. Since "disability" is a social construct, self-identification led to underreporting. Many persons with disabilities did not self-identify in contexts where being a person with disability had culturally negative connotations (e.g. people who did not view their impairment as a disability, or older persons who did not see themselves as persons with disabilities).

The third and current approach uses functioning as a way of collecting disability data. It is recommended that this approach be used for censuses, large surveys and administrative data, including for the statistical purposes of disaggregation. This approach was designed by the Washington Group on Disability Statistics and (usually) uses the Washington Group Short Set on Functioning questions, which assess universal basic activities or "functions", namely, seeing, hearing, walking, self-care, cognition and communication. Individuals answer six questions that are used to define whether that person is "with disability" or "without disability". Respondents who answer "a lot of difficulty" or "cannot do it at all" to at least one of the six functioning questions should be considered a person with disability for the purpose of data disaggregation, particularly for the Sustainable Development Goals. They are persons whose functional limitations place them at risk of being excluded if faced with physical, informational, attitudinal or institutional barriers in their surrounding environment.

The Washington Group Short Set on Functioning is currently the most recognized statistical tool for generating disability data. The six questions can be answered on a graded scale, such as "Do you have difficulty seeing, even if wearing glasses?"

(a) No – no difficulty

(b) Yes – some difficulty

(c) Yes – a lot of difficulty

(d) Cannot do at all

Policymakers can establish the threshold for disability disaggregation in (c) or (d), though this will affect prevalence figures and the analysis of inequalities between persons with disabilities and those without disabilities.

The Washington Group has developed other tools to better represent different groups, including the Extended Set on Functioning, the Short Set on Functioning: Enhanced and the Washington Group/UNICEF Child Functioning Module. Other organizations are using these same identification questions for employment surveys, humanitarian data collection, disability surveys and household surveys. Having the same identification questions in censuses and surveys allows for comparable data.

For more information on data sources, see the data sources guidance.

The accompanying indicators on the Convention on the Rights of Persons with Disabilities approach the issue of data collection from multiple perspectives. The Convention is the only human rights treaty with a dedicated article mandating Governments to collect data and ensure disaggregation by disability, and the Convention indicators on article 31 support the realization of this obligation. These indicators are closely linked to the data revolution proposed in the 2030 Agenda and reflect the commitments made under Goal 17. In addition, all Convention indicators identify key areas where data should be collected to measure the advancement of human rights. When general surveys are the main data source, disaggregation by disability is included in them. Lastly, the Sustainable Development Goal indicators are incorporated into the Convention indicators, and disaggregation by disability is included in them.

Recommendations

In accordance with article 31 of the Convention (on statistics and data collection), Governments should:

1. Collect disability data within censuses and other large surveys (such as demographic health surveys, labour force surveys and household income and expenditure surveys), disaggregate data by disability status and type of functional difficulty (where technically feasible) by employing such tools as the Washington Group Short Set on Functioning, Extended Set on Functioning and Short Set on Functioning: Enhanced sets of questions;
2. Collect and systematize disaggregated data by disability status, type of impairment (where technically feasible) and age. Analyse and use available data to produce insights to guide policy and budgeting decisions;

3. Statistics offices should engage and collaborate with national human rights institutions, whose monitoring role contributes to data collection regarding a variety of relevant topics for persons with disabilities.

> Related indicators on the Convention: 31.8–31.11

2. Participation of persons with disabilities in public life

2.1 Ensuring responsive, inclusive, participatory and representative decision-making at all levels



Target 16.7: Ensure responsive, inclusive, participatory and representative decision-making at all levels



Target 10.2: By 2030, empower and promote the social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status

Persons with disabilities are extremely underrepresented in public institutions, including in parliaments, the public sector and the judiciary, and in all levels of government. This is due to legal and accessibility barriers, among others. Exclusion from public and political life is often compounded for women and young people with disabilities. For more information on the participation of persons with disabilities, see part I, section 2.4 of the present guidance.

A total of 161 countries out of 176 have restrictions on being elected for office based on impairment (*Disability and Development Report: Realizing the Sustainable Development Goals by, for and with Persons with Disabilities* (United Nations publication, 2019), p. 264).

Reforms to increase the participation of persons with disabilities in public and political life are recommended, with a particular emphasis on women with disabilities. Some countries have adopted measures in these areas, including at the constitutional level, to increase the inclusion of persons with disabilities in aspects of public and political life (e.g. by reserving seats in parliament for representatives with disabilities). Employment quotas within the public sector are also common and can contribute to increased participation.

Recommendations

To enhance the inclusion of persons with disabilities in national institutions, Governments should:

1. Promote legislative reforms and repeal the regulatory provisions that prevent persons with disabilities from being part of national or local parliaments and the judiciary or from serving as public servants;

> Related indicators on the Convention: 13.1, 13.2, 27.1, 27.2, 29.1 and 29.2

2. Adopt specific measures to increase the number of persons with disabilities in positions in parliaments, ensuring the provision of support or reasonable accommodation;

   Related indicators on the Convention: 29.7–29.30

3. Adopt specific measures to increase the number of persons with disabilities in positions within the public sector;

   Related indicators on the Convention: 27.13 and 29.7–29.30

4. Ensure the provision of reasonable accommodation in public examinations for judges, the provision of support requested for the exercise of duties by judges or judiciary employees and procedural accommodations for participants in judicial proceedings (such as witnesses and jurors).

   Related indicators on the Convention: 13.6, 13.9, 13.10, 13.22 and 13.23

2.2 Ensuring the right to vote of persons with disabilities

Many electoral systems continue to exclude persons with disabilities; electoral legislation typically includes provisions that restrict the rights of persons deprived of their legal capacity to vote, be elected or hold office. This contradicts article 12 of the Convention on the Rights of Persons with Disabilities, which upholds the right to enjoy and exercise legal capacity, and especially affects persons with intellectual disabilities and persons with psychosocial disabilities. General restrictions on electoral participation and restrictions based on any kind of individual assessment of alleged capacity to vote violate human rights, which has been made explicit in the Convention and by the Committee on the Rights of Persons with Disabilities.

During the electoral process, a lack of accessibility of the voting procedures, environment, facilities or information materials can prevent persons with disabilities from voting.

Recommendations

To ensure and facilitate the fulfilment of the rights of persons with disabilities, Governments and electoral management bodies should:

1. Repeal legal provisions that restrict, on the basis of disability, the right to vote, be elected and hold office;

   Related indicators on the Convention: 29.1 and 29.2

2. Adopt measures to ensure the accessibility of pre-election campaigns and voting procedures, environment, information, materials and facilities, including by developing voting protocols to address the barriers faced by persons with disabilities when voting;

   Related indicators on the Convention: 29.3, 29.5, 29.15 and 29.19

3. Ensure that, where assistance is required by a person with disability, it is provided by a person of their choice, to ensure autonomy and the secrecy of the ballot;

   Related indicators on the Convention: 29.6, 29.15 and 29.20

4. Ensure that persons with disabilities can access complaint and monitoring mechanisms relating to electoral processes;

   > Related indicators on the Convention: 29.5, 29.26 and 29.28

5. Monitor the implementation of these actions. Concrete measures should contribute to a higher voter turnout of persons with disabilities in electoral processes.

   > Related indicators on the Convention: 29.27 and 29.28

3. Legislation and policy for equality and non-discrimination of persons with disabilities



Target 10.3: Ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard



Target 16.b: Promote and enforce non-discriminatory laws and policies for sustainable development

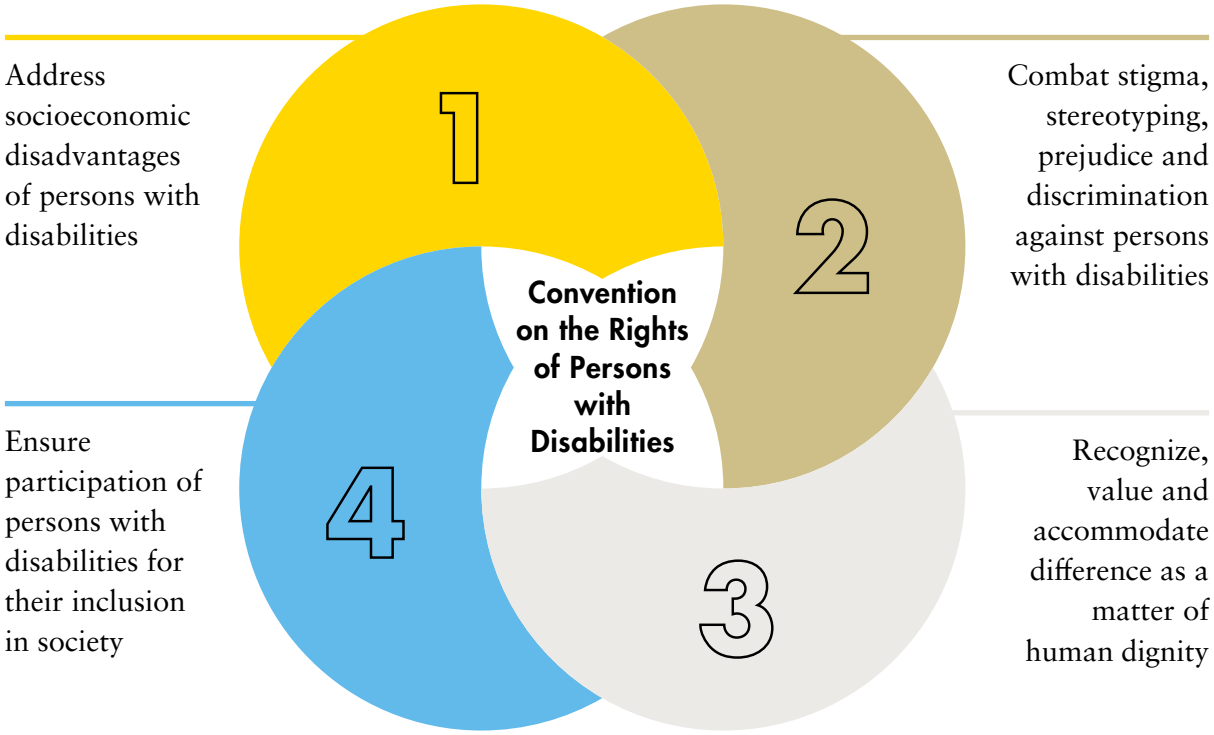
3.1 Inequality and discrimination experienced by persons with disabilities

Persons with disabilities are often subject to inequality and discrimination. Inequality is often present between persons with disabilities and the broader population in the areas of education, employment, income, access to goods and services, and other key aspects of life.

Given the pervasive nature of disability-based discrimination (which has often been embedded into laws, policies and practices), persons with disabilities experience systemic inequality. To overcome this structural discrimination, it is necessary to adopt specific measures, including affirmative actions to counter systemic discrimination. Individual accommodations and adjustments are a good tool to prevent discrimination and contribute to more inclusive environments.

FIGURE V

Inclusive equality diagram



Source: Based on Committee on the Rights of Persons with Disabilities general comment No. 6 (2018) on equality and non-discrimination.

Broad anti-discrimination recommendations

1. Propose the enactment or modification of relevant legislation to prohibit discrimination based on disability, including the denial of reasonable accommodation, across sectors.

   Related indicators on the Convention: 5.1, 5.5 and 13.1

2. Repeal legal and regulatory provisions, across sectors, that enable discrimination based on disability.

   Related indicators on the Convention: 1/4.4, 1/4.5 and 5.5

3. Develop and adopt policies to address and eradicate discriminatory practices, including awareness-raising campaigns and activities.

   Related indicators on the Convention: 5.2, 5.13, 6.11, 8.1, 8.2, 8.4, 8.5, 13.13 and 13.14

4. Implement awareness-raising programmes to improve perceptions of persons with disabilities, change attitudes and inform about rights.

   Related indicators on the Convention: 5.13, 6.11, 8.2, 8.7–8.9, 13.13 and 13.14

5. Consider the religious, ethnic and indigenous backgrounds, gender identity, sexual orientation, sex and age of persons with disabilities in policymaking and seek diverse participation.

   Related indicators on the Convention: 5.1, 5.2, 5.7, 5.13, 6.11, 13.13 and 13.14

3.2 Putting non-discrimination into practice: reasonable accommodation

Part I introduced reasonable accommodation as a core element of non-discrimination. The present section provides more details on its application.

Process for providing reasonable accomodation

- Ask the person what they require.
- Evaluate options within your available resources.
- Offer a solution within your resources.
- Verify with the person if the solution proposed meets its purpose.
- If no solution is achieved, see the questions below to justify denial.

Source: Based on the report of the Office of the United Nations High Commissioner for Human Rights on equality and non-discrimination under article 5 of the Convention on the Rights of Persons with Disabilities (A/HRC/34/26).

Determining what is reasonable

There are several guiding questions to help to determine if a request is "reasonable" and does not create a disproportionate or undue burden. These criteria should be established in law.

If the entity in charge of providing accommodation answers "yes" to all the questions included in table 5, it would be incurring discrimination. If it answers "no" to any of them, the denial would be justified. A flow chart further detailing this process is depicted in figure VI.

TABLE 5

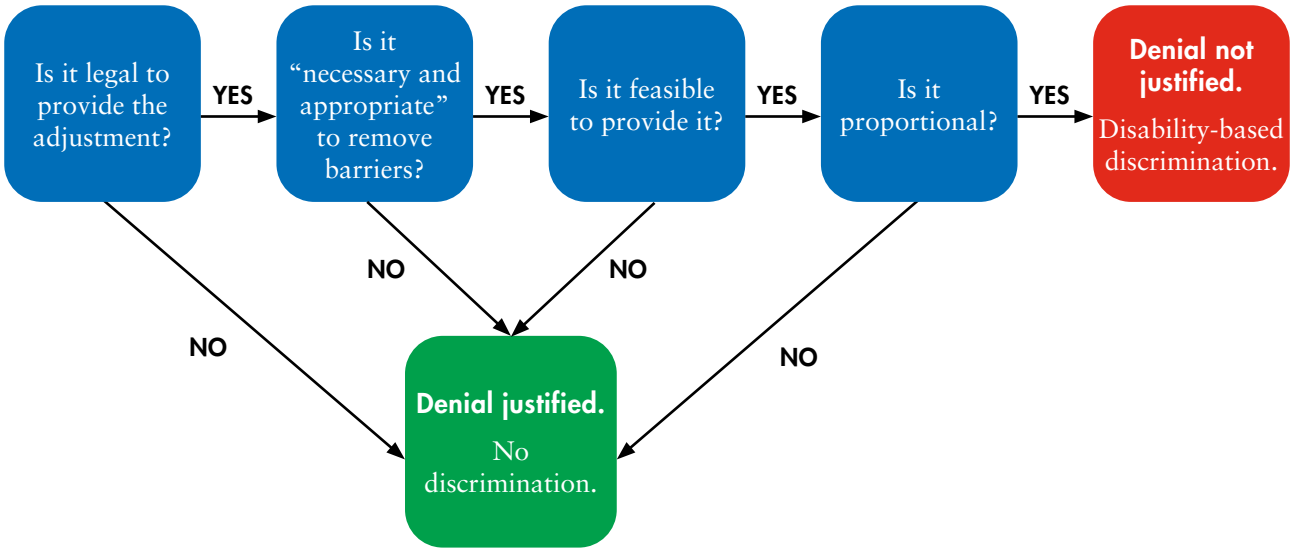
Criteria for determining whether the accomodation is reasonable

Question	The accommodation required…
Is it legal?	… sits within the bounds of the law (e.g. screen-reader software is legal in the country).
Is it necessary and appropriate?	… is sufficient to enable participation and access – not more than what is required for the situation. … works for the person and enables access and participation (e.g. a foldable ramp is requested to address the inaccessibility of three steps, instead of a lift).
Is it feasible?	… is available in that context (e.g. in a meeting in Germany, Indonesian Sign Language interpretation is required, but Indonesian Sign Language interpreters are not available, hence it is not feasible).

Is it proportionate (it does not impose a disproportionate or undue burden)?	… is financially possible (e.g. the duty bearer has the funds or access to lines of credit to provide it). … is economically feasible. For example, the implementation of the accommodation doesn't put the responsible entity at risk of bankruptcy (e.g. a company is required to adapt a bathroom for an employee; the company doesn't have the funds but the Government offers 0 per cent loans for that purpose, so the company can have access to funding and provide the accommodation in a timely manner).

FIGURE VI

Determinig what is "reasonable" in the context of reasonable accommodation



Source: Based on the report of the Office of the United Nations High Commissioner for Human Rights on equality and non-discrimination under article 5 of the Convention on the Rights of Persons with Disabilities (A/HRC/34/26).

Recommendations on reasonable accommodation

Reasonable accommodation is an innovative anti-discrimination measure. Policymakers can promote respect for and commitment to reasonable accommodation by taking the following actions:

1. Adopt clear regulations and develop guidelines materials and training (such as *Promoting Diversity and Inclusion through Workplace Adjustments: a Practical Guide* (International Labour Organization, 2016)) to enable public and private actors to provide reasonable accommodation to persons with disabilities;

   - Related indicators on the Convention: 5.1, 5.2, 5.6 and 5.10

2. Create a centralized reasonable accommodation fund that is flexible and easily accessible across government departments, in order to respond to reasonable accommodation requests;

   - Related indicators on the Convention: 5.1, 5.2, 5.6, 5.9 and 5.17

3. Adopt clear and restrictive guidelines on disproportionate burden applications, including placing the burden of proof onto the provider of reasonable accommodation.

3.3 Putting non-discrimination into practice: addressing diversity and identity

Policymakers should take into consideration multiple and intersecting identities when developing policy, as persons with disabilities may face both specific and intersectional discrimination processes. For example, a country may have different policies for health-care services for the general population from those for indigenous peoples, with service governance under indigenous leadership. Women with disabilities accessing the same service in these two different contexts may experience barriers if the disability dimension is not considered.



Multiple and intersectional discrimination faced by migrants with disabilities

Migrants with disabilities face compounded legal, policy and accessibility barriers based on their disability and migratory status, leaving them in a highly vulnerable position in the country of transit or destination.

Sustainable Development Goal target 10.7 addresses inequalities faced by migrants. It requests Governments to commit to facilitating orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies.



What steps should be taken for migrants with disabilities?

Governments should:

1. **Repeal restrictions from immigration laws that discriminate on the basis of disability.** Many immigration, naturalization and related procedures still include requirements that discriminate directly or indirectly against migrants with disabilities (e.g. meeting health-related requirements to be authorized to immigrate or to become naturalized);
   - Related indicator on the Convention: 18.5
2. **Introduce accessible migration procedures and registries.** A lack of accessible migration-related information, procedures and registries puts migrants with disabilities in a disadvantaged and precarious situation, preventing them from making informed decisions autonomously, from complying with formal requirements and eventually from being granted a recognized migratory status;
   - Related indicators on the Convention: 18.1, 18.2, 18.5, 18.6, 18.10 and 18.16
3. **Repeal restrictions and remove barriers for migrants with disabilities so they can have access to social protection programmes, health care and other social services.** Migrants with disabilities often face great restrictions in gaining access to health care, social services and disability benefits based on their migratory status and/or nationality (e.g. eligibility criteria for disability benefits requiring several years of residency in the country – on occasion, even 20 years' residency). Women refugees, migrants and asylum seekers with disabilities may also face an increased risk of violence because they are denied the right to have access to health and justice systems due to their citizenship status. (See article 11 of the Convention on the Rights of Persons with Disabilities.)
   - Related indicators on the Convention: 18.5, 28.10, 28.11 and 28.14

Sex, gender and age perspectives: not only one single perspective

It is necessary for policymakers to consider the gender identity, sex and age of persons with disabilities to better address their specific requirements to ensure the enjoyment of their rights. Data show that the larger part of the population of persons with disabilities fall under the youth age bracket and that there is also a disproportionate representation among older persons due to the increased barriers faced when ageing. Policies usually consider older persons with disabilities from an age perspective only, without a cross-analysis of the intersection between age and disability, or other perspectives being taken into account.

To address age, sex and gender, the accompanying indicators on the Convention on the Rights of Persons with Disabilities reference age, sex and gender identity through three approaches:

1. Following articles 6 ("women with disabilities") and 7 ("children with disabilities") of the Convention, there are dedicated indicators covering these specific groups and indicators measuring mainstream aspects of policy development and implementation relating to them;
2. Across the indicators, disaggregation by age, sex and disability is promoted, the latter to be disaggregated by type of impairment (see FAQ number 12 on the indicators);
3. Following Goal 5 ("gender equality") and Goal 10 ("reduced inequalities"), there are specific references to marginalized groups to promote specific actions.

Recommendations on reasonable accommodation

To protect against multiple and intersectional discrimination, Governments should:

1. Recognize multiple and intersectional discrimination within legal frameworks on equality and non-discrimination;
    - Related indicator on the Convention: 5.1
2. Ensure that complaint mechanisms permit the claim of discrimination on multiple and intersecting grounds and that remedies for violations of multiple or intersectional discrimination cases are proportionate;
    - Related indicators on the Convention: 5.5, 6.1 and 13.1
3. Ensure that data collection is systematically disaggregated by disability and by other characteristics relevant to the national or local context in order to strengthen the detection of situations of systemic discrimination.
    - Related indicators on the Convention: 31.1

3.4 Putting non-discrimination into action: specific measures

Specific measures are often required to "close the gap" between persons with disabilities and the rest of the population in the pursuit to "leave no one behind". These measures are also commonly referred to as special measures, temporary measures, positive action, positive discrimination or affirmative action, among others. They are aimed at addressing the historical or structural inequality of a group to accelerate progress towards de facto equality.

Specific measures can consist of:

- Targeted programmes or benefits directed at persons with disabilities, such as a tax exemption on the importation of assistive devices
- Measures establishing a preference for persons with disabilities over others, such as an employment quota for persons with disabilities in the public sector

In addition, both kinds of measures may be temporary (until a goal, such as de facto equality, is met) or permanent. This depends on the context, the issue addressed and the targeted group of persons with disabilities. Consistent with their purpose, specific measures do not seek to promote separate systems and standards, but to redress an imbalance towards achieving the de facto equality of a historically disadvantaged group. Importantly, specific measures designed to achieve equal outcomes between persons with disabilities (or for certain subgroups) and the broader population are not considered discrimination.

Specific measures are common and have been used across sectors for different groups for many years. However, when it comes to persons with disabilities, some of these measures are based on stereotypes or outdated understandings of disability and may lead to exclusionary practices, which result in reinforcing disadvantage rather than correcting it. For example, there may have been specific measures for blind persons to receive employment in one kind of vocation, due to an assumption that blind persons cannot perform well in other roles. This is discriminatory and contradicts the principles of the Convention on the Rights of Persons with Disabilities, such as equality of opportunity, respect for autonomy and freedom to make one's own choices. To prevent unintentional discrimination from specific measures, it is important that they align with the principles and spirit of the Convention and that they have been designed in consultation with persons with disabilities and their representative organizations.

Importantly, adopting specific measures does not exempt policymakers from ensuring that mainstream services and schemes are accessible and inclusive. Specific measures alone are not enough to achieve equality.

Recommendations on combating structural discrimination

To enhance equality of opportunities and outcomes, Governments should:

1. Design specific measures with the active involvement of persons with disabilities to ensure that they are neither based on, nor result in, reinforcing negative stereotyping and prejudice about persons with disabilities;

    Related indicators on the Convention: 5.7, 5.14, 6.3, 27.13 and 29.7

2. Adopt specific measures targeting persons with disabilities, including underrepresented groups of persons with disabilities, such as women and girls, young people, indigenous people or persons with higher support needs.

    Related indicators on the Convention: 5.7, 5.11, 5.12 and 6.3

3.5 Legal capacity of persons with disabilities

What is legal capacity?

To have legal capacity is to be recognized as a person who holds rights and can act on these rights and exercise them freely. In most legal systems, all persons hold rights, but there may be restrictions on who can act upon these rights autonomously. For example, children usually have restrictions on how autonomously they can act upon their rights. Having full legal capacity is important for all adults – it entitles them to have legal control over their own decisions and how to live their life. For example, it gives a person legal authority to manage their own financial affairs, including ownership of property, and choosing where to live and work and how to manage their relationships, health and well-being.

Legal capacity and substituted decision-making

Legal capacity is often taken for granted by most adults. However, in most countries around the world, many persons with disabilities are denied legal capacity. Legal capacity is often restricted, commonly on the assumption that persons with disabilities cannot decide for themselves due to having an impairment or condition or having a history of perceived "poor" decision-making, or based on an assessment of mental (in)capacity, usually by a health professional.

When persons with disabilities are denied legal capacity, they are legally prevented from making their own choices and decisions and from having them respected. This practice is discriminatory. For example, many persons with psychosocial disabilities are prevented from making their own health-care decisions and are subjected to involuntary treatment. In other cases, persons with disabilities cannot freely enter into contracts, marry, make their own decisions about their finances, manage their property or vote.

In place of persons with disabilities making their own decisions, others are authorized to make decisions on their behalf. This is called "substituted decision-making". Those granted the authority to engage in substituted decision-making include guardians, curators and judges, among others.

Substituted decision-making may also occur, in practice, without any formal appointment (e.g. legal decisions taken on behalf of an individual by family members, doctors or others). Both formal and informal restrictions of legal capacity constitute human rights violations themselves and can lead to further violations.

What is supported decision-making?

The Convention on the Rights of Persons with Disabilities states that all forms of substituted decision-making, such as guardianship, should be phased out and replaced by rights-based approaches. All adults with disabilities have the right to legal capacity and this should not be taken away. Instead, the Convention requires Governments to provide persons with disabilities with support to exercise their legal capacity, including in making legal decisions. This is called "supported decision-making". Supported decision-making is voluntary and can include informal or formal support arrangements. For example, a person may choose a trusted person to support them in making certain types of legal decisions. They may also find support through peer support or self-advocacy networks. Some persons with disabilities may have access to support to help with the communication of their will and preferences. Crisis support services are also important to complement supported decision-making in times of emotional distress.

Persons with disabilities may also undertake "advanced planning", which can be done through, for example, power of attorney. This means that they communicate their will and preferences about possible future events, such as acquiring an impairment, or for situations where they may be facing emotional or psychological distress that may affect their possibilities to make decisions. For example, a person with a psychosocial disability may state the kind of support and service they wish to have in situations of distress as a way of preventing forced treatment. Public notaries, health systems, civil society organizations and organizations of persons with disabilities are key partners in this matter.

Nine actions to uphold the legal capacity of persons with disabilities

Actions in law

1. Reform legislation, particularly civil law, to ensure that it is aligned with the Convention on the Rights of Persons with Disabilities and that it:
   (a) Explicitly recognizes the legal capacity of persons with disabilities;
   (b) Eliminates plenary or partial guardianship, curatorship or other substituted decision-making provisions;
   (c) Eliminates provisions that deny or restrict the exercise of other rights on the basis of legal capacity, including the right to vote, marry, have access to justice, manage property and make decisions about finances, health and family.

   Colombia, Costa Rica and Peru reformed their civil law legislation, eliminating guardianship and establishing supported decision-making systems to enable persons with disabilities to make their own decisions (Colombia: Law No. 1996 of 2019; Costa Rica: Law for the Promotion of the Autonomy of Persons with Disabilities, No. 9379 (2016); Peru: Legislative Decree No. 1384 – Legislative Decree That Recognizes and Regulates the Legal Capacity of Persons with Disabilities on Equal Conditions (2018)).

2. Establish supported decision-making provisions in legislation. Consider how to incorporate other forms of support, such as support networks, peer support, crisis support and advanced planning.

   According to the report of the Special Rapporteur on the rights of persons with disabilities of 2017, several countries had already established supported decision-making provisions in their legislation to progressively end substituted decision-making and to give legal agency to the largest possible portion of persons with disabilities as soon as possible (A/HRC/37/56, para. 41).

Actions in policy and practice

3. Eliminate guardianship or other substituted decision-making provisions as a requirement to have access to disability-related benefits, pensions, gratuities, tax exemptions, health benefits, social protection, social care, housing, support and other disability-related entitlements and benefits.

   In Argentina, while civil law legislation remains to be reformed in order to eliminate the deprivation of legal capacity, the administration, in its resolution 93/2020, removed guardianship as a requirement to have access to social protection benefits.

4. Establish supported decision-making systems and services across the country, including in urban, rural and remote settings:

   (a) Promote the establishment and operation of community-based supported decision-making services. Allocate resources to ensure the continuity of these services;

   (b) Implement or promote pilot projects and demonstration experiences;

   (c) Undertake and promote research on supported decision-making.

> In Girona, Spain, the organization Support provides supported decision-making services and personalized support enabling social inclusion in order to allow persons with intellectual disabilities and persons with psychosocial disabilities to make their own decisions. This includes support to administer their budget, to make personal decisions (such as decisions on getting married or traveling), to choose where they live and with whom, including moving from an institution to their own house, to rent an apartment, to enter an employment contract and so forth.

5. Implement safeguards to monitor the support provided to persons with disabilities to ensure that their will and preferences are respected and that abuse is prevented.

> Abuse against persons with disabilities must be prevented with safeguards, such as time limits, periodic reviews, requirements for being a supporter, liability, complaint and redress mechanisms, and monitoring. In Ireland, anyone can file a complaint against a support person, not just the person being supported (National Quality Improvement Team, "About the Assisted Decision Making (Capacity) Act 2015").

6. Through awareness-raising programmes, encourage persons to express their will and preferences in the event of acquiring an impairment or experiencing a situation affecting their mental capacity, through advanced decision-making, such as through the use of power of attorney.

7. Ensure access to justice for persons with disabilities and the availability of legal aid services to challenge plenary or partial guardianship, curatorship or any other form of substituted decision-making.

> Including supported decision-making in law can drastically reduce the number of persons under guardianship. Nevertheless, many persons are still deprived of their legal capacity and they lack the means to challenge it. In Colombia, article 14 of Law No. 1996 of 2019 foresees the role of the personal defendant: in cases where the person with disability requires support but does not have persons of trust to appoint, the family law judge appoints a personal defendant from the Office of the Ombudsman to provide the required support to undertake the legal acts that the rights holder requires.

8. Promote and provide training on the right to legal capacity of persons with disabilities for State authorities, judges, notaries, service providers (including financial service providers), persons with disabilities and their families, and other relevant actors.

> The paradigm shift in the approach to legal capacity adopted by the Convention on the Rights of Persons with Disabilities challenges almost 2,000 years of civil law and may still be considered by many legal actors to be counter-intuitive. Training on legal capacity is key to addressing the consequences of depriving a person of this right and to understanding why this right cannot be restricted or denied, thereby providing the recognition of the full dimension of this issue. Training should include persons

with disabilities and partnerships should be built with lawyers, notaries, judges, public prosecutors, judicial schools, law schools and other judicial and legal actors to successfully address the concerns of the different stakeholders and to ensure respect for the rights holders.

9. Meaningfully involve persons with disabilities and their representative organizations in the development and implementation of supported decision-making systems.

While all persons with disabilities may commonly be excluded from decision-making processes, this is more frequent for those whose legal capacity is challenged. Persons with psychosocial disabilities, persons with intellectual disabilities, persons with developmental disabilities, persons with autism and persons with Down syndrome, among others, are typically disregarded and their voices are consistently ignored or challenged. As for all members of society, their lived experiences matter, and their involvement is fundamental. In Mexico, the Supreme Court decided, in case 68/2018, that it was unconstitutional to amend the law on persons with disabilities without previously consulting with the concerned population (Mexico, Constitutionality Challenge Action 68/2018).

See also the video on legal capacity developed by the Special Rapporteur on the rights of persons with disabilities.

4. Accountability and monitoring



Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels

Target 16.3: Promote the rule of law at the national and international levels and ensure equal access to justice for all

Accountability and monitoring are important aspects of the rights-based approach to disability. The following sections provide specific information about accountability and the monitoring of the rights of persons with disabilities as part of a "leave no one behind" approach to development.

4.1 Access to information



Target 16.10: Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements

Public access to information is key for the transparency of government action and to enable monitoring by both civil society and the general public. Governments should proactively publish and disseminate public information, as well as provide it on demand. Many countries have found that the enactment of public information laws and the appointment of a public body or agency charged with their implementation are key concrete steps in this direction.

A lack of dissemination of public information in accessible formats (such as Braille), accessible digital formats, Easy Read, sign language and others, restricts persons with disabilities' access to public information, assessment of public action and exercise of their own rights. Information intended for the general public must be made available in accessible formats and through accessible technologies.

Recommendations

Governments should:

1. Adopt or modify freedom of information laws and regulations so that the accessibility of information for persons with disabilities is ensured in official publications and events;

    - Related indicators on the Convention: 21.1, 21.1.1, 21.1.2, 21.2 and 21.11

2. Ensure the accessibility of government websites and reports intended for the general public (see also Web Accessibility Initiative, Web Content Accessibility Guidelines (WCAG) Overview);

    - Related indicators on the Convention: 21.16 and 21.17

3. Ensure that any requests for public information by persons with disabilities are granted in the accessible format they require, including national sign languages, without additional cost.

    - Related indicator on the Convention: 21.23

4.2 Accountability and complaint mechanisms

Accountability and complaint mechanisms provide policymakers with valuable information that helps them to assess public policies and identify gaps (such as the absence of a policy to prevent violence against persons with disabilities). In particular, monitoring the number of complaints made by rights holders can help to identify trends in the exercise of rights. Policymakers should view accountability and complaint mechanisms as a valuable source of information as they consider further actions, such as legal or budgetary reforms.

Accountability as a way of raising the profile of issues

The work of accountability bodies, such as monitoring reports from national human rights institutions or relevant court decisions on a particular issue, including the outcomes of complaints, may raise the visibility of the topic or issue in the public agenda. This can trigger political will at higher levels of government to address the topic. In particular, decisions by the judiciary may facilitate progress by removing legal obstacles or uncertainties and allowing further action.

Recommendations

To improve accountability at the national level, Governments should:

1. Make complaint mechanisms in administrative, civil and criminal processes accessible for persons with disabilities and provide for procedural accommodation when needed;
2. Remove barriers to the participation of persons with disabilities in proceedings, including by repealing provisions that restrict legal standing and the recognition of legal capacity;

3. Ensure that the information needed to defend rights is accessible and that free and affordable legal aid is provided to persons with disabilities in all areas of law;
4. Ensure that the staff involved in the administration of justice are trained on the rights of persons with disabilities, including the barriers they face in accessing justice, receiving procedural accommodations and overcoming gender- and disability-based stereotypes;
5. Establish reliable administrative mechanisms to avoid having civil and criminal courts as the only accountability mechanisms;
6. Ensure due diligence in investigating, prosecuting and punishing perpetrators and/or providing remedies for human rights violations against persons with disabilities. Reparations should be provided, taking into consideration the specific circumstances of the person with disability, including the exposure of truth as a component of satisfaction and the provision of guidance for legal and policy reforms and capacity-building, as guarantees of non-repetition.

For further information, see the report of the Office of the United Nations High Commissioner for Human Rights on right to access to justice under article 13 of the Convention on the Rights of Persons with Disabilities (A/HRC/37/25).

4.3 National human rights institutions

National human rights institutions in line with the Paris Principles have a broad mandate and wide-ranging functions, covering human rights protection and the promotion of all rights. This includes investigation, monitoring, legislative and policy advice, human rights education and training, and reporting on the human rights situation in the country to national, regional and international levels. Some national human rights institutions may also handle complaints. Either at the request of public authorities or out of their own initiative, these institutions may elaborate reports on human rights matters and/or provide advice from a human rights perspective on existing or draft legislation, regulations and policies.

In addition, national human rights institutions may be mandated to hear and consider complaints and petitions concerning individual situations. National human rights institutions can, among other things, issue recommendations to public authorities on how to address the situation of the complainant(s) and inform individuals on any available remedies in the justice system. Policymakers can strategically benefit from the work of well-resourced strong national human rights institutions – they provide an important platform between communities, civil society and rights holders and State institutions, and between the international, regional and national human rights protection systems.

Monitoring mechanisms, comprising one or more independent mechanisms, are an integral part of good governance structures (see article 33 (2) of the Convention on the Rights of Persons with Disabilities). Their independence is crucial to the success of their mandate and for them to play a pivotal role between Government and civil society. In many cases, national human rights institutions have been formally appointed as the independent monitoring mechanism for the Convention.

Since the entry into force of the Convention on the Rights of Persons with Disabilities in 2008, much improvement has taken place in the capacity of national human rights institutions as accountability and complaint mechanisms to address issues relating to the rights of persons with disabilities. They have built internal capacity (including by creating disability rights teams), enabling them to become relevant interlocutors with Governments on disability policy and bringing the human rights perspective to the table. Notwithstanding these important developments, gaps remain and further work is needed to support the development of robust independent monitoring frameworks.

Since the entry into force of the Convention on the Rights of Persons with Disabilities in 2008, much improvement has taken place in the capacity of national human rights institutions as accountability and complaint mechanisms to address issues relating to the rights of persons with disabilities. They have built internal capacity (including by creating disability rights teams), enabling them to become relevant interlocutors with Governments on disability policy and bringing the human rights perspective to the table. Notwithstanding these important developments, gaps remain and further work is needed to support the development of robust independent monitoring frameworks.

During the nineteenth session of the Committee on the Rights of Persons with Disabilities (14 February–9 March 2018), the Committee and the Global Alliance of National Human Rights Institutions adopted a joint declaration that sets out areas for collaboration. It recognizes the unique and critical role of national human rights institutions in the promotion and protection of the rights of persons with disabilities and in creating links with other monitoring mechanisms at the national level (such as national mechanisms for the prevention of torture under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) and at the international level (e.g. through other human rights treaty bodies, the universal periodic review and the high-level political forum on sustainable development).

In particular, the joint declaration commits the Committee on the Rights of Persons with Disabilities and the Global Alliance of National Human Rights Institutions to advocate for the strengthening of data collection and disaggregation efforts in line with article 31 of the Convention and Sustainable Development Goal 17, including by incorporating into national statistical instruments the Washington Group Short Set of questions on disability for data disaggregation.

Recommendations

With regard to national human rights institutions, Governments should:

1. Ensure adequate provisions in the national budget for the national human rights institution, including for capacity-building purposes in the area of the rights of persons with disabilities;

   > Related indicator on the Convention: 33.7

2. Systematically involve the national human rights institution in legislative and policy development and in reporting on the progress made in the implementation of the Convention on the Rights of Persons with Disabilities and other relevant obligations, to ensure a human rights-based approach and alignment with international human rights obligations and standards;

   > Related indicator on the Convention: 33.13

3. Consider the appointment of the national human rights institution as part of the independent monitoring framework required by article 33 (2) of the Convention;

   > Related indicator on the Convention: 33.6

4. Provide for the national human rights institution's independence and other criteria ensuring compliance with the Paris Principles (e.g. by proposing the required legislative reforms).

   > Related indicator on the Convention: 33.6

How does the United Nations monitor the implementation of the rights of persons with disabilities?

The rights of persons with disabilities are increasingly being mainstreamed across the United Nations system.

Different accountability mechanisms have been created at the international level to monitor the implementation of the development agenda and the rights of persons with disabilities.

Committee on the Rights of Persons with Disabilities

- Monitors the implementation of the Convention through periodic country reviews of States parties
- Is composed of 18 independent members
- Can receive complaints and conduct inquiries, as set out in the Optional Protocol to the Convention on the Rights of Persons with Disabilities
- Receives information from stakeholders, including States, civil society and national human rights institutions
- Has reviewed 93 countries to date
- In reviewing countries, the Committee considers actions relating to the Sustainable Development Goals and their targets, and whether they are inclusive of persons with disabilities
- Provides authoritative interpretation of, and guidance on, the Convention

Other United Nations committees or treaty bodies also monitor the rights of persons with disabilities when assessing compliance by States with other United Nations treaties or conventions.

See the Office of the United Nations High Commissioner for Human Rights (OHCHR) website on treaty bodies, the Universal Human Rights Index and the National Recommendations Tracking Database.

Special Rapporteur on the rights of persons with disabilities

- Mandate created in 2014 and appointed by the Human Rights Council
- Conducts official visits to countries to monitor the situation of the rights of persons with disabilities and to make recommendations
- Can receive individual or collective communications and engage with the State concerned

Other United Nations special procedures, either special rapporteurs or independent experts, include the rights of persons with disabilities within the scope of their work.

See the OHCHR website on the special procedures of the Human Rights Council.

Universal periodic review

- Assesses all areas of human rights (not only disability-specific) of all 193 States Members of the United Nations every five years
- Is the peer-review mechanism of the Human Rights Council; States review States
- Receives input through reports from States, civil society, national human rights institutions and United Nations agencies, among others
- Reports a list of recommendations for each State reviewed

High-level political forum on sustainable development: voluntary national review

- Reviews the implementation of the Sustainable Development Goals (not disability-specific)
- Is State-led and voluntary
- Considers a number of selected Goals each year

4.4 Access to justice of persons with disabilities

Access to justice is a core element of the rule of law, a fundamental right in itself and a prerequisite for the protection and promotion of all other human rights. The justice system is the key accountability and complaint mechanism that can enforce rights by mandating public authorities or private actors to cease conduct or to undertake specific concrete actions. Staff and judges trained on the rights of persons with disabilities are fundamental to ensuring compliance with international human rights obligations under the Convention on the Rights of Persons with Disabilities and to providing for effective remedies to persons with disabilities.

Persons with disabilities are among the most excluded in accessing justice. General gaps in the administration of justice are more prominent when it comes to persons with disabilities. Limitations in the administration of justice prevent persons with disabilities from seeking justice and obtaining redress.

Common gaps include:

- The absence of free or affordable legal aid
- A lack of independence of mechanisms
- A lack of appropriate sanctions and reparation mechanisms for rights violations
- A lack of accessibility of facilities, information and processes
- A lack of procedural accommodation (the adjustment of procedures to allow a person with disability to participate on an equal basis with others)
- Higher rates of poverty
- A lack of qualified agents of justice, including lawyers and judges

Procedural accommodation

Article 13 of the Convention on the Rights of Persons with Disabilities on access to justice establishes the right of persons with disabilities to be provided with procedural accommodation to facilitate their participation in the judicial process, as direct or indirect participants (such as claimants, respondents, witnesses or jurors). Procedural accommodation allows persons with disabilities to participate in judicial processes on an equal basis with others by adjusting regular procedures to accommodate specific requirements. Unlike reasonable accommodations, procedural accommodations are not limited by the concept of "disproportionate or undue burden".

Some examples of procedural accommodations are:

- Adaptation of the venue
- Modifications to the method of questioning, such as allowing leading questions, avoiding compound questions, providing extra time to answer, permitting breaks as needed or using plain language

- Allowing sign language interpreters to participate in confidential jury debates
- Extending or adjusting procedural deadlines (e.g. to file an affidavit prepared by a party or witness to the proceedings for which specific measures were required, such as interpretation, communication support or other forms of support and accessibility)
- Adjusting procedural formalities

Procedural accommodations also include accessibility-related measures that may be required (e.g. providing assistive listening systems and devices, qualified sign language interpreters or tactile interpreters).

International Principles and Guidelines on Access to Justice for Persons with Disabilities

The Special Rapporteur on the rights of persons with disabilities, the Committee on the Rights of Persons with Disabilities and the Special Envoy of the Secretary-General on Disability and Accessibility have recently released the International Principles and Guidelines on Access to Justice for Persons with Disabilities. The 10 principles are listed below.

Principle 1: All persons have legal capacity and, therefore, shall not be denied access to justice on the basis of disability.

Principle 2: Facilities and services must be universally accessible to ensure equal access to justice without discrimination of persons with disabilities.

Principle 3: Persons with disabilities, including children with disabilities, have the right to appropriate procedural accommodations.

Principle 4: Persons with disabilities have the right to access legal notices and information in a timely and accessible manner, on an equal basis with others.

Principle 5: Persons with disabilities are entitled to all substantive and procedural safeguards recognized in international law on an equal basis with others, and States must provide the necessary accommodations to guarantee due process.

Principle 6: Persons with disabilities have the right to free or affordable legal assistance.

Principle 7: Persons with disabilities have the right to participate in the administration of justice on an equal basis with others.

Principle 8: Persons with disabilities have the rights to report complaints and initiate legal proceedings concerning human rights violations and crimes, have their complaints investigated and be afforded effective remedies.

Principle 9: Effective and robust monitoring mechanisms play a critical role in supporting access to justice for persons with disabilities.

Principle 10: All those working in the justice system must be provided with awareness-raising and training programmes addressing the rights of persons with disabilities, in particular in the context of access to justice.

Recommendations

To ensure access to justice for persons with disabilities in line with article 13 of the Convention, Governments (such as the ministry of justice), in coordination with the judiciary, should:

1. Develop and implement a plan to facilitate the access of persons with disabilities to the justice system, including the development of free or affordable legal aid services;

   Related indicators on the Convention: 13.1, 13.4, 13.13 and 13.16

2. Promote reforms of laws and regulations in order to eliminate provisions that impede the access of persons with disabilities to justice (i.e. from participating in proceedings as a party, witness or juror), including those based on the restriction or denial of legal capacity and those that restrict or deny admission to the legal and judicial profession on the basis of disability;

   Related indicators on the Convention: 13.2, 13.6 and 13.9

3. Promote legal and administrative reforms, including reforms to the training of judicial actors, to ensure the provision of procedural accommodation in judicial procedures;

   Related indicators on the Convention: 13.1, 13.6 and 13.14

4. Promote legal reforms to ensure effective remedies and mechanisms in order to enforce judicial decisions (particularly for compliance by public bodies).

   Related indicators on the Convention: 13.1 and 13.13

5. Capacity-building



Target 17.9: Enhance international support for implementing effective and targeted capacity-building in developing countries to support national plans to implement all the Sustainable Development Goals, including through North-South, South-South and triangular cooperation

The innovative perspectives brought by the Convention on the Rights of Persons with Disabilities require training and capacity-building that should be tailored to the audience and context. Policymakers benefit from engaging in "mind-shifting" capacity-building that supports them in understanding the paradigm shift in disability and its implications for practice. Capacity-building is critical for changing attitudes towards persons with disabilities. It should be aimed not only at building technical capacity but also at increasing the understanding of persons with disabilities as rights holders and as part of human diversity. One common and specific type of capacity-building is training.

FIGURE VII

Critical aspects of training on the rights of persons with disabilities



Be accessible
Use simple language and multiple ways of communication.

Involve persons with disabilities
Contact with persons with disabilities that are experts in the subject matter helps to reduce barriers.

Be tailored and context-specific
Training should be aimed at generating practical applications. Technical teams need technical tools.

The indicators on the Convention consistently include training or capacity-building indicators that identify the area of training that is key for advancing specific aspects of a given right and indicators for monitoring progress in training activities.

Training package on the Convention on the Rights of Persons with Disabilities

OHCHR has developed training guidelines and modules to ensure a clear understanding of the human rights-based approach to disability. These guidelines are aimed at providing an overview of the different key aspects of the Convention and exercises that can be used and adapted to specific contexts. The guidelines and modules are translated into the six official United Nations languages (OHCHR, "OHCHR Training Package on the Convention on the Rights of Persons with Disabilities").

6. International cooperation

17 PARTNERSHIPS FOR THE GOALS

Target 17.2: Developed countries to implement fully their official development assistance commitments, including the commitment by many developed countries to achieve the target of 0.7 per cent of gross national income for official development assistance (ODA/GNI) to developing countries and 0.15 to 0.20 per cent of ODA/GNI to least developed countries; ODA providers are encouraged to consider setting a target to provide at least 0.20 per cent of ODA/GNI to least developed countries

International cooperation is an important source of financial and technical support for the implementation of the Sustainable Development Goals. In this regard, cooperation agencies and international organizations play an important role in fostering the implementation of the Convention on the Rights of Persons with Disabilities. International development banks, such as the Inter-American Development Bank and the Asian Development Bank, offer loans to the public sector for investments (e.g. in infrastructure) to support policy reform and development and to mitigate the effects of macroeconomic crises.

Article 32 of the Convention calls for all relevant international cooperation programmes to be inclusive of, and accessible to, persons with disabilities. In particular, no funds received through international cooperation should be allocated to support measures contrary to the Convention, such as financial support to build new residential institutions for persons with intellectual disabilities that impede their right to live in the community.

National policymakers across different sectors have the possibility to explore opportunities through international cooperation, together with the department and/or ministry in charge of international cooperation agreements. There can be opportunities for funding, or to develop or strengthen national programmes or projects, to develop capacity-building activities, or to seek technical or economic assistance in a particular area, such as the training of teachers in inclusive education. All initiatives, investments and efforts should be carried out with the participation of organizations of persons with disabilities – both those located in beneficiary countries and those located in donor countries.

There may be concerns about the financial stability of public programmes financed through international cooperation. As many policy initiatives on the rights of persons with disabilities (especially those that are innovative and in line with the Convention) may initially rely on funding through international cooperation, Governments may have to foresee, well in advance, regular funding from national budgets, as well as funding through international cooperation, to ensure the continuation of policies considered positive for the implementation of the Sustainable Development Goals for persons with disabilities.

Global Action on Disability Network

The Global Action on Disability Network is a coordination body of bilateral and multilateral donors and agencies, the private sector and foundations committed to the inclusion of persons with disabilities.

Since 2015, the Global Action on Disability Network has been providing a platform for exchange and cooperation between its members, organizations of persons with disabilities and Governments, increasing their technical skills and financial commitments to advance the inclusion of persons with disabilities in international cooperation and humanitarian action.

Key issues relating to disability and international cooperation

Foreign debt and fiscal consolidation pressure for austerity measures

Since the international financial crisis, the actions of many countries have been conditioned by their decision to adopt fiscal consolidation measures, on occasion required by international financial institutions or by foreign debt services. This has led to the adoption of austerity measures, particularly in the area of social protection, reducing the resources available and thus negatively and disproportionally affecting persons with disabilities in relation to their income, health and life. This is particularly relevant, once again, in a world experiencing a global pandemic.

International cooperation actors, including financial institutions, should be attentive to the potential negative effects of their requirements. While pursuing a sound macroeconomic framework is important, measures in that direction should avoid negative effects on persons with disabilities. Societal burdens should continue to be fairly distributed among different sectors and segments of the population and protect marginalized groups of society, while they must not increase the exclusion

and barriers persons with disabilities face in exercising their rights (report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Cephas Lumina, on guiding principles on foreign debt and human rights (A/HRC/20/23)).

Twin-track approach required

International cooperation plays an important role in advancing policies and the planning for, and investments in, disability-targeted initiatives. It may involve supporting organizations of persons with disabilities and assistive technology and developing systems for the provision of various types of disability support. It is equally important to mainstream disability into all other existing international cooperation priorities and investments to avoid persons with disabilities being left behind.

South-South cooperation

Many areas of the implementation of the Convention on the Rights of Persons with Disabilities imply a change of approach in legislation and policy, rather than great amounts of additional financial resources. In addition, important developments are taking place in low- and middle-income countries, such as legal capacity reforms.

South-South international cooperation is an important tool for many countries, particularly in relation to technical cooperation. Policymakers should explore what their colleagues are doing and how resources are being used or made available in countries in similar situations, to reflect on what can be learned and applied in order to create positive policy developments in their own countries.

- Related indicators on the Convention: 32.1–32.3, 32.7 and 33.3

Additional resources

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