



# Convention on the Rights of Persons with Disabilities

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

### Summary record (partial)\* of the 333rd meeting

Held at the Palais des Nations, Geneva, on Monday, 14 August 2017, at 10 a.m.

*Chair:* Ms. Degener

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\* No summary record was prepared for the rest of the meeting.

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*The meeting was called to order at 10.05 a.m.*

### **Opening of the session**

1. **The Chair** declared open the eighteenth session of the Committee on the Rights of Persons with Disabilities.

### **Opening statement by the representative of the United Nations High Commissioner for Human Rights**

2. **Mr. Nowosad** (Chief, Groups in Focus Section, Office of the United Nations High Commissioner for Human Rights (OHCHR)) welcomed participants on behalf of the Secretary-General and the High Commissioner. He said that he was pleased to report that the former chair of the Committee, Ms. Cisternas Reyes, had been appointed as the Special Envoy of the Secretary-General on Disability and Accessibility and that the mandate of the Special Rapporteur on the rights of persons with disabilities had been extended for three years.

3. The theme of the tenth session of the Conference of States Parties to the Convention on the Rights of Persons with Disabilities, which had taken place in New York from 13 to 15 June 2017, had been “The Second Decade of the CRPD: Inclusion and full participation of persons with disabilities and their representative organizations in the implementation of the Convention”. The session had provided a useful opportunity to increase the Committee’s visibility, thanks to various contributions by the Chair and a side event organized by the Committee to disseminate draft general comment No. 5 on article 19: Right to independent living. The importance of restoring gender parity and an equitable geographical distribution in the Committee had been highlighted several times, including at a side event organized by OHCHR focusing expressly on gender parity.

4. In July 2017, the high-level political forum on sustainable development had given further guidance on follow-up to the 2030 Agenda and the Sustainable Development Goals, under the overarching theme of “Eradicating poverty and promoting prosperity in a changing world”. The President of the Economic and Social Council had highlighted the fact that the lack of social inclusion and widening inequality remained significant challenges to achieving development and that young, indigenous and older persons, as well as rural workers, persons with disabilities and persons affected by conflict, were particularly vulnerable. He had emphasized that gender equality and the elimination of discrimination against all vulnerable groups, including persons with disabilities, should be prioritized. The Sustainable Development Goals Report 2017 included many references to persons with disabilities.

5. At the twenty-ninth annual meeting of the Chairs of the human rights treaty bodies, held in New York from 26 to 30 June, the Chairs had exchanged views with representatives of States parties, United Nations entities and agencies, national human rights institutions and non-governmental organizations (NGOs). They had taken note of the Secretary-General’s report on the status of the human rights treaty body system (A/71/118), which included a request to the General Assembly to review the meeting time allocated to the treaty body system and to provide the necessary resources to support reporting, individual communications, field visits and other mandated activities. The Chairs had decided to continue working towards an alignment of working methods in response to General Assembly resolution 68/268 on strengthening and enhancing the effective functioning of the human rights treaty body system and had expressed support for an aligned approach to follow-up to concluding observations, decisions and Views. They had decided to remain engaged in the process leading up to the 2020 review of the treaty body system and to formulate proposals for discussion within their respective committees. They had also reiterated their recommendation that all treaty bodies should use the Guidelines on the independence and impartiality of members of the human rights treaty bodies (the Addis Ababa guidelines) and the Guidelines against Intimidation or Reprisals (San José Guidelines) and that those that had not yet endorsed them should do so.

6. At its thirty-fifth regular session in July 2017, the Human Rights Council had adopted several resolutions containing specific references to persons with disabilities,

including a resolution on human rights in cities and other human settlements, which stressed the need to take account of the needs of persons with disabilities in the provision of basic services and to eliminate legal, institutional, socioeconomic and physical barrier. In its resolution on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health in the implementation of the 2030 Agenda for Sustainable Development, the Council expressed its deep concern that persons with mental health conditions or psychosocial disabilities might be subject to discrimination, stigma, prejudice, violence, social exclusion and segregation, unlawful or arbitrary institutionalization, overmedicalization and treatment practices that failed to respect their autonomy, will and preferences. It urged Member States to bring their laws, policies and practices into line with their obligations under international human rights law.

7. In his report to the Council, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health had acknowledged that, for decades, mental health services had been governed by a reductionist biomedical paradigm that had contributed to the exclusion, neglect, coercion and abuse of people with intellectual, cognitive and psychosocial disabilities and persons with autism, and that the status quo was no longer defensible in the context of improving mental health. He recommended that States should ensure that users were involved in the design, implementation, delivery and evaluation of mental health services, systems and policies; stop directing resources to institutional care and redirect them to community-based services; invest in psychosocial services that were integrated into primary care and community services to empower users and respect their autonomy; scale up investment in alternative mental health services and support models; and take targeted measures to radically reduce medical coercion and facilitate the move towards an end to all forced psychiatric treatment and confinement.

8. The report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, to be submitted to the seventy-second session of the General Assembly, would focus on the right to adequate housing of persons with disabilities, clarifying the State's obligation to address systemic violations of their right to housing and applying a disability lens to particular dimensions of the right to housing, including security of tenure and support for community living. She hoped to provide a clear and coherent framework to assist governments in the implementation of rights under articles 19 and 28 of the Convention and other obligations under international human rights law.

9. In closing, he wished the Committee a most successful session.

#### **Report of the Chair on activities undertaken between the seventeenth and eighteenth sessions of the Committee**

10. **The Chair** said that she, Mr. Basharu and Mr. Buntam had attended the tenth session of the Conference of States Parties. They had built relationships with representatives of Member States, national human rights institutions, regional organizations and international organizations and had engaged with candidates for the 2018 elections, who had included four women. The importance of collecting disaggregated data for the implementation of the Convention and the Sustainable Development Goals had been stressed and 25 Member States had adopted a joint statement recommending the use of the Washington Group Short Set of Disability Questions in household surveys and national censuses. She had attended the annual meeting of the Policy Board of the United Nations Partnership on the Rights of Persons with Disabilities to explore ways in which the Committee could increase its interaction with United Nations country teams and identify the technical cooperation requirements of States parties. The Committee had called upon the Conference to continue working for the implementation of accessibility standards across the United Nations, particularly for persons with intellectual and psychosocial disabilities.

11. At the meeting of the Chairs of the human rights treaty bodies, the need for OHCHR to be provided with the material and human resources necessary for the treaty bodies to perform their work as required under their respective treaties and resolution 68/268 had been highlighted. That applied particularly to the Committee, which still had a sizeable backlog of State party reports. The Chairs had expressed concern regarding the large

number of States whose reports were overdue and the protection gap thus created for rights holders, and encouraged States facing capacity constraints to request technical assistance and advice from OHCHR. The Chairs had agreed that simplified reporting procedures and national reporting mechanisms should improve reporting compliance. They had reviewed the report of the workshop held in Geneva in March on the theme “Towards a common treaty body approach to engaging national human rights institutions” and endorsed many of its recommendations. Cooperation between treaty bodies and national human rights institutions had been recommended in fields such as reporting, communications and inquiry procedures and follow-up activities. The Chairs had taken note of the Committee’s practice of permitting such institutions to take the floor at the beginning and/or end of the dialogue with the State party. The Chairs had been briefed on the interlinkage between the work of the treaty bodies and the Sustainable Development Goals and had informally discussed matters relating to conflicting jurisprudence between treaty bodies, which was of great importance to the Committee.

12. During the intersessional period, members of the Committee had worked actively on draft general comment No. 5. The more than 70 submissions received from a range of stakeholders had been taken into account in the preparation of the new draft, which it was hoped could be adopted at the end of the session. Work had also continued on draft general comment No. 6 on equality and non-discrimination and many helpful submissions had been received. The public day of general discussion on the topic would help in producing the first draft.

13. The Committee was committed to the 2030 Agenda for Sustainable Development and, with support from the secretariat and several universities, had worked on a contribution to the Flagship Report on Disability and Development being prepared by the Secretary-General. The Committee was following with great concern the draft Additional Protocol to the Council of Europe Convention on Human Rights and Biomedicine (Oviedo Convention) concerning the protection of human rights and dignity of persons with mental disorders with regard to involuntary placement and involuntary treatment, which contradicted general comment No. 1 on article 12 and the guidelines on article 14. Substituted decision-making regimes needed to be replaced by supported decision-making and neither forced institutionalization nor forced treatment was in line with the Convention. She called upon OHCHR and the United Nations system organizations to engage in that debate and take action.

#### **Adoption of the agenda (CRPD/C/18/1)**

##### **Organizational matters**

14. **The Chair** drew attention to the provisional agenda and the tentative programme of work, which were contained in document CRPD/C/18/1 and the annex thereto.

15. *The agenda and the programme of work were adopted.*

##### **Submission of reports by parties to the Convention under article 35**

16. **Mr. Araya** (Secretary of the Committee) said that four initial reports had been submitted since the Committee’s previous session, by the Governments of Bangladesh, Israel, Malawi and Kazakhstan, which brought the total received to 107. The Committee had already examined 55 initial reports, which left 52 pending consideration.

##### **Cooperation with other United Nations bodies, specialized agencies, organizations of persons with disabilities and other competent bodies**

17. **Ms. Lange** (UNHCR) said that the 65 million people forcibly displaced in 2016 were estimated to include almost 10 million with disabilities. In situations of forced displacement, persons with disabilities continued to be left behind. Refugees, asylum seekers and internally displaced persons with disabilities faced additional risks and UNHCR was therefore particularly grateful for donor support to enhance its efforts to promote the rights of persons with disabilities. UNHCR was an active member of the United Nations Inter-Agency Support Group for the Convention on the Rights of Persons

with Disabilities and participated in the Inter-Agency Standing Committee Task Team on Inclusion of Persons with Disabilities in Humanitarian Action.

18. The 2016 New York Declaration for Refugees and Migrants and the Comprehensive Refugee Response Framework annexed to it provided a solid foundation for UNHCR to expand partnerships with governments, development actors and other stakeholders with a view to strengthening service systems in refugee-hosting countries for the benefit of persons with disabilities within displaced and host populations by engaging more closely with civil society so as to strengthen community-based support networks and address the exclusion and discrimination experienced by persons with disabilities. The views of persons with disabilities would be taken into account in developing the global compact on refugees to be presented to the General Assembly in 2018. The involvement of the International Disability Alliance (IDA) as the focal point for civil society input to the global compact in that respect was welcome.

19. UNHCR was making progress in strengthening its partnerships with organizations of persons with disabilities at country and regional level and was working to ensure that the rights of persons with disabilities were integrated into all aspects of programming. Lessons learned from work in the field had fed into efforts at institutional level to improve accessibility in programming and building capacity to monitor protection and assistance for persons with disabilities, for example by improving the identification of persons with disabilities at the time of their registration as refugees. UNHCR was also helping to build the capacity of other organizations working in forced displacement contexts and was developing a training programme, in partnership with the Women's Refugee Commission, on applying the principles of the Convention to situations of forced displacement.

20. **Mr. Chávez Penillas** (OHCHR) invited the Committee to contribute to the preparation of the OHCHR annual study, focusing on the right to access to justice in accordance with Human Rights Council resolution 31/6, and to participate in the annual panel on the rights of persons with disabilities at which the study would be presented in March 2018. At the tenth session of the Conference of States Parties to the Convention, OHCHR had continued to advocate for gender and regional parity on the Committee. States parties should consider innovative measures for nominations at national level and elections at global level in order to restore balance within the Committee, for example by proposing a majority of women at the next election. He urged the Committee to engage with States parties to that end, to monitor closely the processes of selecting candidates and to continue incorporating the gender perspective into its work in order to ensure that the lack of female Committee members did not result in the standards achieved with regard to women and girls with disabilities being neglected or diluted.

21. **Ms. Wischniewski** (United Nations Children's Fund (UNICEF)) said that UNICEF was expanding its work on including children with disabilities. There had been an increase in the number of countries reporting on disability programming, which had become more multisectoral in nature. The Fund's draft strategic plan for 2018-2021 would be the first to include a specific expected result relating to children with disabilities and would also feature 16 disability-related indicators across a number of thematic areas. In June 2017, UNICEF had issued guidance on including children with disabilities in humanitarian action, with the aim of improving the inclusion of children and women with disabilities and their families in emergency preparedness, response and recovery. The guidance booklets, which were available in various languages and accessible formats, gave an insight into the situation of children with disabilities in humanitarian contexts, and offered practical suggestions for improving their inclusion in all stages of humanitarian activities. Also in June 2017, a second customized workshop on the measurement of disability had been held in conjunction with the Washington Group on Disability Statistics and IDA. The objective of the workshop had been to increase understanding of data collection, analysis and interpretation with a view to promoting the rights of persons with disabilities effectively.

22. **Ms. Marks** (World Health Organization (WHO)) said that WHO continued to work within the framework of its global disability action plan 2014-2021. In 2017, there would be a renewed focus on efforts to strengthen and mainstream rehabilitation within health systems and to ensure that high-quality services were available to all who needed them, including persons with disabilities. In February 2017, WHO had hosted a multi-stakeholder

meeting calling for action to address the substantial unmet needs of rehabilitation services. Work to expand access to assistive technology through the Global Cooperation on Assistive Technology was progressing rapidly and the Priority Assistive Products List launched in 2016 had been received enthusiastically by WHO Member States. A resolution on the issue would be submitted to the World Health Assembly in May 2018, which, if endorsed, would be a landmark step towards facilitating access to assistive products for persons with disabilities around the world.

23. Community-based rehabilitation remained a significant area of work for WHO. The Second World Congress on the issue, co-hosted by WHO in 2016, had highlighted the urgent need to clarify the concept of community-based rehabilitation, which included a range of services in the area of disability-inclusive development and rehabilitation practised in the community. WHO was working with civil society to determine the strategic direction to be taken and would seek to engage other agencies in the process. With regard to disability data, WHO was working with its Member States to strengthen statistical systems so as to ensure that high-quality data were collected and used effectively to inform policy development.

24. WHO had established the QualityRights initiative to promote the rights of people with psychosocial, intellectual and cognitive disabilities. A set of 15 pilot training and guidance modules had been developed to promote the implementation of the Convention, covering such key areas as the rights of people with psychosocial disabilities; legal capacity; supported decision-making; the elimination of seclusion, restraint and other coercive practices; and the recovery approach. The Committee's engagement in that initiative would be welcome. As chair of the Inter-Agency Support Group for 2017, WHO would seek to increase the scale and effectiveness of United Nations involvement in disability issues.

25. **Ms. Saito** (World Intellectual Property Organization (WIPO)) said that a meeting of some 15 international organizations based in Geneva, including agencies of the United Nations system and others, had been held with the Swiss authorities in June 2017 to discuss practical ways to improve access to their premises and facilities for persons with disabilities within the context of human rights.

26. **Ms. Boutillon** (WIPO) said that the meeting with the Swiss authorities had focused on including the issue of accessibility in policymaking and on financing for measures to be taken. Accessibility was to be mainstreamed within the programme and budget processes of organizations, with funding for specific measures to be provided from the budgets of individual conferences or events. Regular reports would be submitted to organizations in line with their budget cycles. Various organizations had given presentations on their particular processes. The issue of prioritizing measures had also been discussed. At WIPO, accessibility was taken into account whenever renovation or maintenance works were planned as part of a new standard approach, with due consideration being given to cost and to the visual implications for landmark buildings, where appropriate. Overall, a shift was taking place from an approach based on providing physical access for persons with disabilities to an inclusive approach ensuring physical access for all. It had been agreed that more such meetings would be held to address, inter alia, the issue of field staff. The recommendations of the meeting would be distributed to participants and shared with the Committee.

27. **Ms. Rose** (Global Alliance of National Human Rights Institutions) said that, at the first meeting between the Committee, national human rights institutions and independent monitoring frameworks, held in 2014, two key priorities had been identified. The first was the need to develop guidelines for the participation of national human rights institutions and national monitoring mechanisms in the work of the Committee. Such guidelines had been adopted in 2016, and national human rights institutions were now actively engaged in the Committee's work at all levels. For the eighteenth session, written contributions had been submitted by national human rights institutions from Morocco, Latvia, Luxembourg and the United Kingdom, and those institutions would address the Committee during its dialogue with the corresponding States parties. Such contributions had become more relevant as the Committee embarked on the second cycle of State party reviews and applied its simplified reporting procedure. National human rights institutions would also participate in the day of general discussion on article 5 of the Convention.

28. The second priority identified by the 2014 meeting had been to continue to develop cooperation between the Committee and national human rights institutions on thematic topics of common interest, including by hosting joint meetings between the Committee, the Global Alliance of National Human Rights Institutions and national human rights institutions themselves. The Alliance proposed that an annual meeting should be organized, beginning during the Committee's nineteenth session in March 2018, to bring together the Committee experts, national human rights institutions and independent monitoring frameworks to discuss trends and share experiences in monitoring the implementation of the Convention at national and international level. Such a meeting would provide an opportunity to take stock of the Committee's activities during its first 10 years and to look to the future. It would also be a useful contribution to implementing the outcomes of the joint workshop between treaty bodies and national human rights institutions held in March 2017 and reinforcing the General Assembly's invitation to the treaty bodies to provide for ways to ensure the effective and enhanced participation of national human rights institutions at all relevant stages of their work.

29. **Mr. Leblois** (Global Initiative for Inclusive Information and Communication Technologies) said that, in cooperation with the International Telecommunication Union, the Global Initiative had developed model policies to assist countries in their efforts to make television, telephony, Internet services and other digital procedures and interfaces accessible to persons with disabilities, which was a considerable challenge. In 2016, the International Association of Accessibility Professionals, which helped governments, the private sector and civil society organizations to ensure that their staff were competent to deliver accessible solutions, had been incorporated into the Global Initiative. The focus of the Initiative's work was on promoting good policies for accessible information and communications technology and digital interfaces and on providing countries with practical assistance in areas such as training and certification for professionals.

30. **Ms. Quan** (IDA) said that IDA encouraged the Committee to work closely with Ms. Cisternas Reyes, the newly appointed Special Envoy of the Secretary-General on Disability and Accessibility, to further the implementation of the Convention and the realization of the Sustainable Development Goals.

31. The large number of side events at the tenth session of the Conference of States Parties to the Convention, in June 2017, had illustrated the growing involvement of organizations of persons with disabilities and other stakeholders. On that occasion, however, civil society organizations had expressed the concern that States parties were not making adequate efforts to consult with organizations of persons with disabilities in decision-making on disability-related issues, in accordance with article 4 (3) of the Convention. The Committee should therefore reiterate to States parties the importance of such consultations and provide clearer guidance in that regard.

32. IDA welcomed the progress that had been made on draft general comment No. 5 on the right to independent living and recommended stressing the need for States parties to provide adequate support to enable persons with disabilities to live independently. The day of general discussion on article 5 would be an opportunity for the Committee to clarify its interpretation of the various components of that article; in particular, States parties would benefit from more detailed guidance on the provision of reasonable accommodation.

33. IDA urged the Committee to recommend, in its concluding observations, that States members of the Council of Europe should withdraw their support for the draft Additional Protocol to the Oviedo Convention, mentioned earlier by the Chair, on the grounds that it was not compatible with the Convention on the Rights of Persons with Disabilities. The Committee should also consider issuing a statement on the issue.

34. With regard to the collection of data on persons with disabilities, the Committee should draw attention to States parties' obligations under article 31 of the Convention, taking into account the Sustainable Development Goals. It should consider recommending, in its concluding observations, that States parties should use the questions drawn up by the Washington Group on Disability Statistics in their national surveys.

35. IDA, which continued to promote the mainstreaming of disability in the work of all treaty bodies, was concerned that the Human Rights Committee's draft general comment

No. 36 on article 6 of the International Covenant on Civil and Political Rights, (Right to life) could have a negative impact on the rights of persons with disabilities, in the context of assisted suicide for example.

36. Lastly, IDA encouraged the secretariat to continue its efforts to improve the accessibility of the Committee's meetings, for example by ensuring that national sign language interpreting was provided on United Nations Web TV.

37. **Mr. Helfer** (World Blind Union (WBU)) said that the Committee should not only urge States parties to ratify the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled but also consider offering guidance on the implementation of the Treaty, in its concluding observations on States parties' reports.

38. The Treaty provided for a number of exceptions to copyright to enable print-disabled individuals to create, consume and share published works in accessible formats. Unfortunately, many Governments were under pressure from copyright owners to impose barriers that made it more difficult for print-disabled individuals to create and share works in that way.

39. The Treaty required contracting States to allow print-disabled individuals and their representative organizations to make and share works in accessible formats without obtaining a licence from the copyright owner. However, it also contained two optional provisions, allowing States to require compensation in such instances or to prohibit the creation of a work in an accessible format if the copyright owner had previously made the work commercially available in the format concerned. Those optional provisions were not consistent with the human rights goals of the Treaty and the Committee, for they introduced financial burdens and legal risks that deterred beneficiaries from exercising their rights. WBU therefore recommended that the Committee should encourage States parties not to adopt the two optional provisions.

40. It would also be helpful to recommend that, when drafting implementing legislation, States parties should use the terms and definitions contained in the Treaty. They should also follow the model copyright exceptions set forth therein, as those exceptions were compatible with States' obligations under international intellectual property agreements; moreover, the widespread adoption of the same model would facilitate the sharing of copies in accessible formats across borders. Lastly, States parties should be encouraged to consult with print-disabled individuals, organizations of persons with disabilities, national human rights institutions and Committee focal points, in order to identify ways of ensuring the effective implementation of the Treaty.

41. **Ms. Mojtahedi** (International Committee of the Red Cross (ICRC)) said that the International Red Cross and Red Crescent Movement had adopted a strategic framework on disability inclusion for the period 2015-2019, with three main objectives: firstly, to ensure that all components of the Movement adopted a disability-inclusive approach, by building partnerships with organizations of persons with disabilities, for example; secondly, to ensure that persons with disabilities had equal access to the services provided by the Movement, for example by developing disability-specific services, where appropriate; and thirdly, to promote respect for diversity both within and outside the Movement through awareness-raising and advocacy. Her appointment as the Movement-wide disability inclusion coordinator had been a key step towards establishing a comprehensive, systematic approach to disability inclusion.

42. In order to evaluate the progress that had been made in that regard, the Movement had conducted two surveys, the first among all components of the Movement, namely ICRC, the International Federation of Red Cross and Red Crescent Societies (IFRC) and the 190 national societies, and the second among staff and volunteers. The first survey had revealed a number of achievements and good practices. IFRC had collaborated with Handicap International and the charity CBM to produce guidelines on disability-inclusive shelter and settlements in emergencies, which had been implemented in Nepal and the Philippines. ICRC was working with 34 State authorities to implement a physical rehabilitation programme for persons with disabilities, which had helped to reduce disability stigma. At the national level, the Australian Red Cross had introduced a disability



inclusion policy, while the German Red Cross had launched a project that included staff training on inclusion and the development of inclusive management tools.

43. The results of the second survey had shown that, although a number of measures had been taken to provide support for staff and volunteers with disabilities, further improvements were required. There was a need for greater awareness and understanding among all staff of the challenges faced by persons with disabilities and the concept of reasonable accommodation. Measures were being taken to address the concerns raised, including the collection of disaggregated data, the development of inclusive human resources policies and the sharing of good practices between national societies. Despite the efforts of IFRC and ICRC to engage with persons with disabilities and their representative organizations at the local level, there was still room for progress in that regard. She encouraged all organizations of persons with disabilities to reach out to the public in their countries and initiate a dialogue on disability inclusion.

44. **The Chair**, welcoming the speakers' recommendations, said that the Committee attached great importance to its cooperation with United Nations bodies, specialized agencies, organizations of persons with disabilities and national human rights institutions.

*The discussion covered in the summary record ended at 11.40 a.m.*