



Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities Eighth session

Summary record (partial)* of the 74th meeting

Held at the Palais Wilson, Geneva, on Monday, 17 September 2012, at 10 a.m.

Chairperson: Mr. McCallum

Contents

Opening of the session

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

Adoption of the agenda

Organizational matters

Submission of reports by States parties under article 35 of the Convention

Report of the Chairperson on activities undertaken between the seventh and eighth sessions of the Committee

Cooperation with other United Nations bodies, specialized agencies, disabled persons' organizations and other competent bodies

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

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The meeting was called to order at 10.10 a.m.

Opening of the session

1. **The Chairperson** declared open the eighth session of the Committee on the Rights of Persons with Disabilities.
2. He congratulated those members of the Committee who had been re-elected at the recent session of the Conference of States Parties to the Convention and thanked those whose mandate would expire at the end of 2012 for the valuable, pioneering contribution they had made, and would continue to make, to the Committee's work.

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

3. **Ms. Lee** (Chief, Groups in Focus Section, Office of the United Nations High Commissioner for Human Rights (OHCHR)) said that since the Committee's previous session seven countries had become parties to the Convention (Benin, Djibouti, Estonia, Greece, Liberia, Nauru and Ghana), bringing the total number to 119. In addition, five more countries had ratified the Optional Protocol, making a total of 72 States parties to that instrument.
4. The United Nations treaty body strengthening process had culminated in a report by the High Commissioner for Human Rights (A/66/860), which listed the following key proposals to treaty bodies: establishing a comprehensive reporting calendar that ensured equal treatment of all States parties; ensuring continued consistency of treaty body jurisprudence in relation to individual communications and adoption of common guidelines on related procedural questions; increasing the accessibility and visibility of the treaty body system, including through the use of webcasts; establishing a simplified, focused reporting procedure to help States parties meet their reporting obligations in a more cost-effective manner; and aligning working methods as far as possible while respecting the specific normative requirements of the treaties.
5. The issue of treaty body strengthening had also been addressed at the twenty-fourth annual Meeting of chairpersons of human rights treaty bodies, which had been held in Addis Ababa in June 2012. The chairpersons had welcomed the High Commissioner's report and had urged each treaty body to carefully review its working methods in the light of the report's recommendations and to consider the steps required for their implementation. During the Meeting, the chairpersons had also held a videoconference with the two co-facilitators of the intergovernmental process of the General Assembly on strengthening and enhancing the effective functioning of the human rights treaty body system, established under the Assembly's resolution 66/254, during which the co-facilitators had highlighted the fact that, given the multi-stakeholder nature of the treaty body system, the treaty bodies, as relevant United Nations bodies, should participate as resource persons in the intergovernmental process. Subsequently, the Chairperson and Vice-Chairperson of the Meeting had been invited to, and had participated as resource persons in, the informal meeting of the intergovernmental process held in July 2012.
6. A number of treaty bodies had adopted decisions or statements welcoming the High Commissioner's report. The report contained specific proposals for enhancing the accessibility and visibility of treaty bodies at country level and reaffirmed the intention of the Office to make its website more user-friendly and accessible to persons with disabilities.
7. A significant achievement of the twenty-fourth annual Meeting had been the chairpersons' discussion and endorsement of the guidelines on the independence and impartiality of treaty body members, which they had strongly recommended should be

adopted by the respective treaty bodies. The chairpersons had reaffirmed the importance of human rights law in ensuring the independence and impartiality of treaty body members and had underlined the powers of treaty bodies to decide on their own working methods and rules of procedure and guarantee their independence. A number of treaty bodies had adopted resolutions or statements in support of the guidelines.

8. At its twentieth regular session in July 2012, the Human Rights Council had considered the thematic study prepared by the Office on the issue of violence against women and girls and disability (A/HRC/20/5). One of the study's main conclusions was that violence experienced by women and girls with disabilities remained largely invisible, and that current legislative, administrative and policy efforts often failed to link gender and disability in a meaningful way and to address adequately specific risk and vulnerability factors. The study proposed several measures to be taken by Member States to address the phenomenon.

9. The Office was preparing a study on the work and employment of persons with disabilities as a contribution to the interactive debate of the Human Rights Council on the rights of persons with disabilities, to be held at the Council's twenty-second session in March 2013, and would draw on the Committee's concluding observations in the report. The Committee's concluding observations were also starting to be taken into account in the recommendations made in the context of the universal periodic review.

10. Other recent developments relating to the rights of persons with disabilities had included discussion of the Convention by the relevant Council of Europe Committee of Experts, including on how States might better promote and protect the rights of children and young persons with disabilities, and the incorporation of issues relating to persons with disabilities in the outcome document of the United Nations Conference on Sustainable Development (Rio+20). The World Intellectual Property Organization (WIPO) Standing Committee on Copyright and Related Rights had, at its twenty-fourth session, continued its discussions on an international instrument on limitations and exceptions for visually impaired persons and persons with print disabilities, adopting a revised working text. While considerable progress had been made, further work was required on substantive provisions in that area. The Permanent Forum on Indigenous Issues had held an interactive panel discussion in May 2012 on the theme "Indigenous persons with disabilities: overcoming challenges to achieving rights and inclusion in development", and the fifth session of the Conference of States Parties to the Convention, held in New York in September 2012, had focused on women with disabilities, children with disabilities, and accessibility and technology. On 14 September 2012, the United Nations Children's Fund (UNICEF) had hosted the 2012 Forum of the Global Partnership on Children with Disabilities, and the World Health Organization (WHO) had launched in June 2012 the *QualityRights Tool Kit* to assess and improve quality and human rights in mental health and social care facilities.

Adoption of the agenda (CRPD/C/8/1)

Organizational matters

11. **The Chairperson** drew attention to the provisional agenda and the programme of work, which were contained in document CRPD/C/8/1 and the annex thereto, noting a number of amendments to the latter. He said he took it that the Committee wished to adopt the provisional agenda and the amended programme of work.

12. *It was so decided.*

Submission of reports by States parties under article 35 of the Convention

13. **Mr. Araya** (Secretary of the Committee) said that the Committee had received initial reports from the following nine countries: Brazil (CRPD/C/BRZ/1), Chile (CRPD/C/CHL/1), Kenya (CRPD/C/KEN/1), New Zealand (CRPD/C/NZL/1), Portugal (CRPD/C/PRT/1), Qatar (CRPD/C/QAT/1), Serbia (CRPD/C/SRB/1), Slovakia (CRPD/C/SVK/1) and Ukraine (CRPD/C/UKR/1), bringing the total number of reports submitted to 35. The Committee, which had so far considered 3 reports, was faced with a backlog of pending reports that would take eight years, or until 2020, to clear. As at the end of 2011, there had been 58 overdue reports.

14. **The Chairperson** said that it was distressing for States parties and NGOs that submitted reports to be informed that the Committee could not consider them for another five years or more. When he addressed the Third Committee at the forthcoming session of the General Assembly, he would request additional meeting time to enable the Committee to clear its backlog more quickly. The Committee owed it to the 1 billion people with disabilities around the world to strive for that objective.

Report of the Chairperson on activities undertaken between the seventh and eighth sessions of the Committee

15. **The Chairperson** said that he had attended the twenty-fourth annual Meeting of chairpersons of human rights treaty bodies. He had also attended, and had spoken at, the fifth session of the Conference of States Parties to the Convention, providing a summary of the Committee's work and highlighting its contribution to the 2012 Forum of the Global Partnership on Children with Disabilities. In that connection, he recalled that the Committee was planning to hold a half day of general discussion on women and girls with disabilities at its ninth session, in 2013.

Cooperation with other United Nations bodies, specialized agencies, disabled persons' organizations and other competent bodies

16. **Mr. Dumitriu** (Council of Europe) said that the 47 States members of the Council of Europe, all of which were parties to the European Convention on Human Rights, followed the Committee's activities with great interest and shared many of the same priorities when it came to the protection of the rights of persons with disabilities. The Council looked forward to establishing close cooperation and dialogue with the Committee in the years to come.

17. Protecting the rights of persons with disabilities was an integral part of the Council of Europe Programme and Budget 2012–2013, and member States continued to give effect to the Disability Action Plan 2006–2015. In 2013, the Council planned to highlight the cultural rights of persons with disabilities, as well as their access to sports, tourism and leisure activities. In doing so, the Council would draw on the excellent example provided by the London 2012 Paralympic Games, which had made a major contribution to enhancing respect for the rights of persons with disabilities.

18. The Council of Europe was encouraging its member States to follow two recommendations of the Committee of Ministers, one, dated 13 June 2012, on the protection and promotion of the rights of women and girls with disabilities and the other, dated 16 November 2011, on the participation of persons with disabilities in political and public life.

19. On 19 December 2011, the European Commission for Democracy through Law (Venice Commission) had issued a revised interpretative declaration to the Code of Good Practice in Electoral Matters on the participation of people with disabilities in elections. In its declaration, the Commission stated that universal suffrage was a fundamental principle

of the European electoral heritage and that people with disabilities could not be discriminated against in that regard.

20. Through its presence in Geneva and drawing on its considerable human rights expertise, the Council of Europe stood ready to cooperate with the Committee in the consideration of the reports of States parties that were Council of Europe member States, as well as in more theoretical areas, such as the preparation of general comments or contributions to the codification of international law.

21. **Ms. Orama** (Office of the United Nations High Commissioner for Human Rights) said that she wished to provide an overview of the activities undertaken by the Office since the Committee's previous session to promote and protect the rights of persons with disabilities. At the fifth session of the Conference of States Parties to the Convention, the Office had offered reflections on the chosen theme, "Making the CRPD count for women and children", in the light of the rights-based paradigm shift embodied in the instrument. OHCHR was also involved in preparations for the High-level Meeting of the General Assembly on Disability and Development, which would take place in New York in September 2013. The co-facilitators of the Meeting, the Philippines and Sweden, were seeking views on what form the outcome document should take (political declaration, programme of action or both), which elements it should include and what the modalities of civil society participation in the Meeting would be. She encouraged Committee members to provide their views on all three issues, which she would convey to the co-facilitators.

22. OHCHR had invited States and other key actors to provide input and views for the study it was currently preparing on work and employment of persons with disabilities. The more than 70 contributions received thus far would provide valuable guidance in drafting the study, which would be made available on the OHCHR website in accessible format prior to the interactive debate on the rights of persons with disabilities, to be held at the twenty-second session of the Human Rights Council in March 2013.

23. The Office participated with various United Nations entities, including the Department of Economic and Social Affairs, the United Nations Development Programme (UNDP), UNICEF, the International Labour Organization (ILO) and WHO, in the administration of the UN Partnership to Promote the Rights of Persons with Disabilities and the Multi-Donor Trust Fund. In early September 2012, the Partnership had completed the first review of project proposals received by United Nations country teams and had identified a total of 16 projects to be funded, some immediately, and others when funds became available.

24. Supporting States and other key actors at the national level in ratifying and effectively implementing the Convention was one of the core activities of OHCHR, both at headquarters in Geneva and in a growing number of field presences. In July 2012, the Office had undertaken a joint mission with the Department of Economic and Social Affairs to Kenya and Ethiopia, with the aim of assisting State and non-State actors in identifying steps towards further implementation of the Convention. Other activities included the finalization of a training package on the Convention and its Optional Protocol, which had been made available on the OHCHR website. A first training-of-trainers session would be organized in Geneva in December 2012, with a view to developing the capacity of field presences to deliver the training. In addition, the Office had compiled a legislation handbook, the purpose of which was to guide States parties in aligning their national legislation and practice with the Convention. The handbook was expected to become available during the second half of 2012, including on the OHCHR website.

25. OHCHR actively contributed to several initiatives aimed at improving accessibility in the United Nations for persons with disabilities, including to the work of the task forces established for that purpose in the United Nations Secretariat and the Human Rights

Council. In early 2012, it had received a voluntary contribution from Australia to ensure the equal participation of persons with disabilities in the work of the Council. It was gratifying to watch equal participation being secured, one step at a time, also in events that did not focus specifically on disability.

26. **Ms. Veronica Birga** (Office of the United Nations High Commissioner for Human Rights) said that she wished to update the Committee on the developments that had taken place in connection with the thematic study on the issue of violence against women and girls and disability, which she had introduced to the Committee at its seventh session. The study had been presented at the twentieth session of the Human Rights Council and was available on the OHCHR website in all United Nations official languages. OHCHR had taken a number of measures to publicize the study and to encourage follow-up to its findings and recommendations, including a side event, organized jointly with the Permanent Mission of Canada to the United Nations at the twentieth session of the Council. Participants in the side event had welcomed the study and had urged OHCHR to work with civil society and women's organizations to enhance the visibility of the recommendations it contained. Information on the side event could be accessed on the OHCHR website.

27. In June 2012, OHCHR had participated in the International Women with Disabilities Conference, on the theme "Challenges in the new millennium for women with disabilities", which had been organized by the Spanish Committee of Representatives of Persons with Disabilities in Madrid. The OHCHR representative had made the keynote address for the segment on violence against women with disabilities, drawing on the findings of the thematic study and the work of the Special Rapporteur on violence against women, its causes and consequences. OHCHR had also brought the conclusions of the study to the attention of the Committee on the Elimination of Discrimination against Women and hoped to be able to brief that Committee on the subject at a future session.

28. The Special Rapporteur would introduce at the forthcoming session of the General Assembly a thematic report on violence against women with disabilities that built on the findings of the OHCHR study. The report analysed the intersection of gender and disability with other causes of marginalization and exclusion, examined the issues of reproductive health care and reproductive choices, and addressed in detail the obstacles that women with disabilities faced in courtroom proceedings and, more generally, in enjoying access to justice. She encouraged the Committee to use the findings and recommendations of the OHCHR study as well as those contained in the report of the Special Rapporteur in its work, including in the consideration of States parties' reports and the preparation of general comments. She also encouraged it to explore ways to pursue the related issues, including in cooperation with the Committee on the Elimination of Discrimination against Women and other relevant mechanisms. That Committee was working on general recommendations on access to justice and women in conflict and post-conflict situations; in both areas, it was crucial to integrate the disability perspective.

29. Among the recommendations of the study on violence against women and girls and disability that OHCHR considered to be of priority importance for follow-up were ensuring that States and other stakeholders tackled the invisibility of the phenomenon by providing appropriate data and adopting a dual-track approach. Such an approach implied ensuring that programmes to prevent violence against women and ensure access to justice, protection measures and legal, social and medical services were designed and implemented in a manner that guaranteed inclusion and accessibility for women and girls with disabilities. In addition, specific programmes and strategies targeting such girls and women should be implemented in accordance with international standards. In that regard, a holistic approach, aimed at eliminating discrimination, promoting autonomy and addressing specific risk factors should be the goal, with adequate attention to the fields of education, employment, health and social protection.

30. **Mr. Shakespeare** (World Health Organization (WHO)) said that WHO continued to promote its *World Report on Disability*, which had been launched in nearly 40 countries. The national launches were a good opportunity to promote the Convention and its ratification in those countries that had not yet become party to it. A sign language translation of the summary of the report, which had been produced in association with the World Federation of the Deaf, would be available in autumn 2012.

31. At the fifth session of the Conference of States Parties to the Convention, WHO, in association with UNICEF, had launched the “Early childhood development and disability” discussion paper. Similarly, WHO had published the *QualityRights Tool Kit*, a practical instrument designed to ensure that mental health treatments followed human rights principles and evidence-based approaches, and to promote voluntary admission and treatment, in keeping with the Convention. Also at the Conference, WHO had held a side meeting about involuntary sterilization. It was preparing a statement on the subject, a draft of which would soon be circulated for consultation. The consultation period would last until 26 October, and the members of the Committee were encouraged to read and respond to the statement.

32. WHO had made good progress on the development of a model disability survey that gave effect to article 31 of the Convention. It had reviewed 179 surveys from around the world and had analysed the data they contained in order to identify draft questions. On 10 and 11 December 2012, there would be an expert review; if any Committee members had a particular interest or expertise in disability data, he would welcome their participation.

33. WHO was finalizing international perspectives on spinal cord injury and would launch a report specifically on that impairment. It was also developing guidelines on medical rehabilitation and reviewing interventions that enhanced health professionals’ understanding of disability rights and improved their communication with persons with disabilities. Ultimately, the idea was to develop a publication that recommended best practices in the field.

34. WHO had published two studies on violence against persons with disabilities in *The Lancet* in 2012, revealing that adults with disabilities were at significantly increased risk of being subjected to violence and that those with mental health issues were particularly vulnerable. The rate of violence against children with disabilities was nearly four times that for children without disabilities. WHO was now reviewing evidence on interventions that reduced violence and supported men and women with disabilities who were victims of violence, and expected to publish its findings in 2013.

35. The first Community Based Rehabilitation (CBR) World Congress would be held in November 2012 in Agra, India, and more than 1,000 people were expected to attend. Participants would discuss how persons with disabilities in the poorest countries of the world could benefit from such rehabilitation. A training package would be developed in order to instruct mid-level workers on how they could support persons with disabilities and their rights. Lastly, WHO had recently completed a toolkit on mainstreaming disability for offices in 194 of its member States. His organization welcomed the Committee’s feedback on its initiatives and looked forward to supporting the Committee in its work.

36. **Ms. Woods** (World Intellectual Property Organization (WIPO)), speaking as Secretary of the WIPO Standing Committee on Copyright and Related Rights, said that she wished to update the Committee on the negotiations on an international instrument on copyright limitations and exceptions that would allow for the provision of accessible versions of copyrighted works to visually impaired persons and persons with print disabilities and for the cross-border transfer of accessible versions of copyrighted works. Such cross-border transfer was not part of the usual national-territory-based exclusive rights framework. It was expected that the works exchanged across borders would for the most

part be digital works. The adoption of a limitations and exceptions instrument would constitute a breakthrough because treaties and other instruments had traditionally focused on exclusive rights rather than on limitations and exceptions to those rights.

37. Discussions on the issue had begun in 2006, and in 2010 a draft treaty prepared primarily by the World Blind Union had been submitted. Following much negotiation on additional proposals received from member States, a consensus document had emerged in June 2011 and had been accepted as a single working text in November 2011. The Standing Committee had recommended that the WIPO General Assembly should hold an intersessional negotiating meeting on the topic in October 2012. As the most mature topic on the Standing Committee's agenda, it would also be the focus of that body's November 2012 meeting. The Standing Committee would then ask the General Assembly to call an extraordinary session in December 2012, with a view to the convening of a diplomatic conference on the subject in 2013.

38. The Standing Committee was still discussing whether the final result should be a treaty or another type of international instrument such as a joint recommendation. The beneficiary class was also still to be defined, as there was much discussion about the use and meaning of the terms "visually impaired persons" and "persons with print disabilities". Discussions were also still under way on the scope of works to be covered by the instrument. Many States that had already adopted limitations and exceptions used trusted intermediaries or authorized entities to provide accessible works to beneficiaries, but some States that did not yet have exceptions were concerned about their ability to operate such a system. Capacity-building and national assistance might therefore play a role in whatever instrument was adopted. Another subject of discussion was the impact the instrument might have on the interpretation of the three-step test that defined the boundaries of copyright limitations and exceptions. The Standing Committee was cautiously optimistic that negotiations would move forward as hoped.

39. **The Chairperson** said that the Committee was strongly in favour of the adoption of a text governing the issue and hoped that the current process would result in a treaty rather than a different kind of instrument.

40. **Ms. Moodie** (United Nations Children's Fund (UNICEF)) said that in recent years UNICEF had taken a series of measures to make its programmes more accessible to and inclusive of children with disabilities and to make the organization itself more inclusive of staff members and members of civil society with disabilities. Those measures included the provision of programme guidance on disability and the establishment of an interdivisional working group on disability, disability focal points and a disability unit, as well as disability training for all staff.

41. UNICEF co-chaired the Inter-Agency Support Group for the Convention on the Rights of Persons with Disabilities and played an active role in the UN Partnership to Promote the Rights of Persons with Disabilities, serving as a partner agency in 10 of the 16 projects funded by the Partnership. Her organization also led the Global Partnership on Children with Disabilities, which in the coming year would focus on the issues of nutrition, education and humanitarian action as they related to children with disabilities. It had recently hosted the 2012 Forum of the Global Partnership. A number of important processes were under way that would have an impact on the realization of the rights of children with disabilities, such as the discussions about the post-Millennium Development Goals agenda and the preparations for the 2013 High-level Meeting of the General Assembly on Disability and Development. UNICEF was committed to ensuring that those processes addressed the rights of children with disabilities and led to strategies for more equitable and inclusive development.

42. The UNICEF Regional Office for Central and Eastern Europe and the Commonwealth of Independent States had recently issued a publication on a rights-based approach to inclusive education for children with disabilities, and it was working to make its website accessible to persons with disabilities by February or March 2013.

43. **The Chairperson** thanked the International Disability Alliance for organizing the webcasting of the current meeting.

44. **Mr. Vardakastanis** (International Disability Alliance (IDA)) said that IDA viewed the provision of webcasting services as an obligation and believed that it should be standard practice for all meetings.

45. In its statement to the fifth session of the Conference of States Parties to the Convention, his organization had proposed five actions: mainstream disability rights and the Convention throughout the United Nations system, including at country level; ensure that the post-Millennium Development Goals agenda was inclusive of disability rights and was inspired by the Convention; ensure that the High-level Meeting of the General Assembly on Disability and Development was inclusive of disability rights and was inspired by the Convention; allocate more time and resources to the Committee; and secure the effective implementation of article 4, paragraph 3, and article 33, paragraph 3, of the Convention through cooperation and consultation with organizations representing persons with disabilities, as well as capacity-building among those organizations.

46. IDA welcomed the proposals made by the High Commissioner for Human Rights to strengthen the treaty body system, including the proposal for a comprehensive reporting calendar. It also welcomed the current efforts to make information more accessible and transparent across all treaty bodies and the initiative to establish a special budget arrangement to account for extra costs involved in making reasonable accommodation to allow persons with disabilities to participate in the work of the treaty bodies.

47. IDA was in favour of treaty bodies providing a secure space for NGOs to raise their concerns; it therefore did not support the High Commissioner's proposal for NGO briefings to be conducted in public meetings. It firmly opposed the proposal to impose a code of conduct on treaty body members, which constituted a threat to the independence of the treaty bodies. IDA supported the High Commissioner's proposal to webcast public meetings of all treaty bodies and did not agree that webcasting should only be conducted with the consent of the State concerned, as that would violate the principles of transparency, equal treatment and non-selectivity.

48. His organization welcomed the Committee's initiative to hold a half day of general discussion on girls and women with disabilities and urged the Committee to seek the involvement of the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) in that discussion. It also proposed that the Committee should draft a paper on the role of NGOs in its work. IDA was pleased that sign interpretation and captioning were provided at the current session and hoped that such services would continue.

49. **Ms. McRae** (Human Rights Watch) said that her organization looked forward to the Committee's discussions with State party delegations on the following issues: discussions with the delegation of China on amendments to the draft mental health law to bring it into line with the Convention and on the situation of the activist Chen Guangcheng; discussions with the delegation of Hungary on the right to political participation for persons with disabilities; and discussions with the delegation of Argentina on the right to reproductive health for persons with disabilities.

50. **Ms. Danbach** (International Social Service) said that, on behalf of the NGO Working Group on Children without Parental Care, her organization wished to highlight the

plight of children deprived of their families, especially those with disabilities. She encouraged the Committee to refer to the Guidelines for the Alternative Care of Children when drafting concluding observations, as was the current practice of the Committee on the Rights of the Child. Because parents of children with disabilities did not receive adequate support and could thus feel unable to cope, those children were particularly at risk of being placed in alternative care.

51. A study conducted in 2011 in Latin America had confirmed that a child's disability could lead to his or her abandonment and that family and community-based alternative care options were limited for children with disabilities who had been deprived of their families. In some regions, children with disabilities constituted up to 60 per cent of all children in institutions. While both the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities contained provisions to address the situation, the Guidelines for the Alternative Care of Children included more detailed policy orientations on appropriate care provision and made at least 10 specific references to children with special needs in alternative care.

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