

New Convention for Persons with Disabilities

On 13 December 2006, after five years of negotiations, an international treaty giving greater rights and freedoms to disabled people around the world was adopted by the United Nations General Assembly. The UN Convention on the Rights and Dignity of Persons with Disabilities is the first human rights treaty of the 21st Century. The UN expects that it will contribute to a significant improvement in the lives of disabled people whose world population is estimated to be 650 million.

UN General Secretary Kofi Annan greeted 'the dawn of a new era - an era in which disabled people will no longer have to endure discriminatory practices and attitudes that have been permitted to prevail for far too long.'

Proponents of the convention maintained that the treaty was necessary because people with disabilities represent one of the most marginalized groups and their rights have been routinely ignored or denied throughout much of the world.

While the Convention does not create new rights, it specifically prohibits discrimination against people with disabilities in all areas of life, including civil rights, access to justice and the right to education, health services and access to transportation.

Currently only 45 countries have specific legislation that protects disabled people. The Convention recognises that a change of attitude is vital if disabled people are to achieve equal status ? countries that ratify it will be obliged to combat negative stereotypes and prejudices and to promote an awareness of people's abilities and contribution to society.

Countries will also have to guarantee that disabled people will have a right to life on an equal basis with others. Access to public spaces and buildings as well as transport, information and communications will also have to be improved.

Most notable among the countries that will not be signing the convention is the USA. It says that it already has comprehensive laws on disability rights.

Articles 19 and 21 of the Convention include communication and the mass media in their texts, which are given below.

Article 9 ? Accessibility

1. To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:

(a) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;

(b) Information, communications and other services, including electronic services and emergency services.

2. States Parties shall also take appropriate measures to:

(a) Develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;

(b) Ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities;

(c) Provide training for stakeholders on accessibility issues facing persons with disabilities;

(d) Provide in buildings and other facilities open to the public signage in Braille and in easy to read and understand forms;

(e) Provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public;

(f) Promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information;

(g) Promote access for persons with disabilities to new information and communication technologies and systems, including the Internet;

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

Article 21 ? Freedom of expression and opinion, and access to information

States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise their right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice, including by:

(a) Providing information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost;

(b) Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions;

(c) Urging private entities that provide services to the general public, including through the Internet, to provide information and services in accessible and usable formats for persons with disabilities;

(d) Encouraging the mass media, including providers of information through the Internet, to make their services accessible to persons with disabilities;

(e) Recognizing and promoting the use of sign language.

Missing ethics

The Convention makes no reference to the ethical use of new technologies, especially those 'convergent' or 'NBIC' technologies (see Media Development 2/2006) that are currently the subject of much serious debate. The impact on people with disabilities of developments in nanotechnology, biotechnology, information technology and cognitive science is conspicuous by its absence.

Without further comment, Article 4 (f ii) encourages research, development, availability and use of 'new technologies, including information and communication technologies, mobility aids, devices, assistive technologies, suitable for persons with disabilities, giving priority to technologies at an affordable cost'.

Similarly, Article 17 on 'Protecting the integrity of the person' merely states that 'Every person with disabilities has a right to respect for his or her physical and mental integrity on an equal basis with others.'

As Dr Gregor Wolbring, researcher at the University of Calgary and chair of the Bioethics Taskforce of Disabled People's International commented:¹

'Using the term "person" in the Convention has a variety of consequences. First, it makes this a Convention for disabled people who acquired or developed their impairment-labelled characteristic of functioning after birth. It does not protect against eugenic measures of pre-birth deselection. Article 10 - Right to Life will not apply to pre-birth stages and can not be used to fight other pre-birth interventions...

Second, the Convention is susceptible to changes in the meaning of the term person, which has changed throughout history. The debate around the concept of personhood is now intensifying again for two reasons. Advances in science and technology increasingly allow for the modification and enhancement of Homo sapiens and other species beyond species typical boundaries. The design of new life forms through synthetic biology, might lead people to believe that it is essential to change the concept of "person" and "human rights" towards the concept of "sentient being rights" and to link the term "person" not just to "humans" but to cognitive abilities of any species, in order to give the required legal protection.

Different ethics and morality can be applied to biological entities not seen as persons. This is important for the applicability, legality, acceptance and ethical approval of the selection of embryos with desired characteristics, elimination of fetuses with unwanted characteristics, manipulation of embryos and fetuses, infanticide, after-birth biological enhancements and therapies on newborns, mercy killing, and interventions at any other stage of human development where a biological entity is seen as a non-person.

Disabled people will have to follow the debates around personhood and what it is to be a human being very closely to see how the applicability of the Convention might change in the future.'

Note

1. The choice is yours. 'NBICS and the UN Convention on the Rights of Persons with Disabilities', 15 September 2006. <http://www.innovationwatch.com/choiceisyours/choiceisyours.2006.09.15.htm>