

# Process toward the Implementation of the International Convention on the Rights of Persons with Disabilities<sup>1</sup>

## Existing legislation

in 1993 the UN adopted the **Standard Rules on the Equalization of Opportunities for Disabled Persons**: provides policy guidelines.

These “policy guidelines” have served as model legislation for a number of countries. However the “Standard Rules” are not a legally binding instrument, and disability advocates note that there are no enforceable obligations without a convention.

## Persons able to sign/ratify the convention

only Heads of State, Heads of Government or Ministers for Foreign Affairs are empowered, by virtue of their functions, to sign a treaty on behalf of a State without having to produce full powers to that effect.

Other representatives wishing to sign a treaty must be in possession of appropriate full powers, which expressly authorize signature of a specified treaty by a named representative issued by one of these authorities.

The signing ceremony was organized according to the rank of the persons sent to sign the convention. Countries represented by a member of government were called first, then countries represented by a group of experts appointed by the government (like Germany), then ambassadors and diplomats.

## Legal force of the convention

An international convention or treaty is an agreement between different countries that is legally binding to the contracting States: for that, States have to ratify it.

By ratifying a convention, and after the treaty comes into force, a country accepts its legal obligations under the treaty and will adopt implementing legislation.

Human rights conventions do not contain any enforcement mechanism to compel States to comply with the principles of the convention or with the recommendations of the monitoring body, and the implementation of these conventions depends on the commitment of each country.

## How was the Convention negotiated?

The General Assembly established an **Ad Hoc Committee** (representatives of NGOs, Governments, national human rights institutes and international organizations) in 2001 to negotiate a Convention.

The first meeting was in August 2002.

Drafting of the text began in May 2004.

In August 2006, the Committee reached agreement on the text.

It was the first time that NGOs had actively participated in the formulation of a human rights instrument.

## Does this convention create new rights?

No. The convention does not create any “new rights” or “entitlements”.

The convention expresses existing rights in a manner that addresses the needs and situation of persons with disabilities.

### **Will this convention create obligations for states?**

Yes. States will be obligated to introduce measures that promote the human rights of persons with disabilities without discrimination.

These measures would include:

- anti-discrimination legislation,
- eliminate laws and practices that discriminate against persons with disabilities,
- consider persons with disabilities when adopting new policies and programs.
- Other measures include making services, goods, and facilities accessible to persons with disabilities.

### **How will this convention be monitored at the international level?**

Once the Convention enters into force, a **Committee on the Rights of Persons with Disabilities** will monitor its implementation.

Countries that ratify the Convention will need to report regularly on their progress to the Committee.

An **optional protocol** allows citizens in those countries that choose to ratify the protocol the possibility of launching an individual complaint to the Committee if there are no more national options left.

Link to the list of signatory countries:

<http://www.un.org/disabilities/convention/pdfs/journal200763.pdf>

On the first day: - 81 countries signed the convention

- 44 countries signed the optional protocol, besides the convention
- 1 country ratified the convention (Jamaica)

### **Opening for signature**

***N.B.: Signing does not make a convention binding, but it indicates support for the principles of the convention and the country's intention to ratify it.***

### **Entry into force**

- the Convention will enter into force on the thirtieth day after the 20th ratification or accession.
- The Optional Protocol will enter into force on the thirtieth day after the 10th ratification or accession.

The Secretary General will convene the first meeting of the [Conference of States Parties](#) no later than six months after the entry into force of the Convention, which will elect members of the [Committee on the Rights of Persons with Disabilities](#).

This [Committee on the Rights of Persons with Disabilities](#) shall be established at the time of entry into force of the Convention, and shall consist of twelve experts. After an additional sixty ratifications or accessions to the Convention, the membership of the Committee shall increase to a maximum number of eighteen members.

“The **Convention on the Rights of Persons with Disabilities** was [adopted on 13 December 2006](#) during the sixty-first session of the General Assembly by [resolution A/RES/61/106](#). In accordance with its article 42, the [Convention](#) and its [Optional Protocol](#) opened for signature by all States and by regional integration organizations at United Nations Headquarters in New York on 30 March 2007. The opening began with a solemn ceremony in the United Nations General Assembly hall.”

### Timeline of Events

**30 March 2007** – the Convention and Optional Protocol opened for signature at UN Headquarters in New York. States or regional integration organizations may now sign the Convention and Optional Protocol at any time at UN Headquarters in New York. Signature creates an obligation, in the period between signature and ratification or consent to be bound, to refrain in good faith from acts that would defeat the object and purpose of the treaty.

[Watch the video](#) of the Signing Ceremony and press events on 30 March 2007

**13 December 2006** – the UN General Assembly adopted by consensus the Convention on the Rights of Persons with Disabilities and its Optional Protocol. (cf. [resolution A/RES/61/106](#).)

**December 2006** – the resumed eighth session of the Ad Hoc Committee adopted the final draft of the Convention and its Optional Protocol with the technical amendments suggested by the drafting committee.

**September – November 2006** – Liechtenstein convened the drafting group which undertook a technical review to ensure uniformity of terminology throughout the text and to harmonize the versions in the six official languages of the UN.

**August 2006** – the eighth session of the Ad Hoc Committee finalized negotiations on the draft Convention and a separate Optional Protocol and adopted the texts ad interim subject to a technical review being undertaken by a drafting committee consisting of State representatives.

**May-August 2006** – Mexico led informal consultations on international monitoring.

**January 2006** – the seventh session of the Ad Hoc Committee completed a first reading of the Chairperson’s text.

**August 2005** – the sixth session of the Ad Hoc Committee completed the second reading of the draft text. The Chairperson prepared a revised text, reflecting debate at the third, fourth and fifth sessions for presentation at the seventh session of the Committee.

**January/February 2005** – the fifth session of the Ad Hoc Committee held informal consultations on specific draft articles. Civil society organizations, national human rights

institutions and inter-governmental organizations were allowed to attend the informal consultations although only States had a right to intervene.

**August/September 2004** – fourth session of the Ad Hoc Committee. The Committee completed the first reading of the draft text and started the second reading. The participation of civil society organizations and national human rights institutions in the sessions of the Committee was confirmed although the right to intervene was limited.

**May/June 2004** – third session of the Ad Hoc Committee. The Committee conducted a first reading of the working group draft. The Ad Hoc Committee discussed whether it should meet in closed session in the future or in the presence of civil society organizations and national human rights institutions.

**January 2004** – the working group met and produced a working draft of the convention text, taking into account the numerous draft texts submitted by States and others.

**August 2003** – second session of the Ad Hoc Committee which established a working group to prepare a draft text. Twenty-seven governmental representatives designated by regional groups, twelve representatives from NGOs and one representative of National Human Rights Institutions comprised the working group.

**August 2002** – first session of the Ad Hoc Committee meets and sets out procedures for participation of civil society.

**December 2001** – Mexican proposal in the General Assembly to establish an Ad Hoc Committee to consider proposals for a comprehensive and integral international convention to protect and protect the rights and dignity of persons with disabilities

## Record number of countries sign UN treaty on disabilities on opening day<sup>2</sup>



Louise Arbour

30 March 2007 – Eighty-one Member States and the European Community [signed](#) a landmark new treaty today at the United Nations that aims to improve the lives of the world's estimated 650 million people with disabilities, a record for the first day of signature of any convention.

Jamaica also ratified the Convention on the Rights of Persons with Disabilities – the first country to go beyond endorsement and adopt it as law. The pact, the fastest negotiated international human rights instrument in history, needs 19 more States Parties to enter into force.

Some 44 countries signed the Optional Protocol to the Convention, which will give individuals recourse to an expert committee on the rights of persons with disabilities when all national options have been exhausted.

The Convention outlaws discrimination against persons with disabilities in all areas of life, including employment, education, health services, transportation and access to justice.

It requires that public spaces and buildings be accessible to persons with disabilities, and calls for improvements to information and communications infrastructure.

UN High Commissioner for Human Rights Louise Arbour told a press briefing in New York that the drive and commitment of the disability community was the greatest impetus behind the treaty's content and relatively rapid adoption.

“It is very appropriate [that] it targets a community that has been marginalized for so long,” she said. “The most important thing is to recognize that where we are today is already a testimony to the empowerment of a community which has a long history of disempowerment.”

Yannis Vardakastanis of the International Disability Caucus called the Convention “a very drastic paradigm shift in the way the international community looks at disability.”

He said the pact should bring real changes in the daily lives of people living with disabilities, helping to take away the discrimination, exclusion and obstacles they routinely face.

“Allow me to quote the German poet Bertolt Brecht: ‘Some there are who live in darkness/while the others live in light/we see those who live in daylight/those in darkness out of sight.’ This is a Convention to bring those in darkness into light.”

Deputy Secretary-General Asha-Rose Migiro told a ceremony at UN Headquarters in New York that “in three short years, the Convention went from dream to reality” to become the first human rights treaty of the century.

She added that fewer than 50 nations currently have specific legislation protecting people with disabilities. “I know we can do better,” she said.

Addressing the same gathering, General Assembly President Sheikha Haya Rashed Al Khalifa described the adoption of the Convention as “a historic event not only for persons with disabilities, but also for the promotion of the human rights agenda at the United Nations.”

Sheikha Haya – who spoke by video message from the Middle East, where she is on an official visit – called for a change in values and cultural attitudes towards the disabled to match the legal changes embodied in the Convention.

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## **PRESS CONFERENCE BY HIGH COMMISSIONER FOR HUMAN RIGHTS ON SIGNING OF CONVENTION<sup>3</sup>**

Praising the enthusiastic response to the disabilities Convention, which opened for signature today at Headquarters, Government officials and disability rights advocates joined High Commissioner for Human Rights, Louise Arbour, at a press conference announcing that more than 80 countries had signed the treaty.

Ms. Arbour, high-level officials from Ecuador, Mexico and New Zealand, ambassadors and a spokesperson for the International Disability Caucus were among those who used the terms “record-setting,” and “unprecedented” in describing the Convention, which aims to ensure that people with disabilities enjoy fundamental freedoms on an equal basis with everyone else.

They noted that one country, Jamaica, had just ratified the instrument and 43 others had signed its Optional Protocol, thereby allowing individuals and groups to present petitions regarding alleged rights violations to an expert committee once all national recourse procedures had been exhausted. The event also marked first time that the European Community had signed a core United Nations human rights treaty. “This is an extraordinary event in the history of the development of important human rights instruments in the United Nations,” Ms. Arbour said of the broad and early show of support for the Convention, which needs 20 ratifications to enter into force. The drive and commitment of the disability community itself had given the greatest impetus to the Convention’s content and to its having received such broad-based recognition.

“This is the first step in empowering a community that now will have a set of national, regional and international instruments for the advancement of their rights, to the great benefit of us all,” the High Commissioner said. The Convention was also the first human rights instrument of the twenty-first century and it was very appropriate that it targeted a community that had been so marginalized for so long. It was also significant that the treaty, formally known as the International Convention on the Rights of Persons with Disabilities, spoke a “rights language”, rather than a “needs-based or social welfare language”.

In a passionate statement met with rousing applause, Yannis Vardakastanis of the International Disability Caucus said the Convention represented a drastic paradigm shift in the decades-long war of ideas which had, until now, cast persons with disabilities as charity cases, rather than as rights holders. “The world’s 650 million disabled persons expect and anticipate that the Convention will change their real living conditions. They expect that this Convention will take away the discrimination, the exclusion and all the obstacles that people with disabilities were faced with.”

Lenín Moreno, Vice-President of Ecuador, described the Convention as an historic step towards ensuring that disabled persons participated equally in society and exercised fully their fundamental rights. Ecuador was moving quickly to adopt a legislative framework that would enable persons with disabilities to exercise their education, health and legal rights on an equal footing with other citizens.

Juan Manuel Gómez Robledo, Mexico’s Under-Secretary for Multilateral Affairs and Human Rights, said the speedy negotiations on the Convention would not have been possible without the dedication and active participation of civil society. Indeed, the negotiating process had been unprecedented in the history of the United Nations because disability-rights activists and representatives of non-governmental organizations had participated in the talks on a nearly similar footing as Member States. The treaty contained a monitoring mechanism in line with other global treaties, which would enable all stakeholders to monitor implementation efforts and identify the main challenges to compliance.

Ruth Dyson, Minister for Disabilities Issues of New Zealand, said implementation of the Convention must now prove that the newly-energized partnership between civil society and the United Nations was genuine and ongoing. “This is a huge cause for celebration for the international community, particularly for disabled people,” she added.

In a question-and-answer exchange with reporters, Ms. Arbour said the level of participation signalled that the momentum to ensure the human rights of disabled persons was “stronger than ever”, and that some who were celebrating today would have to start working “pretty hard”, including those that had signed or ratified the Convention.

Asked about next steps, she said that Governments would have to enact relevant legislation and put in place protection and monitoring systems. They would then have to report to a committee of experts, who would monitor actual implementation. “In

concrete terms, I think we're going to see speedy ratification, a speedy entry into force of this Convention and implementation measures that will have to be put in place.”

As for the job ahead for States parties, she noted that most legislation did not necessarily discriminate explicitly, but Governments must be keenly aware of the “discriminatory impact” of laws and programmes that were essentially neutral. For example, a law giving everyone in a country the right to vote was a fair one, but, in reality, voting processes might have been set up in such a way that reasonable accommodations for the blind or wheelchair-bound had not been provided. Persons with such disabilities might therefore be excluded from exercising their rights like everyone else.

“The fight against discriminatory impact is at the heart of the combat against discrimination,” she said, stressing the importance of looking deeper than the wording of legislation that might be considered malicious. Laws were replete with examples of discriminatory impact, and addressing that aspect would be difficult for many countries. That had also been a problem historically with respect to gender discrimination. “Provisions that require you to be a certain height to occupy a certain function can have a discriminatory impact on women...so it's going to be a real challenge for many countries to scrutinize their legislation to ensure that they don't contain built-in barriers.”

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<sup>1</sup> This document was extracted from the United Nations official website:

<http://www.un.org/esa/socdev/enable/>

<http://www.un.org/disabilities/convention/>

<http://untreaty.un.org/ENGLISH/bible/englishinternetbible/partI/chapterIV/treaty26.asp>

<sup>2</sup> <http://www.un.org/apps/news/story.asp?NewsID=22085&Cr=disab&Cr1=>

<sup>3</sup> [http://www.un.org/News/briefings/docs/2007/070330\\_Disabilities.doc.htm](http://www.un.org/News/briefings/docs/2007/070330_Disabilities.doc.htm)