

**FRAMEWORKS FOR IMPLEMENTING AND  
MONITORING THE UNITED NATIONS  
CONVENTION ON THE RIGHTS OF PERSONS WITH  
DISABILITIES**

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## List of acronyms

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<b>AT</b>	Assistive Technology
<b>CEDAW</b>	Committee on the Elimination of Discrimination against Women
<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination against Women
<b>CESCR</b>	Committee on Economic, Social and Cultural Rights
<b>CRPD</b>	Convention on the Rights of Persons with Disabilities
<b>CRPD</b>	Committee on the Rights of Persons with Disabilities
<b>CRC</b>	Committee on the Rights of the Child
<b>CRC</b>	Convention on the Rights of the Child
<b>CRC</b>	Convention on the Rights of the Child
<b>DFIs</b>	Development Financing Institutions
<b>DPOs</b>	Disabled Persons Organizations
<b>DISD</b>	Division for Inclusive Social Development/UNDESA
<b>EC</b>	European Commission
<b>EU</b>	European Union
<b>G3ICT</b>	Global Initiative for Inclusive ICTs
<b>HIV/AIDS</b>	Human Immunodeficiency virus / Acquired Immunodeficiency Syndrome
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICESCR</b>	International Covenant on Economic and Cultural Rights
<b>ICF</b>	International Classification of Function, The World Health Organization
<b>ICT</b>	Information and Communication Technology
<b>ILO</b>	International Labour Organization
<b>ITCILO</b>	International Training Centre of the ILO
<b>IPU</b>	Inter-Parliamentary Union
<b>ITC</b>	Information and Communication Technology
<b>ITU</b>	International Telecommunication Union
<b>MDGs</b>	Millennium Development Goals
<b>MFI</b>	Microfinance institutions
<b>MSPs</b>	Multi-stakeholder Partnerships
<b>NAPs</b>	National Action Plans
<b>NGO</b>	Non-Governmental Organization
<b>NVDA</b>	NonVisual Desktop Access
<b>OHCHR</b>	Office of the High Commissioner for Human Rights
<b>OSISA</b>	Open Society Initiative for Southern Africa

<b>PCM</b>	Project Cycle Management
<b>PRP</b>	Protracted Relief Programme
<b>SABE</b>	Self-Advocates Becoming Empowered
<b>SDGs</b>	Sustainable Development Goals
<b>UDHR</b>	Universal Declaration of Human Rights
<b>UN</b>	United Nations
<b>UN DESA</b>	United Nations Department of Economic and Social Affairs
<b>UNAIDS</b>	Joint United Nations Programme on HIV/AIDS
<b>UNDP</b>	United Nations Development Fund
<b>UNESCO</b>	United Nations Educational, Scientific and Cultural Organization
<b>UNICEF</b>	United Nations Children's Fund
<b>USAID</b>	United States Agency for International Development
<b>VOCA</b>	Voice Output Communication Aids
<b>WHO</b>	World Health Organization

# 1. OVERVIEW

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This module introduces the general obligations on States to implement, monitor and report on implementation of the Convention on the Rights of Persons with Disabilities (CRPD) in line with the procedures prescribed in the CRPD and its Optional Protocol.

The overview provides information on the module objective, the target audience, the module content, learning outcomes and the module map.

## Module objectives

- ▶ To set out the approaches and frameworks specified by the Convention on the Rights of persons with Disabilities for implementation and monitoring.

## Who is this module for?

This module is relevant to everyone who has an interest in disability or a responsibility for addressing issues of disability because of the nature of their work, including persons with or without disabilities in civil society, civil and public service, national human rights institutions, parliamentarians, development agencies, universities and the private sector. Moreover, it is for Governments involved in the implementation and monitoring of the CRPD and its Optional Protocol.

## What is this module about?

This module:

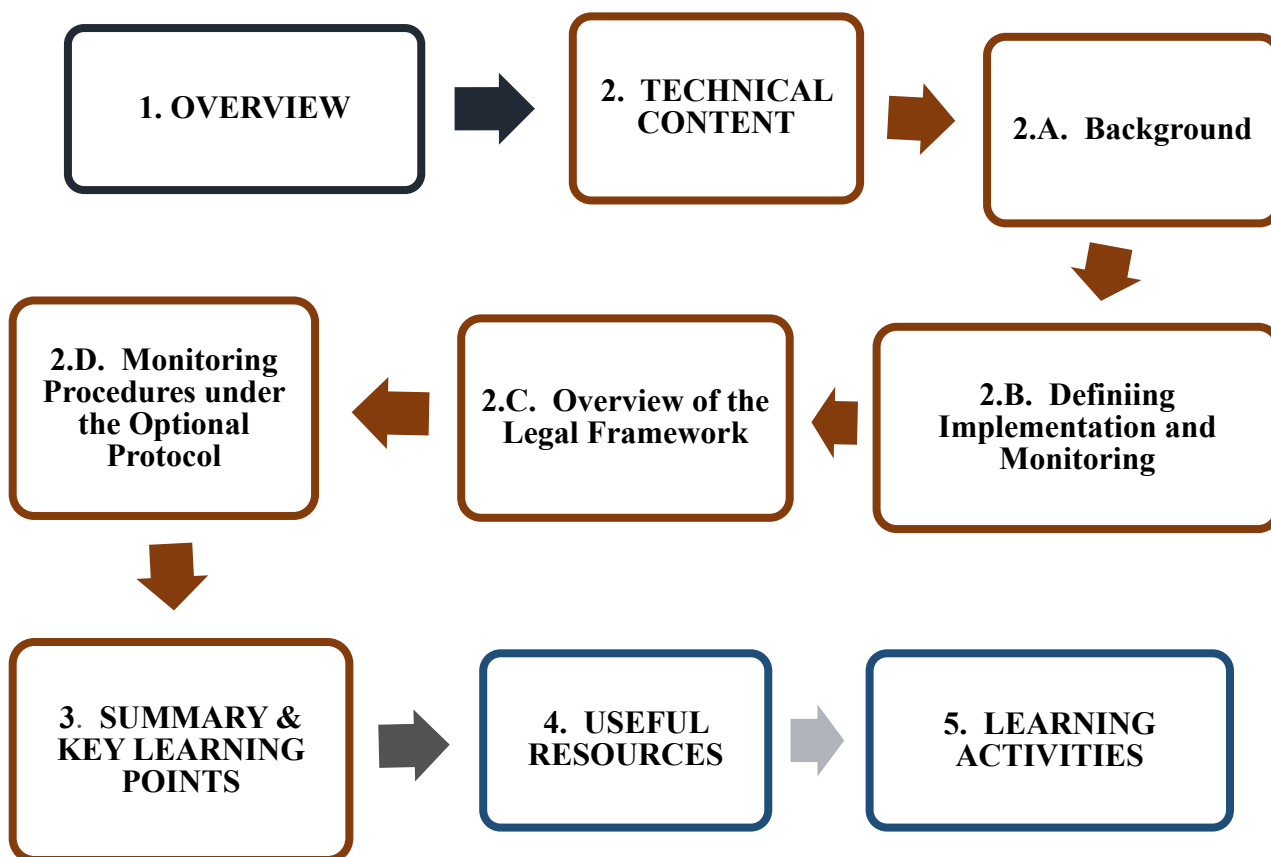
- ▶ Examines the provisions and frameworks established by the United Nations Convention on the Rights of Persons with Disabilities (CRPD) for implementation and monitoring the CRPD at both national and international levels;
- ▶ Considers the obligations of State Parties and the role that other actors play in implementing and monitoring the CRPD;
- ▶ Reviews the implementation and monitoring procedures set forth in the Optional Protocol to the CRPD;
- ▶ Includes learning exercises to accompany the material; *and*
- ▶ Lists useful resources for additional reference.

## Learning objectives

On completion of this module, participants will have:

1. identified features crucial to the successful implementation of the CRPD;
2. discussed the legal framework for implementation and monitoring in their country;
3. reflected on the ways in which independent monitoring of the CRPD takes place;
4. considered monitoring procedures under the Optional Protocol.

## Module Map



## 2. TECHNICAL CONTENT

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### 2.A Background

The adoption of the CRPD and its rapid ratification by countries throughout the world represent major advances in the global recognition of the human rights of persons with disabilities. However, the existence of the Convention, in and of itself, will not bring about changes in the lives of persons with disabilities and their families. To genuinely achieve the rights set out in the CRPD, the Convention must be implemented, and its implementation must be monitored. As with all human rights instruments, the Convention confers a central role to State parties in its implementation. However, organizations of persons with disabilities and other stakeholders also have key roles to play.

The present module provides an overview of the measures and frameworks that the CRPD calls for to ensure national level implementation of the CRPD, as well as both national and international level monitoring of progress and challenges in this regard.

### 2.B Defining Implementation and Monitoring

The term “**implementation**” refers to the actual carrying out of treaty obligations. When a State ratifies and becomes a State Party to a human rights treaty such as the CRPD, it is not sufficient for it to simply regard the treaty as an important document. Rather, it must take action to give effect to the treaty provisions

The term “**monitoring**” in the context of human rights law refers to the process of tracking or checking to determine whether States are, in fact, meeting the specific requirements of a treaty. The CRPD requires State parties to monitor treaty implementation at both national and international levels. Effective monitoring requires that functioning implementation machinery also be in place.

### 2.C Overview of the Legal Framework

#### General Obligations under the CRPD

While this module does not focus in depth on the steps that Member States and other stakeholders are to take to give effect to the substantive provisions of the Convention, it is important to note that Article 4 of the CRPD sets out the “General Obligations” of its States Parties. These comprise a series of specific measures, including law and policy reform, research, and training to be taken towards its implementation.



## Actions to be Taken by States Parties

- Adopt legislation and administrative measures to promote the human rights of persons with disabilities.
- Adopt legislative and other measures to abolish discrimination.
- Protect and promote the rights of persons with disabilities in all policies and programmes.
- Stop any practice that breaches the rights of persons with disabilities.
- Ensure that the public sector respects the rights of persons with disabilities.
- Ensure that the private sector and individuals respect the rights of persons with disabilities.
- Undertake research and development of accessible goods, services and technology for persons with disabilities and encourage others to undertake such research.
- Provide accessible information on assistive technology to persons with disabilities.
- Promote training on the rights of the Convention to professionals and staff who work with persons with disabilities.
- Consult with and involve persons with disabilities in developing and implementing legislation and policies and in decision-making processes that concern them.

*Source: UNDESA, OHCHR, IPU, Handbook for Parliamentarians: From Exclusion to Equality: realizing the rights of persons with disabilities (2007).*

Specific measures required of States Parties are further elaborated on in other provisions of the CRPD, which specify actions required in connection with the different rights that the Convention affirms.

A common concern regarding the ratification of international human rights treaties is that, once ratified, Governments will have to implement immediately all the rights enshrined in the treaty. Article 4 addresses this concern, reaffirming that State parties are to ensure progressive realization of economic, social, and cultural rights.

## Progressive Realization of Economic, Social and Cultural Rights under CRPD

Article 4 of CRPD reaffirms the obligation of States to implement progressively economic, social and cultural rights. The recognition that the full realization of economic, social and cultural rights may be constrained by limited resources is balanced by the requirement that measures should be undertaken to the limit of a State's available resources and, where needed, within the framework of international cooperation.

Progressive realization gives State parties, particularly developing countries, some flexibility in terms of achieving certain of the Convention's objectives. However, State parties do have an immediate obligation to ensure a minimum essential level of enjoyment of each economic, social and cultural right and to take steps towards the progressive realization of these rights. To proceed, a State can for example develop a plan of action which should include the following: a time frame for implementing economic, social and cultural rights; time-bound benchmarks of achievement; and indicators of success.

Article 4 further specifies that, in undertaking progressive realization of rights, there is to be no prejudice to those obligations contained in the Convention that are immediately applicable according to international law. For example, discrimination on any grounds, including disability, is always forbidden, regardless of the level of realization of economic, social and cultural rights. Moreover, unlike economic, social and cultural rights, civil and political rights are not subject to progressive realization. In other words, State parties must realize these immediately.

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**See Learning Activity 2.C.1. titled  
*Challenges to the Successful Implementation of the CRPD.***

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## **Implementation and Monitoring Frameworks**

Articles 33 to 40 of the CRPD set forth the provisions of frameworks for monitoring and implementation of the Convention. The broad headings of these Articles are set out below.

### **CRPD Articles 33-40**

Article 34 - Committee on the Rights of Persons with Disabilities

Article 35 - Reports by States Parties

Article 36 - Consideration of reports

Article 37 - Cooperation between States Parties and the Committee Article

38 - Relationship of the Committee with other bodies

Article 39 - Report of the Committee

Article 40 - Conference of States Parties

Article 33 of the CRPD sets out a framework for national level implementation and monitoring, requiring State parties to establish specific mechanisms at national level with a view to strengthening implementation and monitoring of the rights of persons with disabilities. The national level monitoring framework in the CRPD envisages action by States, independent national monitoring institutions, and civil society organizations.

Article 33(1) of the CRPD requires States Parties to:

- ▶ Designate one or more focal points within government relating to implementation – in other words, a designated office or other entity that has primary responsibility for overseeing implementation of the CRPD. The Convention does not specify the form or function of the focal point which could, for example, be a person or an office within a ministry or within several ministries; a ministry; an institution, such as a disability commission; or a combination of the foregoing. Whatever its form, the focal point must be equipped with adequate human and financial resources and be located at the highest possible level of government.
- ▶ Consider the establishment or designation of a coordination mechanism within government to facilitate related action and processes in different sectors and at different levels. As with the focal point, the Convention does not specify the form or function of the coordination mechanism. However, such a mechanism could, for example, consist of an inter-sectoral body with members from various ministries as well as from organizations of persons with disabilities and other relevant stakeholders. A coordination mechanism can help genuinely mainstream disability across government ministries and sectors and among local, regional and national government. Coordination and mainstreaming are very effective tools for the successful implementation of the CRPD, as they ensure that a single Ministry is not tasked with addressing all aspects of issues that affect persons with disabilities, many of which may be outside its general competences.

## Focal Points

The work of focal points can include, among others:

- Advising the Head of State/Government, policymakers and programme planners on the development of policies, legislation, programmes and projects with respect to their impact on people with disabilities;
- Coordinating the activities of various ministries and departments on human rights and disability;
- Coordinating activities on human rights and disability at federal, national, regional, state, provincial and local levels of government;
- Revising strategies and policies to ensure that the rights of persons with disabilities are respected;
- Drafting, revising or amending relevant legislation;
- Raising awareness about the Convention and Optional Protocol within the Government;
- Ensuring that the Convention and Optional Protocol are translated into local languages and issued in accessible formats;
- Establishing an action plan for implementation of the Convention;<sup>1</sup>
- Monitoring the implementation of the action plan on human rights and disabilities;
- Raising awareness on disability-related issues and the rights of persons with disabilities among the public;
- Building capacity within the Government on disability-related issues;
- Ensuring that persons with disabilities participate in the development of policies and laws that affect them;
- Encouraging persons with disabilities to participate in organizations and civil society and encourage the creation of organizations of persons with disabilities.

*Source: UNDESA, OHCHR, IPU, Handbook for Parliamentarians: From Exclusion to Equality: Realizing the Rights of Persons with Disabilities (2007).*

**Example:** In South Africa all national government departments, provincial administrations and district and local municipalities are required to appoint or designate a disability

focal person or unit to co-ordinate mainstreaming of disability within each of these institutions. These focal points converge in the National Disability Rights Machinery, which is constituted by, among others, the Inter-departmental Coordinating Committee, the Provincial Coordinating Forum and the National Disability Rights Forum which brings civil society on board.

In Estonia, the Ministry of Social Affairs is the designated focal point of the CRPD. It is responsible for implementing the CRPD within its area and facilitating related activities in different areas of government and local governments. Each ministry is responsible for implementing the Convention within its areas of government. Cooperation between the ministries is through a Cooperation Assembly, Estonian Chamber of disabled People and four disabled persons organizations. The Committee of the Rights of Persons with Disabilities under the Estonian Chamber of Disabled People promote, protect and monitor the implementation of the CRPD. (See Structures Set up for the Implementation and Monitoring of CRPD for a full list of EU Member States).

In the UK, the focal point is the Cabinet Office, Disability Unit. Monitoring of implementation is done by Equality and Human Rights Commission (England and Wales); Scottish Human Rights Commission; Northern Ireland Human Rights Commission and Equality Commission for Northern Ireland.

<sup>1</sup> See Module on National Plans and Programs with Disabilities in Africa

In Thailand, the Ministry of Social Development and Human Security (through the Department of Empowerment of Persons with Disabilities) is the national focal point on disability issues. The Ministry works in collaboration with other related agencies to ensure dignity and equality for persons with disabilities. The Prime Minister chairs the National Committee on Empowerment of Persons with Disabilities, the main responsibilities to coordinate policies and plans on the empowerment of persons with disabilities nationally and internationally, mobilization of the CRPD and other related obligations. The National Human Right Commission of Thailand serves as an independent monitoring body. Other Ministries are in charge of specific areas, e.g., the Department of Disaster Prevention, the Ministry of Interior is in charge of Humanitarian emergencies (CRPD Article 11), the Ministry of Justice for Article 13 (Access to justice), the Ministry of Education for Education (Article 24), the Ministry of Public Health is in charge of Health (Article 25), and the Ministry of Labor for Article 27 (Work and employment). (roc-taiwan.org).

Article 33(2) requires States Parties to designate or establish an independent framework, such as a national human rights institution, to promote, protect, and monitor the CRPD. The independent body may be a national human rights commission or a national disability council. When designating or establishing such a mechanism, States Parties are to take into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights, known as the “Paris Principles”.

The Paris Principles are a set of core minimum recommendations adopted by the United Nations General Assembly relating to the status and functioning of national institutions for the protection and promotion of human rights. According to the Paris Principles, such mechanisms must:

- ▶ Be independent of the Government, with such independence guaranteed either by statutory law or constitutional provisions;
- ▶ Be pluralistic in their roles and membership;
- ▶ Have as broad a mandate as possible, capable, in the context of the Convention, of collectively promoting, protecting and monitoring the implementation of all aspects of the Convention through various means, including the ability to make recommendations and proposals concerning existing and proposed laws and policies;
- ▶ Have adequate powers of investigation, with the capacity to hear complaints and transmit them to the competent authorities;
- ▶ Be characterized by regular and effective functioning;
- ▶ Be adequately funded and not subject to financial control, which might affect their independence; and
- ▶ Be accessible to the general public and, in the context of the Convention, particularly to persons with disabilities, including women with disabilities and children with disabilities, and their representative organizations.

*Source: UNDESA, OHCHR, IPU, Handbook for Parliamentarians: From Exclusion to Equality: realizing the rights of persons with disabilities (2007).*

## Focal Points

Potential functions of an independent framework include, among others:

- Monitoring the implementation of obligations of the State party and preparing a regular report;
- Making recommendations to Government on matters related to the rights and inclusion of persons with disabilities, including on legislation and policy matters;
- Promoting harmonization of national laws and policies with the CRPD;
- Reviewing individual complaints;
- Preparing alternative reports to the CRPD Committee, Universal Periodic Review and other relevant international monitoring processes;
- Engaging in public awareness-raising activities regarding disability rights and efforts to combat discrimination; *and*
- Assisting in the formulation of human rights education programmes.

Article 33(3) further requires that civil society, in particular persons with disabilities and their representative organizations, be involved and participate fully in all aspects of monitoring. DPOs thus have an important role to play in monitoring CRPD implementation at national level, both by taking part in governmental monitoring efforts and also by conducting parallel or independent monitoring efforts.

Other national mechanisms are also relevant for effective implementation and monitoring. For example, national courts and tribunals, as well as Ombudsmen, can play a critical role in the domestic application of the provisions of the CRPD.<sup>2</sup> In many countries parliamentarians can also advance implementation. In terms of monitoring, processes that oversee the implementation of other relevant measures, such as national human rights or development action plans, offer additional ways of monitoring implementation of CRPD provisions.<sup>3</sup>

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<sup>2</sup> See the Module on Access to Justice for Persons with Disabilities for more information on the role of national courts and tribunals (Toolkit on Disability for Africa).

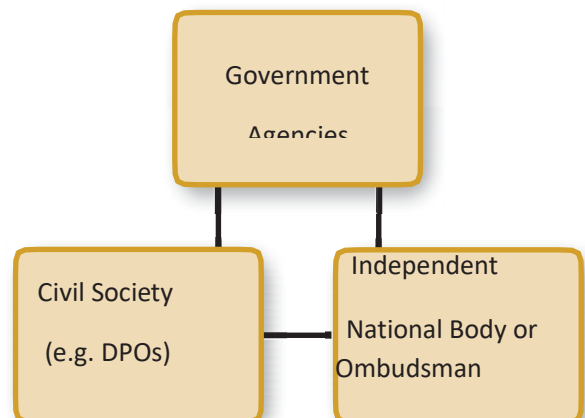
<sup>3</sup> Efforts to monitor implementation of other relevant international human rights treaties, such as the Convention on the Rights of the Child or the Convention on the Elimination of all forms of Discrimination against Women also offer opportunities to monitor implementation of CRPD provisions.

## Country Checkpoint

- Has a focal point been designated within government for CRPD implementation?
- Has a coordination mechanism been established to coordinate disability related action?
- Has an independent monitoring mechanism been designated?
- Has your government established an implementation plan for the CRPD? If so, is it being enacted?
- Does monitoring of implementation of the CRPD take place?
- Are sufficient resources available within the monitoring entity to satisfy the mandate in the CRPD?
- Are persons with disabilities and DPOs being utilized as resources both for implementation and monitoring?
- How is civil society, including DPOs, engaged in monitoring of disability rights and inclusion of disability in development?
- Are there barriers to participation by, and engagement of, persons with disabilities and DPOs? If so, what are they?
- What improvements could be made to better facilitate the engagement of DPOs?
- Does civil society represent the diversity of the disability community? If not, what groups are excluded? How might they be involved?

The CRPD sets out a framework for national level implementation and monitoring. This includes (1) role of a government focal point in advancing implementation;

(2) role of an independent national institution in monitoring implementation; and (3) role for civil society.



**See Learning Activity 2.C.2 titled *Roles and Responsibilities in Monitoring***

## International Monitoring Requirements under the CRPD

In addition to national level monitoring, Article 34 of the CRPD requires monitoring at the **international level** through the creation of the Committee on the Rights of Persons with Disabilities (hereinafter CRPD Committee). The CRPD Committee, which is comprised of 18 independent experts, meets twice a year in

Geneva and performs the following functions:

- ▶ Examination of periodic reports submitted by State parties;
- ▶ Drawing up of lists of questions in response to reports submitted by State parties;
- ▶ Drafting concluding observations on reports submitted by State parties;
- ▶ Formulation of general comments regarding the interpretation and meaning of CRPD provision
- ▶ Reviewing of individual communications as set forth in the Optional Protocol to the CRPD; and
- ▶ Undertaking of inquiries as set forth in the Optional Protocol to the CRPD.

Although general comments and concluding observations issued by the CRPD Committee are not legally binding, they carry weight and can often lead to changes in law and policy. General comments and concluding observations also provide useful guidance for the interpretation of CRPD provisions. Moreover, they offer an important basis on which NGOs located in a particular country can advocate for human rights implementation.

### Country Checkpoint

1. In your country, what government agency is responsible for developing the CRPD state report?
2. Do you work with this government agency, or an NGO or other entity to provide inputs on or critiques of the country's CRPD state report?

## Periodic Reporting by States Parties

The practice of periodic reporting to the CRPD Committee provides a means of systematically monitoring how State parties are meeting their obligations under the Convention. Reporting under the CRPD is an important tool with which governments, national human rights institutions and civil society can take stock of the degree of progress in enjoyment of human rights of persons with disabilities in a particular Member State.

Article 35 of the CRPD requires States Parties to submit to the CRPD Committee, within two years of ratification, an initial comprehensive report on measures taken to implement the treaty and progress to date. The CRPD Committee, like other treaty bodies, has established reporting guidelines to assist States Parties in the preparation of their reports.<sup>4</sup>

The initial report should do the following:

- ▶ Establish the constitutional, legal, and administrative framework for the implementation of the CRPD, including identification of laws that advance the CRPD, as well as those that have been, or still need to be, modified to advance implementation;
- ▶ Explain the policies and programmes adopted to implement each of the CRPD's provisions; *and*
- ▶ Identify any progress made in the enjoyment of the rights of persons with disabilities as a result of the ratification and implementation of the CRPD.

Each State Party must submit subsequent reports at least every four years or whenever the Committee so requests. Subsequent reports should do the following:

- ▶ Respond to the concerns and other issues highlighted by the CRPD

<sup>4</sup> CRPD/C/2/3, Available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/2/3&Lang=e](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/2/3&Lang=e).

Committee in its concluding observations on previous reports;

- ▶ Indicate progress made in the enjoyment of the rights of persons with disabilities during the reporting period; *and*
- ▶ Highlight any obstacles that the government and other actors might have faced in implementing the CRPD over the reporting period.

### **Country Checkpoint**

If your country has ratified the CRPD, has it submitted its initial and subsequent reports to the CRPD Committee? If so, has the CRPD Committee considered your country report, and what are the general comments and concluding observations of the Committee?

## **The Role of Non-Governmental Organizations**

Non-governmental organizations (NGOs) such as DPOs play an essential role in providing both reliable and independent information to the CRPD Committee. A principal method for providing information to the CRPD Committee is through the submission of parallel reports (also referred to as “shadow reports” or “alternative reports”), which supplement or “shadow” an official governmental report. The additional information is often very useful for helping treaty bodies develop a full understanding of the situation for persons with disabilities in a particular country as they review the official government report.

While there is no single format for shadow reports to a treaty body, in general they should:

- ▶ Be organized in accordance with the articles of the particular treaty, as a commentary on the State Party’s report; *and*
- ▶ Identify implementation gaps, highlight areas of concern and make concrete recommendations to advance implementation

### **Country Checkpoint**

1. Have DPOs or other NGOs in your country engaged in shadow reporting or other forms of monitoring of the rights of persons with disabilities or their inclusion in development processes such as poverty reduction planning and other aspects of development?
2. With reference to the “Good practices for shadow reporting” in the text box below, discuss how DPOs could participate in monitoring and how such engagement can support governments in CRPD implementation.



## Good Practices for Shadow Reporting

- DPOs may make use of the CRPD Committee's reporting guidelines for States Parties, which can serve as a useful checklist in the preparation of alternative reports. Covering all articles of the CRPD may be helpful for the Committee, but it is not required.
- It is often helpful for NGOs to work in coalitions to create shadow reports, for example a DPO might collaborate with a women's human rights NGO in drafting a shadow report on the reproductive rights of women with disabilities, with each organization contributing in their area of expertise. Working in coalitions is also an effective way of ensuring that the particular treaty-monitoring body gains a comprehensive view of a situation in a particular country.
- Alternative reports can include recommendations and proposed questions for the list of issues to be drawn up by the Committee.
- Advocates should follow basic ethical guidelines and human rights principles in their preparation of shadow reports: (1) taking care to present accurate information; (2) partnering with local organizations and consulting experts with disabilities; (3) avoiding conflicts of interest (for example, participating in a shadow report without disclosing close links to government), among others.

*Source: One Billion Strong, Disability Human Rights Reporting (2012)*

### Additional Opportunities for International Monitoring on the Rights of Persons with Disabilities

In addition to the reporting process under the CRPD, States Parties and civil society organizations can expand the reach of the CRPD by including information on the implementation of the rights of persons with disabilities in reporting processes for other international human rights treaties or development frameworks. For example, information regarding the status of the rights of persons with disabilities can be included in reports prepared for:

- ▶ The Universal Periodic Review of the United Nations Human Rights Council;
- ▶ Additional United Nations human rights treaty bodies, such as the Committee on the Elimination of all forms of Discrimination against Women; the Committee on the Rights of the Child, and the Committee against Torture;
- ▶ Voluntary reports regarding efforts to achieve internationally-agreed development goals, as envisaged, for example, by the zero draft of the Sustainable Development Goals;
- ▶ All efforts to implement the outcome document of the United Nations' General Assembly High-level Meeting on Disability and Development.

## 2.D Monitoring Procedures under the Optional Protocol to the CRPD

### Terminology

An **optional protocol** is a legal instrument related to an existing treaty. It introduces procedures or addresses issues that the original treaty does not cover. It is called “optional” because States are not required to become parties to the protocol, even if they are party to the parent treaty. Thus, a government may have ratified and become a party to the CRPD but may not have ratified and become a party to the Optional Protocol to the CRPD.

#### Country Checkpoint

Has your country ratified the Optional Protocol to the CRPD?

### What is the Optional Protocol about?

The Optional Protocol to the CRPD introduces two procedures to strengthen implementation of the CRPD:

- 1) an individual communications procedure; and
- 2) an inquiry procedure.

### Individual Communications Procedure under the CRPD Optional Protocol

The individual communications procedure allows individuals and groups of individuals whose government has ratified the Optional Protocol to submit a complaint to the CRPD Committee alleging that the State has breached one of its obligations under the CRPD.

The complaint is known as an “individual communication” and the person or group who submits the complaint is referred to as the “author.”

An individual communication can only be filed after all domestic remedies have been exhausted (meaning that the authors have attempted to address the alleged violation using all the avenues available under national law) and the authors still believe that the State Party is violating the CRPD.

What the process entails (see box below):

- ▶ When the Committee receives an individual communication, it gives the State Party the opportunity to respond to the allegations. Depending on the State Party’s response, the Committee may request additional information from the authors of the communication.
- ▶ After collecting all relevant information, the Committee examines the complaint and then formulates its views and recommendations, if any, on the communication and sends them to the State Party in question. The views and recommendations appear in the Committee’s public report to the General Assembly.
- ▶ According to Article 5 of the Optional Protocol and rule 75 of the Committee’s rules of procedure, the State party is required to submit within six months a written response that describes any action taken in the light of the views and recommendations of the CRPD Committee.

Individual communications procedures are a paper process only - in other words, neither the complainant nor the State Party appears before the CRPD Committee in person. Not all communications are admissible. A communication will be considered inadmissible where:

- ▶ It is anonymous;
- ▶ It is an abuse or incompatible with the provisions of the CRPD;
- ▶ The same complaint has already been examined by the Committee;
- ▶ The same complaint has been or is being examined under another international investigations procedure;
- ▶ All available domestic remedies have not yet been exhausted – in other words the complainant has attempted to obtain a remedy through the legal system of the State prior to lodging a complaint at international level with the CRPD Committee (although if no remedies exist at the domestic level, this requirement may be waived);
- ▶ It is ill-founded or not sufficiently substantiated; or
- ▶ The issue in question preceded the State party's ratification of the Optional Protocol.

### **The Individual Communication Procedure Step-by-Step**

The individual communications procedure is composed of the following steps:

- a. The CRPD Committee receives the complaint.
- b. The CRPD Committee considers the admissibility of the complaint. Sometimes the admissibility of the complaint is considered at the same time as its merits, in other words a decision is made that the complaint is admissible (admissibility) and a decision is made at the same time whether the State party is or is not in breach of its obligations (merits).
- c. The CRPD Committee submits the complaint confidentially to the State.
- d. Within six months the State party submits written explanations or statements clarifying the issue and indicating what remedial or other steps, if any, have been taken.
- e. The complainant is given an opportunity to comment on the State's observations.
- f. The CRPD Committee may ask the State to take interim measures to protect the rights of the complainant.
- g. The CRPD Committee examines the complaint in closed session.
- h. The CRPD Committee submits suggestions and recommendations, if any, to the State and the complainant, and often requests States to provide information on the action it has taken as a result.
- i. The CRPD Committee publishes its suggestions and recommendations in its report.
- j. The State reports to the CRPD Committee within six months on actions taken in response to their views and recommendations.

### **Country Checkpoint**

Are you aware of disability rights issues that might warrant the initiation of individual communications procedures in your country (perhaps because the legal framework does not provide a remedy or because the remedy provided violates the CRPD)?

## **Inquiry Procedure under the CRPD Optional Protocol**

The CRPD's Optional Protocol has a procedure of inquiry that allows the CRPD Committee to initiate investigations regarding "egregious or systematic human rights violations." In such cases, the CRPD Committee is to call on that State party to collaborate in an investigation and submit its observations for review. The inquiry is confidential and has to be conducted with the full cooperation of the State concerned.

It is possible for a State to ratify the Optional Protocol but to "opt-out" of the inquiry procedure. In other words, at the time of signing, ratification, or accession of the Protocol, the State may declare that it does not recognize the competence of the CRPD Committee to undertake inquiries, although it does accept the individual communications procedure. While a State may "opt-out" of the inquiry procedure, all State parties to the Optional Protocol must accept the individual communications procedure.

### 3. SUMMARY & KEY LEARNING POINTS

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In this module we examined the provisions and frameworks established by the United Nations Convention on the Rights of Persons with Disabilities (CRPD) for implementation and monitoring the CRPD at both national and international levels. We looked at the obligations of State parties and the role that other actors play in implementing and monitoring the CRPD. In this module you were also introduced to the implementation and monitoring procedures set forth in the Optional Protocol to the CRPD.

## 4. USEFUL RESOURCES

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- United Nations, Report of the Secretary-General on the Status of the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto. (A/69/284, A/67/281, (A/66/121, A/64/128).
- United Nations Department of Economic and Social Affairs, Office of the United Nations High Commissioner for Human Rights and Inter-Parliamentary Union. *From exclusion to equality: Realizing the rights of persons with disabilities. Handbook for parliamentarians*. Geneva, United Nations, 2007. (Professional training series No. 14) <http://www.ohchr.org>.
- United Nations official documents (available at: [www.ods.un.org](http://www.ods.un.org)) United Nations. General Assembly. *Thematic Study by the Office of the United Nations High Commissioner for Human Rights on enhancing awareness and understanding of the Convention on the Rights of Persons with Disabilities*. (A/HRC/10/48).
- Office of the United Nations High Commissioner for Human Rights, *Thematic study on the structure and role of national mechanisms for the implementation and monitoring of the Convention on the Rights of Persons with Disabilities* (A/HRC/13/29), 2009. <http://www.ohchr.org>.
- United Nations Report of the United Nations High Commissioner for Human Rights on progress in the implementation of the recommendations contained in the study on the human rights of persons with disabilities. (A/HRC/4/75).
- Office of the United Nations High Commissioner for Human Rights, *Monitoring the Convention on the Rights of Persons with Disabilities- Guidance for Human Rights Monitors*, (HR/P/PT/217), (Professional training series No. 17), 2010. <http://www.ohchr.org>.
- Michael Ashley Stein & Janet E. Lord, “Monitoring the Committee on the Rights of Persons with Disabilities: Innovations, Lost Opportunities, and Future Potential,”<sup>32</sup> *Human Rights Quarterly* 691 (August 2010).

### **Session Sheet for the Trainer: Implementation – Potential Problems, Session 1**

Technical Content 2.C.: Overview of the Legal Framework

Learning Activity 2.C.1: Problems with Successful Implementation of the CRPD

Handout: Problems with Successful Implementation of the CRPD

### **Session Sheet for the Trainer: Roles and Responsibilities for Monitoring, Session 2**

Technical Content 2.C.: Overview of the Legal Framework

Learning Activity 2.C.2: Roles and Responsibilities in Monitoring

Handout: Article 33 of the CRPD

**Session Sheet for the Trainer – Implementation –  
Potential Problems, Session 1**

<b>Key Messages</b>	See the summary and key learning points.
<b>Objectives</b>	By the end of this session, participants will have identified features crucial to the successful implementation of the CRPD.
<b>Room Arrangement</b>	Cabaret style for small group work (4 participants in each group), each with a white board or flipchart.
<b>Activity</b>	20 mins – Group work, part 1 10 mins – Group work, part 2 30 mins – Group work, part 3 30 mins – Plenary discussion
<b>Duration</b>	90 Minutes
<b>Notes for a Training Team</b>	Small group discussions to create lists then swap lists, more group discussion before plenary feedback.  When you swap the flipchart papers be aware that the groups will come together for part 3.
<b>Task Sheets</b>	Learning Activity 2.C.1: Problems with Successful Implementation of the CRPD.
<b>Handouts</b>	Handout: Problems with Successful Implementation of the CRPD



<p style="text-align: center;"><b>Learning activity 2.C.1:</b> <b>Challenges to the successful Implementation of the CRPD</b></p>
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*Objective: To identify features crucial to the successful implementation of the CRPD.*

**Part 1**

In your group look at the following 4R headings and identify, under each of the headings, what features are crucial for successful implementation of the CRPD.

- ▶ Resources
- ▶ Responsibility
- ▶ Reporting relationships
- ▶ Results

Use examples from your country experiences and share examples of the potential and real problems arising from a lack of one of the features. You might draw on general experience of public policy information (not just relating to the implementation of the CRPD) to create a list which you will write neatly on a white board or flipchart.

**Part 2**

Your summary list will be given to another group and you will receive one from them. The next activity is to go through the list and discuss what you believe to be the most crucial features and explore what already exists in your country.

**Part 3 - Remedies**

Join with the group whose flipchart you have and, together, select one or two of the ideas that emerged from their flipchart and yours, and discuss any promising practices of which you are already aware and which could remedy the problems countries might face in implementing the CRPD fully. Be ready to share your ideas in plenary.

You have 20 minutes to complete Part One, a further 10 minutes to complete Part Two, and 30 minutes to complete Part Three. Be ready to report your ideas back

## **Handout: Problems with Successful Implementation of the CRPD**

There are common problems that relate to the implementation of public policy. Often, these are captured by the “Four R’s”:

- ▶ **R**esources
- ▶ **R**esponsibility
- ▶ **R**eporting relationship
- ▶ **R**esults

In more detail, experience tells us that some of the key problems are:

- ▶ Insufficient definition of key implementation tasks and activities
- ▶ Lack of knowledge and capacity on the part of those involved with implementation
- ▶ Inadequate training and instruction given to employees
- ▶ Insufficient human resources dedicated to implementation of the Convention.
- ▶ Insufficient financial resources dedicated to implementation of the Convention,
- ▶ Insufficient coordination of implementation activities between key government ministries and other stakeholders
- ▶ Competing activities and crises which divert attention from implementation of the CRPD.
- ▶ Uncontrollable external factors which had an adverse impact on implementation
- ▶ Inadequate leadership and direction provided by departmental managers
- ▶ Inadequate information systems used to measure implementation activities
- ▶ Frameworks or practices for government consultation with organizations of persons with disabilities not yet in place.

## Session Sheet for the Trainer – Disability-Inclusive Development, Session 2

<b>Key Messages</b>	See the summary and key learning points.
<b>Objectives</b>	By the end of this session, participants will have reflected on the ways in which independent monitoring for the CRPD takes place.
<b>Room Arrangement</b>	Plenary discussion, followed by set-up for role play activity if possible large “board room” style set-up.
<b>Activity</b>	20 mins – plenary discussion 15 mins – Role play preparation 20 mins – Role play 20 mins – Reflections in groups 15 mins – Plenary wrap-up and conclusion
<b>Duration</b>	90 Minutes
<b>Notes for a Training Team</b>	Plenary discussion, followed by set-up for role play activity; if possible, large “board room” style set-up. Depending on the current situation in the countries represented you can choose the present country scenario from Box: Fact Sets on National Level Independent Monitoring. Give blank name cards to all for the role play.
<b>Task Sheets</b>	Learning Activity 2.C.2: Roles and Responsibilities in Monitoring
<b>Handouts</b>	Article 33 – National Implementation and Monitoring

## **Learning Activity 2.C.2:**

### **Roles and Responsibilities in Implementation and Monitoring**

*Objective: Reflected on the ways in which independent monitoring for the CRPD takes place.*

The CRPD sets out a framework for national level implementation and monitoring. This includes (1) role for government focal point in advancing implementation; (2) role for an independent national institution in monitoring implementation; and (3) role for civil society.

For this activity the group will divide into three, the first will represent government, the second an independent national institution, and the third a civil society organization. The trainer will give you some basic background about the current situation regarding implementation and monitoring.

#### **Part 1 – Preparation for the Role Play**

In your group discuss what you believe to be the roles and responsibilities of the group you are representing in terms of implementation or monitoring, given the context provided by the trainer. Draw up a list of best practices and another of worst practices that your group could adopt in this situation or context. Select two people that will represent your group during the role play and decide from your lists of “best” and “worst” practices what you will be advocating and arguing for...if you choose some “worst” practices it will be interesting to see how the other two groups react and if they pick up on what you think is poor. You will be meeting with representatives from the other two counterparts to agree a way forward for implementation and monitoring of the CRPD and of course you would like to do as much as possible yourselves.

#### **Part 2 – The Role Play**

The two nominated people will represent your group, other team members may be allocated roles as you wish. Each person should have a “name card” placed on the table, so everyone can see who is represented and who is speaking. The two nominated persons should advocate the roles and responsibilities you have agreed as a group. The others should support and build on their ideas.

#### **Part 3 – Reflections**

Back in your group, reflect on the following:

1. In relation to the CPRD, what best practices did you identify from each of the three groups?
2. And what “worst” practices did you identify from each of the three groups?
3. How can countries meet their implementation or monitoring requirements in resource-limited contexts yet still comply with the CRPD?

**Be Ready to report your responses to these three questions in plenary.**

**You have 2 minutes to complete part 1, 10 minutes to complete part 2, and 30 minutes to complete part 3. Be ready to report your responses to these three questions in plenary.**

## **Handout: Article 33 – National Implementation and Monitoring**

1. State parties, in accordance with their system of organization, shall designate one or more focal points within government for matters relating to implementation of the present Convention, and shall give due consideration to the establishment or designation of a coordination mechanism within government to facilitate related action in different sectors and at different levels.
  
2. State parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State party, a framework, including one or more independent mechanisms as appropriate, to promote, protect and monitor implementation of the present Convention. When designating or establishing such a mechanism, State parties shall take into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights.
  
3. Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process.

## Structures set up for the implementation and monitoring of the CRPD in Select European Union Member States<sup>5</sup>

EU Member States	Focal points within government for matters relating to the implementation of the CRPD – Article 33 (1)	Coordination mechanism – Article 33 (1)	Framework to promote, protect and monitor implementation of the CRPD – Article 33 (2)
Austria	Federal Ministry for Labour, Social Affairs and Consumer Protection; the 9 regional authorities designated their own sub-focal points	Federal Ministry of Labour, Social Affairs and Consumer Protection with the involvement of the Federal Disability Advisory Board	CRPD monitoring committee  Association for the Support of the CRPD monitoring committee.  The 9 regional authorities designated their own monitoring mechanisms.
Belgium	Ministry of Labour and Social Policy, Policy for People with Disabilities, Equal Opportunities and Social Benefits Directorate, Integration of people with disabilities department	Minister of Labour and Social Policy	Monitoring Council Established in 2019 under the newly adopted Persons with Disabilities Act.  It is composed of 9 members – two representatives from the Office of the Ombudsman of the Republic of Bulgaria, 2 representatives of the CPD, 4 representatives of the organizations of persons with disabilities, 1 representative of the academic community. The Council held its first meeting in July 2019.
Germany	Federal Ministry for Labour and Social Affairs; the 16 Federal States designated their own sub-focal points	Federal Government Commissioner for Matters Relating to Persons with Disabilities)	German Institute for Human Rights
Estonia	Ministry of Social Affairs	Cooperation Assembly between ministries), Estonian Chamber of Disabled People and four disabled persons organisations	Committee of the Rights of Persons with Disabilities under the Estonian Chamber of Disabled People
Spain	Ministry of Health, Social Services and Equality; Ministry of Foreign Affairs and Cooperation; Ministry of Employment and Social Security	National Disabilities Council; Spanish Monitoring System for Disability	Spanish Committee of Representatives of People with Disabilities; Ombudsman
Czech Rep	Ministry of Labour and Social Affairs	Ministry of Labour and Social Affairs in cooperation with Ministry of Foreign Affairs, Government Board for People with Disabilities and National Disability Council	Public Defender of Rights
Finland	Ministry for Foreign Affairs;	Advisory Board for the	Human Rights Centre; Human rights delegation;

<sup>5</sup> Structures set up for the implementation and monitoring of the CRPD in some EU MS (European Union Member States) Focal points within government for matters relating to the implementation of the CRPD – Article 33 (1) Coordination mechanism – Article 33 (1) Framework to promote, protect and monitor implementation of the CRPD – Article 33 (2).

	Ministry of Social Affairs and Health	Rights of Persons with Disabilities within Ministry of Social Affairs and Health)	Parliamentary Ombudsman
France	Ministry of Social Affairs and Health; Interministerial Committee for Disability	Interministerial Committee for Disability	Public Defender of Rights; National Advisory Council for Human Rights and National Advisory Council for People with a Disability
EU	European Commission	For matters of coordination between the Council, the Member States and the European Commission, see provisions of the Code of Conduct between the Council, the Member States and the Commission setting out internal arrangements for the implementation by and representation of the EU relating to the CRPD (2010/C 340/08)	European Parliament; European Ombudsman; Fundamental Rights Agency;  European Disability Forum

Malta	Office for Disability Issues (ODI) within the Parliamentary Secretariat for Persons with Disability and Active Ageing (PSDAA) Ministry for the Family, Children's Rights and Social Solidarity (MFCS)	National Coordination Mechanism – composed of Inter- Departmental Coordination Committee (IDCC) and Inter- Ministerial Committee (IMC) – within the Office for Disability Issues (ODI)	Commission for the Rights of Persons with Disability
Poland	Ministry of Family, Labour and Social Policy	Ministry of Family, Labour and Social Policy and the Team for the implementation of the CRPD provisions (chaired by the Government Plenipotentiary for Persons with Disabilities	Commissioner for human rights
Portugal	Ministry of Foreign Affairs, Directorate General of External Policy; Ministry of Labour, Solidarity and Social Security, Strategy and Planning Office	Ministry of Labour, Solidarity and Social Security, National Institute for Rehabilitation	National mechanism for monitoring & the implementation of the Convention on the Rights of Persons with Disabilities CRPD
Slovakia	Ministry of Labour, Social Affairs and Family, Department for matters relating to the implementation of the Convention on the Rights of Persons with Disabilities	The Coordination mechanism is represented by 2 members of all ministries in the Slovak republic, and the chair of the Coordination mechanism is the director of the Ministry of Labour, Social Affairs and Family, Department for matters relating to the implementation of the Convention on the Rights of Persons with Disabilities, Ministry of Labour, Social Affairs and Family SR.	Commissioner for Persons with Disabilities



		The list of members of the Coordination mechanism is available online at <a href="https://www.mpsvr.sk/sk/rodina-socialna-pomoc/tazke-zdravotne-postihnutie/kontakt-ne-miestoprava-osob-so-zdravotnym-postihnutim/">https://www.mpsvr.sk/sk/rodina-socialna-pomoc/tazke-zdravotne-postihnutie/kontakt-ne-miestoprava-osob-so-zdravotnym-postihnutim/</a>	
United Kingdom	Cabinet Office, Disability Unit		Equality and Human Rights Commission (England and Wales); Scottish Human Rights Commission; Northern Ireland Human Rights Commission and Equality Commission for Northern Ireland

Source: [Structures set up for implementation and monitoring of CRPD](#)

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