



Introduction

A good understanding of the policy and legal framework is valuable for all stakeholders with an interest in disability rights. At **national level** the government has a responsibility to develop and revise laws and policies to safeguard the rights of persons with disabilities. Understanding the policy and legal framework assists stakeholders to develop and implement programmes and services as well as to lobby for interventions that respond to the needs and aspirations of persons with disabilities.

Being aware of the relevance of different policy and legal instruments from a disability perspective can help stakeholders mobilize resources for initiatives that support persons with disabilities. These instruments should be utilized during national planning and policy development processes. However, persons with disabilities are rarely consulted during policy development. This often leads to their needs and aspirations being overlooked in many policies; leading to their invisibility in the national development agenda.

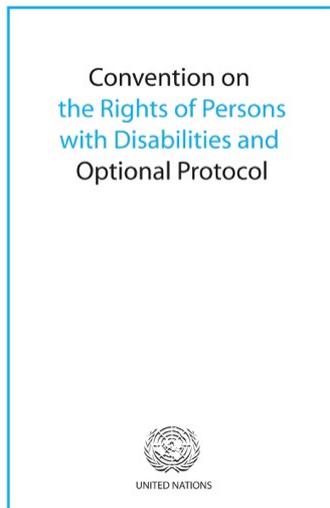
At **district level**, stakeholders' awareness of relevant legal and policy instruments equips them to hold national level stakeholders accountable and to coordinate with central government and other stakeholders. It also provides them with tools for raising awareness of the legal instruments that are in place. Awareness also compels district level stakeholders to actively participate and involve persons with disabilities in the development and implementation of by-laws and plans to promote mainstreaming of disability issues.

At **community level** when persons with disabilities have knowledge about their rights they are more empowered to demand their rights from duty bearers. Similarly, roles of duty bearers at community level need to include championing and implementing specific measures to promote disability - inclusive development.

International instruments

The International instruments include the United Nations Convention on the Rights of Persons with Disabilities (UN CRPD), the Sustainable Development Goals (SDGs), The Salamanca Statement, the United Nations Convention on the Rights of the Child, the Universal Declaration of Human Rights, the African Disability Protocol, The Marrakesh VIP Treaty, and the Convention on the Elimination of all Forms of Discrimination against Women. The following are brief details of each.

The United Nations Convention on the Rights of Persons with Disabilities (UN CRPD)



The United Nations Convention on the Rights of Persons with Disabilities (UN CRPD) is widely considered to be the most important international treaty on disability.

The Optional Protocol is a side-agreement to the UN CRPD which establishes an individual complaints mechanism for the Convention. By signing the Optional Protocol States Parties agree to recognise the competence of the Committee on the Rights of Persons with Disabilities to consider complaints from individuals or groups that their rights under the Convention have been violated.

The UN CRPD was designed by representatives of the international community to change the way persons with disabilities are viewed and treated in their societies. It is a tool for ensuring that persons with disabilities have access to the same rights and opportunities as everybody else.

It aims to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by persons with disabilities as well as to promote respect for their inherent dignity (Article 1). The UN CRPD does not create new rights for persons with disabilities – they have the same human rights as any other person in the community – but instead makes the existing rights inclusive of, and accessible to, persons with disabilities.

There are eight General Principles that underlie the UN CRPD as follows:

1. Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons
2. Non-discrimination
3. Full and effective participation and inclusion in society
4. Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity
5. Equality of opportunity
6. Accessibility
7. Equality between men and women
8. Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

- autonomy and decision-making
- living independently and being included in the community
- education
- health
- rehabilitation
- employment
- social protection.

The Convention obliges States Parties who have ratified the Convention to take measures that implement the Convention thereby enforcing the human rights of persons with disabilities.

The UN CRPD and CBID

The UN CRPD contains references to community-based inclusive development in four articles as follows:

Article 19: States Parties to the present Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community.

Article 24: Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live.

Article 25: (c) Provide these health services as close as possible to people's own communities, including in rural areas.

Article 26: States Parties shall organize, strengthen and extend comprehensive habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services, in such a way that these services and programmes:

(b) Support participation and inclusion in the community and all aspects of society, are voluntary, and are available to persons with disabilities as close as possible to their own communities, including in rural areas.

CBID can be a powerful strategy for implementing the UN CRPD. The CBR Guidelines emphasize that CBID programmes can:

- **Familiarize people with the UN CRPD** – by actively promoting the Convention and helping people to understand its reach and significance.
- **Collaborate with stakeholders** – and work with local government, national and nongovernmental organizations (especially disabled people's organizations and local government) to seek ways of assisting the State in its obligation to implement the provisions of the UN CRPD.
- **Coordinate between local and national levels** – by promoting and supporting dialogue between local and national levels of government, and strengthening local groups and disabled people's organizations so they can play a significant role at local and national levels towards implementation of the UN CRPD.
- **Help to draw up and monitor local action plans** – that include concrete actions and resource planning necessary to incorporate disability issues into local public policies and achieve inter-sectoral collaboration.
- **Carry out advocacy** – engage in advocacy activities that aim to develop or strengthen inclusive national and local policies relating to the health, education, employment, social services and other sectors, consistent with the provisions of the UN CRPD.

The Sustainable Development Goals (SDGs)

Launched in September 2015, the SDGs address three dimensions of sustainable development: environmental, economic and social. They are in line with and integrated into the United Nations global development agenda beyond 2015 and have a timeline of 2015 to 2030. They were developed in the spirit of “Leaving no one behind”. They are made up of 17 goals and 169 targets.



All of the goals are relevant for persons with disabilities as members of society with the same needs and aspirations as non-disabled persons. Disability is specifically mentioned in five goals, namely, 4, 8, 10, 11 and 17. These are specified below and have disability indicators and targets.

	<p>Goal 4: on inclusive and equitable quality education and promotion of life-long learning opportunities for all focuses on eliminating gender disparities and ensuring equal access to all levels of education and vocational training for the vulnerable, including persons with disabilities. The Goal calls for building and upgrading child, disability and gender sensitive facilities and providing safe, non-violent, inclusive and effective learning environments.</p>
	<p>Goal 8: to promote sustained, inclusive and sustainable economic growth, full and productive employment, and decent work for all, including for persons with disabilities, and equal pay for work of equal value.</p>
	<p>Goal 10: strives to reduce inequality within and among countries by empowering and promoting the social, economic and political inclusion of all, including persons with disabilities.</p>

 <p>11 SUSTAINABLE CITIES AND COMMUNITIES</p>	<p>Goal 11: aims to make cities and human settlements inclusive, safe, resilient and sustainable and calls for universal access to safe, inclusive and accessible green and public spaces, particularly for persons with disabilities. Member States are called upon to provide access to safe, affordable, accessible and sustainable transportation systems for all; improving road safety, notably by expanding public transportation, with special attention to the needs of those in vulnerable situations, such as persons with disabilities.</p>
 <p>17 PARTNERSHIPS FOR THE GOALS</p>	<p>Goal 17: Emphasizes that to strengthen the means of implementation and revitalize the global partnership for sustainable development, the collection of data, monitoring and accountability of the SDGs are critical. Member States are called upon to enhance capacity-building support to developing countries, including least developed countries and small island developing states, which would significantly increase the availability of high-quality, timely and reliable data that is also disaggregated by disability.</p>

The Universal Declaration of Human Rights

The Universal Declaration of Human Rights (UDHR) was drafted by representatives from all regions of the world and with a variety of legal and cultural backgrounds. It was proclaimed by the United Nations General Assembly in 1948 as a universal standard of achievements for all peoples and all nations.

Its development and introduction was motivated by the experiences of the two world wars, and was the first time that fundamental human rights were laid out and agreed to be universally protected. The declaration begins by recognizing that ‘the inherent dignity of all members of the human family is the foundation of freedom, justice and peace in the world’. It declares that human rights are universal – to be enjoyed by all people, no matter who they are or where they live.

Summary of the Universal Declaration of Human Rights:

- Everyone is free and we should all be treated in the same way.
- Everyone is equal despite differences in skin colour, sex, disability, religion, language for example.
- Everyone has the right to life and to live in freedom and safety.
- No one has the right to treat you as a slave nor should you make anyone your slave.
- No one has the right to hurt you or to torture you.
- Everyone has the right to be treated equally by the law.
- The law is the same for everyone, it should be applied in the same way to all.
- Everyone has the right to ask for legal help when their rights are not respected.
- No one has the right to imprison you unjustly or expel you from your own country.
- Everyone has the right to a fair and public trial.
- Everyone should be considered innocent until guilt is proved.
- Everyone has the right to ask for help if someone tries to harm you, but no- one can enter your home, open your letters or bother you or your family without a good reason.
- Everyone has the right to travel as they wish.
- Everyone has the right to go to another country and ask for protection if they are being persecuted or are in danger of being persecuted.

- Everyone has the right to belong to a country. No one has the right to prevent you from belonging to another country if you wish to.
- Everyone has the right to marry and have a family. Everyone has the right to own property and possessions.
- Everyone has the right to practise and observe all aspects of their own religion and change their religion if they want to.
- Everyone has the right to say what they think and to give and receive information.
- Everyone has the right to take part in meetings and to join associations in a peaceful way.
- Everyone has the right to help choose and take part in the government of their country.
- Everyone has the right to social security and to opportunities to develop their skills.
- Everyone has the right to work for a fair wage in a safe environment and to join a trade union.
- Everyone has the right to rest and leisure.
- Everyone has the right to an adequate standard of living and medical help if they are ill.
- Everyone has the right to go to school.
- Everyone has the right to share in their community's cultural life.
- Everyone must respect the 'social order' that is necessary for all these rights to be available.
- Everyone must respect the rights of others, the community and public property.
- No one has the right to take away any of the rights in this declaration.

The protection grounded in the UDHR should apply to all people – including persons with disabilities although, in reality, persons with disabilities' human rights are routinely denied or compromised.



The Salamanca Statement

In 1994 representatives of 92 governments and 25 international organisations met in **Salamanca**, Spain as an initiative of UNESCO and the Government of Spain. Forming a 'world conference' they came up with the '**Salamanca Statement**' which called for the inclusive education of children with disabilities. The Salamanca 'Framework for action' has a guiding principle which is that all schools should accommodate all children, regardless of their physical, intellectual, social, emotional, linguistic or other condition. It also asserts that all educational policies should stipulate that children with disabilities should attend the neighbourhood school that they would attend if they did not have a disability.

African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa (African Disability Protocol)

The African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa (African Disability Protocol) is designed to complement the African Charter on Human and Peoples' Rights and to address the ongoing exclusion, harmful practices, and discrimination which affect persons with disabilities, particularly women, children, and older people. The African Union (AU) Assembly of African Union Heads of States and Governments adopted the protocol in January 2018.

The protocol provides persons with disabilities with equal protection of their economic, social, cultural, civil, and political rights. It requires that States Parties implement affirmative actions to advance the equality of persons with disabilities.

The purpose of the protocol is to outline the rights of persons with disabilities in the context of issues that are specific to Africa such as systemic discrimination and stigma, increased risks of abuse, poverty, and violence (particularly for women, girls and people with albinism); as well as drawing from the UN CRPD. The protocol also aims to provide a foundation from which Member States can formulate or update legislation that affects persons with disabilities.

The protocol recognizes the particular vulnerabilities and rights of women, children, youth, and older persons with disabilities. Additionally, the protocol extends rights to family and caregivers of Persons with disabilities who might otherwise be subject to discrimination as a result of their association. The protocol also recognizes the specific protection needs of persons with disabilities in periods of armed conflict or other humanitarian situations.

The next step will be for Member States to ratify the protocol to enable it to become a legally binding instrument.

The Marrakesh VIP Treaty

The Marrakesh VIP Treaty was adopted on June 27, 2013 in Marrakesh, Morocco. It achieved the required 20 instruments of ratification or accession by eligible parties needed for entry into force on June 30, 2016 and entered into force on September 30, 2016. Its aim is to facilitate access to published works for people who are visually impaired or otherwise unable to read print.

Its key goal is to create a set of mandatory limitations and exceptions for the benefit of blind persons, visually impaired persons (VIPs), and otherwise print-disabled people. It requires for contracting parties to introduce a standardized set of limitations and exceptions to copyright rules so that published works can be reproduced, distributed and made available in formats accessible to VIPs, and to permit non-profit and government entities that serve these groups to exchange the works across borders in line with laid down conditions.

The Convention on the Elimination of all Forms of Discrimination against Women

In 1979 the UN General Assembly adopted the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The Convention defines what constitutes discrimination against women as "*...any distinction, exclusion or restriction made on the*

basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field." The Convention establishes an agenda for national action to end such discrimination.

The Convention aims to provide the basis for achieving equality between women and men through ensuring women's equal access to, and equal opportunities in, political and public life including the right to vote and to stand for election as well as education, health and employment.



The UN Convention on the Rights of the Child (UN CRC)

The UN Convention on the Rights of the Child (UN CRC) consists of 54 articles that set out children's rights and how governments should work together to make them available to all children and was adopted by the United Nations in November 1989. Under the terms of the convention, governments are required to meet children's basic needs and help them reach their full potential. Central to this is the acknowledgment that every child has basic fundamental rights. These include the right to:

- Life, survival and development
- Protection from violence, abuse or neglect
- An education that enables children to fulfil their potential
- Be raised by, or have a relationship with, their parents
- Express their opinions and be listened to.

The UNCRC applies to all children in the world, including children with disabilities. It spells out the basic human rights of children everywhere: the right to survival; to develop to the fullest; to protection from harmful influences, abuse and exploitation; and to participate fully in family, cultural and social life.

Article 23 of the UNCRC is about children and young persons with a disability and states that all children and young people have the right to be safe and happy. When a child or young person has a disability, people should make sure it does not get in the way of this, no matter what that disability is.

The article states that children and young people should be cared for in a way that takes any disabilities they have into account, and should be taught at school in a way that understands their disability.

People shouldn't treat a child or young person badly because of their disability. They shouldn't stop them from doing things they want to do, and shouldn't try to take away their rights.

Children and young persons with disabilities should:

- *be able to join in with activities, and their disability shouldn't stop them from taking part*
- *be able to join in and feel included at school*
- *get special care if they need it.*
- *be able to choose what they do, and have a say in choices about their lives.*

African Charter on the Rights and Welfare of the Child

The African Charter on the Rights and Welfare of the Child (ACRWC or Children's Charter) was adopted by the Organisation of African Unity in 1990 (subsequently the African Union (AU)) and entered into force in 1999. Like the UN CRC, the Children's Charter is a comprehensive instrument that sets out rights and defines universal principles and norms for the status of children.

The Children's Charter originated because the member states of the AU believed that the CRC missed important socio-cultural and economic realities specific to Africa. It emphasises the need to include African cultural values and experiences when dealing with the rights of the child. Although the Children's Charter makes provision for special protection measures for the disabled, it fails to expressly include disability as a prohibited ground of discrimination.

National instruments

Each country also has relevant National instruments related to persons with disabilities including the Constitution and various acts and policies, as well as commitments made at Global Disability Summit meetings.



Sources

<http://www.adry.up.ac.za/index.php/2014-2-section-b-country-reports/zambia>

Zimba Y; UN Convention on the Rights of Persons with Disabilities: Current State in Zambia

<http://www.dinf.ne.jp/doc/english/world/dl/RelevanceofCBRandInclusiveDevelopment.pdf>

INCLUDE online WHO training <http://include.edc.org/user>

https://www.unicef.org/crc/files/Rights_overview.pdf

<https://sustainabledevelopment.un.org/sdgs>

https://en.wikipedia.org/wiki/Convention_on_the_Rights_of_the_Child

<http://www.developmenteducation.ie/media/documents/SS->

<Simplified%20Version%20of%20Universal%20Declaration%20of%20Human%20Rights.pdf>

http://www.wipo.int/treaties/en/ip/marrakesh/summary_marrakesh.html

<http://unesdoc.unesco.org/images/0009/000984/098427eo.pdf>

<https://www.dandc.eu/en/article/zambias-government-has-committed-sdgs-they-will-most-likely-prove-quite-difficult-achieve>

<http://www.socialprotection.org>

<http://www.moh.gov.zm/docs/ZambiaNHSP.pdf>

<https://www.savethechildren.org.uk/what-we-do/childrens-rights/united-nations-convention-of-the-rights-of-the-child>

<http://www.acerwc.org/the-charter/>

ILO/Irish Aid, Zambia Country Profile: Promoting the Employability and Employment of People with Disabilities Through Effective Legislation (Southern Africa)