

***The shadow report in
Italy: the civil society
participation on
monitoring UN Convention***

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Disabled Peoples' International-DPI

- **142 National Assemblies members (28 in Europe)**
- **5 Regional Organizations (Africa, Asia-Pacific, Europe, Nord-America & Caribe, South America)**
- **Consultative Status in all Agencies and international Organization (UN, WHO, ILO, UNESCO, Council of Europe, UE, etc.)**

www.dpi.org

www.dpi-europe.org

Disabled Peoples' International - DPI

- **Cross-disability Organization**
- **Based on human rights approach**
- **Protagonism of PwD**



Disabled Peoples' International - DPI

- Empower members, DPOs and PwD
- Raising awareness on condition of PwD
- Collect and spread information



Condition of PwD in the world

1 billions of
persons with
disabilities (15%
of world population)

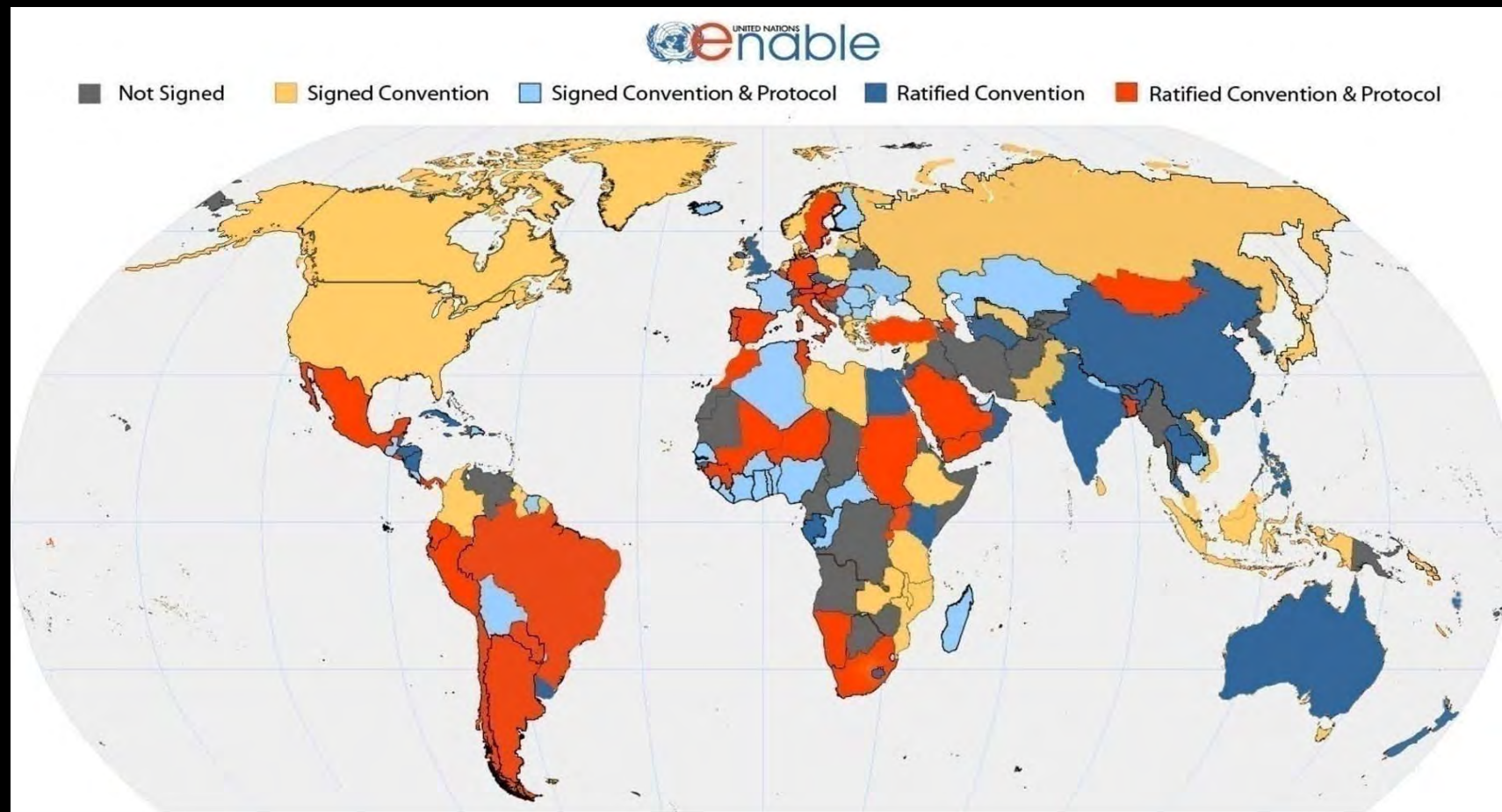


New York UN 13.12.2006
UNGA approve Convention on the
right of PwD
EU accession 21.1.2011



162 States has signed the Convention
92 States has signed the Optional Protocol

162 has ratified the Convention (84%)
88 has ratified the Optional Protocol (45%)



From the recognition of the needs

To recognition of the rights

What impact with disability policies?

- Human rights approach
 - Change of framework: from the medical model to the social model of disability
 - Disability is a priority on UN agenda and countries
 - Strong involvement of PwD

The contents of the UN
Convention will be the base
of intervention in all countries

Article 1 - Purpose

*The purpose of the present Convention is to
promote, protect and ensure the full and equal enjoyment
of all human rights and fundamental freedoms by all
persons with disabilities, and to promote respect for their
inherent dignity.*

Condition of PwD in the world

82% live in
developping
countries
(about 820
millions)



Condition of PwD in the world

Only 2% receive services or support



Condition of PwD in the world

95% of children with disabilities not have access to a formal education



Condition of PcD in the world

90% of persons
with disabilities
are unemployed
(OIL)



Disability is not only a
competence field for
professionals, but **mainly a
political and cultural
problem**

International Convention on the Rights of PwD

Article 3 - General principles

- (a) **Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;**
- (b) **Non-discrimination;**
- (c) **Full and effective participation and inclusion in society;**
- (d) **Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;**
- (e) **Equality of opportunity;**
- (f) **Accessibility;**
- (g) **Equality between men and women;**
- (h) **Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.**

Change of framework

- **From Medical Model of Disability →**
- **To Social Model of Disability based on Human rights approach**

Medical Model

- PWD are ill, invalid
- Treatment is recovery and protection
- The PWD need to be segregated
- Competences for PWD are medical

Social Model on HR

- PWD are citizen with different abilities
- PWD live discrimination & lack of equal opportunity
- Treatment is social inclusion
- All society is competent

The Condition of PwD

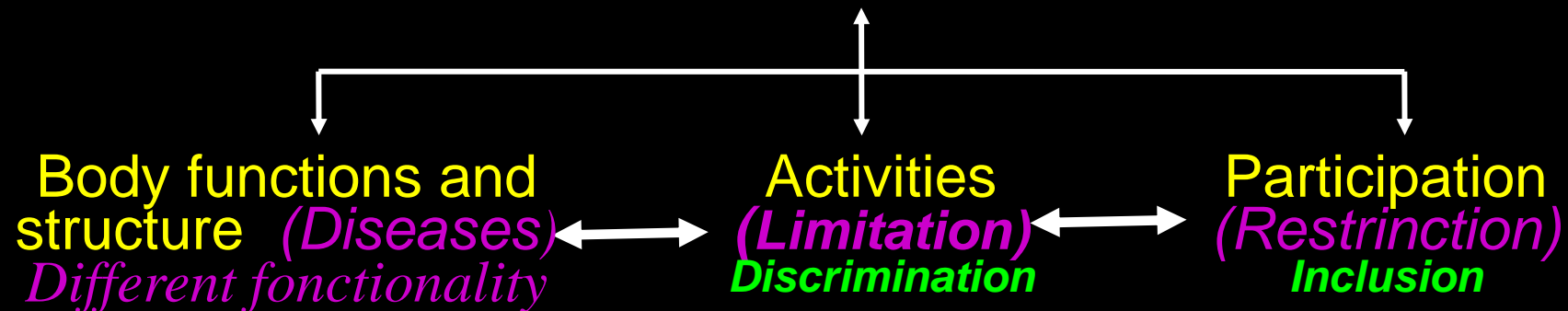
Societies' low regard for the abilities of persons with disabilities has resulted in discrimination and stigma attached to disability which pose great barriers in their participation in economic, cultural, political and social life



(e) *Recognizing* that **disability is an evolving concept** and that **disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others**

International Classification of Functioning Disability and Health ICF 2001 – CRPD 2006

Health Condition?
(troubled/ill)
Characteristics



Environmental
and social
Factors

Impoverishment
empowerment

Personal
Factors

Empowerment
impoverishment

Convention on the right of persons with disabilities

- The condition of persons with specific characteristics depend from social and individual factors
- Disability is a social relationship
- Disability is an ordinary condition of all human being
- Prevention of disability is medical and social matter

Each person has its own
form of functioning

Made by all their characteristics

International Convention on the Rights of PwD

Article 1 - Purpose

- 1. The purpose of the present Convention is **promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms** by all persons with disabilities, and **to promote respect for their inherent dignity.**



UN Convention on the rights of PwD

Article 5 – Equality and non discrimination

- 1. States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.
- 2. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.
- 3. In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.
- 4. Specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention.

The condition of persons with disabilities is a question of Human Rights

Discrimination is the different treatment without justification



Examples of discrimination in Italy

	Ordinary	PwD
Rate of unemployment	11,8%	<80,0%
Access to transport	100%	>10%
Access to information	100%	>5%

Discrimination on the basis of disability

- “Discrimination on the basis of disability” means any **distinction, exclusion or restriction** on the basis of disability which **has the purpose or effect of impairing or nullifying** the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the **political, economic, social, cultural, civil or any other field**. It includes **all forms of discrimination, including denial of reasonable accommodation;**

UN Convention on the rights of PwD

Article 6 – Women with disabilities

- 1. States Parties recognize that women and girls with disabilities are subject to **multiple discrimination**, and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms.
- 2. States Parties shall take all appropriate measures to ensure the **full development, advancement and empowerment of women**, for the purpose of guaranteeing them the exercise and enjoyment of the human rights and fundamental freedoms set out in the present Convention.

Equal opportunities

(UN Standard rules - 1993)

- *“24. To realize 'equal opportunities' means to make possible the process through which the different societies and different environments, as well as the services, activities, information and documentation, are rendered accessible to all, especially to persons with disability.*
- 25. The principle of equality of rights implicates that the needs of each person and of all individuals are of equal importance, that these needs must become the foundation for the planning of society and that all the resources are committed in such a way to assure that each individual has the same opportunity to take part.

Equal opportunities

(UN Standard rules - 1993)

- 26. Persons with disability are members of society and have the right to stay within their community. They should receive the support they need within ordinary structures for education, health, the commitment and welfare services.
- 27. When persons with disability acquire equal rights, they should have equal duties. When these rights have been acquired, society should increase their expectations towards persons with disability. As part of the process for equal opportunities, we should see to it that, persons with disability take on their full **responsibility** as members of society.

UN Convention on the rights of PwD

Article 9 – Accessibility

- 1. To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:
 - (a) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;
 - (b) Information, communications and other services, including electronic services and emergency services

“Universal design” means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design.

“Universal design” shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.

The Condition of PwD



- PwD are discriminated citizen and live conditions of lack of equal opportunity
- PwD meet obstacles and barriers to social participation
- PwD = **INVISIBLE CITIZEN**

The Condition of PwD

The disability condition is both cause and effect of poverty



Poverty and PwD

- **Poverty for economic and social condition** lack of economic resources , degraded conditions (health, food, igienic, social, etc.)
- **POVERTY OF RESOURCES**

Poverty and PwD

Poverty for social impoverishment:
obstacles and barriers for access to rights, unequal and discriminated treatment, more cost to enjoy goods and services, etc.

- **POVERTY OF RIGHTS**

Research in the United Kingdom (Leonard Cheshire)

A family where live a person
with disability have a double
of probability to become poor

Poverty and PwD

**Economic poverty and social condition +
(POVERTY OF RESOURCES)**

**Poverty for social impoverishment =
(POVERTY OF RIGHTS)**

- **POVERTY OF SOCIAL RECOGNITION**

- **Social Exclusion**

Poverty and PwD

Poverty of knowledge by societies on needs and treatment of persons with disabilities

Incompetences from professionals in various areas to treat disability issues

- **POVERTY OF COMPETENCES**

Remove impoverishment
through the empowerment of
persons with disabilities

Strengthen the capacities

Take power in the society

Empowerment

- Individual
- Social
- Political

UN Convention on the rights of Persons with Disabilities

Article 4 – General obligations

- 2. With regard to economic, social and cultural rights, each State Party undertakes to take measures to the maximum of its available resources and, where needed, within the framework of international cooperation, with a view to achieving progressively the full realization of these rights, **without prejudice to those obligations contained in the present Convention that are immediately applicable according to international law.**

ITALY - Sentence n. 80/2010 of Constitutional Court on education

All Italian legislation must be
interpreted on the base of the
CRPD.....

Convention and participation

- Convention is a legal binding instrument that involve three actors:
- United Nations
- State that ratify
- Citizen of the country

Convention and participation

- United nations Human rights system
- High commissioner on Human rights
- Council of Human Rights
- Treaty bodies

There are currently **ten human rights treaty bodies**, which are committees of independent experts. Nine of these treaty bodies monitor implementation of the core international human rights treaties while the tenth treaty body, the Subcommittee on Prevention of Torture, established under the Optional Protocol to the Convention against Torture, monitors places of detention in States parties to the Optional Protocol.

The treaty bodies are created in accordance with the provisions of the treaty that they monitor. OHCHR supports the work of treaty bodies and assists them in harmonizing their working methods and reporting requirements through their secretariats.

<https://www.youtube.com/watch?v=vE0T45t040k&feature=related>

There are currently ten human rights treaty bodies

- Human Rights Committee (CCPR)
- Committee on Economic, Social and Cultural Rights (CESCR)
- Committee on the Elimination of Racial Discrimination (CERD)
- Committee on the Elimination of Discrimination against Women (CEDAW)
- Committee against Torture (CAT)
- Subcommittee on Prevention of Torture (SPT)
- Committee on the Rights of the Child (CRC)
- Committee on Migrant Workers (CMW)
- Committee on the Rights of Persons with Disabilities (CRPD)
- Committee on Enforced Disappearances (CED)

Other UN bodies and entities involved in human rights promotion and protection

- There are several other important United Nations bodies which are concerned with the promotion and protection of human rights. These bodies are not serviced by OHCHR and include:
 - [United Nations General Assembly](#)
 - [Third Committee of the General Assembly](#)
 - [Economic and Social Council](#)
 - [International Court of Justice](#)

Many United Nations agencies and partners are also involved in the promotion and protection of human rights and interact with the main human rights bodies

- [United Nations High Commissioner for Refugees \(UNHCR\)](#)
- [Office for the Coordination of Humanitarian Affairs \(OCHA\)](#)
- [Inter-Agency Internal Displacement Division](#)
- [International Labour Organization](#)
- [World Health Organization](#)
- [United Nations Educational, Scientific and Cultural Organization \(UNESCO\)](#)
- [Joint United Nations Programme on HIV/AIDS \(UNAIDS\)](#)
- [Inter-Agency Standing Committee \(IASC\)](#)
- [DESA \(Department of Economic and Social Affairs\)](#)
- [Commission on the Status of Women \(CSW\)](#)
- [Office of the Special Adviser on Gender Issues and the Advancement of Women \(OSAGI\)](#)

Many United Nations agencies and partners are also involved in the promotion and protection of human rights and interact with the main human rights bodies

- [Division for the Advancement of Women](#) (DAW)
- [United Nations Population Fund](#) (UNFPA)
- [United Nations Children's Fund](#) (UNICEF)
- [United Nations Entity for Gender Equality and the Empowerment of Women](#) (UN-Women)
- [United Nations Development Programme](#) (UNDP)
- [Food and Agriculture Organization of the United Nations](#) (FAO)
- [United Nations Human Settlements Programme](#) (HABITAT)
- [United Nations Mine Action](#)

UN CRPD - Article 34 - Committee on the Rights of Persons with Disabilities

- 3. The members of the Committee shall serve in their **personal capacity and shall be of high moral standing and recognized competence and experience in the field covered by the present Convention.** When nominating their candidates, States Parties are invited to give due consideration to the provision set out in article 4.3 of the present Convention.
- 4. The members of the Committee shall be **elected by States Parties, consideration being given to equitable geographical distribution, representation of the different forms of civilization and of the principal legal systems, balanced gender representation and participation of experts with disabilities.**

Elected Members of the Committee on the Rights of Persons with Disabilities (Following list of Names, Nationality and date of terms of mandate expires)

- Mr. Munthian BUNTAN (Thailand) - 31/12/2016
- Mr. Mohammed AL-TARAWNEH (Jordan) - 31/12/2016
- Ms. Theresia DEGENER (Vice chair) (Germany) - 31/12/2018
- Mr. Hyung Shik KIM (Republic of Korea) - 31/12/2018
- Ms. María Soledad CISTERNAS REYES (Chair) (Chile) - 31/12/2016
- Mr. Stig LAGVAD (Denmark) - 31/12/2018
- Mr Martin Babu MWESIGWA (Uganda) – 31/12/2016
- Ms. Diane KINGSTON (Vice chair) (UK) - 31/12/2016
- Mr Carlos Alberto PARRA DUSSAN (Colombia) - 31/12/2018
- Ms Silvia Judith QUAN-CHANG (Vice chair) (Guatemala) – 31/12/2016
- Ms. Ana Peláez NARVAEZ (Spain) - 31/12/2016
- Mr. Lazlo Gabor LOVASZY (Hungary) - 31/12/2016
- Mr Safak PAVEY (Turkey) – 31/12/2016
- Mr. Damjan TATIC (Serbia) - 31/12/2018
- Mr. Liang YOU (China) - 31/12/2018
- Mr Danlami Umaru BASHARU (Nigeria) – 31/12/2018
- Mr Jonas RUSKUS (Lithuania) – 31/2/2018
- Mr Coomaravel PYANEANDEE (Mauritius) – 31/12/2018

State obligation

UN Convention on the rights of PwD

Article 4 – General obligations

1. States Parties undertake **to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability.** To this end, States Parties undertake:

(a) **To adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention;**

(b) **To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities;**

UN Convention on the rights of PwD

Article 4 – General obligations

- (c) To take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes;***
- (d) To refrain from engaging in any act or practice that is inconsistent with the present Convention and to ensure that public authorities and institutions act in conformity with the present Convention;***
- (e) To take all appropriate measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise;***

UN Convention on the rights of Persons with Disabilities

Article 4 – General obligations

- (f) To undertake or promote research and development of universally designed goods, services, equipment and facilities, as defined in article 2 of the present Convention, which should require the minimum possible adaptation and the least cost to meet the specific needs of a person with disabilities, to promote their availability and use, and to promote universal design in the development of standards and guidelines;
- (g) To undertake or promote research and development of, and to promote the availability and use of new technologies, including information and communications technologies, mobility aids, devices and assistive technologies, suitable for persons with disabilities, giving priority to technologies at an affordable cost;

UN Convention on the rights of Persons with Disabilities

Article 4 – General obligations

- (h) To provide accessible information to persons with disabilities about mobility aids, devices and assistive technologies, including new technologies, as well as other forms of assistance, support services and facilities;
- (i) To promote the training of professionals and staff working with persons with disabilities in the rights recognized in this Convention so as to better provide the assistance and services guaranteed by those rights.

Policies on disability in the crisis period

- All countries reduce welfare funds
- All countries not take in consideration our HR
- Old cultural approach on policies on disability
- Violation of Human Rights

Model of disability/Idea of Justice

- Medical model
- - PwD are un-able
- - PwD need to be recovery and protect
- - Segregated setting
- - Not part of society
- HR Model
- PwD have right to enjoy HR & must be supported by society
- Inclusion: process

Reformulation of Justice model for PwD

**Model of disability based on respect of
Human Rights for PwD is the new paradigm
of justice, ethics and praxis
of society and individuals**

Reformulation of Justice model for PwD

**No to Justice based on
metaphisic
charity
give benefits
protection**

Reformulation of Justice model for PwD

Yes to a new concept of Justice based on
Respect of Human Rights
Inclusion
Empowerment
Value the Human Diversity

From welfare state based
on social protection

To a welfare state based
on social inclusion

**GLOBALIZATION OF THE
RIGHTS/ GLOBALIZATION
OF THE MARKET**

Monitoring means

- Oblige the government (national or local) to have a policy on disability: **Action Plan**
- Evaluate progress (or regress) : **monitoring system**
- Control the process : **participation**
- Have the power to be part of the process: **powers and competences**

UN Convention

Article 33 – National implementation and monitoring

- 1. States Parties, in accordance with their system of organization, shall **designate one or more focal points within government for matters relating to the 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. States 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, States 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.**

UN Convention

Article 33 – National implementation and monitoring

- focal points within government for matters relating to the implementation of the Convention (Ministry of labor and social welfare)
- establishment or designation of a coordination mechanism **within government** to facilitate related action in different sectors and at different levels (**National Observatory on the condition of persons with disabilities**).
- 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 Convention (**?????**).

UN Convention

Article 33 – National implementation and monitoring

- When designating or establishing such a mechanism, States 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.

Tools for monitoring CRPD

- IDA – Guidance document on monitoring (2010)
- OHCHR – Guidelines for CRPD (2009)
 - Training on monitoring CRPD (2010)
 - Legal measures to monitoring (2009)
 - Handbook for civil society (2008)
 - CRPD – Advocacy tool kit (2008)
 - Handbook fo NGOs (2009)
- Harvard University – We have Human Rights (2008)

International disability alliance - IDA

- 8 international DPOs and 4 regional DPOs
- www.internationaldisabilityalliance.org
- Two staff in Geneva and New York for support DPOs to participate on the monitoring system and implementation of CRPD

IDA assess the DPOs in the process of monitoring HR:

- CRPD
- Other Convention (CRC, CEDAW, etc.)

Competences of mechanism of coordination

- Coordination, monitoring and updating of the UN Convention
- Preparation of National action plan to implement UN Convention
- Coordination of the collection of statistical data and information about the situation of PwD
- Coordination of the compiling of surveys and researches which can contribute towards the identification of priority actions/interventions for the promotion of the rights of persons with disabilities
- Dissemination in the proper format all information collected
- Prepare periodical report on implementation of the UN Convention to the Committee on the Rights of Persons with Disabilities in the UN

UN Convention

Article 35 – Reports by States Parties

- 1. Each State Party shall submit to the Committee, through the Secretary-General of the United Nations, a comprehensive report on measures taken to give effect to its obligations under the present Convention and on the progress made in that regard, within two years after the entry into force of the present Convention for the State Party concerned.
- 2. Thereafter, States Parties shall submit subsequent reports at least every four years and further whenever the Committee so requests.
- 3. The Committee shall decide any guidelines applicable to the content of the reports.
- 4. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports, repeat information previously provided. When preparing reports to the Committee, States Parties are invited to consider doing so in an open and transparent process and to give due consideration to the provision set out in article 4.3 of the present Convention.
- 5. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

Implementation of Convention

- Up-dating the legislation to the principles and norms of the Convention
- Promote policies and measures to implement the rights of PwD
- Taken in account the sentences of the court in specific cases of violation of Human Rights
- Role in the protect rights of the National Commission of Human Rights

Convention on the rights of PwD

Article 31 - Statistics and data collection

- 1. States Parties undertake to **collect appropriate information**, including statistical and research data, **to enable them to formulate and implement policies to give effect to the present Convention**. The process of collecting and maintaining this information shall:
 - (a) Comply with legally established safeguards, including legislation on data protection, **to ensure confidentiality and respect for the privacy** of persons with disabilities;
 - (b) Comply with internationally accepted norms to **protect human rights and fundamental freedoms and ethical principles of statistics**.
- 2. The **information collected** in accordance with this article shall be disaggregated as appropriate and used to help assess the implementation of States Parties' obligations under the present Convention, and **to identify and address the barriers faced by persons with disabilities in exercising their rights**.
- 3. States Parties shall assume the responsibility for the **dissemination of these statistics and ensure their accessibility** to people with disabilities and others.

Data and persons with disabilities

- Collecting public data on PwD is news issue. Very few policies and measures are taken 30 years ago.
- Available data are poor and incomplete and often based on interest of the government (public services or benefits budget, saving public resources, etc.)
- Statistics data are collected in a different timing than ordinary statistics
- the data are disomogeneous

Data and persons with disabilities

- From Statistics data based on medical model of disability to →
- Statistics data based on social model of disability based on human rights
- From Statistics data focused on institutions to →
- Statistics data centered on condition of persons with disabilities

Data and persons with disabilities

No data No policies

Poor data Poor policies

**Appropriate data New
policies**



Power of citizen or group of citizen

- Present a Shadow report
- Present claims and complains on the basis of Optional Protocol to
 - ◆ National Institution on Human Rights
 - ◆ UN Committee on the rights of persons with disabilities

Shadow report

Power and competences

In the UN system Shadow report
is the name of a report prepared
from civil society

**DPOs can present
a shadow report on
UN Convention on the
Rights of PwD**

What is a shadow report?

- Report alternative of the governmental report
- Report based on the point of view of PwD and their DPOs
 - ◆ Report on the conditions of PwD
 - ◆ Report of implementation of UN Convention

UN recommendation for a shadow report

- Be clear, precise, accurate and objective
- Highlight what the author see as problem in implementation and should make recommendations to improve the human rights situation in the given country
- Be submit before the scheduled examination of the State's report, to influence the discussion of the governmental report

UN guidelines for a shadow report

- Respecting guidelines of the UN Committee of the rights of persons with disabilities
- The information must be country-specific and relevant to the mandate of UN Committee on the rights of PwD, making direct reference to the article of the Convention
- Supported by relevant evidence and documentation
- All information should be correctly referenced
- Electronic version and multiple hard copies need to be provide
- Better only one report (about 40 pages)

Send the shadow report to

- Committee on the Rights of the PwD
- c/o Office of the UN High Commissioner for Human Rights
- Palais des Nations
- 8-14, avenue de la Paix
- Ch-1211 Geneva 10 – Switzerland
- Fax +41.(0)22.9179029
- E-mail : crpd@ohchr.org

**DPOs must express the voices of
the disabled people through their
own system with their criteria's**

Shadow report must to include

- A choose of the areas and geographical dimension to reporting
- A report of the conditions of PwD
- Data on different issues
- A number of concrete cases and evidences
- An evaluation of the policies and programs of the public authorities on disability
- An evaluation of the application of the laws

The role of Commission on Human rights

- Advice on preparation of the Shadow report
- Make training course on Shadow report
- Collaborate on the legal procedures to submit the report
- Make recommendation on the Shadow report

How to monitor?

- There are various methodologies to prepare a Shadow report to monitor the UN Convention. These methodologies can be complementary. Different possibilities are presented:

To prepare a shadow report on the basis of the UN rules

- The UN Committee on the rights of persons with disabilities has prepared the rules to elaborate national report on Convention implementation from the States parties (in November 2009).

Collecting violation of Human rights of persons with disabilities and prepare a periodical report

- DPI-Europe has elaborated in 2000 a proposal for the building of a network that could register and collect cases of violations of Human rights of persons with disabilities and prepare a report. A way of working could be to use the same methodology for the building of such national or local networks. It is necessary building a network of Human rights defenders on the model of Amnesty International.

To collect history of life of persons with disabilities

- Make a collection of histories of life of persons with disabilities that show what is the real condition of life of these persons. The final report elaborates these histories and produces an evaluation of the reality of the human rights enjoyment by the persons with disabilities in different situations of the daily life.

To elaborate a report (national or local) on specific areas

- A report can be developed on the basis of the official report from the Government (if it exist). This means that the DPO needs to build an independent position on the governmental report and express criticisms based on different interpretation of data and support by the facts and a collection of the records of the facts of human rights violation based on disability. Can be develop for geographical area (local, aimag, national) and for specific issue (for impairment or for themes).

What are the contents of monitoring?

- The UN Convention has introduced the Human rights approach on disability issues.
- This approach is based on the new definition of disability (preamble e): “*disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others*”.

What are the contents of monitoring?

- This approach is based on the principles of CRPD (art. 3): *“Respect for inherent dignity, individual autonomy including the freedom to make one’s own choices, and independence of persons; Non-discrimination; Full and effective participation and inclusion in society; Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity; Equality of opportunity; Accessibility; Equality between men and women; Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities”*.

What are the contents of monitoring?

- The art. 1 comma 2 UN Convention has defined person with disabilities : *“who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others”* .

What are the contents of monitoring?

- The art. 31 of UN Convention (**Statistics and data collection**) stress that:
- *States Parties undertake to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the present Convention...*
- *The information collected in accordance with this article shall be disaggregated, as appropriate, and used to help assess the implementation of States Parties' obligations under the present Convention and to identify and address the barriers faced by persons with disabilities in exercising their rights.*

Participation and involvement of DPOs

- All the UN Conventions are based on full participation of the DPO.
- The art 4, comma 3, says:
- *3. In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties **shall closely consult with and actively involve** persons with disabilities, including children with disabilities, **through their representative organizations.***

Participation and involvement of DPOs

- Art. 33, comma 3 (**national implementation and monitoring**) statute on the participation of the DPO as follow:
- ***3. Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process.***



Participation and involvement of DPOs

- Art. 35 on the participation of the DPO says:
- *“When preparing reports to the Committee, States Parties are invited to consider doing so in an open and transparent process and to give due consideration to the provision set out in article 4.3 of the present Convention”.*

In Italy

- The State report was elaborate from the Observatory on the condition of persons with disabilities
- Presented to the UN Committee on the rights of persons with disabilities the 21 January 2013 (but due in 2011)
- **Alternative report from Italian Disability Forum was present the 18 January 2016**
- **The Examination of Italy report in the 2016**

Italian Disability Forum (Forum Italiano sulla Disabilità - FID)

- It is an Italian not-for-profit **organization of persons with disabilities (DPO)**, full member of the European Disability Forum (EDF), representing the interests of persons with disabilities out of Italy. It is composed exclusively of national organizations of persons with disabilities and their families. Its aims are to fight for the recognition, promotion and protection of the human rights of persons with disabilities, as well as for non-discrimination and equal opportunities. Since its establishment, the Italian Disability Forum has participated in all initiatives and activities carried out by EDF. In the last years FID published and submitted to the specific UN Committees a Written Proposal for Recommendations on Italian UPR Review and Written Submission to the CESCR Committee on the List of Issues in relation to the fifth periodic report of Italy.

FID have 17 members

- **ADV** – (Association for the Visually Disabled)
- **AICE** (Italian Association for Epilepsy)
- **AIPD** (Italian Down Syndrome Association)
- **AIMS** (Italian Multiple Sclerosis Association)
- **ANGLAT** (National Association for legislation on transport by persons with disabilities)
- **ANMIC** (National Associations of Amputees and Invalid civilians);
- **ANMIL** (National Associations of Amputees and Invalid workers)
- **APICI** (Provincial Associations for Civil Invalidity and the Aged)
- **ARPA** (Association for research on psychosis and autism)
- **ASBI** (Italian Association of Spina Bifida)
- **DPI Italia** Disabled Peoples' International Italia onlus
- **ENS** (National Association for the Deaf)
- **FIADDA** (Italian Association of Families of deaf and hard of hearing persons)
- **FISH** (Italian Federation for Overcoming Handicap)
- **UIC** (Italian Union of the Blind and Visually Impaired)
- **UILDM** (Italian Union for the Fight against Muscular Dystrophy)
- **UNMS** (National Union for Amputee for Service)

Timing of examination

- Pre session (21-22 march 2016)
- Official session (August 2016)
- Final observations (September 2016)

Role of the UN Committee on the rights of PwD

- Examine the governmental report
 - Receive Shadow report and claims
 - Make final observations
 - Make investigation on the countries
 - Make visit in the countries
-
- Important is building relationship with member of the UN Committee

Some examples of Italian reporting

- General provisions artt. 1-4
- Accessibility art. 9
- Access to justice art. 13

Article 1 – Purpose

Article 2 – Definitions

Article 3 - General principles

Article 4 - General obligations

General provisions artt. 1-4

- Analysis on definition of persons with disabilities in the Italian legislation that don't meet the CRPD definition
- No information on the impact of crisis on social protection policies and economies
- No mention about a clear timeframe to review of the national and regional legislations aimed at harmonizing definitions of disability and including the obligation of reasonable accommodation
- No information on the effective and uniform enforcement of the national legislative framework promoting the rights of persons with disabilities
- The national report does not specify how the consultation process of representative DPOs will be structured and supported at all levels of government.

General provisions artt. 1-4

- **Definition of disability**
- **the current assessment of the disability condition reflects a medical approach**
- **There is not a unitary definition of disability, of severity and of non-self-sufficiency**
- **The devolution of legislative power to the regions concerning the access to social services determines inequalities**
- **Minimum standards ensuring equal enjoyment of social and civil rights by all citizens at national level have not been defined following the reform of Title V of the Italian Constitution**
- **The Italian legislation lacks a definition of “Reasonable Accommodation”**

General provisions artt. 1-4

- **Impact of the economic crisis on the implementation of the CRPD principles and obligations**
- The national fund for social policies was reduced from 2 billion 527 million Euros in 2008 to 313 million in 2015
- Italy spent for disability 438 Euros per capita/ year, compared to 531 Euros per capita / year on average in the 27 EU Member States
- In the Biannual Action Plan on Disability (2014-2015) do not entail any allocation of funds for the implementation of the CRPD
- ...

Violation General provisions artt. 1-4

- The heterogeneity and inconsistency with the CRPD of definitions of disabilities, severity and non-self-sufficiency in national and regional legislations **encompass discriminations on the basis of the nature and of the degree of disability**; they baffle the enjoyment of social rights of persons with disabilities.
- The disproportionate devolution of responsibilities to the regions and the consequent discrepancies of regulations and instruments to assess the disability conditions, as well as the individual support needs and level of allocated resources **determine unequal treatment and opportunities on geographical basis**. The exiguity of financial resources allocated to disability policies, exacerbated by austerity measures, **abridge the implementation of the CRPD as well as the effective participation of persons with disabilities through their representative organizations** in designing, implementing and monitoring legislations and policies putting into effect the CRPD.

Recommendations General provisions artt. 1-4

- Conduct a cross-cutting, comprehensive review of the National and regional legislation in order to ensure full harmonization with the provisions of the Convention.
- Include in the national legislation the **definition of reasonable accommodation** in compliance with the CRPD, as well as the definition of the use of sign language or other modes of non-verbal expression as valid forms of communication;
- Provide for the allocation of an adequate budget to the implementation of the actions listed in the National Action Plan for the implementation of the CRPD, within a clear and reasonable timeframe, as well as for the establishment of an independent monitoring mechanism.
- **Establish an independent National Human Rights Institution, with an independent budget line**, to be involved in the monitoring process of the CRPD implementation.

Recommendations General provisions artt. 1-4

- Take the necessary measures to set up a structured meaningful consultation with persons with disabilities, including women, and girls and boys with disabilities, through their representative organizations, with a sufficient funding to support their empowerment and active participation;
- Undertake a reform of the disability assessment process taking into account the environmental component of disability, in compliance with the social approach to disability;
- **Define and adopt Minimum Standards of social support and services** in a perspective of inclusion, not just assistance, of persons with disabilities.

Accessibility art. 9

- All the substantial National norms in matters of accessibility and the overcoming of architectural, sensorial or communicative barriers is listed without, however, providing any data on its application.
- The application of the legislation for the removal of architectural and sensory barriers in public and private buildings is often disregarded (building, transport, web site, services open to the public)
- the "design for all" principle is not sufficiently promoted and supported, with particular regard to new technologies
- A wide range of essential products and services are still hardly accessible for persons with disabilities

Violation on Accessibility art. 9

Calatrava Bridge - Venice



Calatrava Bridge - Venice



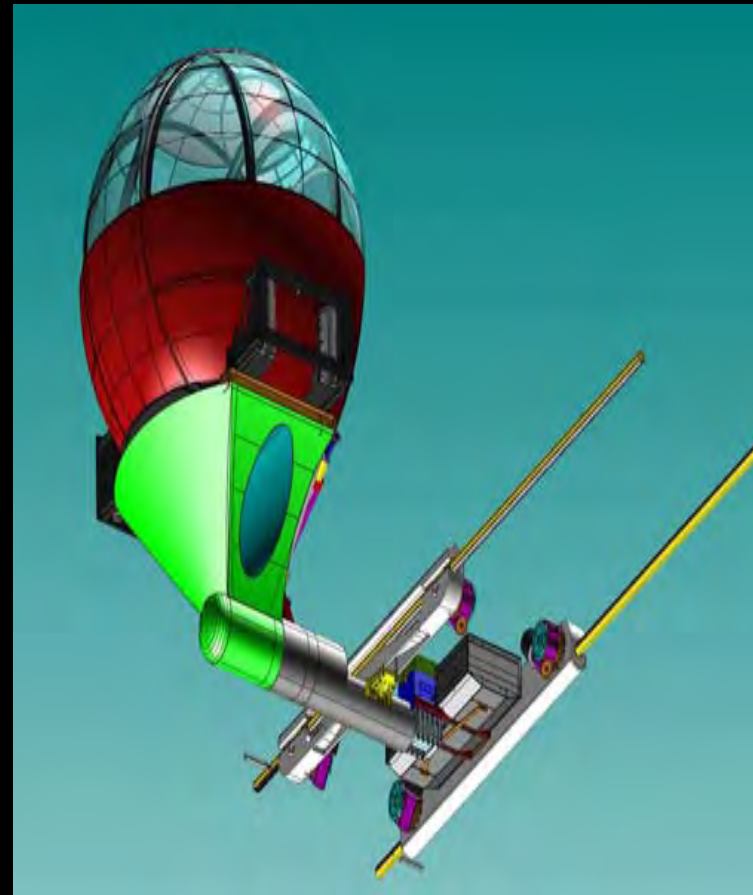
94 mt long, 10° pendenza



not provisions on accessibility



Solution after protest of DPOs



10 min.
to cross
the
bridge



Example of violation of Human rights



Reccomandation on Accessibility art. 9

- Introduce in the training of architects, engineers, qualified communication professionals and surveyors the topic of respect for the norms on accessibility and respect UNCRPD
- Ensure the accessibility of information, communications, electronic and emergency services for persons with disabilities; adopt accessibility guidelines for facilities and services open or provided to the public and provide training for accessibility professionals with particular regard to hardware and software developers.
- Promote and support design and development as well as availability and ease of use of goods and services on the basis of the *Design for All* principle.
- Gather data and statistics on the level of accessibility and usability on behalf of persons with disabilities of all means of transport (air, railway, land, cable and water).

Access to justice art. 13

- The State explain the equal treatment of pwd from a Constitutional article (24) and the possibility to be protect by non discrimination law and put the example that a deaf person can be assist from an interpreter during a penal judgement
- No information is included in the report related to equal opportunity in the judgement for persons with sensory and intellectual disabilities: not enough support is provided by the competent authorities. The same lack of information is about the accessibility of Courts locations, that often hinder persons with disabilities to have access to justice.

Violations of art. 13

- majority of Law Courts are inaccessible for persons with motor disabilities
- No appropriate tools and modes to guarantee access to justice for sensorial, psycosocial and intellectual disability
- there is no ad hoc legislation that foresees transcription in Braille of legal documents on request of one of the parties, creating a series of violations of the art. 3, 24 e 111 of the Italian Constitution and of art. 13 of the UN Convention.

Two cases

- **Box 12 - The use of Braille in courts**
- The anomaly relative to an investigated/indicted blind person was revealed in a case instituted by his blind lawyer in front of the first penal session of the Court of Torre Annunziata in which the bench rejected, with an injunction of May 2014, the invalidity of the judicial documents not transcribed in Braille and he did not even accept the issue of constitutional legitimacy of the articles of the code of penal procedure that does not foresee the invalidity of this, in contrast with art. 3, 24 and 111 of the Constitution.

Two cases

- **box 13 - Discrimination at the Police Station. The case of Rome**
- The “Everyday occurrence” 20th October 2015 points out the case of a blind woman with her guide dog who was prevented from entering the Police Station offices “Tuscolana” of the area Cinecittà in Rome and was forced to make a report for a loss in the waiting room with the complete violation of privacy and lack of respect for the dignity of the person.
- The everyday occurrence, Rome, blind person goes with guide dog to report to the police. The police officers block her : “he cannot come up” - 21st October 2015
<http://www.ilfattoquotidiano.it/2015/10/21/roma-va-col-cane-guida-a-fare-denuncia-alla-polizia-sara-cieca-ma-lui-non-puo-salire/2145803/>

Reccomandation on access to justice art. 13

- Adapt the legislations of all legal proceedings (penal, civil and administrative) of the civil and penal codes in order to guarantee access to justice by all persons with disabilities and in particular deaf people, blind people and those with intellectual disabilities on an equal basis with all other citizens.
- Activate training courses for all personnel in the justice sector, especially involving the bar associations and judges, in particular the personnel of the judicial administration, the police and the prison guards.

In the FID shadow report

- 77 recommendations
- A list of 20 priority issues
- 2 issues for next year

2 Priority issues

- **Include the definition of reasonable accommodation in the Italian legislation, national and regional, and recognize its denial as a form of disability-based discrimination**
- **Include in the school reform Law 107/2015 measures to improve the skills of school staff and to establish specific roles for support teachers, as foreseen in the Law proposal 2444AC**

List of other issues

- Reach a common definition of disability in line with the CRPD (1)
- Ensure active and structured participation of all persons with disabilities through their representative DPOs (4)
- Adopt systematic awareness raising actions across institutions and general population with active involvement of representative DPOs (8)
- Reducing the gap between legislation on accessibility (environment, transport, web, TV and communication) and its application and include the training on the design for all principle in the ordinary curricula of all accessibility professionals (9)
- Include disability issues during the protection activities for migrants and refugees entering in the Italian territory, collect data on their number and conditions (11)
- Repeal legal provisions of interdiction and incapacitation (guardianship) and reform the current legal institution of the Support Administration and rule the support to decision making in the Italian legislation (12)

List of other issues

- Ensure all persons with disabilities to be able to express their informed consent (12, 14, 22, 25)
- Repeal the national laws allowing disability-based compulsory treatments and detention (14)
- Mandatory set-out and adoption of Minimum Standards of Social Assistance (LIVEAS) and include among the national Minimum Standards of Assistance the homogeneous access to independent living schemes to all persons with disabilities (19)
- Undertake a de-institutionalization process and stop building new institutions (19)
- Provide support to families of children with disabilities or adults with high support needs living at home (23)
- Include measures to maximize the participation of students with disabilities to vocational extracurricular training in the school reform Law 107/2015 (24)

List of other issues

- **Include accessibility requirements in the refurbishment of schools foreseen in the school reform Law 107/2015 (24)**
- **Adopt new Minimum Standards of Healthcare (LEA) ensuring persons with disabilities access to primary healthcare, early diagnosis and comprehensive services and programs of habilitation and rehabilitation (25)**
- **Adopt efficient measures to increase the employment rate of persons with disabilities, paying particular attention to women with disabilities and persons with high support needs (27)**
- **Include disability data in surveys and census on the general population, disaggregated by age and sex (31)**
- **Establish a National Human Rights Institution (33)**
- **Establish one or more Focal Points, a coordination mechanism and monitoring framework in line with the CRPD (33)**

Shadow report is a tool for DPOs to have power in the national and international monitoring system

Elaborate a shadow report permit that DPOs acquire competences and skill on evaluating policies and measures on Human Rights respect



Inclusion is effective only
with direct participation of
excluded and discriminated Persons

Nothing about us without us

We are really
experts
on our own life

Hamburg declaration
“enable people and
communities to
take control of
their destiny and
society”



**Disability is
an evolving concept**

Pablo Pineda



Giusy Spagnolo, 2011



Filippo Adamo, 2013



**WHO affirm that all human
being will live an experience of
disability**

Beyond the limit of the human body

Post-human:

Growth the knowledge of the medicine

Development of the technologies

Higer level of life's duration

Transformation of the concept of Human being



(m) *Recognizing* the valued existing and potential contributions made by persons with disabilities to the overall well-being and diversity of their communities, and that the promotion of the full enjoyment by persons with disabilities of their human rights and fundamental freedoms and of full participation by persons with disabilities will result in their enhanced sense of belonging and in significant advances in the human, social and economic development of society and the eradication of poverty,

Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity

Support the Value

of human diversity

Old Greece model

Kalòs = man healthy and beauty

Kai = is too

Agathòs = good



Marc Quinn





