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Human Rights of Persons with Disabilities: Contemporary Developments

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ABSTRACT

Every human being is entitled to be treated with dignity, decency, equality and freedom regardless of the fact that we are born differently, grow differently, and are different in our mental makeup, thought processes and life-style. Negation of this would mean negation of human rights. But unfortunately, persons with disabilities experience and encounter discrimination due to their disabilities. There is no acceptance for them in the mainstream, and are considered to have less functional bodies or dependents. They face social, cultural, and attitude barriers that impede their full participation in society and the exercise of their rights and opportunities. There was no international treaty covering specifically the human rights issues of persons with disabilities prior to the drafting of the United Nations Convention on the Rights of Persons with Disabilities² (UNCRPD). In its role as the first human rights treaty of the 21st century that addresses the rights of persons with disabilities, the UNCRPD ushers in a new era of international human rights law and practice. Yet studies commissioned by the various organizations showed that attention towards this issue at international level had generated only a limited effect at national level.

Keywords: Human Rights, Persons with Disabilities.

I. INTRODUCTION

“Disabled persons frequently live in deplorable conditions, owing to the presence of physical and social barriers, which prevent their integration and full participation in the community. Millions of children and adults worldwide are segregated and deprived of their rights and are, in effect, living on the margins. This is unacceptable.”³

Mary Robinson, UN High Commissioner on Human Rights (1997-2002)

Disability is a human rights issue. Human rights assert that every individual possesses an equal right to life, as well as a right to live in dignity. But unfortunately Persons with disabilities face

¹ Author is an Assistant Professor at Faculty of Law, University of Delhi, India.

² United Nations Convention on the Rights of Persons with Disabilities, 3 May 2008, 2515 U.N.T.S. 3 [hereinafter UNCRPD].

³ Video Message to the International Seminar on Human Rights and Disability, Almåsa Conference Centre, Stockholm Sweden, 5 November 2000 (available at https://www.un.org/esa/socdev/enable/stockholmno_v2000a.htm as accessed on 19.01.2022).

discrimination and barriers that restrict them from participating in society on an equal basis with others. They face significant barriers to realizing their human rights, including discrimination in education, employment, housing and transport; denial of the right to vote; and being stripped of the right to make decisions about their own lives, including their reproductive choices. Individuals with physical, sensory, intellectual and mental disabilities often face increased violence, yet they remain invisible in their communities.

Over one billion people around the world live with some kind of disability, which represents 15% of the population.⁴ Globally, they represent the largest minority group. The UN Development Programme states that eighty percent of people with disabilities live in developing countries.⁵ Additionally, the World Health Organization reports that this figure is increasing due to population growth, medical advancements, and aging.⁶ The majority of people with disabilities live in poverty and remain excluded from society.⁷ It is this enduring exclusion that prompted calls for a UN treaty, an authoritative text that would demand the elimination of barriers excluding people with disabilities from society and preventing them from enjoying the full range of rights on an equal basis with others.

II. INTERNATIONAL INSTRUMENTS

Nevertheless, before the UNCRPD, none of the seven core United Nations human rights treaties expressly protected people with disabilities. Each of these "hard laws" may be said to include people with disabilities within their purview, but only in varying degrees. To be protected, disabled persons had to either fall under a rarely enforced omnibus provision, or possess an identity characteristic in addition to that of their disability.⁸ None was expressly

⁴ Disability and Health, World Health Organisation (available at <http://www.who.int/mediacentre/factsheets/fs352/en/> as accessed on 20.01.2022.)

⁵ Fact Sheet on Persons with Disabilities, United Nations Enable (available at <http://www.un.org/disabilities/documents/toolaction/pwdfs.pdf> as accessed on 20.01.2022.)

⁶ Available at <https://www.un.org/development/desa/disabilities/resources/factsheet-on-persons-with-disabilities.html> as accessed on 20.01.2022.

⁷ See Executive Summary, Gerard Quinn and Theresia Degener, "The current use and future potential of United Nations human rights instruments in the context of disability," UNHCR, UN Doc. HR/PUB/02/1 (2002)(available at <http://www.unhchr.ch/disability/study.htm> as accessed on 20.01.2022). See also Preamble (t), Convention on the Rights of Persons with Disabilities (available at <http://www.un.org/esa/socdev/enable/rights/convtexte.htm> as accessed on 20.01.2022).

⁸ International Bill of Human Rights, the International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), U.N. GAOR, Supp. No. 16, at 52, U.N. Doc. A/6316 (1966); International Covenant on Economic, Social and Cultural Rights, G.A. Res. 2200A (XXI), U.N. GAOR, Supp. No. 16, at 49, U.N. Doc. A/6316, 993 U.N.T.S. 3 (1966); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 39/46, U.N. GAOR, 39th Sess., Annex, Supp. No. 51, at 197, U.N. Doc. A/39/51 (1984); International Convention on the Elimination of All Forms of Racial Discrimination, G.A. Res. 2106 (XX), U.N. GAOR, Supp. No. 14, at 47, U.N. Doc. A/6014 (1966); Convention on the Elimination of All Forms of Discrimination against Women, G.A. Res. 34/180, U.N. GAOR, 34th Sess., Supp. No. 46, at 193, U.N. Doc. A/34/46 (1981); Convention on the Rights of the Child, G.A. Res. 44/25, U.N. GAOR, 44th Sess., Supp. No. 49, at 161, U.N. Doc. A/44/49 (1989); International Convention on the Protection of the Rights of All Migrant Workers and Members of Their

applicable on the basis of a disability-related characteristic.⁹ As a result, only a handful of disability-based human rights claims have been asserted under these treaties.¹⁰ Conversely, a number of "soft laws" expressly target individuals for human rights protection on the basis of a disability classification.¹¹ Such as in 1981, the General Assembly designated the International Year of the Disabled,¹² and the period 1982-1991 as the International Decade of Disabled Persons.¹³ Most notable is the "Standard Rules on the Equalization of Opportunities for Persons with Disabilities,"¹⁴ which are monitored by a Special Rapporteur.¹⁵ Although laudable for explicitly referencing disability, as soft laws these series of resolutions, declarations, and protocols are not legally enforceable. Thus, Persons with disabilities have remained largely 'invisible', often side-lined in the rights debate and unable to enjoy the full range of human rights.

In sum, before the UNCRPD, no existing international human rights instrument was both applicable to, and enforceable by, individuals on the basis of their "disability" status.¹⁶ However, in 2006, with the adoption of the Convention on the Rights of Persons with Disabilities¹⁷, there has been a revolutionary change in approach towards the persons with disabilities. This Convention has signalled a 'paradigm shift' from traditional charity-oriented, medical-based approaches to disability to one based on human rights.

Families, G.A. Res. 45/158, U.N. GAOR, 45th Sess., Supp. No. 49, at 262, U.N. Doc. A/45/49 (1990).

⁹ The Convention on the Rights of the Child (CRC) is an exception for it contains a specific article requiring States parties to recognize the rights of children with disabilities to enjoy "full and decent" lives and to participate in their communities. That obligation, however, is tempered by the relative financial constraints of States parties. Moreover, the CRC does not mandate that children with disabilities be treated or considered as equal to children without disabilities.

¹⁰The website maintained by the office of the United Nations High Commissioner for Human Rights contains detailed information on the operation of the respective human rights treaty bodies (available at <http://www.unhcr.ch> as accessed on 20.01.2022). The decisions of the three relevant monitoring committees can be accessed through the Netherlands Institute of Human Rights web page (available at <http://sim.law.uu.nl/sim/Dochome.nsf> as accessed on 20.01.2022.)

¹¹An overview of the basic documentation is maintained by a special unit of the Division for Social Policy and Development from the United Nations Department of Economic and Social Affairs (available at <http://www.un.org/esa/socdev/enable> as accessed on 20.01.2022.)

¹² G.A. Res. 77, U.N. GAOR, 36th Sess., Supp. No. 77, at 158, U.N. Doc. A/RES/36/77 (1981).

¹³ G.A. Res. 53, U.N. GAOR, 37th Sess., Supp. No. 53, U.N. Doc. A/RES/37/53 (1982).

¹⁴ G.A. Res. 48/96, U.N. GAOR, 48th Sess., Supp. No. 49, at 202, U.N. Doc. A/48/49 (1993).

¹⁵ Bengt Lindqvist, *Standard Rules in the Disability Field: A United Nations Instrument*, in HUMAN RIGHTS AND DISABLED PERSONS: ESSAYS AND RELEVANT HUMAN RIGHTS INSTRUMENTS 63 (Theresa Degener & Yolán Koster-Dreese eds., 1995).

¹⁶ See LEANDRO DESPOUY, REPORT ON HUMAN RIGHTS AND DISABLED PERSONS paras. 280-81 (1993) (noting that "persons with disabilities are going to find themselves in a legal disadvantage in relation to other vulnerable groups" because "unlike the other vulnerable groups, they do not have an international control body to provide them with particular and specific protection.").

¹⁷ UNCRPD *Supra* Note 2.

III. DEFINITION OF PERSONS WITH DISABILITY- A HUMAN RIGHTS BASED APPROACH

Neither ‘disability’ or ‘persons with disabilities’ is defined in the CRPD, but Article 1 states that ‘persons with disabilities’ include “those 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”. While Article 1 refers to ‘long-term’ impairments, it does not prevent other impairments from being included.¹⁸ This definition upholds the human rights based approach or construct of disability. It is abundantly clear that in the ultimate analysis disability is a condition where one is unable to participate in society on an equal basis with others due to interactions between her/his impairment and various barriers. Furthermore, the UNCRPD Preamble states that disability is a concept which is evolving as a result of interactions between persons with impairments and societal barriers.

IV. HUMAN RIGHTS OF THE PERSONS WITH DISABILITIES

If human life is the finest and best in creation what exactly are human rights? The simplest way of defining human rights is that they are about balancing the inalienable rights of all of us as human beings within the community regardless of differences in birth, social origin, gender, physical differences, faith and belief, ideology, nationality and so on. There can be no disagreement with the universally acclaimed truth that human dignity is the quintessence of human rights. Every human being is entitled to be treated with dignity, decency, equality and freedom regardless of the fact that we are born differently, grow differently, and are different in our mental makeup, thought processes and life-style. Negation of this would mean negation of human rights.¹⁹

Since its foundation, the UN has adopted numerous binding conventions that address socio-cultural and political-economic factors affecting human rights for individuals, or difference groups of individuals. Such instruments of the United Nations are used to give rights to material and symbolic resources, and to engage in market, civil, political, and social spheres. Before the UNCRPD, however, there was no specific international treaty relating to the human rights of persons with disabilities. UNCRPD²⁰ ushers in a new era of international human rights law and practice as the first human rights treaty of the twenty-first century specifically addressing

¹⁸ Tina Minkowitz, *The United Nations Convention on the Rights of Persons with Disabilities and the Right to be Free From Nonconsensual Psychiatric Conventions*, 34(2) *Syracuse Journal of International Law and Commerce* 405-428, 407 (2007).

¹⁹ Lakshmidhar Mishra, *Human rights in mental health care: an introduction*, Mental Health Care and Human Rights, National Human Rights Commission New Delhi 15 (D Nagaraja Pratima Murthy ed., 2008)

²⁰ UNCRPD *Supra* Note 1.

the rights of persons with disabilities.²¹ As a holistic human rights treaty UNCRPD, it blends civil and political rights as well as economic, social, and cultural rights within its overall structure, as well as within its individual articles. In addition to enumerating basic rights, it includes a broad spectrum of human rights including economic, civil, political, cultural, and social. The following are the substantive human rights set forth in the Convention:

(A) Right to life, liberty and security of the person

The Right to Life is the most primordial of all human rights as also the most preeminent. States parties to the UNCRPD are required to take all measures necessary to ensure that people with disabilities have the same right to life as others.²² In addition, persons with disabilities are entitled to the same protection against threats to human rights, such as arbitrary detention, physical harm and food deprivation. Any deprivation of liberty must comply with the law, and the existence of a disability does not justify such a deprivation. A reasonable accommodation must be provided to persons with disabilities in accordance with the UN Convention.²³

(B) Barrier free environment and personal mobility

Accessibility is considered as a wide concept that includes the prevention and elimination of obstacles that pose problems for persons with disabilities in using products, services and infrastructures. Barrier-free environment enables people with disabilities to move about safely and freely, and use the facilities within the built environment. In accordance with Article 9 of UNCRPD, States parties must ensure that disabled persons have equal access to a physical environment, transportation, information, communication, including information and communication technologies and the Internet, as well as other public services and facilities.

Article 9 addresses the issue of effective implementation of accessibility obligations for persons with disabilities. In this regard, it takes a broad approach to the issue, addressing not just physical accessibility, but also accessibility of information etc. In addition, it emphasizes the importance of considering accessibility issues early on while developing information and communications technologies, so that accessible technologies can be made available at a low cost. Additionally, Article 9 applies to both public and private actors, as it applies to anyone who makes their goods or services "open or accessible to the public."

Additionally, the states parties have been urged to take appropriate measures to enable persons with disabilities to move freely and to be empowered, and to facilitate affordable access to

²¹ Michael Ashley Stein, Disability Human Rights, 95 CAL. L. REV. 75 (2007).

²² UNCRPD *Supra* Note 7 at article 10.

²³ UNCRPD *Supra* Note 7 at article 14.

assistive devices, technologies, mobility aids, and live assistance, as well as training in mobility skills.²⁴

(C) Access To Justice

In many societies, of persons with disabilities are often excluded from the justice system. They have been deprived of the opportunity to serve as jurors, and those who are sufferers of crime are frequently unable to seek redress, either because the police or other officials have no idea how to accommodate them, or due to a disregard for their experiences, or even since their participation as witnesses has been specifically prohibited.

In respond to such exclusion, the UNCRPD has specifically recognised their right to access to justice. The convention stipulates that states parties must make reasonable accommodations in all legal proceedings to ensure that persons with disabilities have the same opportunity as others to participate. To achieve that State parties should promote training for those working in the administration of justice, such as police officers and correctional staff.²⁵

(D) Right to political participation

Political participation can be demonstrated in various ways however not restricted to participation in elections as a course of the formal politics by voting or being voted. This includes holding offices at the local, regional, and national levels for the administrative and executive branch of the government, joining and forming unions, associations and political parties, taking part in policy-making, and assuming responsibility for decision making. Persons with disabilities may participate in politics by working on disability or other social issues at an individual or family level, joining Disability Peoples' Organisations (DPOs), joining a political party or contesting for elections.²⁶

Under article 29 of the UNCRPD, political participation is guaranteed.²⁷ Moreover, it

²⁴ UNCRPD *Supra* Note 2 at article 20.

²⁵ UNCRPD *Supra* Note 2 at article 13.

²⁶ William Aseka Oluchina, "The RIGHT TO POLITICAL PARTICIPATION FOR PEOPLE WITH DISABILITIES IN AFRICA", 3 Afr. Disability Rts. Y.B. 309 (2015)

²⁷ Art 29 provides: 'States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake: (a) To ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, *inter alia*, by: (i) Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use; (ii) Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate; (iii) Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice; (b) To promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their

guarantees the right to political participation to every disabled person, including those of 'unsound mind'. Article 29 does not provide any limitations or restrictions, including voting and holding public administrative positions, as well as participation in policy and administrative positions.

(E) Right to be protected against violence, abuse and exploitation

Violence and abuse are serious problems for persons with disabilities, especially for women with disabilities, who are at greater risk than non-disabled persons. Women with disabilities tend to be more vulnerable to exploitation of various kinds, such as sexual harassment, domestic violence and exploitation in the workplace. They also tend to be relatively easy targets of sexual exploitation, particularly if they are mentally retarded. They are the easy prey for the exploitation within the family because of the relative isolation and anonymity in which women with disabilities live, the potential for physical and emotional abuse is high. At the same time, and because of their isolation, women with disabilities are likely to have fewer resources to turn to for help. The UNCRPD has recognized the increased vulnerability of persons with disabilities to abuse and exploitation by explicitly including the gender aspects of the freedom from exploitation, violence and abuse.²⁸

(F) Freedom from torture/cruel/degrading treatment/punishment

Article 15 proscribes "torture, cruel, inhuman, or degrading treatment, or punishment" while also adding a prohibition on medical and scientific experimentation without permission.²⁹ Focusing on prevention, Article 15 obliges States Parties to take "all effective legislative, administrative, judicial or other measures" to avert torture and other forms of mistreatment.³⁰

(G) Right to equal recognition before the law

Disability does not limit the rights of persons with disabilities to exercise their legal capacity, including the right to make decisions, to inherit property, or to obtain financial credit. In some cases, the state must provide support to assist persons with disabilities in making decisions and exercising their legal capacity. Article 12 of the UNCRPD stipulates that every person has the right to equal recognition before the law and it refers to the right to "enjoy legal capacity on an equal basis with others in all aspects of life". Legal capacity means having 'legal

participation in public affairs, including: (i) Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties; (ii) Forming and joining organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.'

²⁸ UNCRPD *Supra* Note 7 at article 16.

²⁹ UNCRPD *Supra* Note 2 at article 15(1).

³⁰ UNCRPD *Supra* Note 2 at article 15 (2).

standing' in being a holder of rights and 'legal agency' in the sense of being able to perform acts with legal effect.³¹ Such acts include making contracts, wills, voting, getting married, owning property and the like. It also means making lifestyle and health decisions that are respected by others.

The recognition of legal capacity is the foundation of current disability movement and is quintessential for a shift to right- based approach. .. Failure to recognize the autonomy and legal capacity of persons with disabilities heightens their vulnerability. For example, in the case of forced sterilizations, in the absence of recognition of legal capacity the consent and choice of disabled women will now be respected.

(H) Right to integrity

Article 17 of the UNCRPD recognizes that every person with disabilities has the right to be respected on an equal basis for the integrity of his or her physical and mental being. The right to integrity is basically the right about respecting the personhood of the individual and ensuring that person with disability is able to exercise his fundamental rights. Self-determination is an important issue for persons with disabilities. This right also ties with a number of other aspects relevant for disabled person. For example, in relation to health, it is significant in the context of right to choose, respect for consent, autonomy, etc. This right is also relevant in the context of protection from abuse. Thus, the recognition of the right to integrity specifically for persons with disabilities is necessary in relation to the guarantee of these other rights and entitlements.

Unlike most of the other Articles in the CRPD, there are no further details given as to obligations necessary to ensure this right, nor is there any guidance as to what it encompasses. It could, however, be viewed as developing limitations on certain practices such as seclusion and restraint and unbeneficial and overly intrusive treatment.³² The United Nations Special Rapporteur on Torture, Juan E. Méndez, in a Report to the United Nations Human Rights Council has called for "an absolute ban on all coercive and non-consensual measures, including restraint and solitary confinement of people with psychological or intellectual disabilities...in all places of deprivation of liberty, including in psychiatric and social care institutions".³³

³¹ Bernadette McSherry, Legal Capacity under the Convention on the Rights of Persons with Disabilities 20(1) *Journal of Law and Medicine* 22-27 (2012).

³² Bernadette McSherry, *Protecting the Integrity of the Person: Developing Limitations on Involuntary Treatment*, International Trends in Mental Health Laws 111-124 (Bernadette McSherry ed., Federation Press, 2008).

³³ United Nations Human Rights Council, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez* (2013), para 63 (available at http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.53_English.pdf as accessed on 20.01.2022).

(I) Right to privacy

The privacy of persons with disabilities must be protected, and people with disabilities have the right to conduct their lives privately. Article 22 of the UNCRPD guarantees the right to privacy. This protection has a wide ambit which includes privacy in family, home, correspondence, honour and reputation, and personal, health and rehabilitation information. All these facets of the right to privacy are significant in relation to persons with disabilities as Issues of both bodily and sexual privacy are important for them.

(J) Right to home and family

Society undervalues women with disabilities by considering them as non-sexual, not suitable for marriage and incapable as mother. Because of such misconception they are less likely to get married. If they do get married, generally it is a compromised arrangement. Moreover across the globe they have been forced or coerced by medical personnel to submit to permanent and irreversible sterilization procedures. It is Systemic prejudice and grave violation of human rights of women and girls with disabilities and can be described as acts of torture and cruel, inhuman, and degrading treatment. It results in widespread denial of their right to experience their sexuality, to have sexual relationships and to found and maintain families which may lead to extreme social isolation and lifelong grief.

Article 23 of UNCRPD mandates that States Parties to eliminate discrimination against persons with disabilities in all matters related to marriage, family, and parenthood on an equal basis with others. In addition, it states that persons with disabilities are entitled to determine where, how, and with whom they live as well as how many children they want and when to have them.

(K) Right to health

Persons with disabilities especially women, of all ages, often have difficulty with physical access to health services. Under Article 25 of the UNCRPD, the states parties are required to provide health care services that are gender sensitive to persons with disabilities, including health-related rehabilitation. In spite of the fact that it mentions the need to prevent secondary disabilities, the primary focus of the article is not on providing disability-specific/segregated health services, but rather on ensuring that persons with disabilities have access "to the same range, quality, and standard of free or affordable health care and programmes as other persons."³⁴

³⁴ UNCRPD *Supra* Note 2 at article 25(a).

(L) Right to Education

In the era of 21st century, the right to education has been considered to be one of the most valuable rights. Education is the most effective vehicle of social and economic empowerment. But millions of children with disabilities worldwide are deprived of the right to attend school because of inaccessible schools, inadequately trained teachers, or lack of awareness among parents and school staff. Disability-related exclusion from education provides life-long barriers to meaningful employment, health, and political participation for disabled people.

Article 24 of UNCRPD ensures the right of persons with disabilities to education. Article 24 focuses primarily on eliminating disability-based discrimination in educational settings and on providing inclusive education at all levels. It requires states parties to provide equal opportunities to persons with disabilities for inclusive education and lifelong learning, including access to schools at every level, including primary, secondary, tertiary and vocational. It also includes providing alternative modes of communication to persons with disabilities, providing reasonable accommodations, and educating professionals in education of these individuals.³⁵

(M) Right to Employment

Employment is a critical element of independent living but it is a major concern for persons with disabilities as most of the people with disabilities are either unemployed or under-employed. In its Article 27 the UNCRPD addresses the right of persons with disabilities to work, on an equal basis with others. It also prohibits discrimination based on disability in all employment-related matters, such as recruitment, hiring, and maintaining jobs, career advancement, and safe and health working conditions.³⁶

Furthermore, States Parties must provide reasonable accommodations in the workplace to persons with disabilities.³⁷ In the course of the negotiations, delegates from both the government and civil society noted that discrimination in employment contexts is one of the most pervasive and insidious forms of discrimination faced by persons with disabilities in many societies, and for this reason, Article 27 was considered vital to combating such discrimination.

³⁵ UNCRPD *Supra* Note 2 at article 24.

³⁶ UNCRPD *Supra* Note 2 at article 27(1) (a).

³⁷ As defined in CRPD Article 2, “‘Reasonable accommodation’ means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.”

(N) Adequate standard of living and social protection

It is common for "people with disabilities" living in high-income countries to be denied access to their economic, social, and cultural rights. There is a higher risk of poverty and a lower standard of living among women with disabilities compared to men with disabilities.³⁸ A vicious cycle of poverty and disability is more likely to catch disabled individuals, both of which are a cause and consequence of the other. As a result of this fact, UNCRPD focuses primarily on ensuring that persons with disabilities have equal access to adequate food, clothing, shelter (including public housing), clean water, retirement benefits and programmes, as well as social protection and poverty reduction programmes (particularly for women and girls with disabilities as well as older persons with disabilities).³⁹

(O) Right to participation in cultural life

All people, including those with disabilities, have the right to participate in play, amusement, relaxation, and recreation. According to UNCRPD, states must make all feasible efforts to ensure accessibility of cultural activities, such as film, theatre, museums and monuments (e.g., sign language, Braille, closed captioning). The state parties must also take all reasonable steps to ensure that cultural events are held in accessible locations for persons with disabilities.⁴⁰

V. CONCLUSION

Persons with disabilities are amongst the most marginalized and disadvantaged people in the world. They face multiple levels of discriminations in their life. They are less likely to be educated, employed and well-housed than almost any other population group. They have not only been invisible in international development frameworks but also in international human rights treaties. Until the adoption of UNCRPD, there was no legally binding international law that explicitly named persons with disabilities as requiring protection. As a human rights and development instrument, the UNCRPD encourages the full and effective participation and inclusion of "persons with disabilities" in society. It forms the engine for law reform in the States Parties, which is a new phenomenon.⁴¹ It can be concluded that today the world, with the initiative taken by the united nation organizations is turning a new leaf with regard to recognition of the human rights of the persons with disabilities. There is no denying that a

³⁸ Peter Blanck et al., "Defying Double Discrimination" *Law & Ethics*, Winter/Spring Georgetown Journal of International Affairs 99-100 (2007).

³⁹ UNCRPD *Supra* Note 2 at article 28.

⁴⁰ UNCRPD *Supra* Note 2 at article 30.

⁴¹ Gerard Quinn, *Resisting the 'Temptation of Elegance': Can the Convention on the Rights of Persons with Disabilities Socialise States to Right Behaviour?*, in *The UN Convention on the Rights of Persons with Disabilities European and Scandinavian Perspectives* 251 (Oddný Mjöll Arnardóttir & Gerard Quinn eds., Martinus Nijhoff Publishers, 2009)

paradigm shift has taken place in society's perception toward persons with disabilities, and UNCRPD has significantly contributed to their upliftment. However, much more needs to be done for changing attitudes of society and for effective implementation of their human rights on a national and international scale.
