



Using D.R.P.I.'s Tools to Monitor the Rights of Persons with Disabilities

The United Nations *Convention on the Rights of Persons with Disabilities* (C.R.P.D.)¹ has significant potential to improve the situation of people with disabilities, calling for the protection, promotion and fulfillment of the rights of persons with disabilities around the world. For the first time in a legally-binding international treaty, the C.R.P.D. explicitly recognizes and elaborates on the rights of persons with disabilities.²

Many states have now ratified the C.R.P.D. Beyond ratification there is a need for reporting on the current situation and to be able to undertake long-term tracking that shows if and how the situation is improving. For the C.R.P.D. to have a real and positive impact on the lives of persons with disabilities, State governments need to have a baseline against which they can measure how the situation is improving. They need to know the current situation with respect to the rights of persons with disabilities. This is the basis for an on-going process of monitoring and the on-going implementation of rights within the context of C.R.P.D. To ensure enduring progress toward full realization of rights, implementation efforts must be regularly monitored and assessed.

Monitoring involves the systematic collection and evaluation of comprehensive evidence about the extent to which rights are being protected, promoted and fulfilled. Working collaboratively with organizations of people with disabilities, human rights organizations, universities and government agencies around the world, the Disability Rights Promotion International (D.R.P.I.) project (www.yorku.ca/drpi)³ has developed tools and methods to facilitate disability rights monitoring as well as supporting materials and courses to build capacity in monitoring.

¹ U.N. Doc. A/61/49 (2006).

² Note that persons with disabilities, as members of the human family, have always been entitled to the rights guarantees contained in international human rights treaties of general application such as, for example, the *International Covenant on Civil and Political Rights* (ICCPR) (U.N. Doc. A/6316 (1966)), and the *International Covenant on Social, Economic and Cultural Rights* (ICESCR) (U.N. Doc. A/6316 (1966)). Moreover, the *Convention on the Rights of the Child* (CRC) (U.N. Doc. A/44/49 (1989)) specifically mentions children with disabilities in Articles 2 and 23. In this way, the C.R.P.D. does not create “new” rights for persons with disabilities. However, the C.R.P.D. marks the first time that all categories of rights have been elaborated on in the disability context in a legally binding U.N. treaty.

³ The D.R.P.I. project (www.yorku.ca/drpi) emerged from a seminar convened by Dr. Bengt Lindqvist, (U.N. Special Rapporteur on Disability 1994-2002) in Almåsa, Sweden, in November 2000. Twenty-seven experts from all regions of the world participated. Among them were representatives of all the major international disability organizations, the Office of the High Commissioner for Human Rights and the UN Secretariat, along with disability rights activists and other experts on human rights. The seminar participants examined possible measures to strengthen the protection and promotion of the human rights of people with disabilities. They acknowledged that it was well known that persons with disabilities face severe and ongoing violations of their rights on a daily basis but that there was a need to create tools and methods to systematically document, analyze and report on these violations through monitoring. They recommended the development of disability rights monitoring tools and the D.R.P.I. project was created to respond to this need.



Using D.R.P.I.'s Tools to Monitor the Rights of Persons with Disabilities

D.R.P.I.'s tools focus on collecting and assessing information from three main sources of information: (a) **law, policy and program measures** undertaken by governments (D.R.P.I. tool: law, policy and program template); (b) the **personal experiences of persons with disabilities** (D.R.P.I. tool: process to conduct qualitative and quantitative interviews with persons with disabilities) and (c) **societal attitudes** about disability and persons with disabilities (D.R.P.I. tool: process to monitor coverage and depiction of disability in the media). D.R.P.I. maintains that looking at a number of sources of information makes it possible to get stronger, evidence-based knowledge of the extent to which persons with disabilities either enjoy or are denied their rights. Alone, the data collected using each method tell only one piece of the story. Together, it provides a more complete picture. D.R.P.I.'s monitoring tools facilitate consideration of these sources of information, adopting a **holistic approach**. In this way, a triangulated view of the human rights situation of persons with disabilities is available.

Who can use the D.R.P.I. Tools?

The D.R.P.I. tools can be used by many groups including **State governments, disability organizations, national human rights institutions, Ombuds offices**⁴ and other **independent mechanisms** established under C.R.P.D., Article 33(2)⁵. Each of these groups have a fundamental role to play in disability rights monitoring.

How can these groups use the D.R.P.I. Tools to Monitor Rights Holistically?

D.R.P.I.'s tools are straightforward and flexible and do not depend on a technical understanding of legal and policy analysis. State governments, disability organizations, national human rights institutions, ombuds offices and other independent mechanisms can use the tools in a variety of ways to advance the rights of persons with disabilities.

⁴ Sometimes these offices are referred to as “ombud”, “ombudsperson”, or “ombudsman”.

⁵ C.R.P.D. Article 33(2) states : “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.” [emphasis added]



Using D.R.P.I.'s Tools to Monitor the Rights of Persons with Disabilities

Participation in Treaty Body State Reporting Processes:

The DRPI tools can be used to participate in the State Reporting process under C.R.P.D. Article 35 and other human rights instruments at the regional and international levels.⁶

- **State governments** can use D.R.P.I.'s tools to draft and present their **Initial and Periodic State Reports**.

The **law, policy and program template** developed by DRPI assists governments preparing their Initial Reports for treaty bodies to *collect* comprehensive information about the measures taken and to *assess* the effectiveness of these measures. Using the template, governments can identify gaps in legal and policy frameworks and assess the extent to which obligations under the given human rights instrument have been fulfilled. The template calls for the examination of national and local statistics, budget allocations, policy and research reports and input from key informants. An assessment is made about the extent to which the State's laws, policies and programs respect, protect and fulfill the general human rights principles found in Article 3 of the C.R.P.D. (i.e. dignity; autonomy; participation, inclusion and accessibility; non-discrimination and equality; and respect for difference). When drafting subsequent Periodic Reports, States can continue to use the template to *assess progress* toward meeting its obligations. The template allows states to easily identify areas where progress and/or regression has occurred.

The D.R.P.I. template is designed to gather information about all of the rights covered by the C.R.P.D. and also cross-reference related articles in other United

⁶ Other state reporting processes at the U.N. level include: Universal Periodic Review conducted by the Human Rights Council, Special Procedures (Special Rapporteurs, Special Representatives, Independent Experts), State Reporting to the Human Rights Committee, Committee on Economic, Social and Cultural Rights, Committee on the Elimination of Racial Discrimination, Committee on the Elimination of Discrimination Against Women, Committee Against Torture, Subcommittee on the Prevention of Torture, Committee on the Rights of the Child and Committee on Migrant Workers.



Using D.R.P.I.'s Tools to Monitor the Rights of Persons with Disabilities

Nations and regional human rights treaties.⁷ It is consistent with the Guidelines⁸ regarding State Reports issued by the Committee on the Rights of Persons with Disabilities (the Committee). The template can be used to focus on all of the rights covered by the C.R.P.D. and other human rights treaties or to focus on particular rights. It can also be used to collect information about an entire country, or to focus only on specific jurisdictions within a state.

Both the C.R.P.D. and the Committee's reporting Guidelines outline the clear obligation of States to ensure that persons with disabilities and disability organizations participate fully in the monitoring process.⁹ This can be achieved, in part, through extensive consultation and inclusion of persons with disabilities and their representative organizations as key informants when using the D.R.P.I. template. However, States can also support representative organizations of persons with disabilities to use D.R.P.I.'s **individual experiences monitoring tools to**

7

The other U.N. and regional treaties cross-referenced in the D.R.P.I. template are: American Convention on Human Rights, Protocol of San Salvador, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (U.N. Doc. A/39/51), Convention on the Elimination of All Forms of Discrimination Against Women (U.N. Doc. A/34/46), International Convention on the Elimination of All Forms of Racial Discrimination (U.N. Doc. A/6014), Convention on the Rights of the Child (U.N. Doc. A/44/49), European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols (Rome: 4.XI.1950), European Social Charter (Council of Europe – ETS no. 035), Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities (Organization of American States, AG/RES. 1608, 7 June 1999), International Covenant on Civil and Political Rights (U.N. Doc. A/6316) and the International Covenant on Economic, Social and Cultural Rights (U.N. Doc. A/6316).

⁸ *Guidelines on treaty-specific document to be submitted by states parties under article 35, paragraph 1, of the Convention on the Rights of Persons with Disabilities.* UN Doc. C.R.P.D./C/2/3. (Committee Reporting Guidelines)

⁹ See: C.R.P.D., Article 33(3): “Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process.”; C.R.P.D., Article 4(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.”; Committee Reporting Guidelines, paragraph 3 on pages 19-20: “The States Parties should report on: ... 3. Measures taken to involve civil society, in particular persons with disabilities and their representative organizations, including gender perspectives, in the monitoring process and the preparation of the report.”; and Note from the U.N. Secretary-General prefacing the Committee Reporting Guidelines, paragraph 3: “...States Parties should encourage and facilitate the involvement of non-governmental organizations, including organizations of persons with disabilities in the preparation of reports. Such constructive engagement on the part of these organizations will enhance the quality of reports as well as promote the enjoyment by all of the rights protected by the Convention. The reports should contain an explanation of the procedure used to consult with civil society and in particular with representative organizations of persons with disabilities and the measures taken to ensure that this process was fully accessible”.



Using D.R.P.I.'s Tools to Monitor the Rights of Persons with Disabilities

gather and analyze the lived rights experiences of girls, boys, women and men, of all ages and socio-economic backgrounds and who have different types of impairments. In this way, States can ensure that the voices of persons with disabilities are fully included in their reports and that the State Report is, in fact, comprehensive.

- **Disability Organizations** can use both the D.R.P.I. **law and policy and program template** and the **individual experiences monitoring tools** to collect and assess the information needed for Shadow Reports.¹⁰ The D.R.P.I. tools will facilitate efforts to highlight inaccurate, outdated and omitted data in State reports and to identify gaps in existing legal and policy frameworks.

The monitoring information collected and assessed using the D.R.P.I. **law, policy and programs template** and the **individual experiences monitoring tools** will also assist disability organizations to participate in other aspects of state reporting processes such as collaborating with governments to produce detailed and comprehensive State Reports, lobbying treaty body members to focus on particular issues when following up with states and trying to influence the recommendations made in the treaty body's concluding observations.

- **National human rights institutions, Ombuds offices** and other **independent mechanisms** can use the D.R.P.I. tools to participate in the State reporting process. Under Article 33(2) of the C.R.P.D. States are to establish one or more "independent mechanisms" with the responsibility "to promote, protect and *monitor implementation*" of the treaty. This is the first U.N. human rights treaty to assign a monitoring role to this type of body. The C.R.P.D. does not say whether these independent mechanisms will have a role in the Article 35 State Reporting Process.¹¹ Some possible roles for independent mechanisms in that process could include: contributing to the preparation of State Reports, writing an independent Shadow Report and supporting the participation and involvement of persons with disabilities and disability organizations. D.R.P.I.'s **law, policy and program template** and **individual experiences monitoring tools** would clearly be of assistance in carrying out any of these potential roles.

¹⁰ Sometimes these reports are referred to as "Alternative Reports" or "Parallel Reports".

¹¹ This will likely become clear with the rules of procedure and working methods of the Committee on the Rights of Persons with Disabilities are finalized.



Using D.R.P.I.'s Tools to Monitor the Rights of Persons with Disabilities

Working Toward On-going Positive Change Based on Facts:

In addition to participating in State Reporting processes under human rights treaties, State governments, disability organizations, national human rights institutions, ombuds offices and other independent mechanisms can use the information gathered with the D.R.P.I. **law, policy and program template** and **individual experiences monitoring tools** and **societal attitudes** in a variety of other ways to effect positive change. These include finding areas requiring legal and policy reform and working towards implementing needed changes. It also includes identifying best practices and raising societal awareness about disability discrimination and the need for common action to address it. Good inclusive monitoring that provides evidence-based information provides a way to develop needed, sustainable change that leads to the full participation of people with disability in society.

Disability Rights Promotion International
April 2010.

CONTACT INFORMATION:

D.R.P.I. Co-Directors: Bengt Lindqvist & Marcia Rioux

D.R.P.I. Coordinator: Rita Samson

Email: drpi@yorku.ca

Telephone : +1 416 736 2100 x. 20718

Fax: +1 416 736 5986

Address: York University, 4700 Keele St., 5021 TEL, Toronto, ON M3J 1P3

Website: www.yorku.ca/drpi