

General Obligations of the UN CRPD



Allgemeine Verpflichtungen der UN-Behindertenrechtskonvention (UN-BRK),

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Introduction to Article 4 CRPD



Encourages national law/policy reform and guides domestic implementation of the CRPD

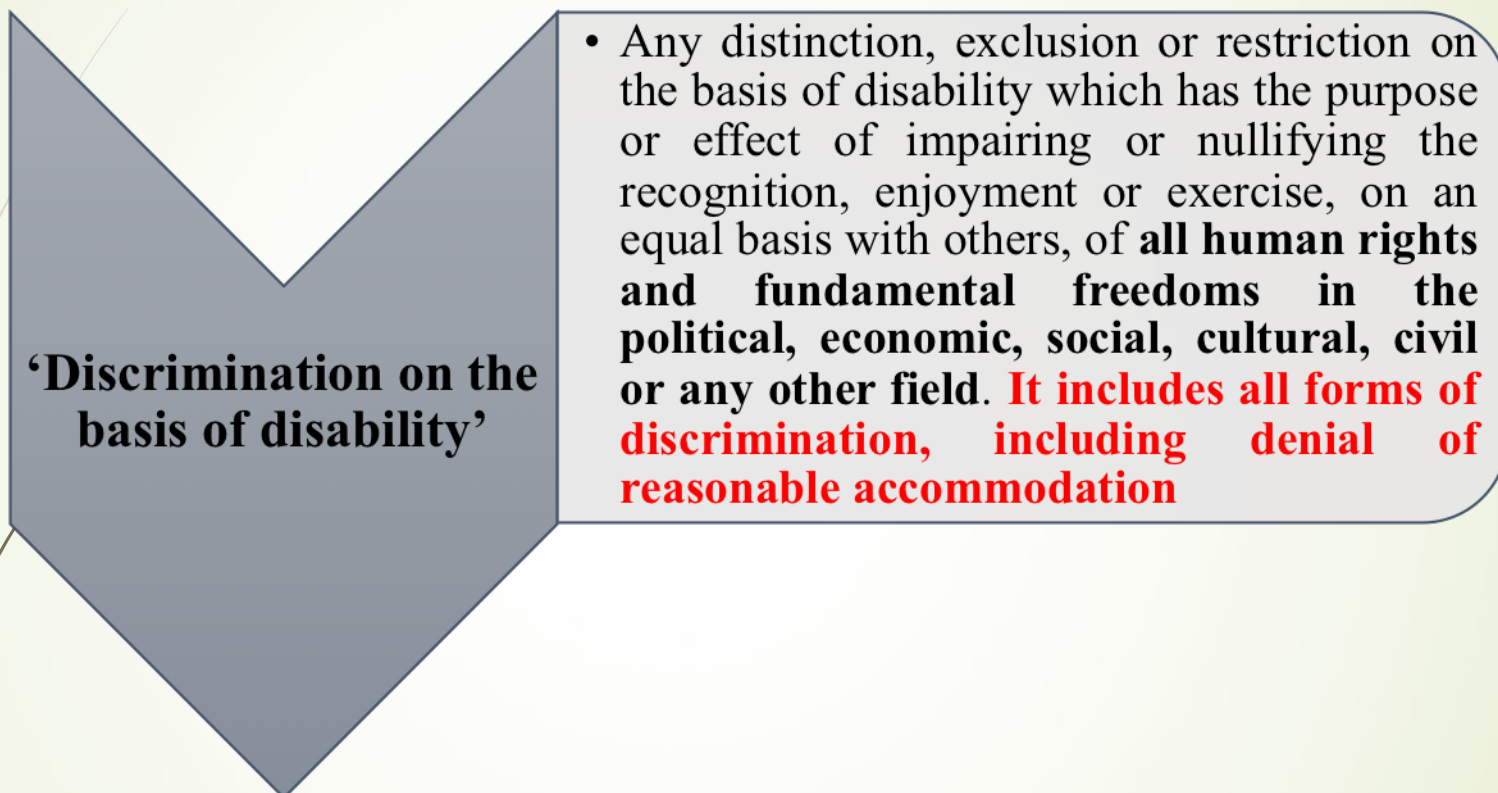
Contextualises the interpretation of the Convention's substantive provisions

Is more detailed than similar provisions in other human rights treaties

Article 4(1)(a): All Appropriate Measures



Article 4(1)(b): Modify and Abolish all Discriminatory Laws, Customs and Practices



‘Discrimination on the basis of disability’

- 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**

Discrimination on the Basis of Disability

Direct and indirect discrimination



The duty to reasonably accommodate



Harassment and instruction to discriminate

Discrimination based on past or perceived disability



Discrimination by association



Multiple and intersectional discrimination

The Duty to Reasonably Accommodate

- Reasonable accommodation is included in the right to non-discrimination

Article 2 CRPD - definition



Article 5(3) CRPD

The Duty to Reasonably Accommodate

Individual-oriented nature of the duty

Effectiveness of the modifications/duty to consult

Ex nunc duty: applicable from the moment it is requested

Disproportionate burden limitation

Article 4(1)(c): Disability Mainstreaming

- The rights of persons with disabilities should be included in disability-specific *and* non-disability policies and programmes
- The CRPD Committee has urged domestic authorities to mainstream a disability perspective in existing policies for protection from violence, abuse and exploitation [UN Doc. CRPD/C/CZE/CO/1, para. 35]
- The Committee has recommended that States Parties should mainstream disability in all legislation and policies on gender equality, and that a gender perspective should be mainstreamed in all legislation and policies on disability [UN Doc. CRPD/C/SVK/CO/1, para. 22]

Article 4(1)(d): Public authorities/institutions

Negative obligation:

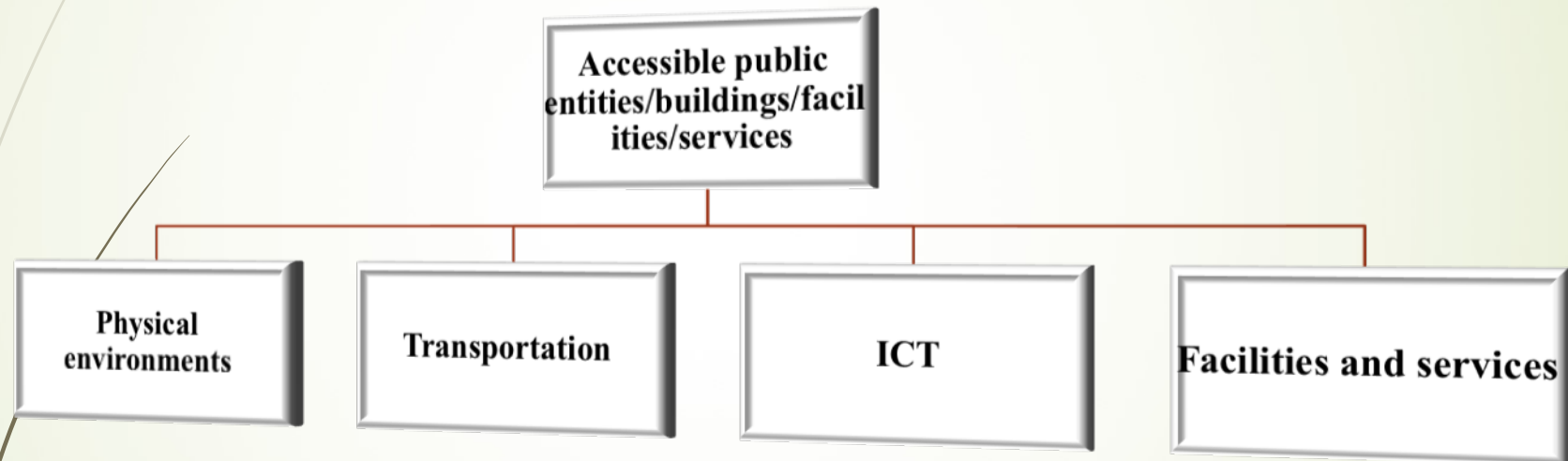
States Parties must refrain from engaging in any act or practice that is inconsistent with the CRPD

Positive obligation:

States Parties must ensure that public authorities and institutions act in conformity with the Convention

Article 4(1)(d): Accessibility

- Public authorities and institutions must comply with the specific obligations laid down in each of the substantive provisions of the CRPD, most notably the duty to provide reasonable accommodation and the accessibility obligation



Article 4(1)(e): Discrimination by private entities or individuals

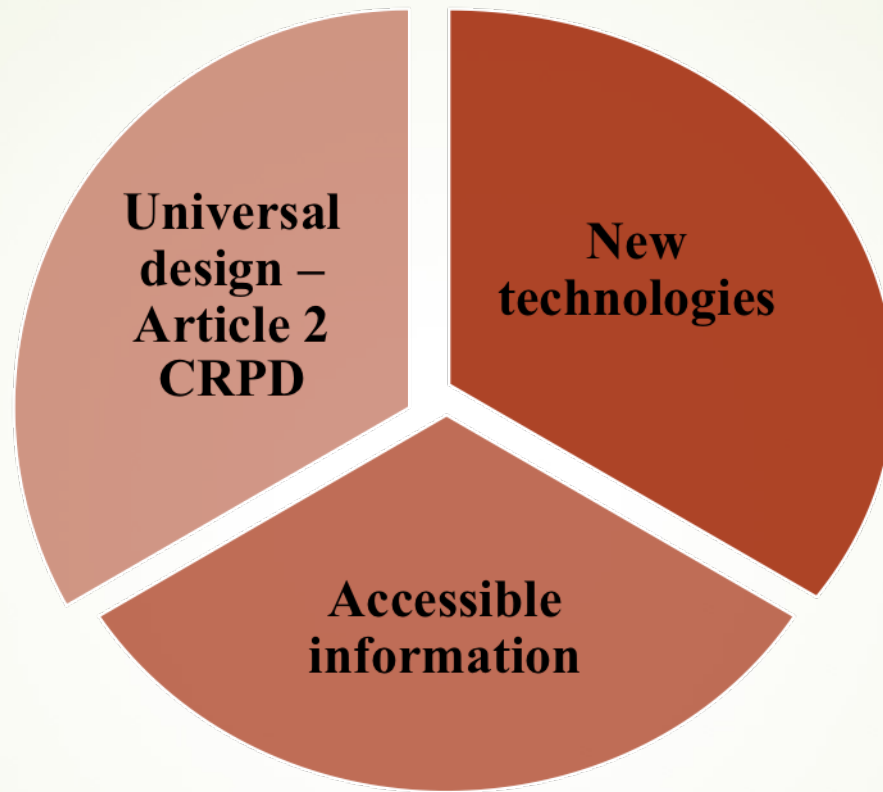
- Discriminatory acts against a disabled person by a private employer or private service provider (for example, transport providers, internet providers, shops, banks, etc.) are covered by the Convention's material scope
- Discriminatory conduct by one private individual against another arguably falls within the sphere of responsibility of States Parties to the CRPD

**Article
24(1)**

**Article
25(e)**

**Article
27(1)(h)
& (i)**

Article 4(1)(f), (g) and (h)



Article 4(1)(i): Training of Professionals


- States Parties are required to promote the training of professionals and staff, to ensure that they can provide the assistance and services guaranteed by CRPD rights in a disability-sensitive manner

Article 8(2)(d)


Article 20(c)

Article 24(4)

Article 4(2): Progressive Realisation



Distinction between immediate implementation (civil and political rights – including non-discrimination/reasonable accommodation) & progressive realisation (economic, social and cultural rights)



The obligation to invest the **maximum of available resources** refers to both the resources existing within a State and those available from the international community through international cooperation and assistance.

Article 4(2): Steps to be Taken

- ▶ States Parties should ensure adequate mechanisms to collect and assess relevant and suitably disaggregated data
- ▶ States Parties should formulate strategies, incorporating indicators and time-bound targets
- ▶ They should regularly monitor and assess progress made in the implementation of national plans and strategies
- ▶ States Parties should adopt the necessary laws and policies, and make adequate funds available to put the plans and strategies into practice
- ▶ States Parties should establish grievance mechanisms so that individuals can complain if the State is not meeting its responsibilities

Article 4(3): Consultation with and Involvement of Persons with Disabilities

A permanent consultative mechanism

(UN Doc. CRPD/C/ITA/CO/1
and UN Doc.
CRPD/C/CRI/CO/1)

National disability plans and the State reporting process

**Monitoring bodies -
Article 33(3) CRPD**

Article 4(4): Retrogressive and Restrictive Measures

- Nothing in the Convention should affect any provisions at the national level which are more appropriate for the realisation of the rights of persons with disabilities
- There should be no restriction on the rights contained in the Convention, nor should there be any derogation from those rights

Article 4(5): Federal States

- Article 5 CRPD confirms that the provisions of the Convention extend to all parts of federal States, without any limitations or exceptions
- The implementation of the CRPD in federal States may present difficulties, since various duties are set out in several pieces of legislation, which may not use the same terminology (definitions of disability, accessibility standards and different types of protection against discrimination across the various regions)



Concluding remarks

Challenges and Perspectives



- ❖ Reform of national laws and policies to ensure compliance with the CRPD
- ❖ Fragmentation in policy development in federal states
- ❖ Consistent interpretation: various duties set out in several pieces of legislation, which may not use the same terminology (e.g. definitions of disability, accessibility standards and different types of protection against discrimination)



Challenges and Perspectives

Ensure consistency when establishing cross-cutting CRPD obligations (such as the reasonable accommodation duty)

Ensure inclusion and participation of persons with disabilities at all levels – advisory councils (UN Doc. CRPD/C/AUT/CO/1, para. 9/10).

States Parties must set up adequate monitoring mechanisms (Article 33 – focal points within government and independent mechanisms)

Judicial remedies and sanctions for breach of the Convention

**THANK YOU
FOR YOUR ATTENTION**



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