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# COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES

Tentative steps as the Committee prepares review of first State report



Photo: André Thiel

From 4 to 8 October 2010, the Committee on the Rights of Persons with Disabilities (the Committee) met for its 4<sup>th</sup> session in Geneva. The session marked the beginning of the Committee's substantive work related to the examination of State reports. It undertook a preliminary consideration of the Tunisian State report and adopted its first List of Issues. The Committee's agenda also included a Day of General Discussion devoted to the theme of accessibility.

## INCREASED COMMITTEE MEMBERSHIP

Prior to the 4<sup>th</sup> session of the Committee session, in September 2010, the Conference of States Parties took place in New York. In accordance with Article 34(2) of the CRPD, upon the 80<sup>th</sup> ratification<sup>1</sup> elections were held to expand the Committee from 12 to 18 members. Of the 18 members of the Committee, 15 have disabilities, and eight are women. The following current members were re-elected: Mr Ronald McCallum (Australia), Mr Edah Wangechi Maina (Kenya), Mr Lotfi Ben Lallahom (Tunisia), and Mr German Xavier Torres Correa (Ecuador).

Newly elected members who have taken up their function as of January 2011 are: Ms Theresia Degener (Germany), Mr Hying Shik Kim (Republic of Korea), Mr Carlos Rios Espinosa (Mexico), Mr Gabor Gombos (Hungary), Mr Damjan Tatic (Serbia), Mr Stig Langvad (Denmark), Ms Silvia Judith Quang Chang (Guatemala), and Ms Fatiha Hadj Salah (Algeria).

While there were more closed sessions than open ones during the week, the Committee's opening session was predominantly devoted to hearing from non-governmental organisations (NGOs), including the International Disability Alliance (IDA), and other interested parties. IDA urged the Committee to continue engaging and consulting with disabled persons organisations (DPOs) in all aspects of its work. In particular, IDA referred to the disappointing decision made by the Committee not to hold a private session with DPOs and NGOs on the Tunisian report prior to commencing work on drafting and adopting the List of Issues to send to the Tunisian Government. Others, including Human Rights Watch, Blue Law and UNICEF, echoed the expression of regret.

To complicate matters, the Tunisian State report, submitted in June 2010 in Arabic, had only been made available in French one week before the commencement of the session and was not yet available in English. Several Committee members who are not fluent in Arabic or French were put at a significant disadvantage in considering the report and contributing to the compilation of a pertinent List of Issues.

In order to fill the gap presented by the lack of a private session with NGOs and DPOs, and the difficulty imposed by language, IDA held a side event early in the week. Committee members, NGOs, national human rights institutions and UN entities were invited to attend. The purpose of the side event was to discuss the Tunisian report and highlight areas of concern, which the Committee could focus on in its preliminary written exchange with the Tunisian Government.

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<sup>1</sup> France was the 80<sup>th</sup> State to ratify the CRPD on 2 February 2010.

During the event, IDA presented its analysis of the Tunisian report, which underlined areas of concern and elements of State practice that are not in line with the CRPD. Questions for inclusion in the List of Issues were also proposed. Committee members posed questions, and other NGOs and UN entities participated in the debate. The discussion largely centred on the lack of participation by Tunisian DPOs and NGOs in the process. Many Committee members wished to see information submitted by national DPOs and NGOs to obtain a clearer understanding of the local situation. To achieve this, NGOs requested private sessions to brief the Committee be held systematically and in a predictable manner, to allow NGOs and DPOs to plan their participation. It was also requested that State reports be available in at least English and French, well in advance of the session, as is the practice of other treaty bodies.

The List of Issues on Tunisia was adopted at the end of the session and the response of the Tunisian Government is expected by mid-January 2011.

It should be noted that while there is a Tunisian member of the Committee, Mr Lotfi Ben Lallahom, according to Rule 43(1) of the Committee's Rules of Procedure, 'a member shall not participate in any part of the consideration of a report submitted by a State party if she or he is a national of the State party concerned.' Mr Lotfi Ben Lallahom was present at IDA's side event and took the floor at the end of the discussion to thank IDA for organising the discussion. He confirmed that Tunisia welcomes the examination by the Committee in an effort to further policies for persons with disabilities in Tunisia.

## DAY OF GENERAL DISCUSSION ON ACCESSIBILITY

The Committee's Day of General Discussion in 2010 was devoted to accessibility. Accessibility is both a general principle and a stand-alone provision in the CRPD. As a general principle, it infuses each provision of the CRPD to ensure the rights inscribed therein are made accessible in practice. As a stand-alone provision, Article 9 recognises an accessible environment is instrumental to the realisation of rights of persons with disabilities, to independent living and full participation in all areas of life. It also requires States Parties to take appropriate measures to ensure access to the physical environment, transportation, information, communications and services. The discussions were split into three sessions focusing on the physical environment, information and communication, and best practices in the promotion of accessibility respectively.

There was much debate on how to implement accessibility in practice. This led to a series of questions, including how to measure accessibility, how to monitor it, to what extent accessibility is qualified by the requirement of 'progressive realisation', how to build capacity within government and the private sector, how to ensure the gender component is integrated, and how to ensure accessibility for children with disabilities.

Another challenge recognised in discussions throughout the day concerned the fact that 80 percent of the world's population of persons with disabilities live in developing countries. This highlighted the necessity to adopt low cost and cost effective options to implement accessibility. Article 32 of the CRPD on international cooperation was repeatedly referred to as providing a means to ensure development and technical assistance leading to improvements in accessibility. Committee members called on the World Bank and other funding and development agencies to play a key role in making accessibility a reality through their projects.

The discussions concluded with the agreed understanding that accessibility is the cornerstone of implementation of the rights of persons with disabilities. As a way forward, the Committee welcomed and took note of several ideas exchanged during the day to better assist States Parties, such as the development of a tool to monitor accessibility, the creation of a guidebook, and the compilation of good practices to be shared amongst States Parties and other actors. It is expected the Committee, with the support of OHCHR, will take the first steps to realise these endeavours.

## Decisions and future sessions

The Committee closed its 4<sup>th</sup> session on 8 October 2010. The last meeting was public and served to announce the decisions taken by the Committee that week.

## Participation modalities for NGOs including briefings

The Committee agreed to set aside time early in each session for NGOs to make comments or statements, and encouraged NGOs to hold side events or briefings on States under examination. The Committee also decided to submit a request in its report to the General Assembly in 2011 to obtain funding for pre-sessional working groups, and to prolong sessions from one week per session to two weeks, still held biannually. If the requests are accepted, the Committee will have more time to hold private meetings with DPOs and NGOs prior to adopting the List of Issues, and while preparing its constructive dialogues with State delegations during the examination.

## Working methods

The Committee provided insight into how it will review States. Tunisia will be reviewed in the Committee's 5<sup>th</sup> session, in three meetings of three hours each, over a period of two days. The introduction of reports by the State delegation will be limited to 20 to 30 minutes, to be followed by the country rapporteur's presentation. Questions from other Committee members will be presented according to clusters. Such a structure ensures there will be more time and opportunity devoted to the dialogue between the Committee members and the State delegation, to come to a better understanding of the situation of persons with disabilities in the country and the state of implementation of the CRPD. The names of country rapporteurs will be made public, which is positively received

by civil society. It will facilitate organisations to target the relevant Committee member when communicating with the Committee. Circumstances permitting, the Committee said it will deal with State reports in chronological order.

### Specific information on upcoming sessions

The dates for the 5<sup>th</sup> and 6<sup>th</sup> session of the CRPD Committee were announced; they will take place respectively from 11 to 15 April and from 19 to 23 September.

Ms Amna al-Suwaidi of Qatar was appointed as country rapporteur for Tunisia, while Mr Germán Xavier Torres Correa of Ecuador was appointed as country rapporteur for Spain. The Committee announced its decision to draft a List of Issues on Spain during its 5<sup>th</sup> session, and to hold a dialogue with Spain during its 6<sup>th</sup> session. It was decided the Committee will invite the General Assembly's Special Rapporteur on disability to its 5<sup>th</sup> session.<sup>2</sup>

<sup>2</sup> The mandate of the Special Rapporteur on disability was not established by and does not fall within the supervision of the Human Rights Council, but was created by the *UN Standard Rules for the Equalisation of Opportunities of Persons with Disabilities*, adopted by the General Assembly in 1993. The Special Rapporteur reports yearly to the Commission for Social Development of the Economic and Social Council. Mr Shuaib Chalken of South Africa has been Special Rapporteur on disability since 2009.

The Committee announced the decision taken by the Conference of States Parties in September 2010 that the 4<sup>th</sup> Conference of States Parties will be held from 7 to 9 September. While no elections are foreseen, the Conference of States Parties to the CRPD addresses substantive issues and is an opportunity to engage UN entities regarding implementation of the Convention. Unlike other treaties, Article 40 of the CRPD includes the innovation for the Conference of States Parties 'to consider any matter with regard to the implementation of the present Convention'.

Finally, the Committee announced Professor Ronald McCallum and Ms al-Suwaidi would join the Working Group on Article 12 on 'equal recognition before the law'. The article, often referred to as the 'heart of the Convention', guarantees that persons with disabilities can exercise their legal capacity on an equal basis with others. Following the Day of General Discussion of the Committee's 2<sup>nd</sup> session in 2009, the group is drafting a General Comment on this provision.

### Information on the IDA

The International Disability Alliance (IDA) is the network of global and regional organisations of persons with disabilities (DPOs) currently comprising eight global and four regional DPOs. With member organisations around the world, IDA represents the estimated 650 million people worldwide living with a disability, the largest and most frequently overlooked minority group. IDA promotes the effective implementation of the Convention on the Rights of Persons with Disabilities, as well as compliance with the CRPD within the whole UN system, including in the work of other treaty bodies.

For more information on IDA and its activities: [www.internationaldisabilityalliance.org](http://www.internationaldisabilityalliance.org)

### Facts about the Committee (current as of January 2011)

Number of members:	18 members as of January 2011
Treaties it covers:	Convention on the Rights of Persons with Disabilities; Optional Protocol to the Convention on the Rights of Persons with Disabilities
Ratifications:	97* (CRPD), 60 (Optional Protocol)
Signatories:	147 (CRPD), 90 (Optional Protocol)
States Reports received from:	Argentina, Australia, Austria, China, Hungary, Paraguay, Peru, Spain, and Tunisia
Timetable for consideration of State Reports:	5 <sup>th</sup> session – Tunisia 6 <sup>th</sup> session – Spain

\* The European Union officially ratified the CRPD on 23 December 2010; it is the first time an intergovernmental body has become a party to an international human rights treaty.

For more information on how to engage with the CRPD Committee, please contact Victoria Lee, IDA Secretariat: [vlee@ida-secretariat.org](mailto:vlee@ida-secretariat.org) ■