

## VOICES FROM THE FIELD

### Can the implementation of the Sustainable Development Goals (SDGs) be achieved without addressing disability rights?<sup>i</sup>

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The last few years have seen a huge amount of effort focused on promoting the inclusion of disability rights in the new Sustainable Development Goals (SDGs) and their associated targets. Some notable achievements in the 17 goals must be acknowledged. These include explicit references to disability in five separate Goals, namely: Goal 4 on education; Goal 8 on employment; Goal 10 on reducing inequality; Goal 11 on inclusive cities; Goal 17 on the means of implementation (data); and in the ‘Follow-up and review’ disaggregation of data (see Table 1 below).

*Table 1: Explicit references to disability in the SDGs*

**Goal 4, targets 4.5 and 4(a)**

‘to ensure equal access to all levels of education and vocational training; as well as build and upgrade education facilities that are disability-sensitive and safe’.

**Goal 8, target 8.5**

‘to ensure achievement of full and productive employment and decent work for all including persons with disabilities and equal pay for work of equal value’.

**Goal 10, target 10.2**

‘to empower and promote economic inclusion of all, irrespective of disability status’.

**Goal 11, targets 11.2 and 11.7**

‘to provide access to safe, affordable, accessible and sustainable transport systems for all, notably by expanding public transport, with special attention to the needs of persons with disabilities; and provide universal access to safe, inclusive and accessible, green and public spaces, particularly for persons with disabilities’.

**Goal 17, target 17.18**

‘to increase significantly the availability of high-quality, timely and reliable data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts’.

**So what next?**

The UN Secretary General Ban Ki-Moon rightly pointed out that ‘The true test of commitment to Agenda 2030 will be implementation’. Needless to say, the implementation of the new development agenda must be firmly anchored in human rights if we are to achieve its goals. Why? Because the SDGs are political and represent strong international commitment, but in practice are voluntary and not legally binding. They are unenforceable and not governed by international law, they lack accountability mechanisms and can be neglected or rejected. In addition, Agenda 2030 is time bound and will run for 15 years, whereas human rights apply to everyone, everywhere and are for life! The duty bearers of human rights are held accountable by reporting on the implementation of international treaties through independent UN mechanisms. The vulnerability of voluntary global agreements like Agenda 2030 has been highlighted most recently by President Trump of the USA who withdrew support of the UN Paris Agreement on climate change.

If the implementation of the SDGs are not fulfilled for the estimated 1 billion persons with disabilities (WHO and World Bank, 2011)<sup>ii</sup>, then the SDG targets will not be met. The global challenge will be firstly to include persons with disabilities in the data collection and analysis mechanisms, and secondly, including those ‘harder to reach’ persons with disabilities who face multiple discrimination such as women, indigenous people, refugees, asylum seekers, older people, those living in rural and remote areas, or those hidden from view in institutions. The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) is one of nine<sup>iii</sup> core human rights treaties that build on the Universal Declaration of Human Rights to guarantee fundamental freedoms for all. If those countries<sup>iv</sup> that have ratified the Convention fulfil their obligations, this will in turn greatly support the implementation of the SDGs. Inclusion in communities, participation in all aspects of life, equality of opportunity, living with dignity and with an adequate standard of living are just some of the core obligations of the Convention.

Thus, article 9 of the Convention on accessibility relates directly to Goal 11 on access to transport, green and public spaces. The Convention’s article 24 on education and article 27 on employment links directly to Goal 4 on equal access to education and vocational training. Article 28 of the Convention on ensuring an adequate standard of living and social protection links to Goal 10 to empower and promote economic inclusion of all, irrespective of disability

status. Statistics and data collection, article 31 of the Convention, is inextricably linked to Goal 17, to increase significantly the availability of high-quality, timely and reliable data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts. Finally, voice, agency, participation and inclusion in the entire process of implementing and monitoring of the 2030 Agenda and the SDGs, must be undertaken in close cooperation and involvement with organisations of persons with disabilities, which are included in the text of articles 4 (3) and 32 and 33 of the Convention and Goal 17 of the SDGs.

Human rights are clearly recognized in international and national law- realizing them is a legal obligation. The UNCRPD and other core human rights treaties remain the key instruments for advancing human rights, and in combination with the SDGs, provide tools to hold States accountable for both poverty elimination and upholding rights. The Chairs of all the human rights treaty bodies called for human rights to be central to the SDGs during the negotiating processes.<sup>v</sup>

But what about countries who have not ratified the Convention on the Rights of Persons with Disabilities? How can we hold those countries to account to advance disability rights? And although the Convention is legally binding, there are few sanctions that apply to States or the private sector who do not fulfil their obligations to uphold human rights and fundamental freedoms for persons with disabilities.

### **The Human rights-based approach (HRBA)**

In 2003 the UN adopted a ‘Common Understanding’<sup>vi</sup> of a rights-based approach to development and programming. The purpose was to ensure that UN agencies, funds and programmes apply a consistent Human Rights-Based Approach to common programming processes at global, regional, and country levels. Since then, many non-governmental organisations have also adopted a HRBA. The Statement of Common Understanding<sup>vii</sup> specifically refers to:

1. All programmes of development co-operation, policies and technical assistance should further the realisation of human rights (including the Convention on the Rights of Persons with Disabilities).
2. Human rights standards contained in, and ‘principles’ derived from international human rights instruments must guide all development cooperation and programming in all sectors and in all phases of the programming process.
3. Development cooperation contributes to the development of the capacities of ‘duty-bearers’ (States, private sector etc.) to meet their obligations and/or of ‘rights-holders’ (persons with disabilities) to claim their rights. For example, building the capacity of, and empowering rights holders, would ensure persons with disabilities are aware of their

entitlements, understand the obligations of duty bearers, whether State or private sector, and demand their rights are upheld<sup>viii</sup>.

Human rights principles guide all programming in all phases of the programming process, including assessment and analysis, programme planning and design (including setting of goals, objectives and strategies), implementation, monitoring and evaluation. Among these human rights principles are: universality and inalienability; indivisibility; inter-dependence and inter-relatedness; non-discrimination and equality; participation and inclusion; accountability and the rule of law (see Table 2 for more information).

*Table 2: Unpacking some 'principles' of human rights based approaches (HRBA)*

- Express application of the international human rights framework: All people everywhere in the world are entitled to human rights, others cannot take them away – this makes them *universal and inalienable*. Human rights are *indivisible*. Whether civil, cultural, economic, political or social rights, they all have equal status as rights, and are not hierarchical.
- The realization of one right often depends, wholly or in part, upon the realization of others. For instance, realization of the right to health may depend, in certain circumstances, on realization of the right to education or of the right to information. This makes them *inter-dependent* and *inter-related*.
- *Non-discrimination and equality* mean ensuring that States recognise that everyone is equal before the law and entitled to equal protection and benefit of the law without discrimination. Certain groups who are most at risk of discrimination must be prioritised when ensuring all rights are upheld).<sup>ix</sup>
- *Participation and inclusion* ensures that persons with disabilities are meaningfully involved in decision-making that affects their lives, especially in relation to poverty reduction programmes, and in turn the SDGs.
- *Accountability and the rule of law* includes, for example, the examination of States and their obligations to appoint an independent monitoring body to promote, protect and monitor implementation of the UNCRPD.<sup>x</sup>

### **Mutually reinforcing**

Joining the dots of international frameworks provides greater chances of eliminating poverty and ensuring development is sustainable. Human rights and the SDGs can be implemented in a mutually reinforcing manner, and human rights can strengthen efforts to achieve the SDGs.

The implementation of the SDGs can benefit from harnessing the mobilizing potential of human rights discourse and building participatory and empowering strategies on the basis of civil and political rights. For example, the Convention expressly states that persons with disabilities must be meaningfully and actively involved in decision-making processes that affect their lives<sup>xi</sup>. Their involvement will ensure that projects and programmes are designed, implemented and monitored to achieve the best outcomes for those people directly affected. Achieving the SDGs will require sustained political pressure, broad popular support, and effective service-delivery mechanisms, but ones that meaningfully involve persons with disabilities. Such efforts are complemented by human rights processes and institutions that strengthen transparency and accountability processes for the achievement of the SDGs. At a national level these include courts, national human rights institutions and informal justice systems. At an international level, there are accountability mechanisms such as treaty bodies which are independent expert Committees that oversee compliance by States with their international human rights treaty commitments and monitor implementation of treaties, including the UNCRPD. The independent monitoring Committee on the Rights of Persons with Disabilities has recently issued recommendations<sup>xii</sup> on the implementation of the SDGs. The Committee has constructive dialogues (examinations) with States parties to the Convention, and as a result identifies areas where it has concerns about the rights of persons with disabilities and then produces recommendations on key areas such as health, education, employment, accessibility, inclusion and international cooperation. All these areas are directly relevant for identifying, implementing and reviewing progress towards achieving the SDGs. Many international treaty bodies also have the power to receive individual or collective complaints of human rights violations, including the Committee on the Rights of Persons with Disabilities. States parties receive recommendations from the Committee on how to address violations and ensure they do not reoccur<sup>xiii</sup>. Some complaints and/or inquiries may be relevant to the achievement of the SDGs in particular countries, and as such can be another important monitoring tool.

For those countries who have ratified the Convention, their requirement to report periodically on their progress to implement the UNCRPD at national and international levels could provide ongoing information useful for contextualizing the SDGs and targets to the specific circumstances of individual countries. This information alongside the reports of the United Nations Special Procedures<sup>xiv</sup> such as Independent Experts, Special Rapporteurs and Working Groups who are mandated to carry out thematic or country-specific work- including on issues at the heart of the SDGs, such as education, food, health and the right to development- are essential monitoring tools. Information in these thematic reports can be used to assess if the SDGs are indeed being fulfilled for persons with disabilities. In addition, many human rights resolutions on civil and political rights and on economic and social rights (such as on the right to safe drinking water and sanitation or on human rights and extreme poverty) contain components relevant to the SDGs. These, combined with expert reports, can provide further insights into the specific areas that need to be targeted in particular countries in order to

achieve the SDGs.

### **Non-state actors**

The role of non-state actors as stakeholders in engaging with the implementation of both human rights and the SDGs is crucial. Non-state actors include civil society organisations, individuals, corporations, armed groups, international financial institutions, development actors, academics, trade unions, faith groups and philanthropists among others. The importance of multi-stakeholder engagement lies at the core of the working methods of the Committee on the Rights of Persons with Disabilities. The participation of organisations of persons with disabilities and other civil society actors in the work of the Committee, keeps the Expert members in touch with the reality on the ground, their voices keep them accountable in regard to commitments, and also reminds its Expert members of what is at stake. National Human Rights Institutions and regional organizations are also important contributors to the Committee's work and are essential for ensuring effective implementation on the ground and follow-up to commitments by States. As with human rights, it is essential that the SDGs are anchored in national policies. Those policies in relation to all the SDG goals can be monitored in terms of practical application, and also determined to assist in reducing poverty or act as barriers. For example, the Committee recommended to the European Union:

The Committee recommends that the European Union adopt a harmonised policy on disability-inclusive development and establish a systematic approach to mainstream the rights of persons with disabilities in all European Union international cooperation policies and programmes, to appoint disability focal points in related institutions, and take the lead in implementation of disability-inclusive 'Sustainable Development Goals' (UN, 2015)

Thus, the jurisprudence of the Committee on the Rights of Persons with Disabilities, along with other eight core human rights treaty bodies, such as Committees on the Rights of the Child, Elimination of all forms of Discrimination Against Women etc. could provide critical independent information to identify key areas where the SDGs may not be implemented for persons with disabilities.

### **Key actions for meaningful implementation of the SDGs**

If the SDGs are going to include persons with disabilities in their implementation, and if the SDGs are to be aligned to international human rights norms and standards, the following actions outlined below, would need to occur. It would be wholly dependable on Member

States to take responsibility for these actions. Civil society has demonstrated considerable advocacy wins with the inclusion of persons with disabilities in some of the Sustainable Development Goals, but momentum must be maintained to ensure indicators, data, policies and practice include persons with disabilities. If organisations of persons with disabilities want to claim the SDGs and make sure ‘no one is left behind’, then it follows that enforceable rights, accountability mechanisms and sustainable strategies must be used. The human rights framework offers a relatively objective and comprehensive baseline for legal empowerment and accountability of all relevant stakeholders to help ensure that the SDGs are not only reached but that the achievements are sustained.

**Minimum actions required by Member States:**

- Where possible, align the 17 Sustainable Development Goals with human rights by harmonizing SDG targets and indicators with the core human rights standards<sup>xv</sup>, for example those of the Convention on the Rights of Persons with Disabilities. This includes ensuring that the targets and indicators effectively correspond to all obligations, that efforts are adequately directed towards persons with disabilities. The UNCRPD also sets out minimum standards of service delivery to ensure rights are realised.
- Use the UNCRPD as an analytical lens by using its core principles to specifically address the barriers to participation, poverty and inequality that persons with disabilities face across and within countries.
- Adopt a human rights-based approach to empowerment and participation in target-setting, policymaking and implementation. In order to create the conditions for effective participation and good governance, civil and political rights must be effectively respected.
- Prioritize rights by making policy choices and resource-allocation decisions within a human rights framework. SDG-related policies should respect, promote and fulfil human rights.
- Provide adequate resources for implementation- lessons learned from gender budgeting can be applied to disability rights budgeting and sufficient resources should be provided to reach human rights-consistent goals.

In conclusion, we must ensure that human rights concerns are and remain at the heart of future steps towards implementation of the 2030 transformative Agenda. If they are ignored, or partially used, then we will leave many people behind, including persons with disabilities. We must set the bar as high as we can, have human rights and fundamental freedoms as our goals, our aspirations and our guiding compass. Quick economic development wins may satisfy some, but equality, freedom and dignity may take more time.

## Notes

<sup>1</sup> This article has been adapted from the Office of the High Commissioner for Human Rights publication 'Claiming the Millennium Development Goals: A human rights approach' (OHCHR, 2008).

<sup>2</sup> WHO and World Bank (2011).

<sup>3</sup> The nine treaties address economic, social and cultural rights, civil and political rights, the elimination of racial and gender discrimination, protection against torture and forced disappearance and the rights of women, children, migrants, persons with disabilities.

<sup>4</sup> See <https://www.un.org/development/desa/disabilities/> for a list of those countries ratified.

<sup>5</sup> <http://www.ohchr.org/Documents/HRBodies/TB/AnnualMeeting/JointStatementChairsMeetingMay2013.doc>

<sup>6</sup> A United Nations Statement of Common Understanding on Human Rights-Based Approaches to Development Cooperation and Programming (the Common Understanding) was adopted by the United Nations Development Group (UNDG) in 2003.

<sup>7</sup> See <http://hrbportal.org/the-human-rights-based-approach-to-development-cooperation-towards-a-common-understanding-among-un-agencies>

<sup>8</sup> See UN Convention on the Rights of Persons with Disabilities: Article 8 and 33 (3).

<sup>9</sup> UN Convention on the Rights of Persons with Disabilities, article 5 (1) and 5 (4).

<sup>10</sup> See UN Convention on the Rights of Persons with Disabilities, article 33 (1) and 33 (2).

<sup>11</sup> UN Convention on the Rights of Persons with Disabilities, 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'.

<sup>12</sup> See sessions 15 and 16 of the Convention Committee: [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/SessionsList.aspx?Treaty=Convention](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/SessionsList.aspx?Treaty=Convention)

<sup>13</sup> See <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/Tablependingcases.aspx>

<sup>14</sup> See <http://www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx>

<sup>15</sup> For further information see the work of the Danish National Human Rights Institution: <http://sdg.humanrights.dk/>

## References

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