

CRPD process – implementation and monitoring

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Overview

- General concepts, CRPD text and civil society participation, in national and international monitoring
- Guest lecture planned for next week on national level advocacy had to be cancelled. Hoping to find replacement guest lecturer or otherwise provide concrete examples of implementation and monitoring/enforcement.

Human rights treaties in national law

- Human rights treaties double-facing – international law and national law
 - National law contrary to treaty does not excuse failure to comply (international law)
 - States develop various doctrines to limit direct application of international law in their national law and courts (national law)
 - Monism/dualism – what is required for international law to be effective in national law?
 - Desirability of law reform even if courts can apply treaties directly

CRPD on national implementation and monitoring

- Articles 1-4 General Obligations
 - Definitions, social model definition of disability
 - Law reform, repeal of discriminatory laws/practices
 - Administrative and ‘other’ measures/ access to justice
 - Obligations to address discrimination by private actors
 - Article 4.3 close consultation/active involvement of PWD through representative organizations
- Obligations in Articles 5-30 related to specific rights
- Articles 31-33 specific obligations
 - Data collection and international cooperation
 - Institutional mechanisms
 - Focal point(s) for implementation
 - Independent monitoring mechanism(s): [Paris Principles](#)
 - DPO involvement in monitoring (national and international)
 - Article 16.3 monitoring services and facilities to prevent abuse

Process and participation at national level

- Focal points and others responsible for CRPD implementation
- Actions contrary to CRPD (e.g. mental health acts)
- Independent monitoring mechanism/ national human rights institution
- Civil society projects for litigation, law reform proposals, shadow reporting, complaints to international human rights mechanisms
- DPO advocacy/ user/survivor movement as DPO/ independent activists

International monitoring

- What does it mean to say that international human rights treaties are law?
 - Enforcement is limited
 - Monitoring mechanisms viewed in varying ways by different states – conceding authority/denying authority
 - Complaints and inquiry procedures quasi-judicial ‘decisions/views’
 - General Comments viewed as authoritative by virtue of Committee being in best position to establish universal interpretation
 - Concluding Observations on State Party reports

CRPD on international monitoring

- Articles 34-39, Committee of Experts – establishment, consideration of state party reports, cooperation with other bodies
- Article 40 – Conference of States Parties – promotional role complementary to Committee’s interpretive role
- Optional Protocol – communications (complaints) and inquiry procedure
- [Rules of Procedure](#) and [Working Methods](#) – the latter is most concrete description of how Committee actually works
- See also [Guidelines for DPO participation](#) and more process materials, on [CRPD Committee website](#)

Shadow reporting

- Shadow report (alternative/parallel/civil society/NGO report)
- Relating national to international level – educate treaty body, hold government accountable
- Initiating complaints and inquiries
- Other treaty bodies and Universal Periodic Review
- Other complaints mechanisms – including [Special Procedures of Human Rights Council](#), and regional human rights courts and commissions
 - [European Court of Human Rights](#)
 - [Inter-American Court of Human Rights/ and Commission](#)
 - [African Commission on Human and People’s Rights](#)
 - [ASEAN Intergovernmental Commission on Human Rights](#) (?)

Global advocacy by civil society

- Participation in days of general discussion, consultations on general comments, consultations on thematic reports by Special Rapporteurs and OHCHR, side events, etc.
- Expert meetings
- Panels at COSP, Human Rights Council, etc.

Assignment

- Requires your own investigation through search engines
- Take the time you need, between now and the final session of class on June 21
- Good luck, looking forward!