WHITE PAPER

ON THE

RIGHTS OF PERSONS WITH DISABILITIES

Approved by Cabinet on 9 December 2015

“Everyone is equal before the law

and has the right to equal protection and benefit of the law.

Equality includes the full and equal enjoyment of all rights and freedoms.

To promote the achievement of equality, legislative and other measures designed to protect or advance persons or categories of persons, disadvantaged by unfair discrimination may be taken.”

The Constitution of the Republic of South Africa, 1996

FOREWORD BY THE MINISTER

'Human dignity cannot be fully valued or respected unless individuals are able to develop their 'humanness' to the full extent of its potential. Each human being is uniquely talented. Part of the dignity of every human being is the fact and awareness of this uniqueness. An individual's human dignity cannot be fully respected or valued unless the individual is permitted to develop his or her talents optimally.'

Constitutional Court, 1996

The National Development Plan released in 2012 reconfirms the founding statement of the Freedom Charter, namely that South Africa belongs to all who live in it. The National Development Plan envisages a country which, by 2030, has eliminated poverty and reduced inequality; a "*country wherein all citizens have the capabilities to grasp the ever-broadening opportunities available*."

We therefore seek to create a non-sexist, discrimination-free, equitable and inclusive society that protects and develops the human potential of its children, a society for all where persons with disabilities enjoy the same rights as their fellow citizens, and where all citizens and institutions share equal responsibility of creating such a society.

The WPRPD is aligned with the disability-inclusive Sustainable Development Goals, adopted by the United General Assembly in September 2015.

This WPRPD is intended to accelerate transformation and redress with regard to full inclusion, integration and equality for persons with disabilities. We call on all stakeholders to take responsibility for ensuring that the policy directives of this WPRPD are implemented.

We believe that the WPRPD and its Implementation Matrix will offer both the public, private and civil society sectors a tangible platform to do things differently to expedite the process of improving the quality of life of persons with disabilities and their families.

Ms BATHABILE DLAMINI, MP
MINISTER OF SOCIAL DEVELOPMENT

OVERVIEW BY THE DEPUTY MINISTER

The foundation for this White Paper on the Rights of Persons with Disabilities (WPRPD) was laid by socio-political activists with disabilities, who, after an extensive community-based consultative process, adopted the Disability Rights Charter of South Africa in 1992. This Charter, founded on the principles enshrined in the 1955 Freedom Charter, informed, and continues to inform, the promotion and protection of the rights of persons with disabilities in South Africa.

This WPRPD:

- Updates South Africa's 1997 White Paper on an Integrated National Disability Strategy (INDS),
- Integrates obligations of the UN Convention on the Rights of Persons with Disabilities (UNCRPD) and in the Continental Plan of Action for the African Decade of Persons with Disabilities (both of which South Africa has signed), with South Africa's legislation, policy frameworks and the National Development Plan 2030,
- Endorses a mainstreaming trajectory for realising the rights of persons with disabilities,
- Provides clarity on and guides the development of standard operating procedures for mainstreaming disability,
- Guides the review of all existing, and the development of new, sectoral policies, programmes, budgets and reporting systems to bring these in line with both Constitutional and international treaty obligations,
- Stipulates norms and standards for the removal of discriminatory barriers that perpetuate the exclusion and segregation of persons with disabilities,
- Broadly outlines the responsibilities and accountabilities of the various stakeholders involved in providing barrier-free, appropriate, effective, efficient and coordinated service delivery to persons with disabilities, and
- Guides self-representation of persons with disabilities.

It is important to state upfront that the WPRPD does not introduce a policy shift. Nor does it replace any sector specific policies on disability. It reiterates that the primary responsibility for disability equity lies with national, provincial and local government; and other sectors of society but also allocates responsibilities to persons with disabilities and their families. The vision of the WPRPD is the creation of ***free and just society inclusive of all persons with disabilities as equal citizens".***

It commits duty bearers to realising the rights of persons with disabilities by:

- Accelerating implementation of existing legislation that advocates equality for persons with disabilities;
- Taking calculated action to ensure that their rights as equal persons are upheld;
- Removing discriminatory barriers to access and participation;
- Ensuring that universal design informs access and participation in the planning, budgeting and service delivery value chain of all programmes;
- Recognising the right to self-representation;
- Acknowledging that not all persons with disabilities are alike, and that personal circumstances, gender, age, sexuality, religious and cultural backgrounds, geographical location, requires different responses; and
- Embedding the obligations contained in the UN Convention on the Rights of Persons with Disabilities in legislation, policy and service delivery.

The WPRPD is built on nine (9) Strategic Pillars:

- Strategic Pillar 1: Removing Barriers to Access and Participation
- Strategic Pillar 2: Protecting the Rights of Persons at risk of Compounded Marginalisation
- Strategic Pillar 3: Supporting Sustainable Integrated Community Life
- Strategic Pillar 4: Promoting and Supporting the Empowerment of Children, Women, Youth and Persons with Disabilities
- Strategic Pillar 5: Reducing Economic Vulnerability and Releasing Human Capital
- Strategic Pillar 6: Strengthening the Representative Voice of Persons with Disabilities
- Strategic Pillar 7: Building a Disability Equitable State Machinery
- Strategic Pillar 8: Promoting International Co-operation
- Strategic Pillar 9: Monitoring and Evaluation

The Directives under each of these strategic pillars task duty-bearers with the responsibility of eradicating the persistent systemic discrimination and exclusion experienced by persons with disabilities.

The 9 Strategic Pillars have been unpacked in the implementation matrix for purposes of monitoring implementation of this White Paper. The result statements and outcome indicators under each of the strategic pillars will provide information on the impact of the White Paper implementation on the lives of persons with disabilities and their families. The designated national disability rights coordinating mechanism will publish an annual report on progress being made in the implementation of the WPRPD. It will also conduct an in-depth review on the impact of implementation of the WPRPD at five year intervals.

It is envisaged that the WPRPD will be escalated into legislation to complete the domestication of the UNCRPD. This will be done through a comprehensive review

of gaps in existing legislation and the development of new legislation to strengthen accountability by duty-bearers and recourse for rights-holders.

The WPRPD was developed over a period of time in consultation with organisations of and for persons with disabilities, government departments, municipalities, public entities, the private sector and civil society at large, as well as the South African Human Rights Commission (SAHRC). It incorporates submissions received through, among others, the following processes:

- Comments on the Draft National Disability Policy, released for public comment towards the beginning of 2011, including comments received from the National Economic Development and Labour Council NEDLAC;
- Comments and submissions received on the 2013 draft Baseline Country Report to the Convention on the Rights of Persons with Disabilities, released at the end of 2012 for comment;
- Comments received on the Discussion Document towards the finalisation of a National Policy Framework to Uphold, Promote and Protect the Rights of Persons with Disabilities, released for public comment in September 2013;
- Extensive discussions on the draft White Paper in the forums provided by the National Disability Rights Machinery (NDRM) between March and September 2014, with participation by all national government departments, provinces, metropolitan municipalities, SALGA, nineteen national disability organisations, the SA Human Rights Commission and the Commission on Gender Equality;
- Releasing the draft White Paper for a period of public comment between December 2014 and February 2015;
- Consultation with the Development Chamber of the National Economic Development and Labour Council (NEDLAC);
- A final consultation with national disability organisations;
- Subjecting the draft Policy to a peer review process, constituted of a Panel of Experts.

Bilateral engagements with key government departments explored synergies in socio-economic policies impacting on the lives of persons with disabilities and also identified both sector and cross-cutting policy gaps against the obligations contained in the UNCRPD. This has already resulted in a number of sector initiatives to review and strengthen their existing policies.

The Department of Social Development (DSD) would like to express its appreciation to the UN Partnership to Promote the Rights of Persons with Disabilities (UNPRPD), which, through its Multi-Party Fund, rendered significant financial and technical support to the White Paper development process. This enabled the Department to,

amongst others, finalise research into a number of the key policy options considered in the WPRPD and deepen participation by civil society. It will furthermore assist with the roll-out of an implementation capacitation programme across government and civil society, but also in particular for representative organisations of persons with disabilities (inclusive of parents' organisations).

Ms HENDRIETTA BOGOPANE-ZULU, MP
DEPUTY MINISTER OF SOCIAL DEVELOPMENT

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ABBREVIATIONS AND ACRONYMS

AAC	Augmentative and Alternative Communication
AIDS	Acquired Immune Deficiency Syndrome
AT	Assistive Technologies
BBBEE	Broad-Based Black Economic Empowerment
CBO	Community-Based Organisation
CBR	Community-Based Rehabilitation
CEE	Commission for Employment Equity
CGE	Commission on Gender Equality
CSIR	Council for Scientific and Industrial Research
DII	Disability Inequality Index
DPO	Organisation of Persons with Disabilities/Disabled People's Organisation/ Parents Organisations
DSD	Department of Social Development
DSO	Disability Service Organisation
EAP	Economically Active population
ECD	Early Childhood Development
FBO	Faith Based Organisation
FOSAD	Forum of South African Director Generals
HIV	Human Immune Deficiency Virus
HSRC	Human Sciences Research Council
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICF	International Classification of Functioning, Disability and Health
ICT	Information and Communications Technology
IDPs	Integrated Development Plans
IGR	Inter Governmental Relation
ILO	International Labour Organisation
INDS	Integrated National Disability Strategy
LGBTI	Lesbian, Gay, Bisexual, Transgender and Intersex
M&E	Monitoring and Evaluation
MDGs	Millennium Development Goals
MTSF	Medium Term Strategic Framework

NDP	National Development Plan 2030
NDRM	National Disability Rights Machinery
NDRM	National Disability Rights Machinery
NEDLAC	National Economic Development and Labour Council
NGO	Non-Governmental Organisation
NPAC	National Plan of Action for Children
OSDP	Office on the Status of Disabled Persons
PANSALB	Pan South African Language Board
PEPUDA	Promotion of Equality and Prevention of Unfair Discrimination Act, 2000
SABS	South African Bureau of Standards
SADC	Southern African Development Community
SADDT	South African Disability Development Trust
SAHRC	South African Human Rights Commission
SALGA	South African Local Government Association
SASL	South African Sign Language
StatsSA	Statistics South Africa
UN	United Nations
UNCRPD	United Nations Convention on the Rights of Persons with Disabilities
WPRPD	White Paper on the Rights of Persons with Disabilities

GLOSSARY OF TERMS

Augmentative and Alternative Communication	Augmentative and alternative communication is an umbrella term that encompasses the communication methods, aside from traditional speech, used to supplement or replace speech or writing for those with difficulties in the production or comprehension of spoken or written language. This can include using pictures, gestures, sign language (SASL), visual aids, or speech-output devices like computers.
Advocacy	The political act or process of supporting a cause, idea or policy by individuals or a group/s with an aim to influence the outcome. Advocacy should ensure that affected peoples voices are heard, their rights are promoted and that their views are considered when decisions that impact directly on their lives are being made.
Assistive devices	Any device, product, equipment or tool that is designed or adapted to enable persons with disabilities to participate in activities, tasks or actions. They may include: (i) mobility aids such as wheelchairs, prostheses and crutches; (ii) Communication aids such as hearing aids, FM systems; (iii) Sensory aids such as white canes; noise reducing headphones and coloured lenses (iv) Technology aids such as computers for alternate and augmentative communication, screen readers, magnifiers, text in audio format.
Assistive technology	It is an umbrella term that includes assistive, adaptive, and rehabilitative devices and services for persons with disabilities, which enable persons with disabilities and learning differences to attain independence. They include for example, loop systems, sub texting and alternative input for cognitive assistance and computer or electrical assistive devices.
Basic Services	Any device, product, equipment or tool that is designed or adapted to enable people with disabilities to participate in activities, tasks or actions. One of the key features of a developmental state is to ensure that all citizens – especially the poor and other vulnerable groups - have access to basic services. The Constitution of the country places the responsibility on government to ensure that such services are progressively expanded to all, within the limits of available resources.

Communication	Communication includes languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, lip-speaking services, speech reading services, whisper interpretation, note-taking services and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology.
Community-Based Rehabilitation and Habilitation (CBR)	It is a strategy to enhance the quality of life of persons with disabilities through rehabilitation and habilitation, equalisation of opportunities, poverty reduction, and social inclusion. CBR as a service is implemented through the combined efforts of persons with disabilities themselves, their families, organizations, and communities, and relevant governmental and non-governmental health, education, vocational, social, and other services.
Disability	The UNCRPD does not attempt to define disability per se, but rather recognises disability as an evolving concept. Disability is imposed by society when a person with a physical, psychosocial, intellectual, neurological and/or sensory impairment is denied access to full participation in all aspects of life, and when society fails to uphold the rights and specific needs of individuals with impairments. Persons with disabilities experience three main types of interrelated barriers: • social (including high cost, lack of disability awareness, and communication difficulties); • psychological (such as fear for personal safety); and • structural (including infrastructure, operations and information).
Discrimination	Discrimination is any act or omission, including a policy, law, rule, practice, condition or situation which directly or indirectly (a) imposes burdens, obligations or disadvantages on; and/or (b) withholds benefits, opportunities or advantages from, any person on one or more of the prohibited grounds, which include disability and any other ground that might disadvantage a person, undermines human dignity or adversely affects an individual's rights and freedoms.
Disability Discrimination	Discrimination on the basis of disability means any distinction, exclusion or restriction of persons 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, on all human rights and fundamental freedoms in the political, economic, social, cultural, civil, or any other field. It encompasses all forms of unfair discrimination, whether direct or indirect, including denial of reasonable accommodation.
Disability Mainstreaming	Disability Mainstreaming requires a systematic integration of the priorities and requirements of persons with disabilities across all sectors and built into new and existing legislation, standards, policies, strategies, their implementation, monitoring and evaluation. Barriers to participation must be identified and removed. Mainstreaming therefore requires effective planning, adequate human resources, and sufficient financial investment – accompanied by specific measures such as targeted programmes and services.
Disability Service Organisations	DSOs focus on service delivery (rehabilitation, habilitation, counselling, training, employment support etc.) to persons with disabilities, and are not necessarily membership-based organisations. They are run by service providers and/or community members.
Disablism	Describes the negative attitudes, behaviours, practices and environmental factors which discriminate (intentionally or unintentionally) against disabled people and create barriers to their equal participation in mainstream society.
Duty-bearers	Duty-bearers in human rights law include governments, national and local authorities, public officials and service providers.
Early Childhood Development (ECD)	The composite cognitive, emotional, physical, mental, communicational, social and spiritual development of children that takes place from conception until they enter formal schooling (i.e. Grade R) or reach the age of 8 years (in the case of children with developmental delays and/or disabilities for whom entry into formal schooling is delayed), whichever occurs first. Early childhood development requires the promotion of planned and safe pregnancy, delivery and postnatal care; nutritional support for pregnant women and young children; social protection to enable families to care for a young child; preparation for and assistance with parenting; childcare for working parents and other families needing help;

	opportunities for young children to learn at home and with other children in the company of supportive adults, and preparation for formal schooling.
Early Childhood Intervention	Early childhood intervention is a broad term that describes a wide range of services that are offered to children who are at risk for developmental delays or who have disabilities, including support for their families.
Empowerment	Empowerment refers to processes, procedures and actions aimed at affording access, equal treatment, inclusion, participation, accountability and efficiencies. It is premised on encouraging, and developing the skills for self-sufficiency, with a focus on eliminating the need for charity or welfare in individuals and groups. From a disability perspective this means empowering or developing the skills and abilities amongst persons with disabilities and/or their care givers to effectively communicate their socio-economic needs to others in society, advocate and lobby for these needs to be met, represent themselves and actively participate in all decision-making processes on matters that directly impacts on their lives. Empowerment is therefore identified as a core cross-cutting theme for enabling persons with disabilities to avail of and access all socio-economic development opportunities and rights that exist.
Enabling environments	Interrelated physical and other infrastructures, built-environments, culture, laws, policies, information and communication technologies, and organisations that must be in place to facilitate the socio-economic development of persons with disabilities.
Equality	Equality refers to the full and equal enjoyment of rights and freedoms as contemplated in the Constitution and includes equality according to the law and in terms of outcomes. It ensures that individuals or groups of individuals are treated fairly and equally and no less favourably, specific to their requirements. It is the right of different groups of people to have respect for their social position and receive equitable treatment in society. Equality is the removal of discrimination that ensures all opportunities and life chances are available to persons with disabilities on an equitable basis with others. Measurements of equality might address changes in the outcomes of a particular policy, programme or activity or changes in the status or situation of persons with disabilities, such as levels

	of poverty or participation. The equality indicators must be responsive to age, disability, gender, race and income differences. Equality indicators will be used to hold institutions from all sectors of society accountable for their commitments. 'Equality' under PEPUDA includes "the full and equal enjoyment of rights and freedoms as contemplated in the Constitution and includes de jure and de facto equality and also equality in terms of outcomes".
Exclusion	Exclusion refers to the act of socially isolating or marginalizing an individual or groups on the basis of discrimination by not allowing or enabling them to fully participate and be included in society and enjoy the same rights and privileges. This devaluation of and exclusion of individuals or groups results in keeping "others" outside from the prevailing social system and thus restricting their access to material, social, economic and political resources and rights. Exclusion consists of dynamic, multi-dimensional processes driven by unequal power relationships interacting across economic, political, social and cultural dimension and at different levels including individual, household, group, community, country and global levels. It results in a continuum of exclusion often characterised by unequal access to resources and material inequalities, extreme loneliness, loss of self-esteem, etc.
Family	A societal group that is related by blood (kinship), affinity, adoption, foster care or the ties of marriage (civil, customary or religious), civil union or cohabitation, and go beyond a particular physical residence. Family preservation services are services to families that focus on family resilience in order to strengthen families, so as to keep families together as far as possible. Family strengthening is the deliberate process of giving families the necessary opportunities, relationships, networks, and support to become functional and self-reliant. The strengthening of families is driven by certain core areas, namely: family economic success, family support systems, and thriving and nurturing communities.
Gender mainstreaming	Gender mainstreaming is the process of identifying gender gaps and making the concerns and experiences of women, men, girls, boys and the LGBTI community integral to the

	design, implementation, monitoring and evaluation of policies and programmes in all sectors of life to ensure that they benefit equally.
Harassment	It is defined as unwanted conduct which is persistent or serious and demeans, humiliates or creates a hostile or intimidating environment or is calculated to induce submission by actual or threatened adverse consequences. '*Prohibited grounds'* for harassment include disability, language and culture among others, as well as "any other ground where discrimination based on that other ground causes or perpetuates systemic disadvantage; undermines human dignity; or adversely affects the equal enjoyment of a person's rights and freedoms in a serious manner that is comparable to discrimination".
Human Dignity	It refers to an individual or group's sense of self-respect and self-worth, physical and psychological integrity and empowerment. Human dignity is inherent to every human being, inalienable and independent of the state. In contrast, other human rights can be suspended in a state of emergency or limited in terms of law of general application.
Impairment	Impairment is a perceived or actual feature in the person's body or functioning that may result in limitation or loss of activity or restricted participation of the person in society with a consequential difference of physiological and/or psychological experience of life. For example, the International Classification of Disease (ICD) could be utilised for purposes of defining physical, sensory, intellectual, psychosocial and neurological impairments.
Inclusion	Inclusion is regarded as a universal human right and aims at embracing the diversity of all people irrespective of race, gender, disability or any other differences. It is about equal access and opportunities and eliminating discrimination and intolerance for all. It is about a sense of belonging: feeling respected, valued for who you are; feeling a level of supportive energy and commitment from others so that you can best fully participate in society with no restrictions or limitations. Inclusion implies a change from an 'individual change model' to a 'system change model' that emphasises that society has to change to accommodate diversity, i.e. to accommodate all

	people. This involves a paradigm shift away from the specialness' of people to the nature of society and its ability to respond to a wide range of individual differences and needs. Inclusion is the ultimate objective of mainstreaming.
Independence	Independence is a state of being whereby available and adequate support services, assistive devices and personal assistance to persons with all disabilities enables persons with disabilities to exercise choice, bear responsibility and participate fully in society.
Independent living	The ability of a person to live just like anyone else, to have opportunities to make decisions that affect their lives and to be able to pursue activities of their own choosing with the necessary support to enable persons with disabilities to live independently.
Information and Communication Technology (ICT)	ICT is an umbrella term which includes any kind of information and communication device or application and its content, and encompasses a wide range of access technologies, such as radio, television, satellites, mobile phones, fixed lines, computers and network hardware and software.
Legal vs Mental Capacity	One of the most debated issues during the drafting of the UNCRPD was the concept of '***legal capacity'*** and its relationship (and possible overlapping) with the 'right to recognition everywhere as a person before the law'. The UN Committee on the Rights of Persons with Disabilities in its General Comment on UNCRPD Article 12 (2014) defines legal capacity as 'the ability to hold rights and duties (legal standing) and to exercise these rights and duties (legal agency)'. The right to equal recognition before the law therefore implies that legal capacity is a universal attribute inherent in all persons by virtue of their humanity and must be upheld for all persons with disabilities on an equal basis with others. This view is supported by many people with psychosocial disabilities who believe that the denial of their autonomy and decision-making negates their dignity as full persons. Others however note that the above definition could, in practice, undermine the rights to the enjoyment of the highest attainable standard of health, access to justice, liberty and life. They hold the view that legal capacity should always be assumed unless evidence, which must include a range of principled and practical checks and balances,

	proves the contrary. In such cases, safeguards should be proportionate to the person's circumstances, and to how far the measures affect the person's rights and interests. Additionally, such measures should apply for the shortest time possible, and should be subject to regular review by an independent or judicial body. ***Mental capacity*** refers to the decision-making abilities of a person, which naturally vary from one person to another and may be different for a given person depending on many factors, including environmental and social factors.
Life span approach	The life-span perspective, commencing at the point of gestation, examines how a person grows, develops, and declines by taking multiple aspects and contextualising these across the person's journey through life.
National Disability Rights Coordinating Mechanism	Function designated by the President during macro-organisation of the state in line with Article 33(1) of the UNCRPD. The function is primarily responsible for overall coordination of implementation and monitoring of the national disability rights agenda.
Organisations of Persons with Disabilities (inclusive of parents organisations) (DPOs)	Organisations of Persons with Disabilities (DPO's) are membership-based organisations that are managed and controlled by persons with disabilities. They constitute the representative voice of persons with disabilities based on their membership demographics. The majority of DPOs have an advocacy role and ascribed to the principles of self-representation. Some DPOs have also moved to serve as service providers for their constituency. DPOs support the development of persons with disabilities' capacities by providing them with a common platform to exchange and share their experiences and build a common voice. They engage in the provision of information on disability for their members (on their rights, but also existing services, facilities and provisions. Organisations, constituted and run by parents of children with disabilities, fall under the classification of DPOs. They represent the voices of parents of children with disabilities, and of children with disabilities. Adults with profound disabilities may also be represented by interested parties.
Personal Assistance Services	A range of services, provided by one or more persons and/or service animals, designed to assist an individual with a disability to perform daily activities that the individual would typically perform if the individual did not have a disability.

Such services must be designed to increase the individual's control in life.

It removes the element of discrimination and segregation by providing for equal participation. (Personal Assistants include amongst others personal aides, guides, lip-speakers, whisper interpreters, South African Sign Language interpreters, note-takers, interpreters for Deaf-blind persons, sexual and intimacy assistants, service dogs, guide dogs)

Persons with disabilities

Persons with disabilities include those who have perceived and or actual physical, psychosocial, intellectual, neurological and/or sensory impairments which, as a result of various attitudinal, communication, physical and information barriers, are hindered in participating fully and effectively in society on an equal basis with others.

Poverty

Poverty is pronounced deprivation in well-being, and comprises many dimensions. It includes low incomes and the inability to acquire the basic goods and services necessary for survival with dignity. Poverty also encompasses low levels of health and education, poor access to clean water and sanitation, inadequate physical security, lack of voice, and insufficient capacity and opportunity to better one's life.

Progressive Realisation

This standard is contained in the South African Constitution specifically in association with socio-economic rights, such as section 26 (housing), section 27 (health care, food, water and social security), and section 29 (1)(b) (further education), and defined by the Constitutional Court, which has defined progressive realisation by referring to its development in international human rights law, including Paragraph 9 of General Comment 3 of the United Nations' Committee on Economic, Social and Cultural Rights (CESCR).

The concept of progressive realisation constitutes recognition of the fact that full realisation of all economic, social and cultural rights will generally not be able to be achieved in a short period of time. Nevertheless, the fact that realisation over time, or in other words progressively, is foreseen under the ICESCR should not be misinterpreted as depriving the obligation of all meaningful content. It thus imposes an obligation to move as expeditiously and effectively as possible towards that goal. Moreover, any deliberately retrogressive measures in that regard would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided

	for in the ICESCR and in the context of the full use of the maximum available resources. Progressive realisation as it refers to in this Policy is applicable to three dimensions: • More in number (access), • More in diversity (compounded aspects); and • Better in quality (participation).
Progressive Rights	The term refers to economic, social and cultural rights of human rights relating amongst others to the workplace, social security, family life, participation in cultural life, and access to housing, food, water, health care and education.
Reasonable Accommodation	Reasonable accommodation refers to necessary and appropriate modification and adjustments, as well as assistive devices and technology, not imposing a situation, where needed in a particular case, to ensure persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.
Rehabilitation and Habilitation	Rehabilitation and habilitation is a process aimed at enabling persons with disabilities to reach and maintain their optimal physical, sensory, intellectual, psychosocial and/or social functional levels, thus providing them with the tools to change their lives towards a higher level of independence. Rehabilitation may include measures to provide and/or restore functions, or compensate for the loss or absence of a function or for a functional limitation.
Rights-holders	All human beings are inherently rights-holders who should enjoy universal human rights that must be guaranteed. For purposes of this policy, rights-holders refer in particular to persons with disabilities and their families.
Segregation	It is a system that keeps different groups separate from each other, either through physical dividers or using social pressures and laws, or programmes thereby treating them differently. It is the action or state of setting someone or something apart from others causing separation, setting apart, keeping apart on the basis of differences defined by a system. It also results in exclusion, closeting, protection, shielding, partitioning, division, detachment, disconnection, dissociation; sequestration and partition.
Self-reliance	Self-reliance is the ability to depend on oneself to get things done and to meet one's own needs. It enables one to rely on themselves and on their own efforts and abilities rather than

	those exerted or supplied by other people. Self-reliance enables one to have confidence in and exercising one's own powers or judgment. It is determined by one's own capabilities, judgment, or resources and independence.
Self-representation	Self-representation refers to the practice of people being able to articulate their own issues by themselves and for themselves. It refers to people being enabled and allowed to have their own voice in issues that relate to their specific needs and circumstances.
Sheltered employment	These spaces offer short to long term employment to persons with disabilities who wish to participate in the development of the economy, but who lack sufficient work and technical skills and productivity levels. These programmes must focus on developing, facilitating and strengthening initiatives to advance access to gainful and sustainable work for persons with disabilities, who require disability-specific vocational training.
Social Cohesion	Social cohesion is the degree of social integration and inclusion in communities and society at large, and the extent to which mutual solidarity finds expression among individuals and communities. A community or society is cohesive to the extent that the inequalities, exclusions and disparities based on ethnicity, gender, class, nationality, age, disability or any other distinctions which engender divisions distrust and conflict are reduced and/or eliminated in a planned and sustained manner. Community members are therefore active participants, working together for the attainment of shared goals, designed and agreed upon to improve the living conditions for all.
Social and Life Skills Community Centres	These centres, also known as protective workshops, are spaces which provide for safe, accessible and development-oriented environments where persons with severe disabilities are able to socialise, learn basic skills, engage in basic work and earn some additional income to supplement their social grants.
Social protection	Refers to policies and programs designed to reduce poverty and vulnerability by promoting efficient labour markets, diminishing people's exposure to risks, and enhancing their capacity to manage economic and social risks, such as unemployment, exclusion, sickness, disability and old age.
Social assistance	Social assistance refers to benefits paid by government units

	to bring incomes up to minimum levels established by law. It serves to supplement economic benefits and sustaining livelihood.
Social security	Public and private measures that provide cash and in-kind benefits or both, first in the event of an individual's earning power permanently ceasing, being interrupted, never developing, being interrupted, or being exercised only at an unacceptable social cost and such persons being unable to avoid poverty, and second in order to maintain children whose parents are unable to provide for them.
Social services	Refers to a range of public services provided by governmental or private organisations. These public services aim to create more effective organisations, build stronger communities, and promote equity and opportunity. Benefits and facilities such as education, food subsidies, health care, and subsidized housing provided by a government to improve the quality of life of citizens and to promote the welfare of those who are unable to provide for themselves.
State Machinery	The system of agencies that implements the power and functions of a state.
Substitute vs Supported decision-making	Substitute decision-making regimes can be defined as systems where legal capacity is removed from a person, even if this is just in respect of a single decision; where a substitute decision-maker can be appointed by someone other than the person concerned, and this can be done against his or her will; and any decision made by a substitute decision-maker is based on what is believed to be in the objective “best interests” of the person concerned, as opposed to being based on the person’s own will and preferences. Supported decision-making regimes in contrast comprise various support options which give primacy to a person’s will and preferences and respect human rights norms. It must provide protection for all rights, including those related to autonomy (right to equal recognition before the law, right to choose where to live, etc.) and rights related to freedom from abuse and ill-treatment (right to life, right to physical integrity, etc.). In some exceptional circumstances where a person’s mental capacity has been found through due clinical and legal

process to contradict decisions that such person may make at times of “mental wellness”, interventions may be made following due legal processes to protect the human rights of that person.

Universal Access

Universal access means the removal of cultural, physical, social and other barriers that prevent people with disabilities from entering, using or benefiting from the various systems of society that are available to other citizens and residents. The absence of accessibility or the denial of access is the loss of opportunities to take part in the community on an equal basis with others.

Universal Design

Universal design is the design of products, environments, programmes and services to be usable by all persons to the greatest extent possible without the need for adaptation or specialised design.

Assistive devices and technologies for particular groups of persons with disabilities where these are needed, must also respond to the principles of universal design. Universal design is therefore the most important tool to achieve universal access.

Not everyone will agree on every term included in the WPRPD but there is a need to develop consensus on general guidelines with regards to consistency in the terminology to be used in official documents, as well as pertaining terminology which must be considered as hate speech. This is particularly relevant for terminology used in official languages other than English in South Africa.

PART 1: CONTEXT

1.1 Definition of Disability

1.1.1 Definition

The struggle to define disability which accurately and realistically encompasses the lived experience of persons with disabilities is a historical one, characteristic of power dynamics, prejudice and social exclusion of those who do not 'belong'. This struggle is best described by Soudien and Baxen, 2006 (*Disability and Social Change – a South African Agenda, Chapter 12)*:

"…each definition is embedded within the broader constructs of how society works, who is in and who is out, and under what conditions decisions are made. How definitions work to frame, organize and create policies and the social practices that flow from them, is nowhere clearer than in the field of education. It is crucial, therefore, that these definitions be understood as emergent from particular histories and discursive formations"

At the heart of the struggle lies the search for an identity and a sense of belonging by persons with disabilities. If the early understanding of disability, which was based on a limiting medical definition and equated with a deficiency, influenced measures that resulted in policies and practices that excluded persons with disabilities in mainstream society for decades, then the instrumental use of a definition, based on human rights and developmental model has the potential to catalyse change. Even if disability was understood differently, measured differently and therefore provided for in different ways since 1994, it becomes evident that its 'evolving' nature mirrors the context and society within which persons with disabilities live.

Disability is a complex and evolving concept, and defining it must take into account the following reality:

- Current definitions of disability have evolved over time, and reflect a more progressive view of disability than was the case in the past;
- To date there is no single definition of disability that has achieved international consensus;
- There are various definitions of disability. However, all the rights-based definitions share certain common elements even if they emphasise or word them differently. Common elements include:
    - The presence of impairment;
    - Internal and external limitations or barriers which hinder full and equal participation,
    - A focus on the abilities of the person with a disability; and
    - Loss or lack of access to opportunities due to environmental barriers and/or negative perceptions and attitudes of society.
- Disabilities can be permanent, temporary or episodic.

Disability therefore results from the interaction between persons with impairments and attitudinal and environmental barriers. It is important to note that persons with

disabilities should be defined within the context of defining the beneficiary group for purposes such as affirmative action, protection against discrimination, service delivery, reasonable accommodation support measures, social security, etc.

It therefore requires a degree of self-definition, where the individual determines whether he/she is disabled or not, based on environmental factors and contexts.

Within this context, the UNCRPD recognises disability as an evolving concept and states that *"disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others".*

1.2 Addressing Disability: Past and Present

"Among the yardsticks by which to measure a society's respect for human rights, to evaluate the level of its maturity and its generosity of spirit, is by looking at the status that it accords to those members of society who are most vulnerable, disabled people, the senior citizens and its children."

Integrated National Disability Strategy, 1997

1.2 .1 Disability under Apartheid

The past apartheid government of South Africa addressed disability as a social welfare and medical concern, commonly known as the "medical model", and which meant that persons with disabilities were assessed and provided services in terms of their medical condition. Thus the services provided focused on the provision of social grants and some very basic and rudimentary social services such as rehabilitation and habilitation services. Responses and service delivery was designed to "fix" the person and generally segregated them from the rest of society. At the time, the majority of children with disabilities enrolled in school were found in segregated special schools and the majority of adults with disabilities at best found sustainable livelihoods in sheltered employment with no opportunities for career choices or career advancement.

The 'medical model' emphasises the impairment that the person lives with rather than their abilities. The model does not take into account issues such as:

- the role that barrier-free environmental access can make to the independence and human dignity of persons with disabilities;
- the human, social, political and economic rights of persons with disabilities;
- the rights of persons with disabilities to full inclusion and integration into mainstream society; and
- the abilities of persons with disabilities.

Furthermore, the racial policies associated with the period of apartheid rule in South Africa found expression even in the services that were provided to persons with

disabilities. Persons with disabilities from the white race group received far more, as well as better services than their black (African, Coloured and Indian) counterparts. The patriarchal nature of Apartheid South Africa compounded the situation for women with disabilities, again more so for black women with disabilities. Thus the pervasive racial policies translated into a status quo that resulted in persons with disabilities; especially black people, becoming one of the most marginalized sectors of our society who experience extreme levels of exclusion, prejudice, isolation and denial and/or lack of access to fundamental rights and services.

1.2.2 Disability under Democracy (1994 – 2014)

The past twenty (20) years of democratic governance in South Africa has registered some noteworthy changes regarding how disability is addressed. Post 1994, government developed, and has been implementing in earnest, a transformation agenda aimed at building a just and equitable society for all.

It is an agenda that includes all previously marginalized and vulnerable groups of society such as persons with disabilities, as was encapsulated in the Reconstruction and Development Programme which, after intense lobbying by civil society based DPOs included a commitment to develop a policy paper on disability.

This led to the creation of the first disability programme in the Office of the Reconstruction and Development Programme and with the closure of this office to the formal establishment of the Office on the Status of Disabled Persons (OSDP) in the Presidency. The policy paper, the White Paper on an Integrated National Disability Strategy (INDS), was released on the 3 December 1997. The OSDP was responsible for monitoring the implementation of the INDS in all the government departments, and for facilitating mainstreaming of disability across the public sector as well as in civil society.

The vision of the INDS is "*A society for all, one in which persons with disabilities are actively involved in the process of transformation"*. Informed by the United Nations Standard Rules for the Equalization of Opportunities for Persons with Disabilities and the Disability Rights Charter developed by Disabled People South Africa in consultation with other representative organisations of persons with disabilities, the INDS became the critical benchmark for all future legislation, programmes and projects on disability in South Africa. Rooted in the INDS is a social model to addressing disability based on a mainstreaming approach. This Social Model is explained in more detail in Section 1, 2 and 3 below of this White Paper.

The Constitution of the Republic of South Africa, 1996, adopted in 1996, outlaws discrimination on the basis of disability and guarantees the right to equality for persons with disabilities. The Promotion of Equality and Prevention of Unfair Discrimination Act (PEPUDA), passed in 2000, gives effect to the equality clause in

the Bill of Rights, and defines 'discrimination' as "*any act or omission, including a policy, law, rule, practice, condition or situation which directly or indirectly (a) poses burdens, obligations or disadvantage on; or (b) withholds benefits, opportunities or advantages from any person on one or more of the prohibited grounds*." 'Equality' according to the definition of the Act includes equality in terms of outcomes.

South Africa ratified the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) and its Optional Protocol without reservation in 2007, thereby committing the country to respect and implement the rights of persons with disabilities as documented in the various Articles.

The Constitutional Court determined that human dignity constitutes a criterion to determine unfair discrimination. The Court endorsed the view that *"at the heart of the prohibition of unfair discrimination lies recognition that the purpose of our new constitutional and democratic order is the establishment of a society in which all human beings will be accorded equal dignity and respect regardless of their membership of particular groups*" (Prinsloo v Van der Linde & Another, 1997(3) SA 1012 CC/1997 BCLR 759)

The importance of human dignity was also emphasised when the Equality Court in Port Elizabeth held that "*there is no price that can be attached to dignity. There is no justification for the violation or potential violation of the disabled person's right to equality and maintenance of his dignity that was tendered or averred by the respondent…the Court therefore found the discrimination to have been unfair*" (W H Bosch v the Minister of Safety and Security & Minister of Public Works, Case no. 25/2005 (9)).

Whilst significant progress has been made in mainstreaming disability considerations into sector policies and programmes over the past 20 years, it has often not been sustainable, as it relied more on the attitude of individuals rather than planned and coordinated interventions.

The Baseline Country Report to the UNCRPD, approved by Cabinet in April 2013, highlights systemic inequalities and violation of rights experienced on daily basis by persons with disabilities and their families. It acknowledges that "*weaknesses in the governance machinery of the State, and capacity constraints and lack of co-ordination within the disability sector, have detracted from a systematic approach to the implementation of the UNCRPD. The continued vulnerability of persons with disabilities, particularly children with disabilities as well as persons with psychosocial disabilities, residing in rural villages, requires more vigorous and better co-ordinated and targeted intervention*".

The Baseline Report recommends that government accelerates the country's national agenda for the realisation of rights of persons with disabilities by, among others:

- Strengthening baseline information for every article of the UNCRPD;

- Strengthening the implementation of its mainstreamed legislative and policy framework;
- Targeting interventions in a co-ordinated and integrated manner through transversal policy and legislation as well as monitoring mechanisms;
- Strengthening its national disability rights machinery, including creating more enabling environments for organisations of persons with disabilities;
- Strengthening accountability and monitoring through the introduction of disability rights-based indicators into the government-wide M&E system, and above all,
- Accelerating implementation of policies and programmes that aim to provide equal access to persons with disabilities, including disability-specific programmes aimed at addressing barriers to participation.

1.2.3 The Social Model to Addressing Disability (Present and Future)

The social model acknowledges that disability is a social construct and assesses the socio-economic environment and the impact that barriers have on the full participation, inclusion and acceptance of persons with disabilities as part of mainstream society. It is a model that focuses on the abilities of persons with disabilities rather than their differences, that fosters respect for inability and that recognizes persons with disabilities as equal citizens with full political, social, economic and human rights.

The social model does not locate the "problem" within the person with impairment; rather it acknowledges and emphasizes barriers in the environment which disable the person with the impairment aimed at inclusion rather than exclusion of persons with disabilities from mainstream life. It emphasises the need for broader systemic and attitude changes in society; the provision of accessible services and activities; and the mainstreaming of disability to ensure full inclusion of persons with disabilities as equals. The model further encourages that persons with disabilities must actively participate in transformation processes that impact on their lives. Also it does not deny the reality of "impairment", (an incident of human diversity), nor the impact this may have on the individual.

In summary, the key features of the Social Model are:

- Acknowledging that the social context within which persons with disabilities live impacts on their full participation, inclusion and acceptance into mainstream society;
- Acknowledging that disability is a social construct that results from the interaction of various actual or perceived impairments with barriers in the environment;
- Focusing on the abilities of persons with disabilities; respecting their diversity and aiming to address the social barriers that result in discrimination;
- Promoting broader systemic and attitude changes in society;
- Promoting mainstreaming of disability; and

- Reinforcing the importance of being part of transformation processes to improve the quality of life of persons with disabilities.

1.2.4 Disability and Language

"Words reflect as well as influence the way people think"

Language reflects the social context in which it is developed and used. It therefore reflects the values and attitudes of that context, and plays an important role in reinforcing values and attitudes that lead to discrimination and segregation of particular groups in society. Language can therefore be used as a powerful tool to facilitate change and bring about new values, attitudes and social integration.

In recent years persons with disabilities have claimed individual and collective rights and sought to change their circumstances in part by changing the words used to describe them. Negative words and stereotypes are a barrier to understanding the reality of disability. Misguided language and many prevailing attitudes promote out-dated beliefs that persons with disabilities are suffering, sick, disadvantaged, needy, and, in general, not like "us", and have juxtaposed persons with disabilities with those who are 'able-bodied'.

Article 8 of the UNCRPD obliges States Parties to adopt immediate, effective and appropriate measures that will foster respect for the rights and dignity of persons with disabilities, and that will combat stereotypes, prejudices and harmful practices relating to persons with disabilities.

The Promotion of Equality and Prevention of Unfair Discrimination Act, 2000, outlaws hate speech on, among others, the basis of disability. Section 10, dealing with prohibition of hate speech, states that it is prohibited to publish, propagate, advocate or communicate words against any person that could reasonably be construed to demonstrate a clear intention to be hurtful, be harmful or to incite harm, or to promote or propagate hatred.

1.3 Prevalence of Disability in South Africa

Generally, there is little statistical information and virtually no baseline data on the prevalence of disability and/or on the quality of life of persons with disabilities prior to 1994, and even for the first term of democratic governance in South Africa. Some basic data was collected after 1999 by different government departments in relation to their specific areas of work. For example the Department of Social Development (DSD) has data related to the provision of disability grants and the Department of Labour has data related to the employment of persons with disabilities because of the Employment Equity reports that are submitted to them. Clearly, the centralised collection and dissemination of disability specific data and information is an area that must be prioritised, not only by government but by the disability sector as a whole.

Impairment or activity limitation prevalence in South Africa is currently measured through predominantly national census and household surveys (Statistics South Africa), as well as sample surveys (universities and research institutions, and to a limited extent, disability organisations). However the data collection on disability prevalence through national surveys does not provide an accurate reflection of actual incidence, mainly due to the fact that these surveys are often done through proxy responses, where one family member responds on behalf of the entire family; limitations in the number and type of questions which could be asked; language and other traditional beliefs associated with disability.

The data provided below must be read and understood within the above-mentioned context.

1.3.1 General Data

Stats SA's 2007 Community Survey shows that:

- Persons with disabilities are among the poorest of the poor, while people living in poverty are more at risk than others of acquiring a disability and are commonly denied their rights.
- Persons with disabilities face different levels of discrimination and exclusion–in particular, women and girls with disabilities may face double discrimination based on both disability and gender.
- Women and girls with disabilities, along with the elderly, are most vulnerable to poverty. They also face multiple layers of stigma and discrimination.

1.3.2 Rates of Disability

Stats SA, using the Washington Group Model, estimates an impairment prevalence of 7.5% derived from the 2011 National Census. This however excludes, among others, children between 0-4 years, persons with disabilities in residential care and school boarding facilities and persons with psychosocial, neurological and/or emotional disabilities.

1.3.3 Social Grants to Persons with Disabilities

SASSA's SOCPEN system as at 30 April 2015 shows that

- 1 111 063 beneficiaries receive a disability grants.
- 127 139 children with disabilities receive care dependency grants.
- 115 256 social grant beneficiaries access grants-in-aid
- KwaZulu-Natal province has the highest access to care dependency grants (28.7%), followed by Gauteng (12.8%) and Eastern Cape (15.1%) KwaZulu-Natal

province also has the highest access to disability grants (25.5%), followed by the Eastern Cape Province (16.5%) and the Western Cape (14%)
- KwaZulu-Natal also has the highest access to Grants-in-Aid (54.7%), followed by Limpopo (19.1%) and the Eastern Cape (14.4%).

1.3.4 Types of disability

Stats SA's 2011 Census shows that the percentages of persons with disabilities that have severe difficulties and cannot do anything at all in terms of their general health and functioning are very low, i.e.:

- 0.8% are unable to perform self-care functions;
- 0.2% experience difficulties with remembering/concentrating;
- 0.1% experience difficulties with hearing;
- 0.2% experience difficulty with walking/climbing stairs, and
- 0.2% have difficulty with communication.

The same 2011 Census shows the following proportions of persons with disabilities who have some difficulties in terms of their general health and functioning: seeing (9.4%), remembering/concentrating (3.3%), hearing (2.9%), walking/climbing stair (2.6%), self-care (2.0%) and communication (1.1%).

1.3.5 Disability by Race Groups

The 2007 Community Survey of Stats SA provides the following breakdown of persons with disabilities by race group: Indian/Asian (4.6%); Coloured (4.2%) 2%), African (4.0%) and White (3.2%).

1.3.6 Employment of Persons with Disabilities

According to the 2013 - 2014: 14th Commission for Employment Equity (CEE) Annual Report, which is based on reports received from designated employers:

- Only 0.9% (50 867 out of a total 5 593 326) of the country's Economically Active People (EAP) are persons with disabilities;
- White persons with disabilities are mostly represented in the private sector, NGOs, parastatals and national government;
- African persons with disabilities feature more prominently in government and in particular provincial government and are fairly represented in NGOs. Indians are mostly represented in institutions of learning;
- Only 1.5% are in top management positions and 1.2% hold senior management posts;

- White representation is the highest amongst persons with disabilities at top management level in almost all provinces;
- No females with disabilities are found at top management level in the agriculture sector;
- 87.5% of the top managers are white males in the agriculture sector and 12.5% are African males; and
- Of senior managers in the agriculture sector, 65.7% are white males and 11.4% are African males. There are no African female employees with disabilities at this level, with white females being mostly represented (8.6%).

There is low labour market absorption of persons with disabilities. The degree of difficulty is related to economic participation, with increased difficulty being associated with a decrease in labour market participation. In five of the six functional domains, employment levels were lowest among persons with severe difficulties across the provinces. Employment levels are higher for persons with sight disability compared with other disability types.

The severity of difficulty greatly impacts on economic outcomes pertaining to employment, and different population groups are affected differently. The white population group had the highest proportions of employed persons with disabilities, while the black African population of persons with disabilities had the lowest proportions across all functional domains and degrees of difficulty.

Females with disabilities were more marginalised in terms of employment compared to males with disabilities.

The profile of not economically active persons shows that the black African population group had the highest prevalence, particularly amongst persons with disabilities (12.5% for those with disabilities and 10.7% for persons without disabilities).

Provincial profiles show that Eastern Cape and KwaZulu-Natal had the highest proportions of not economically active persons with disabilities (19.1% and 15.3%).

Geographical location variations show that farm areas, followed by urban areas, had the highest proportion of persons employed, while traditional areas were characterised by very low levels of employment, making persons with disabilities in rural areas the most disadvantaged.

It should furthermore be noted that the prevalence of disability is due to escalate over the coming years, taking into consideration some of the major causes of disability identified in the INDS. These include unhealthy lifestyles; increased life expectancy; environmental factors such as epidemics, accidents and natural disasters; pollution of the physical environment; poisoning by toxic waste and other hazardous substances; industrial, agricultural and transport related accidents; sports injuries; violence and civil unrest.

1.3.7 Disability and Education

2011 Census data on the number of persons with disabilities attending education institutions reveals this marginalised sector continues to experience difficulty accessing this very important right.

- About 35.5% of children with severe difficulty in walking were not attending school;
- Farm areas had the highest proportions (52.1%) of children aged 5–6 years with severe difficulty in functioning who were not attending school;
- School attendance at primary school level varies among the different functional domains. Children with severe difficulty in walking and communicating had the lowest proportions attending school, while those with severe difficulty in seeing had the highest proportions in school;
- Attendance at secondary level was lowest among persons with severe difficulties in the various functional domains. Attendance at secondary school level was higher among males than females in all types of difficulty and degrees of difficulty. Children with severe difficulty in walking and communicating were the most marginalised in terms of access to secondary education;
- The majority of persons aged 20–24 years with severe difficulties across all functional domains were not attending any tertiary institution. Tertiary level education includes all post-school qualifications. Only about one-fifth of persons with severe difficulties were attending tertiary educational institutions. Attendance was highest among the white population group and lowest among black Africans. Slight variations in tertiary enrolment exist between males and females;
- The highest proportion of persons aged 20 years and older with no formal education was recorded in tribal/traditional communities regardless of the type of disability, while those in urban areas had a better profile; and.
- Persons with severe difficulties had the worst educational outcomes (5.3% had attained higher education 23.8%had no formal education and 24.6% had some primary education).

1.3.8 Disability and Income

Linked to employment is income, which in turn determines the welfare of individuals and their households. According to the 2011 Census data, persons without disabilities generally earn a higher income than persons with disabilities.

Among persons with disabilities, disability severity and type of disability determines one's income. Persons with visual disabilities earn more compared to persons with

other types of disabilities. Men with disabilities earn double what females earn, regardless of the degree of difficulty.

Massive earning disparities exist by geographical location. Persons with disabilities in urban areas generally have higher earnings compared to those in tribal/traditional areas; a pattern attributed to limited access to employment opportunities in rural areas as well as only having access to low-paying and unskilled jobs.

Adult female family members, and in particular single mothers of children with disabilities, are a significant majority of carers of persons with disabilities and this may further impact on income patterns of the household.

1.3.9 Disability and access to housing and basic services

The 2011 Census data reveals that:

- The proportion of households in traditional dwellings headed by persons with disabilities is two times higher than that for households headed by persons without a disability (15.3% and 7% respectively);
- More than half (55.4%) of households headed by persons with disabilities lived in dwellings owned and fully paid off, about one in five (20.6%) lived in occupied rent-free dwellings, while about 12% lived in rented dwellings;
- Households headed by persons with disabilities living in formal dwellings were about 3% lower than those headed by persons without disabilities. The proportion of households headed by persons with disabilities living in traditional dwellings was two times higher than that for households headed by persons without disabilities (15.3% and 7% respectively);
- About 13.4% of households headed by persons with disabilities had no access to piped water compared with 8.2% of those headed by persons without disabilities;
- Less than half (45.2%) of households headed by persons with disabilities had access to a flush toilet facility and more than a third (37.1%) used pit toilets;
- Households headed by persons with disabilities using wood for cooking were about 9% higher than households headed by persons without disabilities;
- Households headed by persons with disabilities had higher proportions using candles for lighting compared to households headed by persons without disabilities (14.6%and 11% respectively);
- More than a third (38.2%) of households headed by persons with disabilities had their own refuse dump; a figure that is 10% higher than that of households headed by persons with no disability; and
- Households headed by persons without disabilities had higher proportions of goods owned compared to households headed by persons with disabilities.

1.4 Constitutional, Policy and Legislative Framework

The Constitution of the Republic of South Africa, 1996 protects the rights and human dignity of persons with disabilities. The Constitution is further translated into several national policies and legislation that promotes and supports the full equalization of opportunities of persons with disabilities; and their integration into society; within a social model and human rights policy framework.

1.4.1 National Policies and Legislation

The ***Constitution of the Republic of South Africa, 1996*** states that "everyone is equal before the law and has the right to equal protection and benefit of the law". It thus guarantees the right of persons with disabilities to equality, non-discrimination and human dignity; and provides for the recognition of South African Sign Language as the first language of Deaf South Africans.

The Vision of the WPRPD, which is "a free and just society inclusive of all persons with disabilities as equal citizens", means that all policies and legislation, across all spheres of government and of every socio-economic sector, directly impacts on the lives of persons with disabilities.

The definition of disability, the social model, the rights-based and mainstreaming approach as described and advocated in this WPRPD means that persons with disabilities must be considered as target groups and beneficiaries in all policies and legislation. Thus, all policies and legislation that affect the lives of persons with disabilities will have to be reviewed against this WPRPD and the UNCRPD obligations.

1.5 The National Development Plan: 2030 Vision

The National Development Plan (NDP), approved in 2012, envisages a country by 2030 which has eliminated poverty and has reduced inequality, a "*country wherein all citizens have the capabilities to grasp the ever-broadening opportunities available*".

The NDP acknowledges that many persons with disabilities are not able to develop to their full potential due to a range of barriers, namely physical, information, communication and attitudinal barriers and states that "*Disability must be integrated into all facets of planning, recognising that there is no one-size-fits-all approach*".

An analysis of the NDP as a strategy to reduce inequality, eradicate poverty and promote employment of persons with disabilities, has been conducted and should be

utilised in determining actions and targets for purposes of implementation of this WPRPD.

1.6 International and Regional Instruments

The WPRPD is informed by a range of international and regional treaties and protocols ratified by South Africa. So although the WPRPD in particular guides the domestication of the UNCRPD, all international and regional treaties and protocols protecting and promoting the rights of citizens and residents, apply equally to persons with disabilities and have informed the process of harmonising and developing policy objectives in different pillars of this White Paper.

PART 2: THE RIGHTS AND RESPONSIBILITIES OF PERSONS WITH DISABILITIES

2.1 Political Rights

The UNCRPD clearly states that all States must guarantee persons with disabilities their political rights, create the opportunities for them to exercise this right on an equal basis with others, and ensure that persons with disabilities are able to fully participate in political and public life, for example through being able to vote and be elected. This involves ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use by persons with disabilities.

Persons with disabilities, together with others, have an equal responsibility for ensuring that they are able to exercise their political rights. This can be achieved through, amongst others, advocating for their rights, creating public awareness thereon and directly participating in public life.

2.2 Human Rights

Protecting and promoting the human rights of persons with disabilities is an underlying principle in all the Articles of the UNCRPD. Notably Article 4 unambiguously commits States Parties to ensure and promote the full realisation of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind, on the basis of disability, and to protect all persons against violation of their human rights.

The South African Constitution is based on the respect for, promotion, protection and fulfilment of all human rights and includes an entrenched Bill of Rights of the Constitution of the Republic of South Africa (1996) in which socio-economic rights are justiciable. The Constitution enjoins the three branches of the State (the Government, Legislature and Judiciary) to give practical effect towards the fulfilment of these rights, consistent with their mandates embodied in the Constitution.

The Constitution requires the State to respect, protect, promote and fulfil the rights in the Bill of Rights. The South African state thus has the primary responsibility to guarantee the existence of circumstances in which every individual and community can exercise their rights. In this regard, the Government of South Africa has passed a number of laws to give effect to its constitutional goals of achieving equality, human dignity and the advancement of human rights and freedoms.

Section 9 of the Constitution, as entrenched in the Bill of Rights, guarantees the right to equality to all, and prohibits discrimination on the grounds of, among others, disability.

The Bill of Rights set out the rights of citizens and the obligations of the State to take reasonable legislative and other measures within its available resources to achieve the progressive realisation of each of these rights. In the case of education, the Bill of Rights goes further and requires that the State take account of "equity,

practicability and the need to redress the results of past discriminatory laws and practises".

Mainstreaming a "Rights Based Approach"

A human rights approach provides the necessary framework for action on human development. The focus on human rights brings two important values to development work: Firstly, it provides a framework for policies and programmes, and secondly, it provides the poor with the power to demand accountability to overcome poverty.

Strengthening the capacity of vulnerable communities to enforce their rights is especially important when inequalities in power exist, and imbalances can result in unfair policies that prioritize the interests of one group over another, or lead to abuses of power (for example, corruption, trafficking of children or domestic violence). This can compound people's vulnerability to poverty. A human rights approach seeks to develop people's capacity to demand accountability in two ways: firstly, by defining a minimum scope of legitimate claims (human rights), and secondly, by strengthening the accountability mechanisms and processes to protect these claims (such as the justice system).

Mainstreaming involves the elements of participation, accountability, non-discrimination, empowerment and an express linkage to human rights standards.

Progressive realisation obliges states to be committed to fulfilling immediate Rights by setting aside funds for the realisation of basic Human Rights. This can be attained over a period of time ensuring that the development of programmes aimed at improving quality of life of citizens are adequately budgeted for.

The Preamble to the Constitution commits South Africa to the attainment of social justice and the improvement of the quality of life for everyone, declaring the founding values of our society to be "*human dignity, the achievement of equality and the advancement of human rights and freedoms*".

The Constitution provides the basic legal framework for participatory democracy in South Africa. It does this by creating a body of rights such as the right to freedom of expression, to assembly, demonstration, picket and petition, and to vote. Notable forms of participatory democracy include participation in Ward Committees, Workplace Forums, Integrated Development Planning (IDP) Processes, Chapter 9 Institutions and the National Economic Development and Labour Council. The right to participate is reflected in the South African Constitution as well as numerous international instruments.

The Special Rapporteur on extreme poverty and human rights has focused on the right to participation of people living in poverty and has declared that "Participation is a basic human right in itself, a precondition or catalyst for the realization and enjoyment of other human rights, and of fundamental importance in empowering people living in poverty to tackle inequalities and asymmetries of power in society".

2.3 Social Rights

Persons with disabilities must be accorded equitable social rights as all other people in society because the provision of these rights enables full participation in the life of society. It includes the right to education, healthcare, housing, transport, sport, recreation, culture, social development services, food security and family life.

The NDP details the social rights of all people, including persons with disabilities that have to be realised. These include building socially cohesive communities, improving education and health outcomes and building safer communities. Applying a social model and a mainstreaming approach, the social rights, development and empowerment of children, youth and women with disabilities can be achieved within all the NDP outcomes.

Critical to building social cohesion is enabling persons with disabilities to live in barrier free environments within their communities. Social cohesion should also provide individuals requiring support with the means to participate in community life, and expanding ECD programmes, with government support, to reach all vulnerable children, including children with disabilities. The NDP furthermore promotes accelerated roll-out of inclusive education which will enable everyone to participate effectively in a free society. It also acknowledges that education provides knowledge and skills that persons with disabilities can use to exercise a range of human rights, such as the rights to political participation, work, live independently, contribute to the community, participate in cultural life, and to raise a family. Equally important is the role the NDP sees for the post-school sector as it relates to the promotion and realisation of the rights of persons with disabilities as citizens with equal rights.

There are nine health-related goals that are relevant to improving the lives of persons with disabilities aimed at transforming the health care system by: removing attitudinal, physical, communication and information barriers, skilling health personnel to provide equitable services to persons with disabilities, reducing the cost of medical care and strengthening access to disability-specific health services, will enable persons with disabilities to live longer, be healthier, live with dignity, and contribute better to the development of their communities and the economy.

Chapter 12 of the NDP on Building Safer Communities provides for the following specific measures to be taken which are to ensure that all vulnerable groups, including women with disabilities, enjoy equal protection and that their fear of crime should be eradicated through effective, coordinated responses of the police, business, community and civil society. It also focuses on strengthening the judicial system to be more effective, efficient and accessible.

2.4 Economic Rights

Economic justice is rooted in the provision of equitable economic rights. Economic rights also serve as the focal points of economic policies, plans and programmes. To exercise one's economic rights, one must be able to actively participate in economic processes and activities equally with human dignity and self-reliance. Economic rights include access to the resources such as land, finance capital, decent work, capital infrastructure and labour. Realising the economic rights of people empowers people with the means to independently meet their basic human needs with dignity and self-respect. The goal of economic justice is to create opportunities for all people to achieve economic and financial independence so as to live a dignified, productive and creative life, and to reduce income inequalities.

As in the case of social rights, economic rights can be accorded to all persons with disabilities applying the social model and mainstreaming approach. On a practical level, it means that, amongst other tasks, persons with disabilities must be involved in conceptualising, developing, implementing and monitoring economic development policies and programmes. Also they must be considered when programmes and projects are planned (as beneficiaries and implementers) and that all barriers to access to the mainstream economy must be eliminated.

Employers must take on the responsibility for providing for reasonable workplace accommodation and economic infrastructure must be built and/or renovated according to the concepts of barrier-free access and universal design.

The NDP proposes the following interventions to ensure economic growth and development and the creation of jobs:

- Increasing exports;
- Investing in infrastructure to facilitate economic activity that is conducive to growth and job creation;
- Lowering the cost of doing business;
- Matching unemployed people to jobs;
- Providing a tax subsidy to businesses to reduce the cost of hiring people;
- Rewarding the setting up of new businesses including partnering with companies;
- Reducing the cost of living for low-income and working class households;
- Reducing the cost of regulatory compliance – especially for small and medium sized firms;
- Supporting small business through better coordination of relevant agencies, development finance institutions, and public and private incubators;
- Building an expanded skills base through better education and vocational training, and
- Building capable and developmental state institutions.

The development and implementation of these afore-mentioned interventions can and must undoubtedly include persons with disabilities across race, gender and age elements.

All economic development indicators and targets must include ratios/ and proportions for persons with disabilities. Government's target of 75% procurement from local producers and businesses can be disaggregated to include a specified target of the 75% (for example 5%) that can and must go to local and/producers or businesses owned/ and or managed by persons with disabilities.

2.5 Cultural Rights

Cultural rights are human rights that aim at assuring the enjoyment of culture and its components in conditions of equality, human dignity and non-discrimination. They are rights related to themes such as language; cultural and artistic production; participation in cultural life; cultural heritage; intellectual property rights; author's rights; minorities and access to culture, among others.

Yet cultural rights are the least understood and developed of the rights that have been guaranteed under international law.

Our involvement in culture, as a pattern of thought, speech and action, is largely unconscious. From the moment each of us is born, we are raised within a culture. Unless we are exposed in some significant way to other cultures, we rarely develop an awareness of many of the distinctive characteristics of our own culture. They are, for us, simply "givens." There is thus an inherent difficulty in cultural rights: To think about cultural rights, we need to treat consciously something that is largely unconscious for most of us.

Cultural values are intimately related to our sense of identity. Challenges to our culture thus become challenges to the integrity of each of us as a person and to the values that are closest to our hearts. They threaten our understanding of ourselves and of our world. As a result, challenges to culture generate strong, emotionally charged, survival responses.

Addressing cultural rights is complex because culture has historically been bound up with questions of power. Throughout human history, dominant cultures in all parts of the world have imposed or tried to impose their own patterns of thought, speech and action on the peoples they have encountered or on weaker members of their own societies. As a result, issues of culture and cultural rights are often associated with historical grievances arising from these impositions.

Article 30 of the UNCRPD places specific obligations on the state to take measures that will promote, protect and uphold the cultural rights of persons with disabilities, including the right of Deaf persons to Deaf culture, and the right to enjoy access to participation in cultural life in accessible formats.

The UN Special Rapporteur in the field of Cultural Rights have recently focused in particular on the impact of intellectual property regimes on the right of people to enjoy and access cultural heritage; access by everyone without discrimination to the benefits of science and its applications, including scientific knowledge, technology, and opportunities to contribute to the scientific enterprise; the freedom indispensable for scientific research, including access of researchers to scientific information and advances, as well as collaborative work; artistic freedoms and the right of people to access, contribute to and enjoy the arts; and the rights of indigenous peoples and local communities.

PART 3: PURPOSE, SCOPE AND KEY PRINCIPLES

3.1. Purpose

This WPRPD updates the 1997 INDS, integrates obligations in the UNCRPD and responds to the Continental Plan of Action for the African Decade of Persons with Disabilities.

More specifically, the purpose of this WPRPD is to:

- Provide a mainstreaming trajectory for realising the rights of persons with disabilities through the development of targeted interventions that remove barriers and apply the principles of universal design;
- Provide clarity on and guide the development of standard operating procedures;
- Guide the review of all existing and development of new sectoral legislation and policies, programmes, budgets and reporting systems to bring these in line with both Constitutional and international treaty obligations;
- Stipulate norms and standards for the removal of discriminatory barriers that perpetuate the exclusion and segregation of persons with disabilities;
- Broadly outline the responsibilities and accountabilities of the various stakeholders involved in providing barrier-free, appropriate, effective, efficient and coordinated service delivery to persons with disabilities;
- Guide self-representation by persons with disabilities;
- Provide the framework for a uniform and coordinated approach by all government departments and institutions in the mainstreaming of disability across all planning, design, budgeting, implementation and monitoring of services and development programmes;
- Provide a framework against which the delivery of services to persons with disabilities can be monitored and evaluated; and
- Guide gender mainstreaming to ensure that women with disabilities enjoy equitable access to all women empowerment and gender equality legislation, policies and programmes.

3.2 Scope of Application

The WPRPD applies to duty-bearers, including oversight institutions, government institutions, the judiciary, the private sector, the media, law and policy makers, public servants, frontline staff, as well as representative organisations of persons with disabilities (inclusive of parents' organisations) and non-governmental organisations.

The main beneficiaries of the successful implementation of the WPRPD will be persons with disabilities and their families as rights-holders.

3.3 Key Principles and Considerations

The generic key principles reflected in the Table below consolidates the principles set out in Article 3 of the UNCRPD and the principles contained in the Bill of Rights in South Africa's Constitution. Key principles that are specific to each of the WPRPD's strategic pillars are reflected in Section 5.

KEY PRINCIPLE	EXPLANATION
Respect for inherent human dignity and individual autonomy	This includes: • Respecting the freedom to make one's own choices and decisions, • Respecting the independence and human dignity of persons, • Valuing the experiences and opinions of persons, • Allowing persons to form and express their opinions without fear of physical, psychological or emotional harm, and • Respecting the right of persons to a private life that is subject to minimum interference.
Non-discrimination	This encompasses: • Prohibiting discriminatory acts, and • Taking steps to protect against potential future discrimination and hidden discrimination and promoting equality.
Full and effective participation and inclusion in society	This involves: • Ensuring consultation and meaningful involvement in activities and supported decision-making processes, • Creating opportunities to voice opinions, influence and complain when participation is denied, • Providing an accessible, barrier-free physical and social environment, as well as access to information and communication.
Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity	This involves: • Respecting differences and diversity, and • Accepting and appreciating persons with disabilities for who they are rather than pitying them or seeing them as a problem that needs to be fixed.
Equalisation of Opportunities	This involves ensuring that persons with disabilities are able to access and participate in all opportunities available to all other

people.

Accessibility	This involves: • Enabling persons with different types of disabilities to live independently and to participate fully in all aspects of life, and • The dismantling of barriers that hinder the effective enjoyment of all rights by persons with disabilities.
Equality between men and women	This involves: • Expressing and recognising equitable rights for men and women on an equal footing, and • Taking sustainable measures to ensure that women have the opportunity to exercise their rights.
Respect for the evolving capacities of children with disabilities and for their right to preserve their identities	This involves: • Respecting the evolving capacities of children as a positive and enabling process that supports the child's maturation, autonomy and self-expression, • Enabling their participation in supported decision-making processes that affect them, including their right to preserve their identities and • Respect for the sanctity of family, the right to family life, and the right to alternative care within the wider family in respect of the preservation of family for children with disabilities.

PART 4: VISION, MISSION AND OUTCOMES

4.1 Vision

The Vision of this White Paper on the Rights of Persons with Disabilities is:

"South Africa –
A free and just society inclusive of all persons with disabilities as equal citizens"

This vision is aligned with Vision 2030 of the National Development Plan, INDS (1997) and the UNCRPD (1996).

4.2 Mission

The Mission of this White Paper on the Rights of Persons with Disabilities is:

"Inclusive and Equitable Socio-Economic Development"

A collective national effort is needed to effect the changes required to transform the experiences of persons with disabilities by removing discrimination embedded in legislation, planning, budgeting and service delivery.

Recognition of the diversity of experiences of persons with disabilities underpins the Strategic Pillars of the WPRPD. It acknowledges that not all persons with disabilities are alike, or enjoy full citizenship, and that personal circumstances, gender, age, sexual orientation, cultural backgrounds, geographical location, as well as strategic reasonable accommodation and support needs linked to strategic impairments, require different responses within a human rights oriented framework.

The WPRPD builds on existing efforts by all spheres of government, the private sector and civil society. It also ensures that all organs of the state retain the flexibility to respond to the unique characteristics, priorities and challenges of their respective jurisdictions in coordinated action, with one shared result – equality of outcome for persons with disabilities.

4.3 Outcomes

Implementation of the WPRPD should deliver the following outcomes:

- Persons with disabilities are accorded and enjoy their full political, human, social and economic rights on par with all other people in South Africa;
- All persons with disabilities, irrespective of their age, gender, type of disability, race and economic status; participate fully and equally in mainstream social and economic life;
- The rights of all persons with disabilities to live and work in safe and accessible environments, free from discrimination, harassment and persecution is upheld

and persons with disabilities have access to recourse and redress in instances where these are violated;

- Persons with disabilities to have equitable access to life-long learning, training and capacity building and be enabled to learn through technology-aided systems other than the traditional method of learning;
- South Africa to provide persons with disabilities with services and interventions that ensure economic security, decent jobs and general economic empowerment;
- Persons with disabilities to represent themselves on issues affecting their lives, make decisions thereon, have control over their lives and are able to exercise choice;
- That all public and private transportations should be designed for universal access;
- An efficient, effective and development oriented state machinery that delivers services in an equitable manner, reports on the equitable outcome of public expenditure and delivery, and which complies with international and national human rights obligations; and
- South Africa providing leadership, sharing experiences and learning from the international community on accelerating the promotion and protection of the rights of persons with disabilities as equal citizens.

PART 5: STRATEGIC APPROACH TO REALISING THE RIGHTS OF PERSONS WITH DISABILITIES

The WPRPD reiterates that the social model to addressing disability (as explained in sub-section 1.2.3 above) remains the only policy stance of government. The model is built on a rights-based, mainstreaming and 'life-cycle' approach and is centred on the cross-cutting themes of empowerment and equality.

5.1. A Rights-Based Approach

A rights-based approach provides a set of performance standards against which governments and other actors can be held accountable for the provision of all human, social and economic rights. It reinforces human rights principles, such as universality, inalienability, indivisibility, equality and non-discrimination as the central core in the formulation, implementation, monitoring and evaluation of policies and programmes. This requires that a human rights lens is used in drafting and implementing policies and programmes.

In the South African context which includes dealing with the legacies of apartheid while simultaneously building a democratic, fair, equitable and just country; the rights-based approach includes understanding the linkages and dependencies between social and economic rights and the need for integrated socio-economic development as a whole. Thus the rights based approach emphasizes social and economic justice, a minimum standard of living, equitable access, equal opportunity to services and benefits, and a commitment to meeting the needs of all South Africans with a special emphasis on the needs of the most disadvantaged.

5.2 A Mainstreaming Approach

Disability mainstreaming involves and is centred on ensuring that disability is at the centre of all development initiatives as a norm and undisputable principle; that all policies, budgets, plans and programmes address the individual needs of persons with disabilities; and the implications for persons with disabilities of any planned action; including legislation, policies and programmes is assessed. It is also about addressing all direct and indirect aspects of disability, as well as the causes and effects of disability thus ensuring that one develops a long term, holistic and more sustainable solution. Mainstreaming requires applying the concept of universal design which calls for all things to be designed to enable use by a wide range of people including various categories of persons with disabilities; without having to be specially adapted for a particular individual.

Mainstreaming of disability occurs on two inter-related levels. One is ensuring that the disability element is inherent in a programme or project and persons with disabilities are included as one of the beneficiaries or target group. The other is ensuring that budget allocations provide for any reasonable accommodation measures that may be required to provide universal access to services.

Mainstreaming fundamentally changes prejudicial mind-sets and applies the concept of universal design technologies and equipment.

Pillars for Mainstreaming

There are four pillars that inform and guide the mainstreaming agenda for persons with disabilities. These include:

- *Rights Pillar* - requires that processes, procedures, policies, programmes and actions be centred on economic, social, human and political rights enshrined in the Constitution; and apply the concept of universal design to ensure access;

- *Empowerment Pillar* - refers to processes, procedures, policies, programmes and actions aimed at affording access, equal treatment, inclusion, participation, accountability and efficiencies. It takes into account structural inequalities that affect entire social groups, and includes encouraging, and developing the skills for self-sufficiency, with a focus on eliminating the need for charity or welfare in the individuals of the group;

- *Equality Pillar* - This pillar encompasses the right of persons with disabilities to equality of outcome. Measurements of equality might address changes in the outcomes of a particular policy, programme or activity or changes in the status or situation of persons with disabilities, such as levels of poverty or participation. Equality indicators can be used to hold institutions accountable for their commitments; and

- *Results Pillar* - the outcomes-based approach directs processes, procedures, policies and programmes and actions to be centred on results with desired impacts. Results based planning involves the articulation of strategic choices in light of past performance and includes information on how an organisation intends to deliver on its priorities to achieve associated results.

5.3 A "Life-Cycle" Approach

The WPRPD further advocates a 'life cycle' approach, commencing at gestation, to the provision of socio-economic services to persons with disabilities. In other words, all effort must be made to integrate services and collaborate on its delivery so that all persons with disabilities in a particular geographic space or living with a particular type of impairment are receiving an equitable service. This will prevent uneven provision of services that does not meet the needs of persons with disabilities holistically. The "life-cycle" approach also requires that services provided to a child should continue as the child progresses through various stages of his/her life, including when he/she is living as an older person.

A complementary element of a 'life cycle' is being 'person centred or people centred'. The concept of 'people centred' development was initially mooted in the country's Reconstruction and Development Programme which served as the focus of the first

democratic government's transformation programme. In the context of addressing disability, the 'person centred' element requires that the unique circumstances of the person is evaluated and accommodated throughout the person's life.

PART 6: STRATEGIC PILLARS FOR REALISING THE RIGHTS OF PERSONS WITH DISABILITIES

6.1 Pillar 1 – Removing Barriers to Access and Participation

> *"The new South Africa should be accessible and open to everyone. We must see that we remove the obstacles… Only then will the rights of disabled persons to equal opportunities become a reality".*
>
> *Nelson Rolihlahla Mandela, 1995*

The creation of barrier-free environments requires collective and concurrent action by law and policy makers, service providers, regulatory bodies, the private sector as well as organisations of and for persons with disabilities.

Accessibility lies at the heart of the right to human dignity – being able to live as an equal resident in one's community, being accorded respect for your personal space, having the right to equal opportunities and negotiating one's life unhindered by man-made barriers. A number of articles in the UNCRPD requires State Parties to take appropriate measures to ensure that persons with disabilities are able to access, on an equal basis with others, the physical environment, transportation, information and communications as well as other facilities and services open or provided to the public, both in urban and in rural areas. The Table below reflects the specific Articles of the UNCRDP that speak to removing barriers to access and participation.

RELEVANT UNCRDP ARTICLES
Article 9: Accessibility This article emphasises that State Parties have legal obligations to ensure accessibility to persons with disabilities. In this vein, the development and implementation of national laws and policies that advance accessibility must be promoted. Accessibility can also be achieved by ensuring that services and information are tailored to the needs of persons with disabilities; by requiring the participation and inclusion of persons with disabilities; and by drawing attention to the most neglected groups within the spectrum of disability. **Article 11: Situations of risk and humanitarian emergencies** This article deals with removing barriers to access in situations of risk and humanitarian emergencies and states that measures should be taken to ensure the protection and safety of persons with disabilities in situations of risk. **Article 20: Personal Mobility** This article recognises personal mobility as an important element of access and states that measures must be taken to ensure that persons with disabilities enjoy personal mobility with the greatest possible independence in the manner and at the time of their choice, and at affordable cost.

Article 21: Freedom of Expression and opinion and access to information
This article foregrounds accessibility in terms of expression, opinions and information. It states that appropriate measures should be taken to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice.

Article 30: Participation in cultural life, recreation, leisure and sport
This article speaks to the accessibility in terms of social life. It states that measures must be taken to ensure the right of persons with disabilities to take part on an equal basis with others in cultural life, including enjoying access to cultural materials and access to television programmes, films, theatre and other cultural activities, in accessible formats, as well as taking appropriate steps, in accordance with international law, to ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials, and that persons with disabilities are entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including sign languages and Deaf culture.

Other relevant articles include:

- Article 3: General principles;
- Article 4:General obligations;
- Article 5: Equality and non-discrimination;
- Article 8: Awareness Raising

6.1.1 Focus Areas

The following six dimensions have to be addressed in order to remove barriers to access and participation:

- Changing attitudes and behaviour;
- Access to the built environment;
- Access to transport;
- Access to information and communication;
- Universal design and access; and
- Reasonable accommodation measures.

Addressing all the focus areas in their own right and as a holistic solution requires collective and concurrent action by law and policy makers, service providers, regulatory bodies, the private sector as well as rights holders and/or their representative organisations.

6.1.1.1 Changing Attitudes and Behaviour

Harmful and negative attitudes and stereotypes associated with disability continue to segregate persons with disabilities from mainstream social and economic life.

The INDS, 1997 acknowledges the centrality the changing of attitudes and behaviour plays in the promotion and protection of the rights of persons with disabilities. It states that,

> *"One of the greatest hurdles disabled people face when trying to access mainstream programmes are negative attitudes. It is these attitudes that lead to the social exclusion and marginalisation of persons with disabilities";* and that,
>
> *"The changing of attitudes is not something that happens automatically or spontaneously. Attitude changing is a complex process which involves moving, in a series of stages, from one set of attitudes to another."*

DIRECTIVES	DESCRIPTION
Develop and implement a Disability Rights Awareness and Plan	The Plan must be centred on an ongoing campaign across all sectors of society. It must be implemented by all social partners, and multi-dimensional while ensuring integration. Campaigns must be branded and targeted with themes that address the negative attitudes and beliefs about disability that influences people's behaviour in a way that is harmful to persons with disabilities and associates unfounded stigmas with disability. It must also broaden society's understanding and knowledge of perceived or actual impairments, how environmental aspects disable persons with impairments, and how attitudes influence behaviour and vice versa. Public awareness campaigns must also address harmful traditional beliefs associated with disabilities.
Develop and implement new human rights based disability related terminology	The development and implementation of new disability related and sensitive terminology based on human rights must be managed at a national level. The new terminology must be introduced and included in all the official languages of South Africa, as well as South African Sign Language. All government policies and legislation that get amended or revised and any new policies and legislation must incorporate and utilise the new terminology.
Integrate disability awareness into the curriculum of educational	Disability rights awareness training programmes must be integrated into the curricula of all education and training programmes. This must include training in all forms of alternate communication. For example the teaching of South

programmes	African Sign Language and the availability of Braille at schools, post school education and training institutions and at work places.

6.1.1.2 Access to the Built Environment

The built environment includes all man-made surroundings that provide the setting for human activity, ranging from the large-scale civic surroundings to personal places.

Current legislation regulating the built environment is not fully compliant with either international treaty obligations or constitutional imperatives, as it does not facilitate or enforce the concept of universal design that will enable equitable access to the built environment.

The National Building Regulations and Building Standards Act, 1977, as well as the National Guidelines for Accessibility currently constitute the regulatory framework for accessibility to the built environment. For any building used by the public to conform to the requirements of the National Building Regulations, its facilities must meet the standards and measurements contained in the SANS 10400-S document published in 2011.

The SAHRC recommended in its 2002 "*Towards a Barrier-free Society Report',* that "any legislation governing the accessibility of built environments should focus on improving the preconditions for equal participation and human dignity and providing mechanisms for governance, administration and enforcement, and calls for an urgent review of the South African legislative framework for accessibility and the built environment in order to reflect constitutional rights, ensure safe, healthy and convenient use for all and include international standards for universal access".

DIRECTIVES	**DESCRIPTION**
Conduct universal design audits of all existing infrastructure to establish the degree of compliance with the SABS minimum norms and standards for the use of people with disabilities.	The disability access of the built environment must include all public and private sector institutions and shared spaces. Quantified and costed plans must be developed to address the outcomes of the audits and the budget must be provided for implementation of the plan.
Develop a financing plan to retrofit	The plan must focus on raising the finances required to retrofit all public and privately owned buildings rendering

existing infrastructure	services to the public. The retrofitting must comply with the SABS minimum norms and standards.
Appoint and train infrastructure accessibility liaison officers	Infrastructure accessibility liaison officers must be provided with appropriate accredited training. These officers must be deployed and/or appointed as part of all infrastructure development project management teams. The trained officers must also advise on, and if necessary, develop built environment regulations and/or amendments to existing legislation to ensure that the concepts of universal design and barrier-free access are adhered to in terms of all built environment infrastructure.
Provide incentives for universally designed barrier-free infrastructure and built-environments	State and private sector provided incentives and reward systems must be initiated and developed towards promoting universally designed and accessible built-environments that meet regulated norms and standards. These incentives must be aimed at transforming the attitude of built-environment professionals towards designing barrier-free spaces and facilities.
Operationalise regulatory framework for accessibility to the built-environment	The regulatory framework for accessibility to the built-environment must be extended and integrated into land use management and town planning schemes and the overall design of landscapes, public open spaces and streets.

6.1.1.3 Access to Transport

Inaccessible public and private systems across the travel value chain are a major barrier to the right to equality for persons with disabilities. Women and learners with disabilities are particularly vulnerable when using inaccessible public transport systems.

Adequate, efficient, safe and accessible transport is required to support productivity and assist South Africans to access basic services, especially in impoverished and rural communities.

The ability to move around the community underpins all aspects of life for persons with disabilities and is essential to achieving all the policy outcomes of the White Paper on the Rights of Persons with Disabilities - from learning and skills, to employment and to the general enjoyment of rights.

The link between the home and transportation, the link from the transportation to the workplace or social services is essentially frequently overlooked. It is important that access to transport be viewed across the entire travel value chain:

- Planning a trip – having relevant information available in accessible format;
- Getting to the pick-up point – being able to negotiate footpaths, cycle paths etc.;
- Getting onto the transport mode of choice – including being able to transfer between different modes of transport;
- Making the journey;
- Getting out of the transport mode of choice;
- Getting to the destination; and
- Providing feedback on the trip – monitoring system.

There is therefore a need for a continuous accessible path of travel for persons with disabilities to connect public transport nodes with local services and accessible housing.

DIRECTIVES	DESCRIPTION
Incorporate the concept of universal design and access in all transport licenses and permits	All transport-related licences and permits for all modes of transport must include universal access and design requirements.
Conduct transport access audits	All public and private transport operators must conduct operational, staff and managerial audits of existing infrastructure, fleet and programmes against legislated minimum norms and standards. A quantified and costed plan must be developed to implement the outcomes of the audit. Implementation of the plan must be budgeted for.

6.1.1.4 Access to Information and Communication

When information and communication platforms and technology are available, affordable and accessible, they significantly improve the inclusion of persons with disabilities in all aspects of society.

Deaf persons use South African Sign Language as their first language, and therefore require that they have access to SASL training, in particular for Deaf children and their parents. They require access to SASL interpreters, as well as note-takers, captioning and sub-texting to facilitate access to information and communication.

Persons who are hearing impaired and/or acquire deafness later in life, might however never utilise SASL as their language of choice. They require access to lip readers, note-takers, loop systems, captioning and sub-texting for access to information and communication.

Persons with severe speech impairments often require alternative and augmentative communication to communicate and access information. This includes non-speaking autistic persons who may also need alternative and augmentative communication (AAC).

Persons with visual and print disabilities often require that text be made available in alternative formats such as Braille, large print, descriptions of graphs and pictures, as well as in audio.

It should furthermore be taking into consideration that literacy levels among persons with disabilities are often low due to exclusion from education in the past, and that information must be made available in accessible official languages.

The importance of ICTs for persons with disabilities lies in the leverage they provide to open up a wide range of services, transform existing services and create greater demand for access to information and knowledge. Web services constitute the access technology with the greatest impact in promoting the inclusion of persons with disabilities. This contribution is closely followed by mobile phones, which, despite being one of the newest technologies from the ICTs assessed, constitute the second-most valued ICT with regard to its contribution for persons with disabilities. In particular, the use of mobile phones is instrumental in allowing the independent living of persons with disabilities. Television is also an important source of information, but requires sub-titling, close captioning and audio-descriptions to ensure equal access.

The cost of assistive technologies (ATs), which is comprised of the cost of the technology as well as the cost of AT assessment, training and support services, detracts from full access to healthcare services, benefitting at all educational levels, being competitive on the labour market and living independently.

At the same time, this WPRPD acknowledges that some persons with disabilities, for example people living with intellectual and/or psychosocial impairments, may not be able to use the technological and IT related devices for meeting their information and

communication needs. These persons with disabilities require human support to meet their needs and require tailored and innovative information and communication interventions and support services such as easy to read materials.

DIRECTIVES	DESCRIPTION
Promote access for persons with disabilities to new information and communications technologies and systems	All public and private institutions must promote access to new information and communications technologies and systems, including the Internet. This can be done through the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become available at minimum cost.
Provide captioning on all television programmes	This must be done by all public and private television channels
Ensure equal access to information and communication platforms	All electronic media, broadcasting and print media platforms of all public and private media institutions and agencies must incorporate universal design principles, meet minimum norms and standards regulatory requirements, and government agencies regulating them must publish annual compliance reports.
Promote South African Sign Language (SASL) and train SASL Interpreters	A costed plan must be developed for promoting SASL through a number of interventions. The strategy and plan must include the training of SASL interpreters. Adequate budget must be provided for implementation of the plan.
Develop and regulate braille standards	A costed plan must be developed for the continuous development, production and regulation of braille standards. Adequate budget must be provided for implementation of the plan.
Provide access to print mediums for persons with print disabilities	All steps must be taken to ensure access to print for persons with print disabilities. One of the steps must be ratification of the *Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled.*
Provide accessible emergency and disaster management information	All emergency and disaster management and occupational health and safety procedures must include a protocol to ensure that persons with disabilities have access to an equitable degree of information and safety as persons without disabilities using the same service.

6.1.1.5 Universal Access and Design

Universal access is the ability of users to have equal opportunity and access to services, products, systems and environments; regardless of their social and/or economic situation, religious or cultural background, gender or functional limitation. Accessibility can thus be described as “the ability to access” as well as the functionality of some system, environment, product, service or entity.

Universal Design, also referred to as lifespan design, is the most important tool to achieve universal access. It ensures that all residents, irrespective of age, size, ability, gender, etc. benefit from accessible places and products throughout their lives. The fundamental premise of Universal Design is the recognition of human diversity as opposed to the concept of the ‘average man’.

There are two aspects to Universal Access:

- Direct Access. This is strongly related to Universal Design and refers to direct adaptations to products, environments, services or system designs that significantly improve their accessibility.
- Indirect Access. The use of assistive devices and technology such as wheelchairs, screen readers etc., and refers to product, environment (rural and urban), service or system interfaces that enable an add-on assistive technology to provide the user with full access.

The ‘Universal Accessibility’ approach places the responsibility on society to adjust environments, products and systems to accommodate the individual rather than the individual working around these environments, products and systems i.e. the key lies in the integration of Universal Access into the design and planning process. A universally accessible facility, environment, product, system or service will accommodate a wide variety of groups of society appropriately, safely, and with dignity, as well as optimizing their functionality in the system or environment in which they operate.

Universal design principles for learning should for example include multiple modes of representation, multiple modes of action and expression, and multiple modes of engagement.

DIRECTIVES	DESCRIPTION
Develop universal design standards for the country	The South African Bureau of Standards must accelerate development of universal design access standards for the country across all standards setting that impact on the lives of persons with disabilities. The standards must reflect the key principles of the concept of universal design which are: • *Equitable use* - The design is useful and marketable to people with diverse abilities. • *Flexibility in Use* - The design accommodates a wide range of individual preferences and abilities. • *Simple and intuitive* - Use of the design is easy to understand, regardless of the user's experience, knowledge, language skills, or current concentration level. • *Perceptible information* - The design communicates necessary information effectively to the user, regardless of ambient conditions or the user's sensory abilities. • *Tolerance for error*. The design minimizes hazards and the adverse consequences of accidental or unintended actions. • *Low physical effort*. The design can be used efficiently, comfortably, and with a minimum of fatigue. • *Size and space for approach and use*. Appropriate size and space is provided for approach, reach, manipulation, and use regardless of the user's body size, posture, or mobility.
Develop and implement universal design minimum standards and guidelines	This must be done by all public and private sector institutions. The institutions must also monitor implementation of the strategy, compliance with the minimum standards and utilisation of the guidelines. The standards and guidelines must include all facilities and services open or provided to the public, including those rendered by operators/contractors.
Provide education and training	(i) *Provide tertiary level education on universal design* - All pre-graduate as well as post-graduate training must have compulsory modules on universal design access and disability equity. Pre-graduate and post-graduate training that directly impacts on universal design access and disability equity must design further courses in this regard. (ii) *Train decision-makers and implementers on universal*

	design and access - All public and private institutions must provide training for decision-makers and employees on universal design access, including the removal of barriers experienced by persons with disabilities and reasonable accommodation support measures. (iii) *Develop Accredited Universal Design and Access Training Courses* - These courses must be SAQA accredited. They must allow for differentiated accreditation for access advocates and professional categories. Where Continuing Professional Development (CPD) is required as part of professional training, professionals must be required to undertake at least one universal design access or disability equity course annually.
Ensure service licences require full access	All service licenses issued must require that service providers provide a service which is fully accessible to persons with disabilities.
Ensure service licences require universal design access, in particular for persons with disabilities	All service licenses issued must require that service providers provide a service which incorporates universal design access principles and is fully accessible to persons with disabilities.

6.1.1.6 Reasonable Accommodation Measures

Reasonable accommodation ensures that persons with disabilities enjoy, on an equal basis with others, all human rights and fundamental freedoms. The PEPUDA includes 'denial of reasonable accommodation' as a form of unfair discrimination.

Reasonable accommodation support tends to be individual and impairment specific, and includes measures to:

- Make the physical environment accessible;
- Provide persons with disabilities with access to information and communication;
- Redress stress factors in the environment;
- Accommodate specific sensory requirements such as those relating to light, noise and spatial stimuli;
- Improve independence and mobility of persons with disabilities;
- Guarantee participation and supported decision-making by persons with disabilities; and
- Provide access and participation to quality education and work.

Reasonable accommodation measures are therefore inclusive of assistive devices, assistive technology, personal assistance, adaptations of the built environ, signage, captioning, text available in audio, loop systems, FM systems, alerting/alarm systems for evacuation procedures, dedicated sms lines to all emergency service call centres, adaptation of (for example) work arrangements and the implementation of flexibility within the workplace to accommodate persons with disabilities.

DIRECTIVES	DESCRIPTION
Develop minimum norms and standards for reasonable accommodation	National minimum norms and standards for reasonable accommodation support measures aimed at providing equal access and participation must be developed and promulgated.
All public and private institutions must ensure equitable access to and participation in programmes and services	This includes the development and publication of reasonable accommodation measures in service charters and standards across the full spectrum of services.

6.2 Pillar 2 – Protecting the Rights of Persons at risk of Compounded Marginalisation

Persons with disabilities do not constitute a homogeneous group, and as with all other constituencies, experience inequality, discrimination and poverty differently, depending on the contexts.

Girls, boys, men and women with different disabilities, from different age groups, living in different geographical and socio-economic settings, with different sexual orientations, require specific measures to ensure that their rights to life; citizenship; dignity; integrity; equality before the law; access to justice; freedom from torture or cruel, inhumane or degrading treatment or punishment; and freedom from exploitation, violence and abuse, are protected.

Women and girls with disabilities still do not enjoy all human rights and fundamental freedoms on an equal basis with boys and men with disabilities.

Whilst all women with disabilities bear the brunt of inequality, black African women with disabilities are particularly affected by compounded marginalisation caused by the inter-connectedness of race, disability, gender, socio-economic status and class.

Children, young people, as well as older persons with disabilities have very distinct age-dependent situations and needs that must be taken into consideration when programmes are designed.

Section 28 of the Constitution of the Republic of South Africa protects the rights of all children. These rights underlie all decision making with regard to legislation, policies and programmes in South Africa.

Similarly, Article 7 of the UNCRPD requires of States Parties to:

- take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children,
- ensure that the best interests of the child be a primary consideration in all actions concerning children with disabilities,
- ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and
- be provided with disability and age-appropriate assistance to realise that right.

The National Plan of Action for Children (NPAC), 2012-2017, which constitutes the cross-cutting plan for implementation of the Convention on the Rights of the Child, mainstreams the rights of children with disabilities as an integral part of the NPAC.

The National Development Plan 2030 requires the Department of Social Development to systematise guidelines, norms and standards to ensure that they "*take into account the needs of children with disabilities in all communities*".

The Children's Act, 2005 calls, among others, for an enabling environment to respond to the individual needs of children with disabilities, and prohibits the exposure of children with disabilities to "*medical, social, cultural or religious practices that are detrimental to his or her health, well-being or dignity*."

RELEVANT UNCRPD ARTICLES
Article 1 articulates the purpose of the Convention, focuses on the promotion, protection and realisation of the full and equal enjoyment of ***all*** human rights and fundamental freedoms by ***all*** persons with disabilities. **Articles 3, 4 and 5** provide the General Principles, General Obligations and on Equality and Non-discrimination respectively, which are applicable to all persons with disabilities including women, children and older persons. Articles 3, 6, 16 and 28 specifically recognise that women and girls with disabilities are subject to multiple discrimination. It states that measures must be taken to their full and equal enjoyment of all their human rights and fundamental freedoms; and

to ensure the full development, advancement and empowerment of women to enjoy and exercise these rights.

Articles 3, 4, 6, 7, 8, 16, 18, 23, 24, 25, 28 and 30 specifically recognise the rights of children to full human rights and fundamental freedoms and states that the best interests of the child must be of primary consideration; and that they should have the right to express their views freely on all matters that affect them. Children must be provided with disability and age-appropriate assistance to realize this right.

All the other Articles of the Convention are application to women, children and older persons with disabilities.

Articles which guarantee specific protection include:

- Articles 25, 28: Older persons with disabilities
- Article 10: Right to life;
- Article 12: Equal recognition before the law;
- Article 13: Access to justice;
- Article 14 - Liberty and security of the person;
- Article 15: Freedom from torture or cruel, inhuman or degrading treatment or punishment;
- Article 16: Freedom from exploitation, violence and abuse;
- Article 17: Protecting the integrity of the person; and
- Article 21: Freedom of expression and opinion, and access to information.

Article 23 of the Convention on the Rights of the Child provides for specific measures to be taken to protect the rights of children with disabilities. The UN Committee on the Rights of the Child, in their 2000 Concluding Observations, expressed concern that the legal protection, facilities, and services for children with disabilities, and particularly mental disabilities, were insufficient.

Article 18 of the African Charter on Human and Peoples' Rights guarantees the right to special measures of protection in keeping with the physical or moral needs of older persons and persons with disabilities.

6.2.1 Focus Areas

The following four (4) focus areas require specific protective measures to ensure that the rights of persons at risk of compounded marginalisation are protected and upheld:

- The right to life,
- Equal recognition before the law,
- Access to justice, and

- Freedom from torture or cruel, inhuman or degrading treatment or punishment, exploitation, violence and abuse.

6.2.1.1 The right to life

Section 11 of the Constitution of the Republic of South Africa guarantees that everyone has the right to life.

Persons with disabilities who are particularly at risk and who requires specific measures to protect this right, include, among others:

- Older persons and children with disabilities who live in particular cultural and/or religious communities where disability is associated with evil, punishment, etc.;
- Children and adults with disabilities who require urgent life-saving resources and medical interventions, but are moved lower on waiting lists as their lives are perceived to have less value;
- Persons with disabilities who are unable to access regular and costly health care due to transport barriers, unaffordability of these interventions, or unavailability of specialised interventions due to geographical location and lack of specialised health personnel;
- Persons with disabilities in emergency and/or disaster situations requiring specific measures to ensure that they have access to timeous and accessible emergency services and evacuation procedures and facilities;
- Persons with disabilities with psychosocial disabilities who do not have access to reliable, timeous and appropriate mental health services and/or may be subject to harmful cultural practices;
- Displaced persons with disabilities, including refugees, asylum-seekers and migrants with disabilities; and
- Persons with disabilities who are homeless.

DIRECTIVES	DESCRIPTION
Strengthen mechanisms to protect the lives of persons with disabilities	All legislation, policies and programmes aimed at protecting life must be reviewed to include specific measures, including putting in place reasonable accommodation measures which will provide equitable protection against loss of life.
Monitor loss of life of persons with disabilities due to insufficient measures having been taken	A monitoring system to track loss of life due to insufficient measures taken to protect the lives of persons with disabilities must be developed.

6.2.1.2 Equal recognition before the law

Equality before the law is a basic general principle of human rights protection and is indispensable for the exercise of other human rights. The Universal Declaration of Human Rights, the ICCPR, and the UNCRPD each specify that the right to equal recognition before the law is operative 'everywhere'; in other words there are no circumstances permissible under international human rights law where a person may be deprived of the right to recognition as a person before the law, or in which this right may be limited. This is reinforced by the terms of Article 4(2) of the ICCPR, which provides that no derogation of this right is permissible even in circumstances of public emergency.

The right to equality before the law is also reflected in other core international and regional human rights treaties. Article 15 of the Convention on the Elimination of Discrimination against Women (CEDAW) also guarantees women equality before the law and requires the recognition of women's legal capacity on an equal basis with men, including the legal capacity to enter contracts, administer property and exercise their rights in the justice system. Article 3 of the African Charter of Human and Peoples Rights (ACHPR) enumerates the right to be equal before the law and enjoy equal protection of the law.

Persons with psychosocial, intellectual and/or neurological disabilities are particularly vulnerable of being denied the right to equal recognition before the law. Historically, they have been denied their right to legal capacity in many areas via substitute decision-making regimes such as guardianship, conservatorship, involuntary admission, etc., often without any clinical and legal determination of their legal capacity, and often as a permanent arrangement.

This is further exacerbated if they live within rural and/or impoverished communities and families, if they are homeless or if they are displaced or refugees, as they are less likely to be able to access information on their rights, as well as supported decision-making services.

Recognition of legal capacity is inextricably linked to the enjoyment of many other human rights contained in the CRPD. Without the recognition of the individual as a person before the law, the ability to assert, exercise, and enforce many of the UNCRPD rights, is significantly compromised.

DIRECTIVES	DESCRIPTION
Review all relevant legislation to ensure equal recognition before the law for access	All legislation detracting from the right to equal recognition before the law for persons with psychosocial and/or intellectual disabilities must be reviewed to prevent indiscriminatory and indefinite denial of legal capacity. This should also include focus on informing and empowering persons with disabilities about their rights and how to access

to persons with disabilities	recourse should these be infringed upon.
Develop supported decision-making legislation	The development of supported decision-making legislation, in particular for persons with intellectual, psychosocial and neurological disabilities, must coincide with the review of substitute decision-making regimes.

6.2.1.3 Access to justice

'Access to justice' is inclusive of people's effective access to the systems, procedures, information, and locations used in the administration of justice. The ability to access justice is of critical importance in the enjoyment of all other human rights. The enjoyment of other human rights can positively or negatively impact the ability of people with disabilities to enjoy access to justice.

To be fully included in society, people with disabilities need access to justice. As long as they face barriers to their participation in the justice system, they will be unable to assume their full responsibilities as members of society or experience their rights and to enjoy the equal opportunity to perform their duties as witnesses, jurors, lawyers, judges, arbitrators, and other participants in the administration of justice.

The concept of access to justice must however also include a variety of other means of doing justice, including alternative dispute resolution, participation in social movement politics, democratic representation, and civic education for the respect of rights. The empowerment of persons with disabilities and their families require that;

- they understand what their rights and entitlements are, know what recourse mechanisms are available should they experience discrimination or exclusion, and know how to access these recourse mechanisms; and
- recourse mechanisms are affordable and easily accessible, even in rural communities.

Barriers hindering persons with disabilities from either using the justice system when they feel wronged or mistreated, or limiting their contributions to the administration of justice, include:

- Poverty;
- Geographic location of adjudication institutions;
- Physical inaccessibility of adjudication institutions;
- Lack of knowledge of legal rights, whereby individuals do not realise that their problem has a legal element and potential remedy;
- Inappropriate dispute resolution institutions and mechanisms (e.g. costs related to accessing the High Courts);

- Procedural hurdles; and
- Delays in the resolution of disputes.

Persons with sensory, intellectual, neurological and/or psychosocial disabilities often experience additional barriers, including;

- Difficulties with organisation, which may make it difficult to prioritise their legal problem and keep appointments with legal service providers;
- Being overwhelmed, and therefore too frightened, or lack the motivation, to seek legal assistance;
- Being mistrustful or frightened of divulging personal information to legal service providers;
- Communication challenges, which can hinder a solicitor in assisting their client effectively;
- The formality of the court room and the stress of initiating or continuing with legal proceedings can be overwhelming and prohibitive;
- Police personnel often lack the skills to serve persons with disabilities and are not comfortable with opening cases of sexual abuse or assault where the complainants have visual, psychosocial and/or intellectual disabilities; and
- The high instance of undiagnosed intellectual, neurological and psychosocial disabilities in impoverished and rural communities.

Further compounding the lack of access to justice across the value chain of the justice system is the communication barrier between appointed South African Sign Language interpreters and Deaf persons who do not have sufficient proficiency in South African Sign Language.

Justice system failures often result in infringement of the right to liberty and security of the person when persons with disabilities are arbitrarily detained due to communication barriers or a lack of distinction between intellectual disability and criminal capacity.

Children with disabilities as well as adults with intellectual, neurological and/or psychosocial disabilities require procedural and age-appropriate accommodations across the justice value chain.

DIRECTIVES	DESCRIPTION
Strengthen recourse mechanisms	Recourse mechanisms include • strengthening enforcement of existing legislation; • improving access to courts; • improving equitable access to service delivery and consumer complaint mechanisms and institutions; • strengthening the capacity of Chapter 9 institutions

	such as the SAHRC, CGE, Commission for Promotion and Protection of Rights of Cultural, Religious and Linguistic Communities to respond to disability related issues and complaints; and • strengthening the capacity of NGOs, CBOs and FBOs, and in particular DPOs, to support persons with disabilities in accessing justice. This must include making available the full spectrum of reasonable accommodation support measures, access to the built environment, as well as procedural and age-appropriate accommodations within the police services, legal aid services and court procedures.
Strengthen monitoring systems to track access to the justice system for people with disabilities	A system to ensure barrier free access to justice must be put in place. Specific attention is required to other barriers faced by persons with intellectual and psychosocial disabilities and their resulting discrimination due to decision-making or legal capacity, lack of assessments and other relevant issues.
Develop a national action plan to inform and empower persons with disabilities and their families of their rights	This should include what the judicial rights are, as well as how to access recourse should these be infringed upon.

6.2.1.4. Freedom from torture or cruel, inhuman or degrading treatment or punishment, exploitation, violence and abuse

The enjoyment of the right of persons with disabilities to be free from torture and other forms of violence is also related to the enjoyment of other human rights.

Torture is one of the most serious violations of human rights. The right to be free from torture and other forms of physical and mental ill-treatment is absolute, and may not be suspended or restricted under any circumstances.

Persons with disabilities are particularly at risk for exposure to torture and other forms of cruel, inhuman, or degrading treatment or punishment.

Torture is furthermore a frequent cause of disability, and when torture is inflicted on a person with a disability, it may lead to secondary disabilities or the onset of a serious medical condition. In addition, the failure of an interrogator to recognise a person's disability could be mistaken for non-cooperation.

Contexts which contribute to the vulnerability of persons with disabilities to torture, cruel, inhuman or degrading treatment and punishment, and which regards specific measures to safeguard persons with disabilities, include;

- Persons with disabilities are often segregated from society in institutions, including prisons, social care centres, orphanages and mental health institutions. They are deprived of their liberty for long periods of time including what may amount to a lifelong experience, either against their will or without their free and informed consent. Inside these institutions, persons with disabilities are frequently subjected to indignities, neglect, poor living conditions (including inadequate food, water, medical care and clothing), severe forms of restraint and seclusion, as well as physical, mental and sexual violence. The lack of reasonable accommodation and the phenomena associated with segregation/isolation in detention facilities may increase the risk of exposure to neglect, violence, abuse, torture and ill-treatment;

- Persons with disabilities are exposed to medical experimentation and intrusive and irreversible medical treatments without their consent (e.g. sterilisation, abortion and interventions aiming to correct or alleviate a disability);

- The belief that persons with disabilities should conform their thinking and/or behaviour to what is considered by others as “in their best interests” can lead to persons with disabilities being forced or coerced into using medications or undergoing “treatments” that may amount to torture and or/and ill-treatment;

- Persons with disabilities, and girls and women with disabilities in particular, are especially vulnerable to violence and abuse, including sexual abuse and torture, inside the home, at the hands of family members, caregivers, health professionals and members of the community;

- Perceived or actual impairments associated with harmful traditional beliefs, such as albinism, are often associated with hate speech, ostracisation and even human trafficking and murder; and

- Such practices, in many instances, remain invisible or are being justified, and are not recognised as torture or other cruel, inhuman or degrading treatment or punishment.

Sexual exploitation and abuse is a widespread phenomenon among persons with disabilities, particularly women and girls, although men and boys with disabilities also experience sexual violence, exploitation, and abuse. Most instances of abuse go unreported and, therefore, remain unaddressed. Persons with intellectual and psychosocial disabilities are in particular at risk of not accessing justice when reporting incidents of sexual exploitation and abuse.

Sexual violence, exploitation and abuse have long-lasting harmful effects on persons with disabilities. Where such abuses occur in isolated settings, the chances of accessing the assistance needed for recovery may be slim. Moreover, such

traumatic experiences may increase disability-related functional limitations or create secondary disabilities. Programs and services that do address sexual violence and abuse in the community, particularly those targeting women and girls, very often do not reach out to persons with disabilities.

Children with intellectual and communication disabilities in particular are vulnerable to exploitation by criminals to participate in criminal activities, as it is generally believed that their testimony will not be acceptable in a court of law.

The Convention against Torture places an obligation on the state to criminalise acts of torture, prosecute perpetrators, impose penalties appropriate to the gravity of the offence and provide reparation to victims. By recognising and reframing violence and abuse perpetrated against persons with disabilities as torture or other cruel, inhuman or degrading treatment or punishment, victims and advocates can be afforded stronger legal protection and redress for violations of human rights. For an act against or an omission with respect to persons with disabilities to constitute torture, the four elements of the Convention definition — severe pain or suffering, intent, purpose and state involvement — need to be present. Acts falling short of this definition may constitute cruel, inhuman or degrading treatment or punishment under article 16 of the Convention against Torture.

Article 17 (Protecting the Integrity of the Person) and Article 22 (Respect for privacy) requires that specific measures be taken to protect the rights of persons with disabilities who require personal assistance. Personal assistants often have easy access to a wide variety of personal information such as identification numbers and financial information, and often work in close physical contact with persons with disabilities they are assisting.

Among the many causes of violations of the rights to respect for privacy and personal integrity are the attitudes and beliefs of other people, especially with regard to persons with intellectual or psychosocial disabilities. The belief by some that such persons with disabilities are “not capable” of taking care of their own private information may lead to people withholding that information or giving it to people with whom the person with disabilities would not choose to share that information. Additionally some people believe that it is permissible to violate the privacy or the physical or mental integrity of a person with a disability if they are not aware that it is happening.

DIRECTIVES	DESCRIPTION
Develop and implement quality assurance programmes and strengthen monitoring systems for all types of institutions and facilities for persons with disabilities	These programmes must be benchmarked against international best practice

Develop measures to protect the mental health of persons with disabilities	The measures must include pro-active steps to promote, protect and ensure that persons with disabilities are not exposed to inhumane, degrading and cruel treatment by people, services and systems due to the persistent attitudinal, physical and communication barriers existing in society.
Strengthen human rights monitoring mechanisms for older persons and others at risk	Measures must be put in place to strengthen human rights monitoring mechanisms for older persons with disabilities who have been institutionalised/reside in group residential care facilities.
Develop integrated multi-focus areas strategies and plans for other categories at risk	The strategy and plan must protect refugees, displaced persons with disabilities, homeless persons with disabilities and prisoners with disabilities from inhumane, degrading and cruel treatment and have access to disability-related services and benefits. This means reasonable accommodation measures must be put in place to ensure that these groups have equal access and participation to all programmes offered to the general population.

6.3 Pillar 3 – Supporting Sustainable Integrated Community Life

> *Independent Living does not mean that we want to do everything by ourselves, do not need anybody or like to live in. Independent Living means that we demand the same choices and control in our every-day lives that our non-disabled brothers and sisters, neighbours and friends take for granted.*
>
> *We want to grow up in our families, go to the neighbourhood school, use the same bus as our neighbours, and work in jobs that are in line with our education and interests, and raise families of our own. We are profoundly ordinary people sharing the same need to feel included, recognized and loved*
>
> Dr. Adolf Ratzka (Adapted)

Persons with disabilities have an equal right to live in the community, with choices equal to others. This requires that government, across all three spheres, take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community.

Women and girls tend to carry the responsibility of caring and providing for children with disabilities and adults with severe disabilities where personal assistance and accessible child-care facilities are not available, making them less likely to develop careers, find partners and access training and educational opportunities.

Older persons with disabilities, and in particular with dementia, are vulnerable to exploitation, neglect, abuse and homelessness. Facilities catering for older persons are often not accessible to older persons with disabilities, and residential care facilities for persons with disabilities often do not have frail care facilities for those requiring these. This leaves older persons with disabilities requiring frail care support with little or no access to safe shelter. This constitutes a violation of the rights to dignity and security of the person, as per SAHRC report. The rights of older persons with disabilities are protected through, among others, The Older Persons Act, 2006. The Act regulates community-based programmes, home-based care programmes and residential facilities for frail older persons.

RELEVANT UNCRDP ARTICLES

Article 8 deals with Awareness Raising and states that effective and appropriate measures that will raise awareness throughout society that will foster respect for the rights and dignity of persons with disabilities, and that will combat stereotypes, prejudices and harmful practices relating to persons with disabilities must be adopted immediately.

Article 11 which deals with Situations of risk and humanitarian emergencies states that government must ensure protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.

Article 19 on Living independently and being included in the community requires that State Parties to recognise the right of persons with disabilities to live in the community, with choices equal to others, and therefore to take measures that will realise this right. Such measures should include:

- Ensuring that persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement;
- Ensuring that persons with disabilities should have access to a range of in-, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community; and
- Ensuring that community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.

Article 20 advocates for personal mobility, with the greatest possible independence for persons with disabilities be ensured, including by facilitating the

personal mobility of persons with disabilities in the manner and at the time of their choice, and at affordable cost.

Article 23 deals with Respect for the family and states that effective and appropriate measures are taken to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others. This includes:

- protecting the right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognized;
- the right of persons with disabilities to decide freely and responsibly on the number and spacing of their children and to have access to age-appropriate information, reproductive and family planning education are recognised, and the means necessary to enable them to exercise these rights are provided; and
- the right of persons with disabilities to retain their fertility on an equal basis with others.

Article 30 which deals with Participation in cultural life, recreation, leisure and sport states that measures to ensure the right of persons with disabilities to take part on an equal basis with others in cultural life, should include, among others, enjoying access to places for cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, and, as far as possible, enjoying access to monuments and sites of national cultural importance. It also states that State Parties to enable persons with disabilities to participate on an equal basis with others in recreational, leisure and sporting activities.

6.3.1 Focus Areas

The following focus areas require focused intervention to improve community living outcomes for persons with disabilities and their families:

- Building socially cohesive communities and neighbourhoods;
- Building and supporting families;
- Accessible human settlements/neighbourhoods;
- Access to community-based services supporting independent living; and
- Protection during situations of risk and disaster.

6.3.1.1 Building socially cohesive communities and neighbourhoods

Building social cohesion where persons with disabilities are recognised as equal citizens with the right to play, develop, work and learn in their own communities, is a

national priority. Thus improving access to integrated community, sport and leisure facilities and opportunities for persons with disabilities is an important pillar in building social cohesion.

The existence of multiple disabilities may increase the risk of marginalisation for the person where services are structured according to single impairment-specific interventions.

Displaced persons with disabilities, including refugees, asylum-seekers and migrants with disabilities form an integral part of communities. In the building of socially cohesive communities, it is important that their presence be acknowledged and that they are included in neighbourhood structures.

This requires that society rejects the manifestations of discrimination, exclusion and marginalisation of persons with disabilities experience, and inclusively navigate the changes needed that enhance the rights and freedom of all persons with disabilities.

Particular attention must be paid to ensure that these dimensions are integrated in all programmes and messages focusing on, among others, reducing inequality, building a united South Africa, moral regeneration, social cohesion and universal access.

Improving access to integrated community, sport and leisure facilities and opportunities is another important element in building social cohesion.

DIRECTIVES	DESCRIPTION
Include the rights of persons with disabilities in all social cohesion and human rights promotion programmes and messages	The rights of persons with disabilities must be integrated into all programmes and messages focusing on, among others, reducing inequality, building a united South Africa, moral regeneration, social cohesion and universal access to services
Ensure that all community development programmes and community facilities are accessible to persons with disabilities	This includes all social, economic, religious, cultural, sport and leisure facilities and programmes
Ensure access to residential facilities, day care and other programmes to older persons with disabilities	Residential facilities, day care and other programmes targeting older persons in general, must be made accessible to older persons with disabilities.
Provide subsidies for sport and leisure development for persons	Subsidies and sponsorships for all sport and leisure development must include a disability mainstreaming

with disabilities	component.
Address violence against women/girls/boys and the LGBTI community with disabilities	Appropriate measures must be taken to ensure that women, girls and boys with disabilities are and feel safe living in their communities.

6.3.1.2 Building and Supporting Families

> *"It is within the family environment that an individual's physical, emotional and psychological development should occur. It is from our family that we may learn unconditional love, we understand right from wrong, and we gain empathy, respect and self-regulation. These qualities enable us to engage positively at school, at work and in society in general"*
>
> Centre for Social Justice (2010), *Green Paper on the Family*

Persons with disabilities in general, and children with disabilities in particular, are often deprived of family life due to the lack of community-based support services and educational opportunities available to them and their families, and due to persistent stereotypical thinking that they are better off in segregated facilities.

Being removed from the family on either a temporary or permanent basis often deprives them from the physical resources such as food, clothing and shelter, as well as love, support and encouragement of family members.

Disability does not only affect individuals, but also impacts on family members. Parents and primary care-givers in particular are often required to take life-changing decisions on what would constitute 'the best interest' of their children with disabilities, and can do this only when they are provided with timeous, relevant and accessible information on the full range of options available, and if they have access to peer and parent support and empowerment programmes. Disability service organisations as well as parents' organisations currently carry almost sole responsibility for the provisioning of family support and empowerment programmes, often without any state support.

Women carry the brunt of care responsibilities in families, and caring for children and dependent adults with disabilities, even if only intermittently, where community-based personal assistance support services are not available or insufficient, often detract from their empowerment as women. This requires that they have access to empowerment services which enable them to develop alternative sustainable livelihood streams.

Family function	Ways each function benefits to	
	Individual family members	**Society**
Membership & family formation	• Provides a sense of belonging • Provides personal and social identity • Provides meaning and direction in life	• Controls reproductive function • Assures continuation of the species
Economic support	• Provides for basic needs of food, shelter, and clothing and other resources to enhance human development	• Contributes to healthy development of members who contribute to society (and who need fewer public resources)
Nurturance, support and socialisation	• Provides for the physical, psychological, social and spiritual development of children and adults • Instils social values and norms	• Prepares and socialises children for productive adult roles. • Supports adults in being productive members of society • Controls antisocial behaviour and protects society form harm
Protection of vulnerable members	• Provides care and support for young, ill, disabled or otherwise vulnerable members	• Minimizes public responsibility for care of vulnerable, dependent individuals

Source: Adapted from Patterson, J.M. (2002). Understanding family resilience, *Journal of Clinical Psychology,* Vol. 58 (3): 233-246

The White Paper on Families (2012) therefore recommends that economic and non-economic measures, such as personal income tax relief, care subsidies, and affordable and accessible child, community care and afterschool school care services to mitigate families' responsibilities of caring for, among others, persons with disabilities, be provided.

DIRECTIVES	DESCRIPTION
Develop a plan for mitigating family responsibilities in terms of caring and support for persons with disabilities	The plan must be integrated and multi-sectoral. The Plan must contain both economic and non-economic support measures at household and community level. These services must be standardised, expanded and fully subsidised if provided by NGOs, CBOs and FBOs.
Provide information on available services	Parents and/or care-givers of children with disabilities must have access to integrated disability information,

to all parents and care-givers of children with disabilities	including information on parental counselling and peer-support services, respite care services, therapeutic, educational and economic programmes, as well as the establishment of a disability service and information portal that provides access to the information.

6.3.1.3 Accessible Human Settlements/Neighbourhoods

Accessible and well-designed housing and neighbourhoods contribute significantly to improving the living status of persons with disabilities, as it provides persons with disabilities and their families with choice about living arrangements and moving about the community.

This requires that universal design principles are applied across the human settlement planning and design value chain.

The built environment, transport systems and information systems must be fully accessible for use by persons with disabilities.
The impact of inadequate living conditions is particularly negative for children with disabilities. Children with disabilities living in impoverished homes and communities, especially the former homelands as well as informal settlements, experience multiple deprivations. According to Stats SA's Community Survey 2007, children with disabilities are less likely to have access to adequate housing, water and sanitation than their non-disabled peers. Children with disabilities are more likely to live in traditional dwellings and informal settlements than their non-disabled counterparts. Overcrowded living conditions and outside toilets place enormous stresses on children with disabilities and their families.

DIRECTIVES	DESCRIPTION
Include supported community living plans in all Integrated Developments Plans (IDPs)	The plans and budgets must make provision for coordinated and integrated community living support plans, focusing in particular on access to the built environment, integration of transport nodes and human settlement spatial design.
Ensure all modes of transport are accessible to persons with disabilities	Public and private transport systems must be designed and retrofitted to enable persons with disabilities to utilise the entire transport value chain without barriers.
Provide access to subsidised housing support	Persons with disabilities and single mothers of children with disabilities must have equitable access to the full range of subsidised housing support provided by the state.

Incorporate the concept of universal design in infrastructure grants and tax rebate programmes	All infrastructure and neighbourhood development grants and tax rebate programmes must incorporate a universal design requirement. Small site-specific and ad hoc improvement of urban and rural dwellings, facilities, services and open spaces must be prioritised for dwellings inhabited by persons with disabilities.

6.3.1.4 Access to community-based services supporting independent living

Persons with disabilities must be able to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement.

Persons with disabilities must have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community.

Persons with disabilities living in rural and impoverished settlements, and on farms and traditional communities in particular, are less likely to access basic and social services, including early identification of disability, health, rehabilitation and habilitation and access to justice services, as well as education and training

Community services and facilities for the general population must be accessible on an equal basis to persons with disabilities and must be responsive to their needs.

DIRECTIVES	DESCRIPTION
Develop a sustainable community-based system for personal assistance to support independent living within the community for persons with disabilities	The system must be: • person-centred and self-directed; • maximise opportunities for independence and participation in the economic, social and cultural life of the community; • be responsive to the particular needs and circumstances of persons with complex and high needs for support; • provide persons with disabilities requiring personal assistance with choice of where they live and with whom they live, and • provide access to relevant integrated community and home-based support services for persons requiring independent living. The system must be subsidised.

6.3.1.5 Protection during situations of risk and disaster

Persons with disabilities, when compared to the general population, face higher risks in emergency situations and are disproportionately affected by natural and other disasters.

Humans are emotional beings; their mental health and psychosocial well-being play key roles in resilience, recovery and reconstruction. Integration of mental health and psychosocial well-being makes disaster risk reduction more effective, resilient and robust. Persons with psychosocial disabilities may require additional support services.

Persons with disabilities and their families requiring assistance during situations of risk and disaster must be prioritised for evaluation and disaster management procedures. This requires that all emergency and disaster management services be staffed with personnel who have immediate access to the required reasonable accommodation support systems and who have been trained in assisting persons with disabilities.

Persons with disabilities and their families are a unique resource of knowledge and experience, which is often overlooked, and should therefore be included in actions aimed at reducing the risk of disasters, building resilient communities and finding solutions during situations of disasters and emergencies.

DIRECTIVES	DESCRIPTION
Review Disaster Management Plans	The plans must ensure that persons with disabilities requiring assistance during evacuation and disaster warning systems have prioritised access to disaster management services.
Provide accessible disaster relief services	National and provincial disaster management centres must ensure that psychosocial support service personnel that have the capacity to assist persons with disabilities, are available for deployment during disasters and that evacuation centres are accessible.
Provide accessible emergency services	Municipal emergency services must put in place reasonable accommodation support systems and trained emergency personnel to ensure equitable and immediate access to these services for persons with disabilities.

6.4 Pillar 4 – Promoting and Supporting Empowerment of Persons with Disabilities

> *"The failure by commission or omission to presume all individuals to be capable and willing to learn and assert themselves in the world restricts adversely their ability to participate equitably within their societies".*
>
> *Douglas Biklen, Interview, 2012*

The human rights based approach to development aims both at strengthening the capacity of duty-bearers and at supporting the empowerment of rights-holders. Participation is a key component of a rights-based approach to development and a key component to achieve people's empowerment.

The normal life cycle of persons with disabilities is often interrupted due to, among others,

- Barriers which exclude them from accessing socio-economic opportunities created in the various stages of their life cycle;
- Lack of effective articulation and alignment between different services offered by different departments targeting the same target group;
- Lack of access to appropriate and timeous information and support;
- Lack of access to essential disability and other support services in particular in more rural contexts;
- Poor enforcement of existing enabling legislation; and
- The high cost associated with disability which deprives persons with disabilities and their families from taking up opportunity.

Factors which contribute to dependency and disempowerment among persons with disabilities include:

- *Social isolation* – For most of the people with disabilities, their social isolation began early in life. It is experienced at home, at school, at work and in the community. Escaping social isolation is therefore a major step on the road to empowerment.
- *Unresponsive services and systems* – barriers to access to opportunities and services available to the general population, inappropriate or unavailable disability-specific interventions , combined with the additional cost of accessing services, contribute to disempowerment of persons with disabilities and keep them in a state of prolonged dependency.
- *Poverty* – dependency on others for survival contributes to high disempowerment levels among persons with disabilities
- *Abuse* – Persons with disabilities – and children and women in particular – experience high levels of vulnerability to abuse.

Successful implementation of the UNCRPD is premised on the meaningful participation and empowerment of persons with disabilities as rights-holders.

Supporting the empowerment of persons with disabilities for purposes of the WPRPD is defined as processes whereby individuals achieve increasing control of various aspects of their lives and participate in the community with dignity.

RELEVANT UNCRDP ARTICLES
Article 24 requires that States Parties to ensure that children with disabilities are able to access an inclusive, quality and free primary and compulsory education and secondary education on an equal basis with others in the communities in which they live; and that persons with disabilities are not excluded from the general education. **Article 25** states that Persons with disabilities have the right to the highest attainable standard of health, and requires that measures are taken to ensure accessibility and affordability of health care services, including the provisioning of reasonable accommodation measures. **Article 26** deals with Habilitation and Rehabilitation services and recognises the rights of persons with disabilities to access rehabilitation services aimed at improving their independence and social integration. **Article 23** on Children with Disabilities requires that State Parties to recognise the rights of children with disabilities to specific assistance to ensure their effective access to health care services and rehabilitation services directed towards social inclusion and individual development. **Article 4** on General Obligations, states amongst others that accessible information must be provided to persons with disabilities about assistive devices and technologies, as well as other forms of assistance, support services and facilities. **Article 13** requires that persons with disabilities are provided with access to justice on an equal basis with others. It also requires the provision of procedural and age-appropriate accommodations in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.

Young people make up the largest and fastest growing proportion of Africa's general population. The African Union's Youth Charter, released in 2006, prioritises non-discrimination, development, participation, policy and education and skills development as strategies to counteract historical influences. Most importantly Article 14 recognises the right of young people to a standard of living adequate to

their holistic development. Young persons with disabilities are particularly vulnerable of ‘early retirement’ due to articulation challenges between school, higher and further education and work.

6.4.1 Focus Areas

The following six (6) focus areas aim to strengthen access to economic independence and a life of dignity for persons with disabilities through empowerment support:

- Early childhood development;
- Lifelong education and training;
- Social integration support;
- Access to lifestyle support;
- Supported decision-making; and
- Strengthening recourse mechanisms.

6.4.1.1 Early Childhood Development

Early childhood development services and programmes provide ideal opportunities for the prevention, early identification and timely provision of assistance and support for children with disabilities. Access to relevant information, early identification and community-based intervention services across government departments and spheres of government, and inclusive early childhood development opportunities, is required to unlock the potential of children with disabilities.

There are a number of reasons that support inclusion of children with disabilities at ECD level:

- Inclusion provides a platform for learning opportunities that do not exist in settings where there are only children with disabilities;
- There are opportunities for observational learning and interactions with peers without disabilities;
- Children with disabilities tend to engage in higher levels of play when they are with children without disabilities;
- Inclusion at preschool level has been found to increase social contact between children with and without disabilities and has the potential to impact on the attitudes of children without disabilities towards their peers with disabilities. The experience of being together provides the opportunity to learn important life skills, including dealing with difference and recognition that in different respects we are all dependent on one another; and
- Early identification and appropriate referral and access to intervention enhances optimal development.

DIRECTIVES	DESCRIPTION
Children with disabilities must have equitable access to all ECD Programmes and Facilities	This requires that mainstream ECD programmes and facilities are made accessible for children with disabilities, i.e. that infrastructure; attitudes, equipment and activities do not hinder the participation of children with disabilities. Thus building plans, playgrounds, equipment, toys and ECD practitioner training comply with universal design norms and standards.
Develop disability specific intervention and support services	The services must focus on individual developmental programmes, language and communication development, assistive devices and technology and therapy to improve independence and social integration, as well as parent empowerment and support programmes.
Develop a national integrated referral and tracking system	The seamless system must: • Identify children at high risk of, or with developmental delays and/or disabilities through Road-to-Health health screening programmes and refer them to relevant accessible services; • Register all children between the ages of 0-18 years on a centralised database; • Ensure that children with disabilities on the database are assessed and have access to an individualised developmental support and treatment programme and social assistance benefits; • To ensure that children with disabilities remain on this programme until the age of 18 years; • Ensure that all children with disabilities are enrolled in appropriate ECD and compulsory education programmes; and • Ensure that parents receive timeous, appropriate and accessible information to enable them to take decisions in the best interest of their children.

6.4.1.2 Life-long Education and Training

"*The education system will play a greater role in building an inclusive society, providing equal opportunities and helping all South Africans to realise their full potential, in particular those previously disadvantaged by apartheid policies, namely black people, women and people with disabilities. It furthermore advocates the provision of inclusive education that enables everyone to participate effectively in a free society. Education provides knowledge and skills that people with disabilities can*

use to exercise a range of other human rights, such as the right to political participation, the right to work, the right to live independently and contribute to the community, the right to participate in cultural life, and the right to raise a family. Ensuring that all children with disabilities have access to quality education will help South Africa meet its employment equity goals in the long run"

NDP, Chapter 9

Exclusion from education reflects a complex, progressive and sustained social process of 'being excluded'. Children who are excluded from education, are often also excluded from development benefits in general:

- Some children already experience exclusion within their family and communities in which they live;
- Some children are excluded at the school level where schools do not have inclusive policies, cultures and practices that make everyone feel welcome with the assurance that they will be able to develop to their full potential; and
- The last link in the web of exclusion can be national education policies.

Statistics show that children and adults with disabilities tend to have less access to education at any level compared to their peers without disabilities. The correlations for both children and adults between low educational outcomes and having a disability is often stronger than the correlations between low educational outcome and other characteristics such as gender, rural residence, and low economic status. For many years, disability remained one of the key reasons for the exclusion of learners from receiving an education in ordinary schools. Children with disabilities were sent to special schools, often far away from their homes, and often in environments which were not safe, and did not necessarily provide access to the curriculum or quality education.

Persons with disabilities must have access to inclusive learning opportunities throughout their lives where they learn with peers without disabilities in barrier-free settings. Specific focus areas to realise this must include:

- Provision of reasonable accommodation of the individual's requirements;
- Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;
- Effective individualised support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion; and
- Enabling persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community.

Specific measures that must be taken include:

- Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;
- Facilitating the learning of South African Sign Language and the promotion of the linguistic identity of the Deaf community;
- Ensuring that the education of persons, and in particular children, who are blind, deaf, hearing impaired, non-speaking autistic or deaf-blind is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development;
- Employing teachers, including teachers with disabilities, who are qualified in South African Sign Language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities; and
- Ensuring that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others by, among others ensuring that reasonable accommodation is provided to persons with disabilities.

DIRECTIVES	DESCRIPTION
Provide accessible education facilities	This applies to all existing and future developed public and private education institutions and campuses.
Provide educational support and reasonable accommodation at all institutions of learning	This involves the timeous availability of adequate support and reasonable accommodation measures across the value chain at all public and private education and training facilities and programmes to persons with disabilities. It includes providing students with disabilities group sport, recreation and peer support opportunities within the education institutions where they are enrolled.
Enforce enrolment of children with disabilities of compulsory school-going age	This includes the abolishment of all waiting lists at schools and immediate reporting of all children with disabilities who have been refused access to schools to the SAHRC. It also includes access to schooling, education and stimulation programmes for children with severe to profound intellectual disabilities.
Integrate disability rights	Disability rights awareness training programmes

awareness discourse into the curriculum of educational programmes	must be integrated into the curricula of all education and training programmes.

6.4.1.3 Social Integration Support

Whilst all persons with disabilities are at risk of compounded marginalisation, it should be noted that there are groups which currently experience increased risk due to their actual or perceived impairment.

Communication difficulties, which compound the opportunities for persons to speak out, provide testimony; represent themselves effectively and in general, to be heard and to engage. Persons with communication difficulties require assistive technology and/or intermediaries to facilitate communication, which is often not available.

Persons with disabilities require, in addition to enabling environments and access to services available to the general population, a range of disability specific services to attain and maintain maximum independence, full physical, mental, social and vocational ability, and therefore full inclusion and participation in all aspects of life. These services include;

- Screening, early identification and assessment services to determine individualised support programmes;
- Specialised and community-based rehabilitation, habilitation and psychosocial support services;
- Assistive device and technology support services; and
- Peer and family counselling and empowerment support services.

The lack of rehabilitation services beyond hospital level during the initial phases of onset and/or diagnosis of disability (and for only a limited range of impairments) focusing on prevention of primary and secondary disabilities, is a major contributory factor to the slow uptake of affirmative action opportunities for adults with disabilities in economic empowerment and employment programmes.

Very few rehabilitation and habilitation services and programmes are available to facilitate effective social integration into community life, work and education after onset of disability, and families living in smaller towns and rural areas have virtually no access to these services, which are available mainly in metropolitan and larger secondary cities. Access to affordable and relevant rehabilitation services remains a challenge for persons with disabilities in particular in rural areas. Poverty is a major barrier for persons with disabilities and their families in accessing rehabilitation services, even where these are available at community level, and in particular to specialised services are available only in major centres, due to the high cost and inaccessibility of public transport, lack of accessible information on what services are available and where, and poor referral services within the health sector, but also

between the health sector, the social security system, social development services, the education system and employment and skills-development programmes.

Access to community-based peer and parent counselling and support programmes is central to the empowerment process of children, young persons and adults with disabilities. These programmes, preferably managed and provided by organisations of persons with disabilities and parents of children with disabilities, contribute significantly to reducing a culture of dependency and promoting true empowerment and active citizenship.

Adequate resource allocation for the establishment of psychosocial rehabilitation and habilitation services at community level and resource allocation for the improvement of quality of existing services, in all provinces, is required to facilitate the empowering of persons with psychosocial disability.

Community-based residential and stimulation programmes for persons with intellectual disability form an important function for participation within the community and allow the development and obtainment of various skills, for participation in income-generation projects.

Access to appropriate and affordable assistive devices and technologies for persons across the impairment spectrum ensures increased independence, participation and improved health, and should be available for use at home, at school, at work and during leisure activities.

NGOs, CBOs, FBOs, and in particular DSOs, provide a significant portion of social integration support services, often without sufficient state subsidisation, which detracts from both the quality and expansion of these services.

DIRECTIVES	DESCRIPTION
Establish integrated, multi-sectoral provincial rehabilitation and habilitation centres	These must provide and prioritise multi-sectoral screening, early identification and assessment services to determine individualised support programmes and social assistance requirements; a range of specialised independent living and social integration services to all persons with disabilities, irrespective of impairment; an assistive device and technology service, as well as coordination service for community-based personal assistance, peer and parent/family counselling, psychosocial and vocational rehabilitation habilitation and rehabilitation habilitation support services.
Subsidise peer and parent empowerment support	Peer support empowerment programs for children, youth and adults with disabilities, as well as parents of children with disabilities, must be subsidised and available at community level to strengthen their right to self-representation and advocacy. These programmes must preferably be managed

programmes	by parents' organisations and representative organisations of persons with disabilities.
Subsidise disability-specific services	Subsidisation of any disability-specific services rendered on behalf of government must be congruent with the actual cost of services. Representative organisations of persons with disabilities must be contracted as a central component of trainers.

6.4.1.4 Access to Healthcare and Lifestyle Support

Health as a human rights issue is framed in terms of the "highest attainable standard of health." In other words, persons have a right to the conditions and resources that promote and facilitate a healthy life.

Access to healthcare for persons with disabilities extends well beyond physical access. Persons with disabilities often experience further disadvantage due to the impact of social determinants of health. Health and social services must be accessible, affordable and relevant to persons with disabilities across all impairment and environmental dimensions.

It is important to enhance the capacity of persons with disabilities to access the healthcare system, to ensure that information on available services is easily accessible and affordable, that healthcare workers treat persons with disabilities and their families with dignity and respect, and that the system is able to respond in an appropriate and timely manner to the needs of persons with disabilities.

Affordability of healthcare (including the cost of transport, rehabilitation and assistive devices, consumables and maintenance of devices) is a major deterrent for persons with disabilities receiving social assistance to seek employment.

Persons with disabilities as victims and/or survivors of disability-related and gender-based violence and crime, often struggle to gain access to victim empowerment support services and the broader justice system for victims due to attitudinal, physical, communication and information barriers. This requires that these barriers to mainstream services be removed, and reasonable accommodation support measures be provided where these are required.

Persons with disabilities are often at more risk of contracting HIV due to access barriers to prevention and treatment programmes. Persons with disabilities who have contracted HIV often experience double-discrimination on the basis of disability and their HIV status. Likewise persons with disabilities who are lesbian, gay, bisexual, transgender and intersex (LGBTI) face additional discrimination, persecution and violence simply for expressing who they are, and who they choose to love.

Similarly, access to community sport and recreation facilities and programmes, as discussed in the previous pillar, will contribute significantly to the general health status of persons with disabilities.

DIRECTIVES	DESCRIPTION
Provide access to affordable healthcare services	Integrated and holistic basket of accessible and affordable healthcare services at a district and community level, as well as access to higher levels of care, must be provided to all persons with disabilities.
Provide access to victim empowerment and recourse programmes	All persons with disabilities, and in particular women and girls with disabilities as well as older persons with disabilities, who are victims and/or survivors of disability-related and gender-based violence and crime, must have access to affordable victim empowerment and recourse programmes.
Ensure all HIV and AIDS prevention and treatment programmes are accessible to persons with disabilities	This must include family planning, sexuality/sex education programmes. If it is not possible to remove all access and participation barriers, then accessible disability-specific services must be provided.
Develop and Implement a National Disability Services Quality Framework with a National Quality Assurance system, as well as legislation.	These must determine and provide determined minimum norms and standards for disability services.

6.4.1.5 Supported Decision-Making

Choice and control are key defining aspects of human dignity. This is also relevant for persons with psychosocial, neurological and intellectual disabilities, who are often denied the right to control decisions over aspects of their lives.

Legislation and policies must recognise and enable the right of persons with psychosocial, neurological and intellectual disabilities to equal recognition before the law. Equality before the law is a basic general principle of human rights protection and is indispensable for the exercise of other human rights. The Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights specifically guarantee the right to equality before the law.

Persons with disabilities remain the group whose legal capacity is most commonly denied in legal systems worldwide. The right to equal recognition before the law implies that legal capacity is a universal attribute inherent in all persons by virtue of their humanity and must be upheld for persons with disabilities on an equal basis with others. Legal capacity is indispensable for the exercise of economic, social and cultural rights. It acquires a special significance for persons with disabilities in making fundamental decisions regarding their health, education and work.

Legal capacity should always be assumed unless evidence, which must include a range of principled and practical checks and balances, proves the contrary. In such cases, safeguards should be proportionate to the person's circumstances, and to how far the measures affect the person's rights and interests. Additionally, such measures should apply for the shortest time possible, and should be subject to regular review by an independent or judicial body.

Supported decision-making regimes comprise various support options which give primacy to a person's will and preferences and respect human rights norms. It must provide protection for all rights, including those related to autonomy (right to legal capacity, right to equal recognition before the law, right to choose where to live, etc.) and rights related to freedom from abuse and ill-treatment (right to life, right to physical and mental integrity, etc.).

The development of supported decision-making legislation and services, in particular for persons with intellectual, psychosocial, neurological and severe communication disabilities, must coincide with the review of substitute decision-making regimes.

DIRECTIVES	DESCRIPTION
Develop supported decision-making services	The development of supported decision-making support services, in particular for persons with intellectual, psychosocial and neurological disabilities, must coincide with the review of substitute decision-making regimes. This must include the development of mechanisms to protect persons with disabilities from undue influence, coercion, exploitation and/or neglect in situations where their decisions, choices and preferences are substituted with those of others.

6.4.1.6 Strengthening recourse mechanisms

The empowerment of persons with disabilities and their families require that:

- they understand what their rights and entitlements are, know what recourse mechanisms are available should they experience discrimination or exclusion, and know how to access these recourse mechanisms; and

- recourse mechanisms are affordable and easily accessible, even in rural communities.

Recourse mechanisms include strengthening enforcement of existing legislation, development of new disability-specific legislation, service delivery and consumer complaint mechanisms and institutions, Chapter 9 institutions such as the SAHRC, CGE, Commission for Promotion and Protection of Rights of Cultural, Religious and Linguistic Communities, NGOs, CBOs, FBOs and the courts.

DIRECTIVES	DESCRIPTION
Develop a national action plan to inform and empower persons with disabilities of their rights	A national plan should include what the rights of persons with disabilities are, as well as how to access recourse should these be infringed upon.

6.5 Pillar 5 – Reducing Economic Vulnerability and Releasing Human Capital

Poverty is a multi-dimensional concept determined by, among other things, a household's access to health, education and employment. Barriers that prevent persons with disabilities from improving their livelihoods are related to limited access to services such as health and education, negative attitudes from staff and community members, lack of reasonable accommodation and resources as well as increased costs related to health care, transportation, assistive devices and personal assistance. A lack of or insufficient education is often highlighted as a key element and cause of poverty in persons with disabilities. Poverty and disability are related in adulthood and this is associated with a lack of access to education during childhood – if children with disabilities have access to education (schooling) it reduces the likelihood that they will live in poverty as adults.

Reduced earning capacity is often associated with functional limitations, often-substantial costs of accommodating these limitations, high susceptibility to certain financial shocks, lack of financial reserves and extremely limited earning potential, result in them living below or near the poverty line.

However, such vulnerability also has profound implications for persons with disabilities who are financially more secure, but whose resources are limited and whose expenses are extraordinary. Failure to maintain financial stability may therefore trigger a downward spiral resulting in, among others, bankruptcy, diminished physical and mental health, financial dependence on family and friends, and even homelessness or institutionalisation if insufficient family support and resources are available.

The International Labour Organisation (ILO) estimated in 2009 that South Africa loses about 7% of its annual GDP due to exclusion of persons with disabilities from the workplace and the subsequent productivity loss.

Economic security and social protection for persons with disabilities requires a complex web of inter-related interventions. Persons with disabilities must have access to adequate financial resources to cover the additional cost of living associated with disability.

Reducing inequality in economic security by persons with disabilities and their families will require a concerted and coordinated effort by all government departments, municipalities, employers, labour unions, financial institutions, statistical bodies, education and research institutions, organisations of and for persons with disabilities, skills development agencies, regulatory bodies, institutions promoting democracy, as well as international development agencies to synergise legislation, policies, systems, programmes, services, and monitoring and regulatory mechanisms aimed at the creation of decent work, employment schemes, skills development, social protection, environmental accessibility and the reduction of inequality.

Persons with disabilities living in rural and impoverished settlements, and on farms and traditional communities are less likely to access employment opportunities due to (i) the lack of accessible and affordable public transport; and (ii) lack of accessible and affordable specialised services and opportunities in these areas. Traditional communities are also more likely to associate disability with traditional beliefs and practices.

RELEVANT UNCRDP ARTICLES

Article 27: Work and Employment

The right of persons with disabilities to work, on an equal basis with others, inclusive of the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. To achieve this, specific measures must be taken, including:

- The prohibition of discrimination on the basis of disability across the employment value chain;
- Protecting the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work;
- Enabling persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training;
- Promoting employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment;

- Promoting opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business;
- Employing persons with disabilities in the public sector;
- Promoting the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures;
- Ensuring that reasonable accommodation is provided to persons with disabilities in the workplace;
- Promoting the acquisition by persons with disabilities of work experience in the open labour market; and
- Promoting vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities.

Article 28: Adequate standard of living and social protection

- Access to social protection programmes and poverty reduction programmes are guaranteed through assistance from the State with disability-related expenses, including adequate training, counselling, financial assistance; access to public housing programmes.

6.5.1 Focus Areas

The following four (4) focus areas aim to accelerate reducing the economic vulnerability of persons with disabilities and their families and fostering economic self-reliance:

- Disability, poverty, development and human rights;
- Access to decent work and work opportunities;
- Persons with disabilities as owners of the economy; and
- Reducing the cost of disability for persons with disabilities and their families.

6.5.1.1 Disability, Poverty, Development and Human Rights

While the Millennium Development Goals (MDGs) represented a concerted effort to address global poverty, the MDGs did not address the interface between poverty and disability, and persons with disabilities found themselves invisible in goal-oriented programmes. As a result, persons with disabilities remain excluded from equitable access to resources such as education, employment, healthcare and social and legal support systems, and consequently experience disproportionately high rates of poverty.

This omission is currently receiving attention as the world moves towards finalisation of the Post-2015 Development Agenda, and Catalina Devandas Aguilar, UN Special

Rapporteur on the Rights of Persons with Disabilities, is on record stating that "*The inclusion of persons with disabilities in the Sustainable Development Goals is fundamental if we are to achieve sustainable development that is genuinely rights-based*".

The National Development Plan acknowledges that "*disability and poverty operate in a vicious circle. Disability often leads to poverty and poverty, in turn, often results in disability".*

As the whole family is affected by the direct and the indirect cost caused by participation restrictions, the proportion of people affected is much higher than disability prevalence figure indicates.

A pilot study conducted in 2014 on *Elements of the Financial and Economic Costs of Disability to Households in South Africa* highlighted that some households, such as those of women with disabilities, persons with severe disabilities and those of children with disabilities are still disproportionally economically disadvantaged and vulnerable. The study identifies seven key areas for intervention to reduce economic vulnerability of households of persons with disabilities.

The White Paper for Social Welfare, 1996 provides that social security covers a wide variety of public and private measures that provide cash or in kind benefits or both. The provision of these measures takes place, first, in the event of an individual's earning power permanently ceasing, being interrupted, never developing or being exercised only at unacceptable cost and such person being unable to avoid poverty. The White Paper further defines social security as policies which ensure that all people have adequate economic and social protection during unemployment, ill health, maternity, child - rearing, widowhood, disability and old age, by means of contributory and non-contributory schemes for providing for their basic needs.

While uptake of social assistance grants has increased significantly over the past 15 years, medium and long-term emphasis has been on providing social grant beneficiaries with alternative income sources through gainful work and training, among others, through public employment programmes.

Workers are protected through unemployment insurance benefits as well as compensation for injury on duty.

Significant challenges exist in the private insurance industry with placement of benefit limitations and/or total exclusion of persons with disabilities from insurance benefits. A shift is required to reflect the social model paradigm, where insurance aims to enable a person acquiring a disability to maintain lifestyle and employment, rather than the current practice of compensating them for loss of income due to loss of employment.

DIRECTIVES	DESCRIPTION
Align social assistance with cost of disability	Social assistance must be aligned with the actual cost of disability, and must be structured in a way that encourages social assistance beneficiaries with disabilities to transition to sustainable livelihoods and decent work.
Review all insurance benefits to include equitable access to persons with disabilities	Insurance benefits must be reviewed to remove all discriminatory practices on the basis of disability, and to expand benefits for persons with disabilities and their families.
Develop and/or strengthen and broaden the geographic reach of programmes and projects designed to reduce poverty amongst persons with disabilities	The programmes and projects must focus on the following 7 areas: • Access to education; • Support for caregivers of children with disabilities and those for adults with severe disabilities; • Accessible and affordable transport; • Increasing household income through employment and work opportunities; • Provision of accessible transport to health care facilities; • Affordable assistive devices and support, including accessibility of information and communication technology; and • The inclusion of persons with disabilities in the design of key developmental areas such as housing and transport.

6.5.1.2 Access to decent work and employment opportunities

Persons with disabilities must be treated as an asset rather than an expense item, and every effort should be taken, whether formally or informally, to develop skills and abilities and to provide opportunities for people to maximise their contribution.

Work is essential to an individual's economic security and is important to achieving social inclusion. Employment contributes to physical and mental health, personal wellbeing and a sense of identity. Income from employment increases financial independence and raises living standards.

Persons with disabilities are disadvantaged compared to their peers without disabilities as far as their access to decent work opportunities is concerned. This is partly attributed to limited formal education and skills. Persons with disabilities as a result tend to have worse labour market outcomes - unemployment, partial employment or full employment at lower wages than persons without disabilities. The Employment Equity Act, 1997 has not resulted in a significant improvement in

the employment status of persons with disabilities, with very minimal year-on-year improvements reported by the Commission on Employment Equity. Equity targets have been set well below the national disability prevalence by both the public and private sector, and those benefiting from this affirmative action legislation tend to be white and male and often do not require significant reasonable accommodation support measures.

Invisible disabilities (psychosocial, neurological, hearing and intellectual disabilities) often lead to persons with these disabilities not having access to affirmative action, social security and assistance benefits as they are not easily identifiable. These persons are therefore required to present additional proof of impairment.

Women with disabilities are affirmed through a range of targeted programmes and events by a number of government departments, although it recognised that improved co-ordination and targeting of these efforts will significantly strengthen impact.

The following range of supported/subsidised employment placement and support options are currently available in predominantly urban centres, largely due to the high general unemployment rate in South Africa:

- Sheltered work - People working in sheltered settings retain their social welfare benefits, typically a disability grant and usually receive a small discretionary additional weekly payment from the work provider. A weakness in the subsidised supported employment environment has been the lack of financial support for organisations of persons with disabilities who offer income-generating opportunities to their members;
- Integrative enterprises - sheltered workshops paying normal wages;
- Supported employment - a system of support for persons with disabilities in respect of on-going employment in integrated settings, including job coaching; and
- The open labour market.

A higher rate of investment must create employment opportunities for persons with disabilities, and a labour market that is more responsive to economic opportunity should take into account the need to ensure that persons with disabilities are included without discrimination on the basis of disability, race, geographical location or gender. Labour market strategies should embed disability at each level of the value chain, particularly with regards to ensuring that persons with disabilities benefit from reviewed regulations and standards for small and medium enterprises by addressing public sector labour relations; strengthening the application of minimum standards on the employment of persons with disabilities among employers ensuring that innovative recruitment processes target persons with disabilities; strengthening compliance with disability components of active labour market policies.

DIRECTIVES	DESCRIPTION
Determine disability related economic affirmative action targets that are cognisant of disability population demographics	The targets must take into consideration disability population demographics as well as redress requirements to facilitate equality of outcome by 2030.
Provide affordable vocational rehabilitation and related programmes	Employees with disabilities must have access to affordable vocational rehabilitation, skills development, job retention and return-to-work programmes after onset of disability.
Integrate socio-economic development programmes provided to persons with disabilities on the national employment services database	These programmes include social assistance, rehabilitation and habilitation, skills development, entrepreneurial and employment support programmes (e.g. mentorship for start-up business owners, job coaching and placement support). The aim is utilise the national employment support services database for job-seekers to link persons with disabilities to job opportunities.

6.5.1.3 Persons with disabilities as owners of the economy

Persons with disabilities can and should be active players in building the economy, and must therefore be enabled to access opportunities aimed at ownership of the economy. Measures should include:

- Ensuring that persons with disabilities are actively participating in key NDP economic sectors such as mining, construction, mid-skill manufacturing, agriculture and agro-processing, higher education, tourism and business services;
- Persons with disabilities benefit from infrastructure projects that contribute to growth and job creation. There is a need to ensure inclusive planning that guarantees equal business opportunities and access to key services such as commercial transport, energy, telecommunications and water, while ensuring their long-term affordability and sustainability;
- Persons with disabilities must be part of all strategies to reduce the cost of living for low-income and working-class households. Such strategies should take into account the diversified needs of different segments within the population of persons with disabilities;
- Reduced cost of regulatory compliance should be extended to businesses that are owned and managed by persons with disabilities and their families;

- A larger, more effective innovation system should ensure that skills development and businesses owned by persons with disabilities are included and supported;
- Support for small businesses that are owned and managed by persons with disabilities, must be strengthened;
- An expanded skills base that achieves the current target of 4% set in the National Skills Development Strategy, and progressively increase this to 15% by 2030 in line with the increasing number of persons with disabilities, must be supported;
- Strengthened financial services to bring down cost and improve access for small- and medium-sized businesses must be available to persons with disabilities and their business enterprises on an equitable basis;
- The commitment to public and private procurement that fosters the growth of disability empowered business and those owned/managed by persons with disabilities, must be translated into practice and reported on;
- Enhanced commercial diplomatic services should position disability as an integral component of investment and foreign policy; and
- The public procurement system is an important transformation tool, and must include a minimum requirement that all goods and services procured through the public purse, comply with the principles of universal design and disability equity.

DIRECTIVES	DESCRIPTION
Adopt and implement a target of 7% procurement and economic opportunities for emerging SMEs owned by persons with disabilities	Steps must be taken to ensure that at least 7% of all public and private procurement for bids under R30 000 are allocated to business entities owned by persons with disabilities. At least 7% of all opportunities in the various economic sectors must be allocated to business entities owned by persons with disabilities. This should include interventions so that farmers with disabilities access, own and cultivate land.
Strengthen access to, and participation in, SME support programmes	This must include strengthening all support programmes for entry level SMEs owned by persons with disabilities by implementing affirmative action targets and ensuring that reasonable accommodation support is available across the SME support services value chain.
Ensure that BBBEE benefits persons with disabilities	BBBEE creates access and equal opportunities for the economic empowerment of persons with disabilities by eliminating discrimination of all forms. As an example it facilitates access to the labour market by mandating and

	rewarding organisations to hire and upskill persons with disabilities. Persons with disabilities must be included in all the BBBEE legislation and related regulatory framework mandates. Specific directives include the following: • Persons with disabilities to have representation in all Sector Charters. • Amendments of BBBEE codes to allocate specific targets for all elements of the codes to benefit persons with disabilities, in negotiation with the disability sector.
Set affirmative action targets for women with disabilities	Proposed targets are: • 50% of all affirmative action opportunities targeting persons with disabilities. • 7% of affirmative action opportunities targeting women empowerment.

6.5.1.4 Reducing the cost of disability for persons with disabilities and their families

The extra-ordinary costs of living associated with the high cost of personal assistance services (sign language interpreters, attendant care, reader and note-taking services), assistive devices and technology and transport for some groups, as well as healthcare-related expenses, significantly detract from equality of outcomes despite the availability of affirmative action programmes.

In addition to the direct disability-related expenses noted above, persons with disabilities and their families might need to incur additional costs.

According to data from Stats SA's Community Survey 2007, children with disabilities are more likely to be orphaned than their peers without disabilities. One in four children with disabilities nationwide has lost one or both parents, compared to one in five among children without disabilities.

Taxpayers with disabilities or with disabled dependants, enjoy a significant range of tax rebates for all medical scheme contributions and out-of-pocket medical expenses. These include, among others:

- attendant-care expenses (home, school and work);
- travel and other related expenses (including transport costs specifically incurred in respect of a learner with a disability who attends a specialised school;
- acquisition, insurance and maintenance of assistive devices, artificial limbs and technology required to enable persons with disabilities to perform daily activities

(including computer or other electronic equipment required in order to convert printed material or image files into text, braille, speech or any other accessible format, including peripheral equipment such as scanners, braille printers, speakers and headphones for the personal use by or for a person with a disability); and

- service animals, alterations or modifications to assets acquired or to be acquired.

The challenge with the current taxation system in South Africa is that it is linked to the tax bracket of the individual, rather than on an equitable rebate for the actual expense of the disability-related cost incurred.

DIRECTIVES	DESCRIPTION
Review disability related tax benefits	Disability-related tax benefits must be reviewed to ensure equity in the recovery of disability-related costs.
Measures must be put in place to mediate the disability-related costs to SMMEs owned by persons with disabilities	Adjudication of bids must exclude the disability-related costs associated with reasonable accommodation measures required to run the business to ensure equitable adjudication on price.

6.6 Pillar 6 – Strengthening the Representative Voice of Persons with Disabilities

Being able to take decisions that affect one's standard of living – where you go to school, where you live, with whom you live, who you form relationships with, where you work and what work you do – is an unknown concept for many persons with disabilities. The principle of self-representation is therefore paramount in ensuring an adequate standard of living, and goes hand in hand with the concepts of empowerment, participation and independent living.

The first level of self-representation, at individual level, has been covered under the Pillar on Supporting Empowerment of Persons with Disabilities. This Pillar focuses on strengthening the collective representative voice of persons with disabilities.

RELEVANT UNCRPD ARTICLES
Article 4: General obligations Consultation and active involvement of persons with disabilities, including children with disabilities, through their representative organisations 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.

Article 29: Participation in political and public life

Measures to actively promote an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including forming and joining organisations of persons with disabilities to represent persons with disabilities at national, regional and local levels.

Article 33: National implementation and monitoring

Civil society, in particular persons with disabilities and their representative organisations, be engaged and participate fully in monitoring processes.

6.6.1 Focus Areas

The following five (5) focus areas require attention in order to strengthen the representative voice of persons with disabilities:

- Strengthening access and participation through self-representation;
- Recognition of representative organisations of persons with disabilities (inclusive of parents organisations);
- Strengthening the diversity and capacity of DPOs and self-advocacy programmes
- Public participation and consultation; and
- Self-representation in public life.

6.6.1.1 Strengthening Access and Participation through Self-Representation

Organisations of persons with disabilities, popularly known as disabled people's organisations or DPOs, are controlled by persons with disabilities themselves. This means that persons with disabilities constitute a majority of the overall staff and board, and are well-represented in all levels of the organisation, and this right is protected in the constitution of the organisation. It includes organisations of parents of children with disabilities where a primary aim of these organisations is empowerment and the growth of self-advocacy of persons with disabilities.

Self-advocacy groups, which often constitute important programmes of disability service organisations, are constituted by persons with disabilities who, as a result of their impairments, might find it difficult to run and manage their own organisations independently. They should however enjoy guarantees of having an independent voice when it comes to advocacy matters; in other words, have the right to express

themselves as a group without interference. These under-represented groups require specific measures to ensure that their voices are heard during advocacy and monitoring processes.

Beneficiaries and participants of disability specific programmes must enjoy self-representation rights on the management committees and governance structures of organisations and/or institutions delivering services to them.

DIRECTIVES	DESCRIPTION
Include persons with disabilities in all design, planning, implementation and monitoring of policies and programmes	Government institutions at all levels and contexts of governance must consult relevant representative organisations of persons with disabilities (inclusive of parents organisations) in the design, budgeting, implementation and monitoring of legislation, programmes and services to the public in general, as well as services and programmes designed specifically for persons with disabilities.
Ensure private entities provide accessible services	Private entities providing services to the public must be encouraged to involve representative organisations of persons with disabilities in developing and assessing the accessibility of their services.

6.6.1.2 Recognition of Representative Organisations of persons with disabilities (inclusive of parents' organisations)

Representing others requires a process of obtaining mandates from the constituency whose viewpoints are being expressed. The right to represent others, to be recognised as a *representative voice*, therefore comes with responsibilities. It requires of representative organisations to put in place, among others,

- Membership management systems, which enables the organisation to account for the constituency it represents (also in terms of race, gender, age, geographical location, sexual orientation, impairment group etc.);
- Empowerment programmes for members;
- Advocacy and monitoring programmes; and
- Internal consultation and accountability mechanisms which enables them to obtain mandates from their membership.

Recognition of representative organisations furthermore requires of duty-bearers to put in place systems that regulates self-representation for purposes of consultation during policy and programme development, implementation and M&E processes in order to ensure the collective representative voice of persons with disabilities.

DIRECTIVES	DESCRIPTION
Develop minimum norms and standards for consultation of persons with disabilities	Minimum norms and standards for consultation with representative organisations of persons with disabilities at all levels of governance must be developed and regulated.
DPOs must register with their respective co-ordinating bodies at national, provincial and local level	Representative organisations of persons with disabilities must register with the designated national, provincial, district and local disability rights coordinating mechanisms for purposes of participation in policy development, implementation support, monitoring and evaluation processes.

6.6.1.3 Strengthening the Diversity and Capacity of DPOs and Self-advocacy Programmes

The UNCRPD requires of states parties to contribute towards the strengthening of the representative voice of persons with disabilities. This requires that state funding is made available to support disability organisations in establishing and maintaining self-advocacy and participatory monitoring activities at all levels of governance.

Particular attention is required for funding of self-advocacy programmes that will strengthen the collective voice of under-represented groups, as discussed in the pillar on persons experiencing compounded marginalisation.

DIRECTIVES	DESCRIPTION
Provide funding to DPOs and self-advocacy groups for rights- based advocacy and research programmes	DPOs and self-advocacy groups must be empowered through legislation and financial support to: • Do rights-based advocacy and research for the promotion of the rights of persons with disabilities at national, provincial and local level; • Participate in the monitoring of the implementation of the White Paper on the Rights of Persons with Disabilities, sector policies and programmes as well as the domestication of international treaties; and • Monitor the rights of persons with disabilities through the independent monitoring mechanism.
Provide accessible	Persons with disabilities who experience barriers in

consultative platforms and support for self-representation	representing themselves or organising themselves into representative organisations, must be provided with consultative platforms and support to represent themselves.

6.6.1.4 Public Participation and Consultation

It is important to distinguish between participation and consultation when it comes to the provision of platforms for self-representation.

Public participation constitutes access and full participation by persons with disabilities in community meetings and processes. This requires that reasonable accommodation measures are put in place to ensure that persons with disabilities know about the platforms, are able to get to these meetings, are able to get into and move around in the buildings where the meetings are held, have their specific sensory requirements taken into account (e.g. lighting, noise levels etc.), have accessible ablution facilities, have access to the full range of interpreter services and other assistive technology which provides access to information and communication, and are able to present their viewpoints.

Consultation constitutes a more structured process of self-representation whereby persons with disabilities are provided with access to policy and programme development processes and can participate in M&E processes on issues affecting their lives. This requires that representative organisations/structures of persons with disabilities who are affected by a specific area of focus, apply for recognition with the relevant institutions for purposes of consultation, and that the outcomes of such consultations are shared with management and governance structures.

It is furthermore important that a distinction is made between advocacy (advice on what is required) and expertise (how this should be done) when consulting disability organisations. All participation-related expenditure incurred by disability organisations in state-initiated advocacy and monitoring activities must be covered by the relevant institution, and not by organisations. Expertise should not be provided free of charge, but should be procured through normal supply chain management processes.

DIRECTIVES	DESCRIPTION
All public participation programmes must be fully accessible to persons with disabilities	This will include making use only of venues that are fully accessible, and ensuring that reasonable accommodation measures are taken to ensure access to information and communication.

6.6.1.5 Self-representation in public life

It is important that persons with disabilities enjoy direct representation in legislative bodies as well as governance structures of public institutions whose mandates impact on the lives of persons with disabilities.

This includes, among others, that persons with disabilities are enabled to stand for election as public representatives at all levels of governance, that all legislatures have a public representation of persons with disabilities congruent with the disability prevalence percentage, and that their right to self-representation in public institutions is secured through legislation.

DIRECTIVES	DESCRIPTION
Legislate the rights of persons to be represented on legislative bodies	Legislation must be developed to secure the right of persons with disabilities to represent themselves in legislative bodies as well as governance structures of public institutions. Persons with disabilities must be represented on all legislative bodies as well as governing bodies of national, provincial, district and community institutions impacting on the lives of persons with disabilities through nomination by relevant representative organisations of persons with disabilities (inclusive of parents organisations). This will require review of legislation and policies governing the composition of governing structures and eligibility of political party lists for elections. Children with disabilities must be enabled to represent themselves. This can take the form of providing support and platforms to enable them to represent themselves.

6.7 Pillar 7 – Building a Disability Equitable State Machinery

"*Disability must be integrated into all facets of planning, recognising that there is no one-size-fits-all approach*".

National Development Plan, 2012

Efficient, effective and development-oriented state machinery that delivers services in an equitable manner is an essential element of a capable and developmental state that pursues a 'substantive' rather than 'formal' approach to equality, in other words,

that the circumstances of people are taken into account and focus is on ensuring equality of outcomes.

The state machinery includes the legislative, executive across all three spheres of government.

RELEVANT UNCRDP ARTICLES

Article 4: General obligations

- Appropriate legislative, administrative and other measures are taken to ensure implementation of the rights.
- The promotion of training of professionals and staff working with persons with disabilities to enable them to give effect to the rights. The need for training is amplified throughout the articles.

Article 31: Statistics and data collection

- States Parties to collect relevant information, which should include statistical and research data, for the formulation and implementation of policies that will give effect to the Convention.
- The process of collecting and maintaining information collected comply with legally established safeguards, including legislation on data protection, to ensure confidentiality and respect for the privacy of persons with disabilities,
- Comply with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles in the collection and use of statistics. Appropriate disaggregation is required to assess progress being made with implementation of States Parties' obligations, as well as to identify and address barriers faced by persons with disabilities in exercising their rights.
- States Parties to take responsibility for the dissemination of these statistics and ensure their accessibility to the general public, and persons with disabilities in particular.

Article 33: National Implementation and Monitoring

- The maintenance, strengthening, designation or establishment of a framework, to promote, protect and monitor implementation of the UNCRPD, in accordance with the government's legal and administrative systems. This framework might include one or more independent mechanisms, as appropriate.
- The participation of civil society, in particular persons with disabilities and their representative organisations, to be involved and participate fully in the monitoring process.

Article 35: Reports by States Parties

- Governments which have ratified the UNCPRD to submit periodic reports on progress made with implementation of the obligations contained in the UNCRPD.

Other Relevant Articles include:
Article 9 (Accessibility)
Article 13 (Access to Justice)
Article 20 (Personal Mobility)
Article 24 (Education)
Article 25 (Health)
Article 26 (Rehabilitation)

6.7.1 Focus Areas

Disability must be mainstreamed across the following five focus areas:

- Disability equitable planning, budgeting and service delivery;
- Disability equitable evidence informing policy and programme development (Monitoring, evaluation, reporting, research, data and statistics);
- Public procurement and regulation;
- Capacity building and training; and
- Strengthening accountability.

6.7.1.1 Disability Equitable Planning, Budgeting and Service Delivery

An efficient, effective and development oriented public service that delivers services in an equitable manner is an essential element of a capable and developmental state. Disability equitable planning and budgeting is about ensuring that government plans and budgets mainstream disability considerations so that persons with disabilities have equal access to services and opportunities compared to their peers without disabilities.

This requires that disability considerations be mainstreamed in all planning processes, with a particular focus on (i) equality of outcomes; (ii) universal design; (iii) the removal of barriers; (iv) reasonable accommodation measures and (v) redress, and that a M&E system be put in place which provides an assessment of the impact of the implementation of policies, programmes, services and public sector spend on the lives of persons with disabilities.

Principles informing coordination of services, budgeting and resource allocation include:

- Persons with disabilities have a right to participate equally with others in any activity and service intended for the general public;

- Principles of universal design and reasonable accommodation provisioning must inform all new and existing legislation, standards, policies, strategies, plans and budgets;
- Targeted programmes and services aimed at redressing and/or to ensure that the diverse needs of persons with disabilities are adequately met must be underpinned by effective planning, adequate allocation of human resources and sufficient financial investment;
- Persons with disabilities must be consulted on selecting appropriate reasonable accommodation measures, assistive technology and personal support; and
- Representative organisations of persons with disabilities (inclusive of parents' organisations) must be consulted throughout the design-planning-implementation-monitoring-evaluation-regulation value chain.

The development of Universal Design Access Plans at institutional level will ensure that:

- Persons with disabilities have equality of opportunity as other people to access the services, programmes and any events organised by such an institution aligned with the requirements of the UNCRPD and PEPUDA;
- Persons with disabilities have equality of opportunity as other people to access the buildings and other facilities of the institution;
- Persons with disabilities receive information in a format or means that will enable them to access the information as readily as other people are able to access it;
- Persons with disabilities receive equitable levels and quality of service from the staff of the institution as other people receive from the staff of that institution;
- Persons with disabilities have equality of opportunity as other people to make complaints to the institution; and
- Persons with disabilities have equality of opportunity as other people to participate in any public consultation by the institution.

Disability equitable budgeting includes the re-prioritisation of existing budgets to accommodate reasonable accommodation support required to facilitate equality of outcome for persons with disabilities, as well as budgeting for disability-specific services required by persons with disabilities to promote human dignity, empowerment and self-reliance. It also requires that all conditional grants in the division of revenue include a requirement that all infrastructure, technology and programme development complies with the principles of universal design.

DIRECTIVES	DESCRIPTION
Develop disability rights and equity commitment statements	All public institutions must include a commitment statement on disability equity, highlighting the relevant UNCRPD obligations to the respective institution, in their strategic plans.
Implement a disability equitable budgeting model	A disability equitable budgeting model must be developed to ensure that state budgets and expenditure take into account the equality of outcome as it pertains to persons with disabilities.
Develop and implement funded Universal Design Access Plans	All public institutions must include a funded Universal Design Access Plan as an integral component of their annual performance plans and/or Integrated Development Plans. This requires that public institutions are able to illustrate how universal design principles are transforming planning and designing, and what reasonable accommodation support measures are funded.
Incorporate universal design principles in procurement of goods, services and construction of infrastructure	All state grant funding must incorporate a minimum requirement that universal design principles are included in the procurement of goods and services and construction of infrastructure. All service level agreements with state owned enterprises must include a disability dimension that contributes towards equitable outcomes for persons with disabilities.
Review all programmes targeting children for access to children with disabilities	The review must be conducted on all public and private sector programmes. It must include all child-centred services and must focus on the elements of equal access and participation.
Provide top-up budgets for service delivery in deep rural and isolated communities	Subsidies for services delivered in deep rural communities must take into account the additional cost of delivering qualitative services in these communities. There must be specific programmes and micro-scale projects, prioritised for portions of rural areas where persons with disabilities reside, aimed at providing immediate basic services, infrastructure and enabling environments.

6.7.1.2 Disability Equitable Evidence informing Policy and Programme Development

Evidence that informs, among others, disability equitable policy and programme development on the one hand, and strengthening accountability on the other, is derived through effective monitoring and improvement processes, research and statistics and data management as described below:

- *Monitoring and Evaluation:* All M&E processes must incorporate the disability dimension, and disability organisations and persons with disabilities must be part of all citizen-based monitoring programmes;
- *Evaluation Feedback and Improvement:* Mechanisms for interpreting and extrapolating feedback gathered from evaluations must be in place. These mechanisms should be aimed at making use of the feedback to ensure on-going improvement of policies and programmes. *Research:* Policy review and design of programmes and services often lack evidence-based research on the exclusion and/or successful inclusion of persons with disabilities, as disability-related research is currently in the main not directed to inform the national disability rights agenda, but is to a large extent still conducted within the medical model approach (impairment-deficit focus), and lack a system of informing government planning. Improved coordination of disability rights-based research that articulates national priorities, and which provides sound evidence for future policy and practice decisions, will ultimately lead to improved outcomes for South Africans with disabilities; and
- *Disability Data and Statistics Management:* Reliable disability statistics play a crucial role in the development of policies and legislation aimed at improving the lives of persons with disabilities, as well as in monitoring progress and evaluating programmes addressing the needs of persons with disabilities.

Participation in monitoring and evaluation processes, as required by the UNCRPD, must be approached, among others, within the context of the Framework for Strengthening Citizen-Government Partnerships for Monitoring Frontline Service Delivery (2013), which emphasises the active participation of citizenry in order to provide key perspectives on service delivery that is vital to responsiveness of government.

Monitoring and evaluation of the rights of persons with disabilities is done within the broader context of the Government-Wide M&E System (GWMES), which encompasses the Policy Framework on the GWMES; National Treasury's Framework for Managing Programme Performance Information (FMPPI); Statistics South Africa's South African Statistical Quality Assessment Framework (SASQAF); and the 2011 National Evaluation Policy Framework (NEPF) produced by DPME.

Measurement of disability is complex, and varies according to the purpose and application of the data, the conceptualisation of disability, the aspects of disability (impairment, barriers or the interaction between these two aspects) being examined, definitions, question design and data collection methods, among others. A primary goal of collecting population data on persons with disabilities must be to identify strategies to improve their well-being and to track trends in changes over time.

The World Report on Disability acknowledges that "*impairment data are not an adequate proxy for disability information",* and that "'*broad 'groupings' of different 'types of disability' have become part of the language of disability'.* So, "*often,* '*types of disability' are defined using only one aspect of disability, such as impairments – sensory, physical, mental, intellectual – and at other times they conflate health conditions with disability"*.

Whilst South Africa might need information on impairments for purposes of designing specific services, it is important to acknowledge that the usefulness of such data is limited, as the resulting prevalence rates are (i) not indicative of the entire extent of disability and (ii) diverse health, social, rehabilitation and habilitation, education and support responses might be required depending on the age, gender, geographical location, culture etc. of the individuals in question. Persons with similar impairments can experience very different degrees and types of restrictions and barriers to participation depending on the context.

Persons with disabilities are increasingly constructing their self-identity not by their impairments, but rather independent of it, whereby they accept impairment as a reality that they live with without losing a sense of self.

Disaggregation of categories of disability/impairments data further by for example gender, age, income, occupation, is therefore important to uncover patterns, trends, and other information about 'sub-groups' of persons with disabilities. There are three types of disability-related data:

- Impairment data – collection of information about the prevalence of physiological or psychological functions.
- Activity limitation data – collection of information about the capacity of a population to perform daily activities such as mobility, communication, self-care, and interpersonal relations.
- Participation restriction data – collection of information about what members of a population actually are able to do in their lives, and, in particular, what features of their physical, built, interpersonal, or social environment help or hinder them.

Impairment information alone, though obviously relevant to disability statistics, is inadequate for three main reasons:

- Impairment information is only a partial picture of disability - the effects of health conditions on people's lives can differ radically depending on the kinds of

impairments, the effect of these impairments on a person's capacity to act, and most importantly, personal factors particular to the individual and the overall environmental context including social expectations about 'normality';

- Impairment data are inadequate proxies for disability - At the population level, though a few severe impairments can serve as proxies for a fairly large proportion of the overall prevalence of disability, without information about how these impairments play out in people's lives, policy makers would have no idea about the relative seriousness, or cost, of the disability associated with these impairments; and
- Impairments are not predictors of the lived experience of disability - Persons with similar impairments experience different kinds and degrees of incapacity and vastly different restrictions on what actually happens in their lives. Disability is the complete lived experience of non-fatal health outcomes, not merely body level decrements in functioning.

Measuring child disability is inherently much more difficult than measuring disability in adults. While adults have relatively stable characteristics, children go through a natural development process as they grow, learning how to talk, walk, read and write. Their evolving characteristics complicate the task of assessing function and distinguishing significant limitations from variations in normal developmental processes.

DPOs must be an integral part of statistical and data analysis and all disability-related data and statistics must be fully accessible to persons with disabilities.

The set of disability questions developed by the Washington Group (WG), currently utilised by Statistics South Africa for purposes of surveys and census, is generally regarded as a new and improved approach of measuring disability-based on activity limitations and restrictions in social participation. This data collection method is aimed at producing prevalence measures that are internationally comparable even though it is, still inadequate to measure impairment and participation across the entire spectrum.

The World Health Organization's (WHO) International Classification of Functioning (ICF), Disability, and Health is both a classification system and a model of the complete experience of disability. As a classification system, the ICF provides a common language, which guarantees the comparability of disability data between sectors within a country, and between countries. As a model of disability, the ICF offers a conceptual framework for structuring disability data.

DIRECTIVES	DESCRIPTION
Standardise disability data and statistics	All public and private institutions must review their data and statistics management systems with the view of incorporating disability disaggregation where relevant. The disability dimension must be included

	in all national census, household, labour and other socio-economic surveys. All research focusing on the general population within the focus areas covered in this WPRPD, must be disability disaggregated.
Develop and implement a national research agenda	A national disability research agenda for purposes of policy and programme development and tracking the reduction of inequality, must be developed at five year intervals to coincide with the MTSF.
Strengthen reporting systems to include disability related reports	Systems must be strengthened to ensure that all periodic reporting on ratified international treaties of the United Nations, African Union and SADC include with the disability-related obligations and dimensions of the UNCRPD.
Disaggregate disability data to reflect gender statistics	All disability-disaggregated data and statistics must be disaggregated according to gender; and all gender-related data and statistics must be disaggregated according to disability.

6.7.1.3 Public Procurement and Regulation

The public procurement system is an important transformation tool, and must include a minimum requirement that all goods and services procured through the public purse, comply with the principles of universal design and disability equity.

The regulatory environment for licensing mining rights, telecommunications, etc. must furthermore ensure that persons with disabilities benefit equally from the social investment requirements attached to such licenses.

INTERVENTIONS	DESCRIPTION
All public procurement and tender documents and processes must comply with the concept of universal design	Public procurement policies must include dispositions requiring that when public agents purchase products and services with public funds, the agent must purchase the product that best meets accessibility requirements as defined by international standards.
Persons with disabilities must benefit equitably from the social investment requirements attached to the licensing regulatory	Licensing regulations must ensure that social investment requirements prioritise the provisions for persons with disabilities and develop means to ensure persons with disabilities attain sustainable benefits.

environment	
State enterprises to include a disability dimension	All service level agreements with state owned enterprises must include a disability dimension that contributes towards equitable outcomes for persons with disabilities.

6.7.1.4 Capacity Building and Training

The UNCRPD places a high premium on the investment that should be made in building the capacity of the state machinery to implement the obligations of the UNCRPD.

Equitable service delivery requires well-run and effectively coordinated state institutions with skilled and accountable public servants, as well as functional institutional mechanisms to facilitate effective and efficient cooperative governance. Public institutions therefore need to ensure that they develop in-house capacity to mainstream disability considerations effectively across all programmes and services. This requires that they develop strategies to ensure that the institutions have an in-depth understanding, knowledge and experience of, among others:

- mainstreaming of disability considerations, including infusing universal design principles across the planning-implementation-monitoring value chain of all programmes, and putting in place reasonable accommodation measures aimed at removing barriers to participation of persons with disabilities;
- obligations contained in the Convention on the Rights of Persons with Disabilities and other international and regional rights instruments; and
- working with organs of civil society.

The above must be achieved through a coordinated programme for accredited and non-accredited training across all levels and components of the state machinery. Disability rights mainstreaming must be integrated into all aspects of pre-graduate training, orientation and training offered to personnel of the state machinery, accreditation of disability rights mainstreaming courses must be strengthened, a and persons with disabilities must be empowered to participate as trainers.

Whilst employers are responsible for ensuring that they capacitate employees to deliver disability equitable services, it is also the responsibility of every employee to ensure that they equip themselves with the required knowledge and skills to serve all customers equitably.

DIRECTIVES	DESCRIPTION
Train personnel on providing services to persons with	All public and private institutions must ensure that personnel responsible for frontline service delivery, design and planning, budgeting, service delivery, administration of

disabilities	justice and M&E undergo on-going training on strategies and measures to ensure equality of outcome for persons with disabilities in their programmes. Additionally, disability equity and service delivery improvement training must be included in the annual continuous development programmes of all professional staff that render services to persons with disabilities.
Include modules on disability in all education materials and courses	All education materials across the learning spectrum must include modules on inclusion and disability equity. All disability equity training courses must include persons with disabilities (inclusive of parents) as part of the trainer component.

6.7.1.5 Strengthening Accountability

The onus of ensuring that disability-equitable planning, budgeting, service delivery and M&E becomes the norm in South Africa, rests with the state, and not rights-holders. Duty-bearers must therefore be regarded as having intentionally discriminated on the basis of disability if they cannot illustrate that they:

- Have acknowledged that persons with disabilities experience marginalisation and exclusion (attitude);
- Have identified the barriers/sources of exclusion and marginalisation (baseline);
- Have identified the enablers to remove the barriers (intent);
- Have budgeted to remove the barriers (commitment);
- Can report on results/impact of implementation (accountability); and
- Can demonstrate by taking actions that they are improving (responsibility).

Enforcing compliance with the obligations contained in the UNCRPD as well as Constitution of the Republic of South Africa by both the public and private sector, requires strengthening of disability rights mainstreaming in existing legislation, as well as the development of new disability-specific legislation, with particular attention paid to enforcement mechanisms that are accessible to rights-holders.

DIRECTIVES	DESCRIPTION
Include disability outcomes in performance contracts of senior managers across the state machinery	All performance contracts of state machinery senior managers must articulate appropriate disability equity requirements.
Develop and implement new disability specific	New disability specific legislation to strengthen implementation of the WPRPD must be developed

legislation	following finalisation of a gap analysis.
Review existing legislation	Existing legislation must be reviewed to ensure compliance with UNCRPD obligations.

6.8 Pillar 8 – Promoting International Co-operation

South Africa has acceded to, or ratified, most of the African regional and international human rights instruments in the area of economic, social, cultural, civil and political rights.

The African Union's adoption of the Declaration of the African Decade for Persons with Disabilities in 2000 places responsibilities on African states to implement Decade programme activities. South Africa supports and participates in the African Decade for Persons with Disabilities (2010-2019).

RELEVANT UNCRDP ARTICLES
Article 32: International Cooperation States Parties, in recognition of the importance of international cooperation and its promotion, and in support of national efforts for the realisation of the purpose and objectives of the present Convention, will undertake appropriate and effective measures to promote international cooperation. **Article 40: Conference of States Parties** States Parties to participate in the annual Conference of States Parties to the UNCRPD to share good practice and monitor implementation of the UNCRPD at country level.

South Africa is a member of, among others the WHO, the ILO, WIPO and continues to share technical expertise through these channels.

Most national organisations of and for persons with disabilities participate actively in the leadership and programmes of their international and regional counterparts.

South Africa is obliged through a number of ratified treaties to ensure that the rights of asylum-seekers, refugees and displaced persons with disabilities are protected whilst they are in South Africa, and during repatriation processes.

DIRECTIVES	**DESCRIPTION**
Include disability in all international engagements and agreements	All multi-lateral, bilateral and national engagements, agreements and other bilateral-multi-lateral funding instruments must include a disability dimension and implement their disability inclusive policies in South Africa. Persons with disabilities from South Africa trained and

	recruited to play a significant role in international diplomacy, government-to-government relations and in social/economic bodies. Disability mainstreamed in South Africa's international development cooperation, trade and other agreements.
Support disability mainstreaming and strengthening participation in the Pan African Parliament, AU, SADC and other such organisations	SA must support disability rights mainstreaming and strengthening participation in the Pan African Parliament, the African Union and its organs, the Southern African Development Commission (SADC) and other international/ intergovernmental bodies based in and outside South Africa. South African policies harmonised with international policy instruments. South Africa is to play a role globally and through the civil society sector in revitalising the civil society sector by exchanging information through international organisations. South Africa is to exchange information bilaterally through partnership agreements with countries on the African Continent.
Develop and implement a national disability agenda on international cooperation	A national disability agenda for purposes of international cooperation and knowledge exchange must be determined at five year intervals to enhance MTSF planning and implementation.

6.9 Pillar 9 – Monitoring and Evaluation

The monitoring process involves collecting, analysing, and reporting data on inputs, activities, outputs, outcomes and impacts as well as external factors, in a way that supports effective management of implementation of the WPRPD.

Evaluations will assess relevance, efficiency, effectiveness, impact and sustainability, and thereby provide credible and useful information to answer specific questions to guide decision making by staff, managers and policy makers on accelerating the implementation of the WPRPD.

Impact evaluations will examine whether underlying theories and assumptions were valid, what worked, what did not and why.

Government performance information will triangulate with the tracking of statistical and financial information and citizen's voices.

6.9.1 Data terrains and the Disability Inequality Index

6.9.1.1 Data terrains

Monitoring implementation of this WPRPD will draw from three (3) data terrains as explained in the table below.

Tracking Statistical Trends	This involves the tracking of trends (current and evolving features and issues over time) in relation to the rights of persons with disabilities. This data stream shall comprise statistical data on the status of persons with disabilities and their related rights issues. Data will be obtained primarily from the existing data sets; data produced by other government departments and parastatals such as StatsSA, CSIR and the HSRC; and data gleaned from academic research institutes e.g. The National Income Dynamic Study (NIDS) conducted by University of Cape Town.
Programmatic Performance	Performance focuses on the interventions that ensure that outcomes are being met in an effective and efficient manner. This data stream will ensure there is evidence that persons with disabilities are considered and integrated into government programmes and policies. This stream will encompass a largely quantitative evidence base. The data for this stream will be primarily sourced from government's existing performance monitoring frameworks.
Stakeholder Feedback	This participatory data stream and approach is important for the qualitative monitoring and evaluation of human rights, and empowerment of marginalised people, whose voices are often not included in high level documents. It will facilitate the incorporation of qualitative data and evaluation ensuring that stakeholder groups are involved in the system.

6.9.1.2 Disability Inequality Index (DII)

In order to realise the outcomes of the National Development Plan Vision 2030 and beyond, it is important that inequalities between persons with disabilities and persons without disabilities be reduced. Policy improvement cannot bear fruit without systematic and consistent measurement of the inequality gap.

The DII is an index for measurement of inequality between persons with disabilities and persons without disabilities with a gender dimension. The index provides a high level quick scan of the level of inequality with the explicit purpose of managing

government performance more inclusively. This index will be calculated and reviewed annually.

The DII is not a substitute for the disability rights monitoring and evaluation framework that will be embedded in the government-wide monitoring and evaluation system.

Although the DII is new, it operates within the context of the Human Development Index, the Gender Inequality Index and the Development Indicators. The domains include access and participation; the labour market and empowerment.

6.9.2 Key Principles

M & E of disability rights will be underpinned by the following key principles:

- *Disability-disaggregation* of all monitoring and evaluation information where it can be used to inform responsive planning, budgeting, implementation and reporting. The aim is to report on meaningful inclusion of persons with disabilities in all government policies and programmes;
- *Involvement of rights-holders* – ensuring the full participation of persons with in the conceptualisation, planning, development, implementation and monitoring of all government policies and programmes that directly or indirectly impact on their lives; and
- *Comparability* requires comparisons to be made between levels of implementation over time. Such comparisons can be made only if monitoring is carried out on an on-going basis. In order to achieve this longitudinal comparison it is necessary to establish baseline measurements of the current situation. Effective monitoring of equality will require comparisons to be drawn between the service delivery to persons with disabilities and persons without disabilities. This is to ensure that persons with disabilities are able to enjoy their human rights on an equal basis with others. Such comparative information can best be obtained through the use of mainstream or generic data collection directed at the general population (i.e. where persons with disabilities are identified by relevant variables in the survey design).

As a point of departure, it is important to reflect on mainstreaming the Medium Term Strategic Framework (MTSF) outcomes in line with the disability-disaggregated National Development Plan.

The existing indicators that are already in the M&E system must be disaggregated to build a baseline for disability-disaggregation data, for example, where data is being collected on children and women.

6.9.3 Stakeholder coordination

M & E requires a significant measure of independent and impartial views, and is therefore best managed and conducted by a multi-disciplinary and multi-stakeholder team of people that account and report to the national disability rights coordinating mechanism on the processes engaged in, and the findings of the process. However, the national disability rights coordinating mechanism remains responsible for leading and ensuring that monitoring and evaluation is implemented.

Collaboration and co-operative M & E by all three spheres of government, the private sector and disabled peoples organisations will be facilitated by the national disability rights coordinating mechanism. The provincial and local spheres of government will be supported to set up M & E systems that are aligned and feed into the national system.

The national disability rights coordinating mechanism will establish the necessary co-ordination structures, mechanisms, processes and systems to fulfill its M&E responsibility.

The national disability rights coordinating mechanism and the Department of Planning, Monitoring and Evaluation will ensure alignment between their M&E systems, and that all information gathered through monitoring the implementation of the WPRPD informs government-wide planning and service delivery.

6.9.4 Reporting

The designated national disability rights coordinating mechanism will publish an annual report on progress being made in the implementation of the WPRPD, against the targets set in the Implementation Matrix.

South Africa is obliged, as a signatory to international human rights treaties, to submit periodic reports to the UN and AU respectively. Article 35 of the UNCRPD requires States Parties to submit reports at four yearly intervals.

A participatory impact assessment on implementation of the WPRPD will be conducted at four year intervals to inform national MTSF planning and international treaty reporting.

6.9.5 Enforcement mechanisms

Persons with disabilities whose rights have been violated currently have access to recourse through a number of existing mechanisms, including:

- The SAHRC, which can, among others, investigate, report and secure appropriate redress where human rights have been violated;

- The Public Protector, which can, among others, investigate complaints on the conduct of a government official which interferes with the enjoyment of economic and social rights;
- The Public Service Commission**,** which can, among others, investigate complaints against public administration practices;
- The Courts, which play a very important role in the interpretation and enforcement of economic and social rights; and
- Other mechanisms such as the National Consumer Commission.

South Africa also ratified the Optional Protocol to the UNCRPD without reservation in 2007. This provides persons with disabilities with direct access to the UN Committee on the Rights of Persons with Disabilities if persons with disabilities believe that persons with disabilities are victims of a violation of the provisions of the UNCRPD, and where persons with disabilities have exhausted all available domestic remedies such as the Constitutional, Labour and/or Equality Courts.

6.9.6 Outcomes and Long term indicators

The outcome indicators contained in the WPRPD represent high level measurement of the impact of each of the 8 WPRPD pillars on the lives of persons with disabilities. The maintenance of the output, input and process indicator matrix, aligned to the UNCRPD obligations, and which feeds into these high level indicators will be coordinated by the national disability rights coordinating mechanism in government in partnership with all relevant role-players.

The following outcome statements correlate with the focus of pillars in order to streamline the disability rights monitoring and evaluation framework.

The following table reflects some of the high level broad measures that will be used to track outcome improvements for persons with disabilities.

Outcomes	**High Level Indicators**
Persons with disabilities are accorded and enjoy their full political, human, social and economic rights on par with all other people in South Africa.	• Compliance with international treaty obligations. • Percentage of public and private facilities with institutionalised social cohesion and disability sensitivity programmes. • Percentage of post school education and training courses which have a mandatory module on universal design. • Percentage of public and private transport systems complying with universal design principles. • Percentage of newly constructed public and private sector building fully compliant with built environment

Outcomes	High Level Indicators
	accessibility legislation. • Percentage of existing public and private sector building retrofitted to in compliance to the built-environment accessibility norms and standards. • Percentage of websites of public and private sector which complies with universal design principles. • Percentage of television programmes which provide closed captioning and sign language interpretation.
All persons with disabilities; irrespective of their age, gender, type of disability, race and economic status; are participating fully and equally in mainstream social and economic life	• Compliance with international treaty obligations. • Percentage of emergency services with accessible call centres for persons with hearing disabilities in particular. • Percentage of provincial and disaster management centres with operational plans for evacuation of persons with disabilities requiring assistance during such procedures. • Number of persons with disabilities denied their right to equality before the law. • Number of cases lodged by persons with disabilities and their families to access recourse following violation of their rights. • Percentage of police stations and courts with the full reasonable accommodation support spectrum available when required. • Percentage of victim empowerment services and facilities with the full reasonable accommodation support spectrum available when required. • Number of persons with disabilities subjected to arbitrary detention and wrongful criminal convictions due to lack of reasonable accommodation support available at any point in the justice value chain. • Number of persons with disabilities subjected to torture or cruel, inhuman or degrading treatment or punishment, exploitation, violence and abuse.
The rights of all persons with disabilities to live and work in safe and accessible environments, free from discrimination,	• Compliance with international treaty obligations. • Percentage of persons with disabilities having timeous access to assistive devices and technology and personal assistance. • Number of persons on waiting lists for assistive devices and technology and personal assistance.

Outcomes	High Level Indicators
harassment and persecution is upheld and they have access to recourse and redress in instances where these are violated	• Percentage of families with disabled members accessing support services. • Percentage of suburbs, towns, villages and informal settlements where persons with disabilities can move about freely without hindrance.
Persons with disabilities have equitable access to life-long learning, training and capacity building and all other services and interventions	• Compliance with international treaty obligations. • Percentage of registered ECD facilities and programmes with access and participation measures in place to welcome children with disabilities. • Percentage of public and private education facilities with the full reasonable accommodation support spectrum available when required. • Increased enrolment and completion of students with disabilities in compulsory school and post-school education and training programmes. • Increased number of rehabilitation facilities offering full spectrum integrated rehabilitation and habilitation services. • Percentage of public and private healthcare facilities with the full reasonable accommodation support spectrum available when required. • Number of persons with intellectual, neurological and psychosocial disabilities accessing support in exercising of legal capacity.
South Africa providing persons with disabilities with services and interventions that ensure economic security, decent jobs and general economic empowerment for persons with disabilities and their families.	• Compliance with international treaty obligations. • Unemployment and employment rates of persons with disabilities disaggregated by age and gender, viz a vis persons without disabilities. • Improvement in turnover of and number of enterprises owned by persons with disabilities. • Number of persons with disabilities participating in skills development programmes that are relevant to the job/employment market. • Number of persons with disabilities accessing employment support programmes. • Percentage of persons with disabilities migrating from social assistance to permanent employment/self-employment.

Outcomes	High Level Indicators
	• Number of taxpayers claiming disability-related tax rebates.
Persons with disabilities represent themselves on issues affecting their lives, make decisions thereon, have control over their lives and are able to exercise choice.	• Compliance with international treaty obligations. • Percentage of public institutions with functional representative disability consultative forums. • Percentage of public participation programmes with the full reasonable accommodation support spectrum provided. • Percentage of disability representation (gender disaggregated) on party election lists and in legislatures at all levels of government. • Level of participation by representative organisations of persons with disabilities in monitoring processes of public institutions.
An efficient, effective and development oriented state machinery that delivers services in an equitable manner, reports on the equitable outcome of public expenditure and delivery, and which complies to international and national human rights obligations.	• Compliance with international treaty obligations. • Percentage of strategic and annual plans of public institutions that have mainstreamed disability obligations. • Number of frontline public servants trained to provide services for persons with disabilities. • Accurate and reliable data on the provision of mainstreamed services to persons with disabilities.
South Africa providing leadership, sharing experiences and learning from the international community on accelerating the promotion and protection of the rights of persons with disabilities as equal citizens.	• Compliance with international treaty obligations. • Compliance with international treaty reporting and participation obligations. • Percentage of bilateral, multilateral international agreements containing a disability dimension.

PART 7: ROLES AND RESPONSIBILITIES

7.1 Overview of Roles and Responsibilities

The impact of the White Paper on the Rights of Persons with Disabilities relies on the extent to which the different role-players understand and take responsibility for the respective roles they play in implementing the WPRPD.

Key stakeholders which need to cooperate in ensuring that the WPRPD is implemented in a coordinated and accountable manner, include Executive Authorities, accounting Officers, disability rights coordinating mechanisms, inter-governmental and cooperative governance mechanisms, legislatures, institutions promoting democracy and organisations of and for persons with disabilities.

7.2 Roles and Functions of Executive Authorities (across state machinery)

Executive Authorities must act as champions for the promotion and protection of the rights of persons with disabilities within the institutions in which they serve, and as such are responsible for:

- Providing political leadership for the mainstreaming of disability across the value chain of all programmes of the institutions they lead;
- Ensuring that the policy Directives of the WPRPD are translated into costed programmes within the institutions they lead;
- Ensuring that Accounting Officers are held accountable for disability rights mainstreaming across all programmes of the institution they lead; and
- Ensuring that platforms for consultation with representative organisations of persons with disabilities (inclusive of parents organisations), are formalised within the institutions they lead.

7.3 Roles and Functions of Accounting Officers (across state machinery)

Accounting officers are responsible for ensuring that administrative systems are put in place to ensure effective implementation of the WPRPD and reporting on the impact of implementation. Such systems must include, among others:

- Disability equitable planning, budgeting, implementation and reporting;
- Establishment of an intra-institutional disability rights coordinating mechanism;
- Institutionalisation of consultative platforms with representative organisations of persons with disabilities that report from these platforms; Institutionalisation of reasonable accommodation support measures to ensure that persons with disabilities have equitable access to all institutional information and services rendered to the general public;
- Disability rights mainstreaming orientation and training of all personnel;

- Ensuring the provision of financial, human and material resources to disability-related programmes; and
- Ensuring that in-depth and verified disability disaggregated information is integrated into institutional knowledge management systems to ensure compliance with international treaties, MTSF and WPRPD reporting requirements.

The National Treasury and Auditor General, within their mandates, shall ensure that departments comply with disability inclusive budgeting and reporting.

7.4 Disability Rights Coordination

Article 33 (National implementation and monitoring) of the UNCRPD requires that one or more focal points within government be designated to accelerate implementation of the UNCRPD, and a coordination mechanism must be established within government to facilitate related action in different sectors and at different levels.

Government machineries must be strengthened at:

- *Institutional level*, responsible for providing strategic direction and technical support in the delivery of equality and elimination of discrimination against persons with disabilities;
- *Inter-departmental level (national and provincial)*, providing strategic direction and technical support in the delivery of equality and elimination of discrimination against persons with disabilities;
- *Inter-provincial level*, responsible for the oversight, management, co-ordination of the implementation of programmes for persons with disabilities in all provinces in order to ensure standards are maintained across provinces;
- *District level*, responsible for coordination of action and sharing of experiences between local municipalities in a district;
- *Local level*, providing support to ward committees to drive local action aimed at promoting and protecting the rights of persons with disabilities; and
- *Government-Civil Society Interface* - Provision should be made for full participation of civil society structures at national, provincial and local level, particularly in issue-based working groups.

7.1.1 National Coordination

The President, upon taking office, decides on the macro-organisation of the state, including designation of the national disability rights coordinating mechanism.

Placement must be in accordance with the general system of organisation of functions. The role and functions of the national disability rights coordinating mechanism include:

- Coordination of and technical support for the implementation of the WPRPD;
- Development and coordination of the five year national disability rights programme of action, aligned with the MTSF;
- Monitoring of and reporting on compliance with the UNCRPD and other international disability-related treaties;
- Coordination and management of government-wide disability rights cooperative governance forums at national level;

The existence of the national and provincial disability rights coordinating mechanisms does not remove responsibility for functional coordination from institutions which have a coordinating function for purposes of government-wide planning, M&E, budgeting and financial oversight, building a capable public administration, regulating the labour market, etc..

The National Disability Rights Machinery shall be constituted by:

- Accounting officers and/or designated disability rights coordinators of the Departments of Planning, M&E, Public Service and Administration, National Treasury, Women, International Relations and Cooperation, Statistics South Africa, and will be chaired by the department in which the national disability rights coordinating mechanism is placed;
- Accounting officers and/or designated disability rights coordinators of the departments chairing each of the FOSAD clusters. A disability rights forum must be established for each FOSAD cluster to facilitate mainstreaming of disability into all issues presented to the cluster;
- Accounting officers of national disability organisations; and
- Additional technical expertise will be sourced from research institutions, independent consultancies, institutions of higher education, organised business and labour sectors, as well as international development and human rights agencies.

7.1.2 Provincial Co-ordination

Premiers, upon taking office, decide on the macro-organisation of provincial administrations, including designation of the provincial disability rights coordinating mechanisms. Placement must be in accordance with the general system of organisation of functions. The role and functions of provincial disability rights coordinating mechanisms include:

- Development and coordination of the five year provincial disability rights programmes of action;

- Monitoring of compliance with the UNCRPD and implementation of the WPRPD at provincial, district and local level;
- Management of disability rights cooperative governance forums at provincial level;
- Coordination of international treaties and national disability rights reporting at provincial level.

Provincial Disability Rights Machineries will report to the Provincial Executive Councils and Premiers' Coordinating Forums, and will be constituted by:

- Provincial disability rights coordinating mechanisms;
- Disability Rights managers from each provincial government departments and public entities;
- Regional offices of national government departments;
- South African Local Government Association;
- District municipalities and metropolitan councils;
- Local municipalities;
- Provincial disability rights organisations; and
- Provincial offices of institutions promoting democracy;

Additional expertise can be sourced from research institutions, institutions of higher education, organised business and labour sectors based in the respective provinces.

7.1.3 Intra-Institutional Coordination

It is the responsibility of every public institution to put in place structural arrangements to ensure the institution is able to fulfil its obligations as contained in the WPRPD, in accordance with the system of organisation of functions within the each institution. This might take the form of designation, appointment of disability rights coordinators/units as well as disability rights intra-departmental committees, which will be responsible for, among others:

- Coordinating an institutional analysis and alignment of all legislation, policies, plans, programmes and services of government institutions to ensure effective mainstreaming of disability and implementation of the WPRPD;
- Coordinating consultative platforms with civil society;
- Conducting quality assurance audits and documenting good practice in disability rights mainstreaming; and
- Advising the executive team on progress made and measures that should be taken to accelerate disability rights mainstreaming across all programmes of the institution.

Local municipalities and metropolitan councils must establish disability rights consultative forums, with representation by, among others:

- All disability organisations operating within the municipal boundaries;
- The disability representatives of every ward committee;

- Senior management of all municipal departments; and
- Secretariat services must be provided by the designated disability rights coordination mechanism within the municipality.

The roles and functions of the municipal disability rights consultative forums include:

- Providing a clearing house for disability priorities for inclusion in municipal integrated development plans and budgets;
- Monitoring implementation of the WPRPD at municipal level; and
- Providing advice to local Councils and IDP Steering Committees on the promotion and protection of the rights of persons with disabilities.

7.5 Roles and Functions of Legislatures and the Houses of Traditional Leaders

The National Assembly, the National Council of Provinces, provincial legislatures, municipal councils as well as the national and provincial Houses of Traditional Leaders, through their committee systems, constituency programmes and by involving rights-holders, have important oversight responsibilities in ensuring that every public institution integrates the WPRPD policy Directives into institutional plans, budgets and reports.

The hosting of annual sectoral legislatures (referred to as Disability Rights Parliaments or Councils), is another important mechanism to strengthen accountability by duty-bearers to rights-holders. Rights-holders are to strengthen the importance of this function through empowering of their representatives within these Parliaments/Councils.

Traditional leaders, as custodians of traditional customs, play a central role in championing the rights of persons with disabilities in traditional communities, including upholding their rights in proceedings of traditional courts.

7.6 Roles and Functions of Institutions promoting Democracy

The following State Institutions strengthen constitutional democracy in South Africa, and therefore also play important roles in ensuring that the rights of persons with disabilities are protected and promoted:

- The SAHRC;
- The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities;
- The Commission for Gender Equality;
- The Auditor-General; and
- The Electoral Commission

Article 33 (National Implementation and Monitoring) of the UNCRPD requires states parties to establish, among others, an independent monitoring framework to strengthen monitoring of the rights of women, men and children with disabilities at national level by either establishing a new independent monitoring mechanism to conduct the monitoring work, or by strengthening and designating an existing mechanism to enable it to provide the monitoring function required by the UNCRPD. The UNCRPD furthermore anticipates that the independent monitoring mechanism will ensure that civil society, persons with disabilities and their representative organisations participate fully in all aspects of the monitoring processes just as they should be involved in the development and implementation of policies, programmes and legislation to implement the UNCRPD.

Section 13(1)(b) of the South African Human Rights Commission Act, 2013 empowers the SAHRC to "*monitor the implementation of, and compliance with, international and regional conventions and treaties, international and regional covenants and international and regional charters relating to the objects of the Commission*", and requires of the SAHRC to prepare and submit reports to the National Assembly pertaining to any of these human rights instruments.

The independent monitoring mechanism is responsible for, among others:

- Reporting on human rights matters as it affects persons with disabilities, including submission of reports to the National Assembly;
- Contributing to periodic reporting to United Nations treaty bodies and committees, as well as the Africa Commission on Human and People's Rights and its relevant committees;
- Making recommendations to Government with regards the harmonisation of national legislation, regulations and practices with international human rights standards;
- Participating in national advocacy campaigns promoting the rights of persons with disabilities; and
- Considering and processing complaints about human rights violations and discrimination perpetrated against persons with disabilities.

A Civil Society Disability Rights Monitoring Fund must be established to support the monitoring responsibilities of representative organisations of persons with disabilities.

The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities play a central role in promoting and advancing the cultural rights of persons with disabilities in general, and in particular of the Deaf community.

7.7 Roles and Functions of Disability Organisations

Organisations of and for persons with disabilities play a central role in advancing the implementation, as well as monitoring of the WPRPD Their functions include:

- Supporting the empowerment of their members and constituencies through human rights education campaigns;
- Supporting the implementation of the WPRPD; and
- Monitoring implementation of the WPRPD.

7.8 Roles and Functions of Research and Academic Institutions

Research and academic institutions must ensure that they advance the rights of persons with disabilities in general, and implementation of the WPRPD by mainstreaming disability throughout their research work and academic courses.

7.9 Roles and Functions of the Media and Advertising Industry

The media and advertising industry plays a central role in shaping the minds and behaviour of the community.

The vast majority of information about disability in the mass media is extremely negative, with disabling stereotypes which medicalise, patronise, criminalise and dehumanise persons with disabilities. These form the bed-rock on which the attitudes towards, assumptions about and expectations of persons with disabilities are based. They are fundamental to the discrimination and exploitation which disabled people encounter daily, and contribute significantly to their systematic exclusion from mainstream community life.

Media and advertising agencies must therefore transform the industry to provide the kind of information and imagery which acknowledges and explores the complexity of the experience of disability and a disabled identity as well as facilitates the meaningful integration of all persons with disabilities into the mainstream economic and social life of the community.

7.10 Roles and Functions of the Religious Sector

Persons with disabilities often experience rejection within faith communities as disabilities are either seen as a sign of God's punishment and a curse, or as proof of His love and an "opportunity for special growth".

Faith based organisations and institutions must firstly embrace persons with disabilities as ordinary members of the congregation, and secondly make available

reasonable accommodation measures to ensure that leaders as well as congregants with disabilities are able to participate equally in all aspects of the organisation's activities.

7.11 Policy Directives: Institutional Arrangements

- Disability rights coordinating mechanisms must be designated and/or appointed in all public institutions;
- Institutional capacity to contribute to the national disability rights agenda across the spectrum of development, statistical and innovation agencies must be strengthened through the development of designated disability-focused programmes and mechanisms;
- Statistics South Africa, as the national statistical body, must establish a Disability Statistics Advisory Group on disability to guide the research, development, testing, validity and analysis of disability question(s) and responses to provide acceptable disability data for inclusion in the national Census, household, labour and other socio-economic surveys. Membership of the Advisory Group must include, among others, national government departments, the South African Local Government Association, disability organisations, research institutions and institutions of higher education;
- The South African Bureau of Standards must strengthen its universal design capacity in the work of their design institute and standard setting bodies;
- The CSIR must strengthen its capacity to promote universal design in its research, technological innovation as well as industrial and scientific development programmes; and
- The South African Qualifications Authority (SAQA) must strengthen its capacity to promote and coordinate the development of a national universal design qualifications framework.

ANNEXURES

LEGISLATION AND POLICIES (List as of July 2015)

Annexure 2.1 National Legislation and Policies

Some of the laws which provide for the protection and promotion of the rights of persons with disabilities include (Main Source: University of Pretoria. 2013, African Disability Rights Yearbook):

- **Broad-Based Black Economic Empowerment Act 53 of 2003**
  This Act deals with economic empowerment of black women and men and persons with disabilities. The Act gives priority to issues such as employment equity and equalising opportunities.

- **Child Justice Act 75 of 2008**
  Deals with the crimes mentioned in sections 23 to 26 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007, listing it as a Schedule 3 offence when dealing with child offenders.

- **Children's Act 53 of 2003**
  The Children's Act is there to provide the necessary care and assistance to children, where section 11 deals specifically with matters concerning children with disabilities or chronic illnesses. In section 6(2) (d) and (f) the Act states that all proceedings, actions or decisions in a matter concerning a child must protect the child from unfair discrimination on any ground, including on the grounds of the health status or disability of the child or a family member of the child and recognise a child's disability and create an enabling environment to respond to the special needs that the child has.

- **Co-operatives Act 14 of 2005**
  Amongst others one of the objectives of this act is to facilitate the provision of support programmes that target emerging co-operatives, specifically those co-operatives that consist of black persons, women, youth, disabled persons or persons in the rural areas and that promote equity and greater participation by its members.

- **Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007**
  This Act deals with legal aspects of or relating to sexual offences. Specifically, it enacts comprehensive provisions dealing with the creation of certain new, expanded or amended sexual offences against children and persons who have intellectual and/or psychosocial disabilities.

- **Criminal Procedure Act 51 of 1977**
  The Criminal Procedure Act deals with; inter alia, an accused's competency to stand trial. Section 194 provides that no person appearing or proved to be afflicted with mental illness or to be labouring under any imbecility of mind due to intoxication or drugs or the like, and who is thereby deprived of the proper use of his reason, shall be competent to give evidence while so afflicted or disabled.

- **Domestic Violence Act 116 of 1998**
  This Act prohibits any forms of violence within domestic relationships. Domestic relationships include between family members or caregivers and persons with disabilities.

- **Electoral Act 73 of 1998**
  This Act provides that voters with disabilities should be assisted by a person of their choice where necessary, and persons with disabilities can be registered as special voters. This allows them to vote on a predetermined day before election day either at the voting station or at their residence (See sections 33 and 39 of the Act).

- **Electronic Communications Act 36 of 2005**
  Section 2(s) (iii) determines that the primary object of this Act is to provide for the regulation of electronic communications in the Republic in the public interest and for that purpose according to section 2(s) ensure that broadcasting services, viewed collectively (iii) cater for a broad range of services and specifically for the programming needs of children, women, the youth and persons with disabilities.

- **Electronic Communications and Transactions Act 25 of 2002**
  Section 1(l) states the objects of this Act are to enable and facilitate electronic communications and transactions in the public interest, and for that purpose to ensure that, in relation to the provision of electronic transactions services, the special needs of particular communities, areas and the disabled are duly taken into account.

- **Employment Equity Act 55 of 1998**
  This Act seeks to promote and achieve equity in the workplace. This Act specifically prohibits the unfair discrimination of employees on the ground of disability. Furthermore chapter 3 deals with the employer's duties regarding affirmative action, ensuring that persons from designated groups have equal job opportunities. People with disabilities form one of these designated groups.

- **Labour Relations Act 66 of 1995**
  This Act regulates the right to fair labour practices entrenched in section 27 of the Constitution. No person may be unfairly discriminated against on an arbitrary ground such as disability.

- **Mental Health Care Act 17 of 2002**
  This Act aims at regulating and providing mental health care, treatment and rehabilitation services available for everyone and specifically regulates the manner in which the property of persons with mental illness and persons with severe or profound intellectual disability may be dealt with by a court of law (see section 3 of the Act for the objectives).

- **National Building Regulations and Building Standards Act 103 of 1977**
  This Act is currently under review, proposed amendments (in 2008) have undergone radical changes with respect to the section on providing facilities for people with disabilities. The requirements which should be met include: People with disabilities should be able to safely enter the building and be able to safely use all the facilities within it, specifically toilets. Furthermore lifts in buildings must be able to serve the needs of persons with disabilities. This means that there must be no obstacles/barriers that will prevent people with disabilities from accessing facilities within the building such as the lifts. The regulations refer specifically to people with impaired vision, but also relate to wheelchair users, or people who have trouble walking without assistance. Buildings that incorporate halls or auditoriums for public use are obliged to ensure that a reasonable percentage of space is available for wheelchair users or other 'assistive devices'.

  For any building used by the public to meet the standards and measurements contained in the 'SANS 10400-S document'. The application of the National Building Regulations Part S: Facilities for persons with disabilities.

- **National Education Policy Act 27 of 1996**
  This Act's aim, amongst others, is to ensure that no person is denied the opportunity to receive an education, to the maximum of his or her ability as a result of physical disability.

- **National Health Act 61 of 2003 and the Sterilisation Act 44 of 1998**
  These Acts prohibits forced sterilisation of persons with disabilities. The National Health Act stipulates that all persons, including persons with disabilities, have a right to reproductive health services including family planning.

- **National Land and Transport Act 5 of 2009**
  The Minister may make regulations for the requirements and time-frames for vehicles and facilities to be made accessible to persons with disabilities, including principles for accommodating such persons in the public transport system (Section 8 of the Act).

- **National Road Traffic Act 93 of 1996**
  This Act, amongst others, states which disabilities or illnesses disqualify a person from obtaining or holding a learner's or driver's licence.

- **Postal Services Act 124 of 1998**
  Section 2(h) of this Act specifically states that one of the objects of the Act is to ensure that the needs of persons with disabilities are taken into account in the provision of postal services.

- **Preferential Procurement Policy Framework Act 5 of 2000**
  This Act seeks to provide a framework for preferential treatment of women of all races, black people and persons with disabilities in procurement transactions, as a means of addressing historical imbalances, to accelerate de facto equality.

- **Promotion of Equality and Prevention of Unfair Discrimination Act**
  This Act promotes the prevention of unfair discrimination and protection of human dignity as contemplated in sections 9 and 10 of the Constitution. This specifically includes discrimination against people with disabilities.

- **Skills Development Act 97 of 1998 and Skills Development Levies Act 9 of 1999**
  These Acts set out a framework for managing skills development. The implementation of the Employment Equity Act requires synergy with that of the Skills Development Framework. Furthermore, the Skills Development Strategy sets out skills development targets for women of all races (54 per cent); black people, including women, and persons with disabilities.

- **Social Assistance Act 13 of 2004**
  This Act regulates the eligibility of social assistance (section 5 of the Act) and section 9 specifically deals with the condition or requirements in respect of disability grants.

- **South African Library for the Blind Act 91 of 1998**
  To provide for the South African Library for the Blind; for library and information services to blind and print-handicapped readers; and for matters connected therewith.

- **South African Schools Act 84 of 1996**
  The purpose of this Act is to provide uniform education for ‘everyone’ without discrimination. The Schools Act further states that The Member of the Executive Council must, where reasonably practicable provide education for learners with special education needs at ordinary public schools and provide relevant educational support services for such learners. The Member of the Executive Council must take all reasonable measures to ensure that the physical facilities at public schools are accessible to disabled persons.

- **South African Citizenship Act 88 of 1995**
  This Act provides for the acquisition, loss and resumption of South African citizenship, and for matters incidental thereto. This includes and ensures the rights of persons with disabilities to have equal access to nationality.

DECISIONS OF COURTS AND TRIBUNALS

The Constitutional Court determined in 1997 in Prinsloo v Van der Linde that human dignity constitutes a criterion to determine unfair discrimination. The Court endorsed the view that:

At the heart of the prohibition of unfair discrimination lies a recognition that the purpose of our new constitutional and democratic order is the establishment of a society in which all human beings will be accorded equal dignity and respect regardless of their membership of particular groups.

The Promotion of Equality and Prevention of Unfair Discrimination Act provides for the establishment of Equality Courts in all magisterial districts, which in principle should provide easy access to persons who believe they have been discriminated against on, amongst others, the basis of disability.

The importance of human dignity was emphasised in WH Bosch v The Minister of Safety and Security & Minister of Public Works when the Equality Court in Port Elizabeth held that:

There is no price that can be attached to dignity or a threat to that dignity. There is no justification for the violation or potential violation of the disabled person's right to equality and maintenance of his dignity that was tendered or averred by the respondent. The court therefore found the discrimination to have been unfair.

The judgment directed that all South African Police Services (SAPS) stations be made accessible to persons with disabilities.

In another Equality Court case in Germiston, Esthé Muller v Minister of Justice & Minister of Public Works, an out-of-court settlement in 2004 created precedence by directing that all court buildings be made accessible to persons with disabilities. Bosch and Muller resulted in the creation of a dedicated programme within the Department of Public Works to renovate existing public services buildings.

Similarly, the Equality Court ruled in favour of Lettie Oortman against the St Thomas Aquinas private school (Lettie Hazel Oortman v St Thomas Aquinas Private School & Bernard Langton) when the court directed that not only was the school obliged to re-admit Chelsea Oortman, but that the school had to take reasonable steps to remove

all obstacles to enable Chelsea to have access to all the classrooms and the toilets allocated to her by using a wheelchair. The SAHRC (see question 8) had assisted Oortman and addressed the issues relating to the rights of persons with disabilities in Mpumalanga's Equality Court. The court found that the school had not taken all the reasonable steps to accommodate Oortman and the school had to remove all obstacles for the learner in order to enable her to have access to the classroom, washbasin and toilet allocated to the learner by using her wheelchair.

In the Standard Bank of South Africa v Commission for Conciliation, Mediation and Arbitration & Others, an employee was dismissed after being injured in a car accident. The Bank failed to accommodate the employee, which rendered the dismissal 'automatically unfair' in terms of labour practice. The Bank had not complied with the Code of Good Practice on Dismissal. The Court noted that the underlying constitutional rights are the right to equality, the right to human dignity, the right to choose an occupation, and the right to fair labour practice. Judge Pillay noted that marginalisation of persons with disabilities in a workplace is not because of their ability to work, but because the disability is seen as an abnormality or flaw; that integration and inclusion in mainstream society aims not only to achieve equality, but also to restore the dignity of persons with disabilities.

Furthermore, the Kyle Springate judgement (2009) directed the Department of Basic Education to include South African Sign Language in the curriculum. This resulted in the introduction of the SASL curriculum in all schools for Deaf learners in 2015.

POLICIES AND PROGRAMMES

- **White Paper on an Integrated National Disability Strategy**
  - The White Paper on an Integrated National Disability Strategy of 199752 facilitates the promotion and protection of the rights of people with disabilities. It provides guidance for disability considerations in policy and legislative reform. The policy aims at integration of disability issues in all government development strategies, planning and programmes.

- **Accessibility**
  - Accessibility in schools – the Minimum Uniform Norms and Standards for Public School Infrastructure (2013) include specifications for universal design and access with regard to new and existing school buildings.
  - National Accessibility Programme: The National Accessibility Programme is a large, multi-year research and innovation project that addresses the marginalisation of persons with disabilities from mainstream society and the economy, ensuring their participation and inclusion at all levels of society through the use of Information and Communication Technology (ICT).

- Broadcasting Digital Migration Policy and Broadband Policy: Digital broadcasting must contribute significantly to accelerating the building of social cohesion and achieving national identity in South Africa through the dissemination of appropriate content that adequately reflects the country's cultures. Digital broadcasting provides services for persons with disabilities with closed captioning embedded in the television signal, which becomes visible when a special decoder is used. The South African decoder will, as a matter of policy, enable viewers to see captions, which assist them to read what is being said in that particular programme.55 The Independent Communications Authority of South Africa, the regulatory body, developed a Code on Persons with Disabilities as required by section 70 of the Electronic Communications Act 36 of 2005, as well as section 2(h) of the Postal Services Act.56
- A disability portal, the National Accessibility Programme, was launched in 2008 as a partnership project between government, the African Advanced Institute for Information and Communication Technology and the disability sector, and is positioned as an integrated service provider to the disability community and industry offering accessible technology services, communication services, data synthesis services and other commercial services.
- Policy on the Provision of Reasonable Accommodation and Assistive Devices in the Public Service (2012): This policy seeks to assist government departments in planning for and implementing reasonable accommodation measures for employees with disabilities.

- **Accessible transport**
  - Standard design guidelines (Universal accessibility standards) to address accessibility in the passenger rail environment commenced in 2005, and culminated in the adoption of such universal guidelines in March 2008 by the Passenger Rail Agency of South Africa (PRASA) and the Department of Transport. PRASA is currently updating the guidelines and policy in consultation with organisations of persons with disabilities to strengthen universal access on its trains and stations as an integral component of its programme, which will upgrade 134 core stations by 2014.
  - The Airport Companies of South Africa (ACSA) has worked with the disability sector to improve services on passenger assistance units (PAUs) by increasing the number of units available at ACSA airports, as well as training PAU personnel. DPOs periodically report on isolated instances where people with physical disabilities are discriminated against in terms of boarding flights. These are usually resolved through intervention by, amongst others, the Civil Aviation Authority, the Department of Transport, as well as the Department of Women, Children and Persons with disabilities (DWCPD).

- The Department of Transport is furthermore finalising norms and standards for accessible scholar transport and specifications for accessible school buses have been developed.
- The Integrated Transport System, which provides universal accessibility on municipal bus services, is currently rolled out in metropolitan and larger local municipalities.

- **Education**
  - Policy on Screening, Identification, Assessment and Support (SIAS) of 2014. The aim of introducing the SIAS Policy in the education system is to overhaul the process of identifying, assessing and providing programmes for all learners requiring additional support to enhance participation and inclusion. One of the key objectives of the Policy is to provide clear guidelines on enrolling learners in special schools and settings.
  - Education White Paper 6 on Special Needs Education: This policy supports inclusive education. The Education White Paper outlines six strategies to be implemented to achieve the goal of inclusive education by 2021.
  - Guidelines to Ensure Quality Education and Support in Special Schools and Special School Resource Centres of 2013: The aim of these guidelines is to ensure that special schools function well and offer appropriate, quality education to learners.
  - Guidelines for Full-Service or Inclusive Schools of 2010: These guidelines form part of the Schooling 2025 Plan of the Department of Basic Education to strengthen the implementation of Inclusive Education, and to ensure greater access for all learners. The guidelines provide criteria or minimum standards that a school or institution must comply with to be considered an inclusive or a full service school or institution.
  - The National Curriculum Statement, Gr R to 12 (2011) which has inclusivity as a core principle.
  - Guidelines for Responding to Learner Diversity in the Classroom through the National Curriculum Statement of 2011. These guidelines are intended to provide teachers, principals, subject advisors, administrators, school governors and other personnel, parameters and strategies on how to respond to learner diversity in the classroom through the curriculum. One of the most significant barriers to learning is the school curriculum. Barriers to learning arise from the different aspects of the curriculum such as the content, the language, classroom organisation, teaching methodologies, pace of teaching and time available to complete the curriculum, teaching and learning support materials and assessment. In responding to the diversity of learner needs in the classroom, it is imperative to ensure differentiation in curriculum delivery to enable access to learning for all learners. All schools are required to offer

the same curriculum to learners while simultaneously ensuring variations in mode of delivery and assessment processes to accommodate all learners. Respecting diversity implies a belief that all learners have the potential to learn.

- National Protocol on Assessment of 2011: The National Protocol for Assessment Grades R-12 standardises the recording and reporting processes for Grades R-12 within the framework of the National Curriculum Statement Grades R-12. Chapter 9 of the Protocol outlines special measures that must be available for learners with disabilities to ensure that they may be fairly assessed at a range of levels and have access to concessions and accommodations in line with the prescripts set out in the Education White Paper 6 on Special Needs Education.

- National Policy Pertaining To The Conduct, Administration And Management Of Examinations And Assessment For The National Senior Certificate (2013), Annexure C1: Assessment For Learners Who Experience Barriers To Learning And Assessment which aligns how concessions and accommodations will be made available to learners to accommodate their individual needs.
- The Minimum Requirements for Teacher Education Qualifications (as revised in 2014) outlines that all teachers need to have pedagogical and situational learning to implement inclusive education and meet the diverse needs of learners
- The National Policy Framework for Teacher Education and Development (2006): The overriding aim of the policy is to equip teachers to undertake their essential and demanding tasks, to enable them to continually enhance their professional competence and performance, and to raise the esteem in which they are held by the people of South Africa. This includes addressing inclusive education and being able to comply with the policies on disabilities.

- **Liberty and security of a person with a disability**
  - The Department of Correctional Services separates offenders with disabilities who are housed in a secure detention unit to ensure that they are not exposed to any danger, in particular within the context of the current over-crowding in the majority of correctional facilities.
  - Monitoring and evaluation is done by means of Statistical tool G388-form, which has been reviewed and mainstreamed to accommodate offenders with disabilities.
  - The White Paper 8 on Corrections in South Africa: Correctional institutions should be designed to cater for the needs of offenders with disabilities and should be consistent with the national policy framework on persons with disabilities. The policy should reflect both the equality of rights of disabled offenders and the particular needs that offenders with disabilities have. The

provision of appropriate facilities must not be limited to the physical accommodation needs, but must include the provision of appropriate facilities for the enhancement of rehabilitation amongst these offenders. The White Paper further states that 'the courts need to make a greater commitment to consider the individual circumstances of each offender, and in this instance, the courts should consider imposing non-custodial sentences for offenders with disabilities'.

- **Living independently and being included in the community**
  - The Department of Social Development has developed policy guidelines on residential facilities and minimum norms and standards for residential facilities, which have given effect to providing guidelines, minimum norms and standards to the transformation and improvement of the quality of life for persons with disabilities in residential facilities. Supported/assisted living and independent living programmes constitute a move towards units/homes that are more open and smaller and within the community to facilitate de-institutionalisation. These are suitable for people who do not require 24 hour care and have some degree of independence.

- **Personal mobility/health/habilitation and rehabilitation**
  - The National Rehabilitation Policy of 2006's objectives includes facilitating human resource development, which takes into account the needs of both the service providers and the consumers as well as the appropriate allocation of funding, such as funding for assistive devices. The policy aims at securing the rights of all persons to have equal access to healthcare, which includes mental health and rehabilitation services. This Policy further aims to assist people with disabilities to attain maximum independence and full inclusion in all aspects of life.

- **Participation in cultural life, recreation, leisure and sport**
  - Sport and Recreation South Africa (SRSA) must, in accordance with its funding policy in terms of section 10(1) (d) of the National Sports and Recreational Act 18 of 2007, increase the profile and financial assistance to volunteers, women, senior citizens, neglected rural areas and persons with disabilities, in sport and recreation. The SRSA Funding Policy of 2008 states that preference will be given to those clients (National Federations) whose activities clearly impact on government priorities and one of them is the 'advancement of women and persons with a disability'.
  - The Performing Art Policy ensures that 5 per cent of performers contracted for celebration and/or commemoration of national days constitute performers with disabilities.

- **Access to Justice**
  - The Proximity of Courts Programme: This service provides periodic courts to rural and remote communities that would otherwise not have access to courts. Furthermore Legal Aid provides legal assistance at the expense of the state.

- **Work Opportunities**
  - The Expanded Public Works Programme (EPWP): This programme is aimed at providing poverty and income relief through temporary work for the unemployed to carry out socially useful activities.
  - The Community Work Programme (CWP) (2009): This programme provides an employment safety net by giving participants a minimum number of regular days off work.

INTERNATIONAL AND REGIONAL INSTRUMENTS

Instrument	Signature	Ratification	Accession
International Bill of Human Rights			
International Covenant on Economic, Social and Cultural Rights	1994	2014	
International Covenant on Civil and Political Rights	1994	1998	
Optional Protocol to the International Covenant on Civil and Political Rights			2002
Universal Declaration of Human Rights		1949	
Prevention of Discrimination on the Basis of Race, Religion, or Belief; and Protection of Minorities			
International Convention on the Elimination of All Forms of Racial Discrimination	1994	1998	
Women's Human Rights			
Convention on the Elimination of All Forms of Discrimination against Women	1993	1995	
Optional Protocol to the Convention on the Elimination of Discrimination against Women		2005	
Protection from Torture, Ill-Treatment and Disappearance			
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	1993	1998	
Rights of the Child			
Convention on the Rights of the Child	1989	1995	
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts	2002		
African Charter on the Rights and Welfare of the Child	1997	2000	
Freedom of Association			
Freedom of Association and Protection of the Right to Organise Convention		1996	
Employment and Forced Labour			
Equal Remuneration Convention		2000	
Discrimination (Employment and Occupation) Convention		1997	

Instrument	Signature	Ratification	Accession
Education			
Convention against Discrimination in Education		2000	
Refugees and Asylum			
Convention relating to the Status of Refugees			1996
Protocol Relating to the Status of Refugees			1996
African Regional Conventions			
African [Banjul] Charter on Human and Peoples' Rights	1986	1996	
Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa		2004	
African Charter on the Rights and Welfare of the Child	1997	2000	
SADC Protocol on Gender and Development	2008		

Other international and regional instruments which has informed the development of the White Paper on the Rights of Persons with Disabilities, but which do not have treaty status, include:

- Beijing Declaration and Platform of Action;
- Universal Periodic Review (UPR);
- United Nations Millennium Declaration (2000).
- African Peer Review Mechanism (APRM);
- SADC Charter of Fundamental Social Rights;
- Declaration on Employment and Poverty Alleviation in Africa
- AU Charter on Democracy, Elections and Governance
- African Union Continental Plan of Action for the Decade of Persons with Disabilities
- United Nations Standard Rules for the Equalisation of Opportunities for Persons with Disabilities

CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

Preamble The States Parties to the present Convention,

(a) Recalling the principles proclaimed in the Charter of the United Nations which recognize the inherent dignity and worth and the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world,

(b) Recognizing that the United Nations, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, has proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind,

(c) Reaffirming the universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms and the need for persons with disabilities to be guaranteed their full enjoyment without discrimination,

(d) Recalling the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,

(e) Recognizing that disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others,

(f) Recognizing the importance of the principles and policy guidelines contained in the World Programme of Action concerning Disabled Persons and in the Standard Rules on the Equalization of Opportunities for Persons with Disabilities in influencing the promotion, formulation and evaluation of the policies, plans, programmes and actions at the national, regional and international levels to further equalize opportunities for persons with disabilities,

(g) Emphasizing the importance of mainstreaming disability issues as an integral part of relevant strategies of sustainable development,

(h) Recognizing also that discrimination against any person on the basis of disability is a violation of the inherent dignity and worth of the human person,

(i) Recognizing further the diversity of persons with disabilities,

(j) Recognizing the need to promote and protect the human rights of all persons with disabilities, including those who require more intensive support,

(k) Concerned that, despite these various instruments and undertakings, persons with disabilities continue to face barriers in their participation as equal members of society and violations of their human rights in all parts of the world,

(l) Recognizing the importance of international cooperation for improving the living conditions of persons with disabilities in every country, particularly in developing countries,

(m) Recognizing the valued existing and potential contributions made by persons with disabilities to the overall well-being and diversity of their communities, and that the promotion of the full enjoyment by persons with disabilities of their human rights and fundamental freedoms and of full participation by persons with disabilities will result in their enhanced sense of belonging and in significant advances in the human, social and economic development of society and the eradication of poverty,

(n) Recognizing the importance for persons with disabilities of their individual autonomy and independence, including the freedom to make their own choices,

(o) Considering that persons with disabilities should have the opportunity to be actively involved in decision-making processes about policies and programmes, including those directly concerning them,

(p) Concerned about the difficult conditions faced by persons with disabilities who are subject to multiple or aggravated forms of discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age or other status,

(q) Recognizing that women and girls with disabilities are often at greater risk, both within and outside the of violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation,

(r) Recognizing that children with disabilities should have full enjoyment of all human rights and fundamental freedoms on an equal basis with other children, and recalling obligations to that end undertaken by States Parties to the Convention on the Rights of the Child,

(s) Emphasizing the need to incorporate a gender perspective in all efforts to promote the full enjoyment of human rights and fundamental freedoms by persons with disabilities,

(t) Highlighting the fact that the majority of persons with disabilities live in conditions of poverty, and in this regard recognizing the critical need to address the negative impact of poverty on persons with disabilities,

(u) Bearing in mind that conditions of peace and security based on full respect for the purposes and principles contained in the Charter of the United Nations and observance of applicable human rights instruments are indispensable for the full protection of persons with disabilities, in particular during armed conflicts and foreign occupation,

(v) Recognizing the importance of accessibility to the physical, social, economic and cultural environment, to health and education and to information and communication, in enabling persons with disabilities to fully enjoy all human rights and fundamental freedoms,

(w) Realizing that the individual, having duties to other individuals and to the community to which he or she belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the International Bill of Human Rights,

(x) Convinced that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State, and that persons with disabilities and their family members should receive the necessary protection and assistance to enable families to contribute towards the full and equal enjoyment of the rights of persons with disabilities,

(y) Convinced that a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities will make a significant contribution to redressing the profound social disadvantage of persons with disabilities and promote their participation in the civil, political, economic, social and cultural spheres with equal opportunities, in both developing and developed countries,

Have agreed as follows:

Article 1 - Purpose

The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.

Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

Article 2 - Definitions

For the purposes of the present Convention:

"Communication" includes languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology;

"Language" includes spoken and signed languages and other forms of non-spoken languages;

"Discrimination on the basis of disability" means 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;

"Reasonable accommodation" means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms;

"Universal design" means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. "Universal design" shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.

Article 3 - General principles

The principles of the present Convention shall be:

(a) Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
(b) Non-discrimination;
(c) Full and effective participation and inclusion in society;
(d) Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
(e) Equality of opportunity;
(f) Accessibility;
(g) Equality between men and women;
(h) Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

Article 4 - General obligations

1. States Parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability. To this end, States Parties undertake:

(a) To adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention;

(b) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities;

(c) To take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes;

(d) To refrain from engaging in any act or practice that is inconsistent with the present Convention and to ensure that public authorities and institutions act in conformity with the present Convention;

(e) To take all appropriate measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise;

(f) To undertake or promote research and development of universally designed goods, services, equipment and facilities, as defined in article 2 of the present Convention, which

should require the minimum possible adaptation and the least cost to meet the specific needs of a person with disabilities, to promote their availability and use, and to promote universal design in the development of standards and guidelines;

(g) To undertake or promote research and development of, and to promote the availability and use of new technologies, including information and communications technologies, mobility aids, devices and assistive technologies, suitable for persons with disabilities, giving priority to technologies at an affordable cost;

(h) To provide accessible information to persons with disabilities about mobility aids, devices and assistive technologies, including new technologies, as well as other forms of assistance, support services and facilities;

(i) To promote the training of professionals and staff working with persons with disabilities in the rights recognized in this Convention so as to better provide the assistance and services guaranteed by those rights.

2. With regard to economic, social and cultural rights, each State Party undertakes to take measures to the maximum of its available resources and, where needed, within the framework of international cooperation, with a view to achieving progressively the full realization of these rights, without prejudice to those obligations contained in the present Convention that are immediately applicable according to international law.

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.

4. Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of persons with disabilities and which may be contained in the law of a State Party or international law in force for that State. There shall be no restriction upon or derogation from any of the human rights and fundamental freedoms recognized or existing in any State Party to the present Convention pursuant to law, conventions, regulation or custom on the pretext that the present Convention does not recognize such rights or freedoms or that it recognizes them to a lesser extent.

5. The provisions of the present Convention shall extend to all parts of federal states without any limitations or exceptions.

Article 5 - Equality and non-discrimination

1. States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.

2. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.

3. In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.

4. Specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention.

Article 6 - Women with disabilities

1. States Parties recognize that women and girls with disabilities are subject to multiple discrimination and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms.

2. States Parties shall take all appropriate measures to ensure the full development, advancement and empowerment of women, for the purpose of guaranteeing them the exercise and enjoyment of the human rights and fundamental freedoms set out in the present Convention.

Article 7 - Children with disabilities

1. States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.

2. In all actions concerning children with disabilities, the best interests of the child shall be a primary consideration.

3. States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right.

Article 8 - Awareness-raising

1. States Parties undertake to adopt immediate, effective and appropriate measures:

(a) To raise awareness throughout society, including at the family level, regarding persons with disabilities, and to foster respect for the rights and dignity of persons with disabilities;

(b) To combat stereotypes, prejudices and harmful practices relating to persons with disabilities, including those based on sex and age, in all areas of life;

(c) To promote awareness of the capabilities and contributions of persons with disabilities.

2. Measures to this end include:

(a) Initiating and maintaining effective public awareness campaigns designed:

(i) To nurture receptiveness to the rights of persons with disabilities;

(ii) To promote positive perceptions and greater social awareness towards persons with disabilities;

(iii) To promote recognition of the skills, merits and abilities of persons with disabilities, and of their contributions to the workplace and the labour market;

(b) Fostering at all levels of the education system, including in all children from an early age, an attitude of respect for the rights of persons with disabilities;

(c) Encouraging all organs of the media to portray persons with disabilities in a manner consistent with the purpose of the present Convention;

(d) Promoting awareness-training programmes regarding persons with disabilities and the rights of persons with disabilities.

Article 9 - Accessibility

1. To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:

(a) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;

(b) Information, communications and other services, including electronic services and emergency services.

2. States Parties shall also take appropriate measures to:

(a) Develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;

(b) Ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities;

(c) Provide training for stakeholders on accessibility issues facing persons with disabilities;

(d) Provide in buildings and other facilities open to the public signage in Braille and in easy to read and understand forms;

(e) Provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public;

(f) Promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information;

(g) Promote access for persons with disabilities to new information and communications technologies and systems, including the Internet;

(h) Promote the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost.

Article 10 - Right to life

States Parties reaffirm that every human being has the inherent right to life and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others.

Article 11 - Situations of risk and humanitarian emergencies

States Parties shall take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.

Article 12 - Equal recognition before the law

1. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.

2. States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.

3. States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.

4. States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body. The safeguards shall be proportional to the degree to which such measures affect the person's rights and interests.

5. Subject to the provisions of this article, States Parties shall take all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and shall ensure that persons with disabilities are not arbitrarily deprived of their property.

Article 13 - Access to justice

1. States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate

accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.

2. In order to help to ensure effective access to justice for persons with disabilities, States Parties shall promote appropriate training for those working in the field of administration of justice, including police and prison staff.

Article 14 - Liberty and security of the person

1. States Parties shall ensure that persons with disabilities, on an equal basis with others:

(a) Enjoy the right to liberty and security of person;

(b) Are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the existence of a disability shall in no case justify a deprivation of liberty.

2. States Parties shall ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of this Convention, including by provision of reasonable accommodation.

Article 15 - Freedom from torture or cruel, inhuman or degrading treatment or punishment

1. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his or her free consent to medical or scientific experimentation.

2. States Parties shall take all effective legislative, administrative, judicial or other measures to prevent persons with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman or degrading treatment or punishment.

Article 16 - Freedom from exploitation, violence and abuse

1. States Parties shall take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the, from all forms of exploitation, violence and abuse, including their gender-based aspects.

2. States Parties shall also take all appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring, inter alia, appropriate forms of gender- and age-sensitive assistance and support for persons with disabilities and their families and caregivers, including through the provision of information and education on how to avoid, recognize and report instances of exploitation, violence and abuse. States Parties shall ensure that protection services are age-, gender- and disability-sensitive.

3. In order to prevent the occurrence of all forms of exploitation, violence and abuse, States Parties shall ensure that all facilities and programmes designed to serve persons with disabilities are effectively monitored by independent authorities.

4. States Parties shall take all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disabilities who become victims of any form of exploitation, violence or abuse, including through the provision of protection services. Such recovery and reintegration shall take place in an environment that fosters the health, welfare, self-respect, dignity and autonomy of the person and takes into account gender- and age-specific needs.

5. States Parties shall put in place effective legislation and policies, including women- and child-focused legislation and policies, to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted.

Article 17 - Protecting the integrity of the person

Every person with disabilities has a right to respect for his or her physical and mental integrity on an equal basis with others.

Article 18 - Liberty of movement and nationality

1. States Parties shall recognize the rights of persons with disabilities to liberty of movement, to freedom to choose their residence and to a nationality, on an equal basis with others, including by ensuring that persons with disabilities:

(a) Have the right to acquire and change a nationality and are not deprived of their nationality arbitrarily or on the basis of disability;

(b) Are not deprived, on the basis of disability, of their ability to obtain, possess and utilize documentation of their nationality or other documentation of identification, or to utilize relevant processes such as immigration proceedings, that may be needed to facilitate exercise of the right to liberty of movement;

(c) Are free to leave any country, including their own;

(d) Are not deprived, arbitrarily or on the basis of disability, of the right to enter their own country.

2. Children with disabilities shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by their parents.

Article 19 - Living independently and being included in the community

States Parties to this Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community, including by ensuring that:

(a) Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement;

(b) Persons with disabilities have access to a range of in-, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community;

(c) Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.

Article 20 Personal mobility

States Parties shall take effective measures to ensure personal mobility with the greatest possible independence for persons with disabilities, including by:

(a) Facilitating the personal mobility of persons with disabilities in the manner and at the time of their choice, and at affordable cost;

(b) Facilitating access by persons with disabilities to quality mobility aids, devices, assistive technologies and forms of live assistance and intermediaries, including by making them available at affordable cost;

(c) Providing training in mobility skills to persons with disabilities and to specialist staff working with persons with disabilities;

(d) Encouraging entities that produce mobility aids, devices and assistive technologies to take into account all aspects of mobility for persons with disabilities.

Article 21 - Freedom of expression and opinion, and access to information

States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice, as defined in article 2 of the present Convention, including by:

(a) Providing information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost;

(b) Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions;

(c) Urging private entities that provide services to the general public, including through the Internet, to provide information and services in accessible and usable formats for persons with disabilities;

(d) Encouraging the mass media, including providers of information through the Internet, to make their services accessible to persons with disabilities;

(e) Recognizing and promoting the use of sign languages.

Article 22 - Respect for privacy

1. No person with disabilities, regardless of place of residence or living arrangements, shall be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence or other types of communication or to unlawful attacks on his or her honour and reputation. Persons with disabilities have the right to the protection of the law against such interference or attacks.

2. States Parties shall protect the privacy of personal, health and rehabilitation information of persons with disabilities on an equal basis with others.

Article 23 - Respect for and the family

1. States Parties shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others, so as to ensure that:

(a) The right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognized;

(b) The rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children and to have access to age-appropriate information, reproductive and family planning education are recognized, and the means necessary to enable them to exercise these rights are provided;

(c) Persons with disabilities, including children, retain their fertility on an equal basis with others.

2. States Parties shall ensure the rights and responsibilities of persons with disabilities, with regard to guardianship, wardship, trusteeship, adoption of children or similar institutions, where these concepts exist in national legislation; in all cases the best interests of the child shall be paramount. States Parties shall render appropriate assistance to persons with disabilities in the performance of their child-rearing responsibilities.

3. States Parties shall ensure that children with disabilities have equal rights with respect to family life. With a view to realizing these rights, and to prevent concealment, abandonment, neglect and segregation of children with disabilities, States Parties shall undertake to provide early and comprehensive information, services and support to children with disabilities and their families.

4. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the

best interests of the child. In no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents.

5. States Parties shall, where the immediate family is unable to care for a child with disabilities, undertake every effort to provide alternative care within the wider family, and failing that, within the community in a family setting.

Article 24 - Education

1. States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning directed to:

(a) The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;

(b) The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;

(c) Enabling persons with disabilities to participate effectively in a free society.

2. In realizing this right, States Parties shall ensure that:

(a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;

(b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;

(c) Reasonable accommodation of the individual's requirements is provided;

(d) Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;

(e) Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.

3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including:

(a) Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;

(b) Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;

(c) Ensuring that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.

4. In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.

5. States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.

Article 25 - Health

States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation. In particular, States Parties shall:

(a) Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health and population-based public health programmes;

(b) Provide those health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimize and prevent further disabilities, including among children and older persons;

(c) Provide these health services as close as possible to people's own communities, including in rural areas;

(d) Require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, inter alia, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care;

(e) Prohibit discrimination against persons with disabilities in the provision of health insurance, and life insurance where such insurance is permitted by national law, which shall be provided in a fair and reasonable manner;

(f) Prevent discriminatory denial of health care or health services or food and fluids on the basis of disability.

Article 26 - Habilitation and rehabilitation

1. States Parties shall take effective and appropriate measures, including through peer support, to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life. To that end, States Parties shall organize, strengthen and extend comprehensive habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services, in such a way that these services and programmes:

(a) Begin at the earliest possible stage, and are based on the multidisciplinary assessment of individual needs and strengths;

(b) Support participation and inclusion in the community and all aspects of society, are voluntary, and are available to persons with disabilities as close as possible to their own communities, including in rural areas.

2. States Parties shall promote the development of initial and continuing training for professionals and staff working in habilitation and rehabilitation services.

3. States Parties shall promote the availability, knowledge and use of assistive devices and technologies, designed for persons with disabilities, as they relate to habilitation and rehabilitation.

Article 27 - Work and employment

1. States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:

(a) Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;

(b) Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances;

(c) Ensure that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others;

(d) Enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training;

(e) Promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment;

(f) Promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business;

(g) Employ persons with disabilities in the public sector;

(h) Promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures;

(i) Ensure that reasonable accommodation is provided to persons with disabilities in the workplace;

(j) Promote the acquisition by persons with disabilities of work experience in the open labour market;

(k) Promote vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities.

2. States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.

Article 28 - Adequate standard of living and social protection

1. States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.

2. States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures:

(a) To ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs;

(b) To ensure access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection programmes and poverty reduction programmes;

(c) To ensure access by persons with disabilities and their families living in situations of poverty to assistance from the State with disability-related expenses, including adequate training, counselling, financial assistance and respite care;

(d) To ensure access by persons with disabilities to public housing programmes;

(e) To ensure equal access by persons with disabilities to retirement benefits and programmes.

Article 29 - Participation in political and public life

States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake to:

(a) Ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by:

(i) Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;

(ii) Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;

(iii) Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice;

(b) Promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:

(i) Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties;

(ii) Forming and joining organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.

Article 30 - Participation in cultural life, recreation, leisure and sport

1. States Parties recognize the right of persons with disabilities to take part on an equal basis with others in cultural life, and shall take all appropriate measures to ensure that persons with disabilities:

(a) Enjoy access to cultural materials in accessible formats;

(b) Enjoy access to television programmes, films, theatre and other cultural activities, in accessible formats;

(c) Enjoy access to places for cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, and, as far as possible, enjoy access to monuments and sites of national cultural importance.

2. States Parties shall take appropriate measures to enable persons with disabilities to have the opportunity to develop and utilize their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of society.

3. States Parties shall take all appropriate steps, in accordance with international law, to ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials.

4. Persons with disabilities shall be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including sign languages and deaf culture.

5. With a view to enabling persons with disabilities to participate on an equal basis with others in recreational, leisure and sporting activities, States Parties shall take appropriate measures:

(a) To encourage and promote the participation, to the fullest extent possible, of persons with disabilities in mainstream sporting activities at all levels;

(b) To ensure that persons with disabilities have an opportunity to organize, develop and participate in disability-specific sporting and recreational activities and, to this end, encourage the provision, on an equal basis with others, of appropriate instruction, training and resources;

(c) To ensure that persons with disabilities have access to sporting, recreational and tourism venues;

(d) To ensure that children with disabilities have equal access with other children to participation in play, recreation and leisure and sporting activities, including those activities in the school system;

(e) To ensure that persons with disabilities have access to services from those involved in the organization of recreational, tourism, leisure and sporting activities.

Article 31 - Statistics and data collection

1. States Parties undertake to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the present Convention. The process of collecting and maintaining this information shall:

(a) Comply with legally established safeguards, including legislation on data protection, to ensure confidentiality and respect for the privacy of persons with disabilities;

(b) Comply with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles in the collection and use of statistics.

2. The information collected in accordance with this article shall be disaggregated, as appropriate, and used to help assess the implementation of States Parties' obligations under the present Convention and to identify and address the barriers faced by persons with disabilities in exercising their rights.

3. States Parties shall assume responsibility for the dissemination of these statistics and ensure their accessibility to persons with disabilities and others.

Article 32 - International cooperation

1. States Parties recognize the importance of international cooperation and its promotion, in support of national efforts for the realization of the purpose and objectives of the present Convention, and will undertake appropriate and effective measures in this regard, between and among States and, as appropriate, in partnership with relevant international and regional organizations and civil society, in particular organizations of persons with disabilities. Such measures could include, inter alia:

(a) Ensuring that international cooperation, including international development programmes, is inclusive of and accessible to persons with disabilities;

(b) Facilitating and supporting capacity-building, including through the exchange and sharing of information, experiences, training programmes and best practices;

(c) Facilitating cooperation in research and access to scientific and technical knowledge;

(d) Providing, as appropriate, technical and economic assistance, including by facilitating access to and sharing of accessible and assistive technologies, and through the transfer of technologies.

2. The provisions of this article are without prejudice to the obligations of each State Party to fulfil its obligations under the present Convention.

Article 33 - National implementation and monitoring

1. States Parties, in accordance with their system of organization, shall designate one or more focal points within government for matters relating to the implementation of the present Convention, and shall give due consideration to the establishment or designation of a

coordination mechanism within government to facilitate related action in different sectors and at different levels.

2. 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.

3. Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process.

Article 34 - Committee on the Rights of Persons with Disabilities

1. There shall be established a Committee on the Rights of Persons with Disabilities (hereafter referred to as "the Committee"), which shall carry out the functions hereinafter provided.

2. The Committee shall consist, at the time of entry into force of the present Convention, of twelve experts. After an additional sixty ratifications or accessions to the Convention, the membership of the Committee shall increase by six members, attaining a maximum number of eighteen members.

3. The members of the Committee shall serve in their personal capacity and shall be of high moral standing and recognized competence and experience in the field covered by the present Convention. When nominating their candidates, States Parties are invited to give due consideration to the provision set out in article 4.3 of the present Convention.

4. The members of the Committee shall be elected by States Parties, consideration being given to equitable geographical distribution, representation of the different forms of civilization and of the principal legal systems, balanced gender representation and participation of experts with disabilities.

5. The members of the Committee shall be elected by secret ballot from a list of persons nominated by the States Parties from among their nationals at meetings of the Conference of States Parties. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

6. The initial election shall be held no later than six months after the date of entry into force of the present Convention. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit the nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating the State Parties which have nominated them, and shall submit it to the States Parties to the present Convention.

7. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election once. However, the term of six of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these six members shall be chosen by lot by the chairperson of the meeting referred to in paragraph 5 of this article.

8. The election of the six additional members of the Committee shall be held on the occasion of regular elections, in accordance with the relevant provisions of this article.

9. If a member of the Committee dies or resigns or declares that for any other cause she or he can no longer perform her or his duties, the State Party which nominated the member shall appoint another expert possessing the qualifications and meeting the requirements set out in the relevant provisions of this article, to serve for the remainder of the term.

10. The Committee shall establish its own rules of procedure.

11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention, and shall convene its initial meeting.

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide, having regard to the importance of the Committee's responsibilities.

13. The members of the Committee shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

Article 35 - Reports by States Parties

1. Each State Party shall submit to the Committee, through the Secretary-General of the United Nations, a comprehensive report on measures taken to give effect to its obligations under the present Convention and on the progress made in that regard, within two years after the entry into force of the present Convention for the State Party concerned.

2. Thereafter, States Parties shall submit subsequent reports at least every four years and further whenever the Committee so requests.

3. The Committee shall decide any guidelines applicable to the content of the reports.

4. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports, repeat information previously provided. When preparing reports to the Committee, States Parties are invited to consider doing so in an open and transparent process and to give due consideration to the provision set out in article 4.3 of the present Convention.

5. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

Article 36 - Consideration of reports

1. Each report shall be considered by the Committee, which shall make such suggestions and general recommendations on the report as it may consider appropriate and shall forward these to the State Party concerned. The State Party may respond with any information it chooses to the Committee. The Committee may request further information from States Parties relevant to the implementation of the present Convention.

2. If a State Party is significantly overdue in the submission of a report, the Committee may notify the State Party concerned of the need to examine the implementation of the present Convention in that State Party, on the basis of reliable information available to the Committee, if the relevant report is not submitted within three months following the notification. The Committee shall invite the State Party concerned to participate in such examination. Should the State Party respond by submitting the relevant report, the provisions of paragraph 1 of this article will apply.

3. The Secretary-General of the United Nations shall make available the reports to all States Parties.

4. States Parties shall make their reports widely available to the public in their own countries and facilitate access to the suggestions and general recommendations relating to these reports.

5. The Committee shall transmit, as it may consider appropriate, to the specialized agencies, funds and programmes of the United Nations, and other competent bodies, reports from States Parties in order to address a request or indication of a need for technical advice or assistance contained therein, along with the Committee's observations and recommendations, if any, on these requests or indications.

Article 37 - Cooperation between States Parties and the Committee

1. Each State Party shall cooperate with the Committee and assist its members in the fulfilment of their mandate.

2. In its relationship with States Parties, the Committee shall give due consideration to ways and means of enhancing national capacities for the implementation of the present Convention, including through international cooperation.

Article 38 - Relationship of the Committee with other bodies

In order to foster the effective implementation of the present Convention and to encourage international cooperation in the field covered by the present Convention:

(a) The specialized agencies and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present

Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite specialized agencies and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

(b) The Committee, as it discharges its mandate, shall consult, as appropriate, other relevant bodies instituted by international human rights treaties, with a view to ensuring the consistency of their respective reporting guidelines, suggestions and general recommendations, and avoiding duplication and overlap in the performance of their functions.

Article 39 - Report of the Committee

The Committee shall report every two years to the General Assembly and to the Economic and Social Council on its activities, and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.

Article 40 - Conference of States Parties

1. The States Parties shall meet regularly in a Conference of States Parties in order to consider any matter with regard to the implementation of the present Convention.

2. No later than six months after the entry into force of the present Convention, the Conference of the States Parties shall be convened by the Secretary-General of the United Nations. The subsequent meetings shall be convened by the Secretary-General of the United Nations biennially or upon the decision of the Conference of States Parties.

Article 41 - Depositary

The Secretary-General of the United Nations shall be the depositary of the present Convention.

Article 42 - Signature

The present Convention shall be open for signature by all States and by regional integration organizations at United Nations Headquarters in New York as of 30 March 2007.

Article 43 - Consent to be bound

The present Convention shall be subject to ratification by signatory States and to formal confirmation by signatory regional integration organizations. It shall be open for accession by any State or regional integration organization which has not signed the Convention.

Article 44 - Regional integration organizations

1. "Regional integration organization" shall mean an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by this Convention. Such organizations shall declare, in their instruments of formal confirmation or accession, the extent of their competence with respect to matters governed by this Convention. Subsequently, they shall inform the depositary of any substantial modification in the extent of their competence.

2. References to "States Parties" in the present Convention shall apply to such organizations within the limits of their competence.

3. For the purposes of article 45, paragraph 1, and article 47, paragraphs 2 and 3, any instrument deposited by a regional integration organization shall not be counted.

4. Regional integration organizations, in matters within their competence, may exercise their right to vote in the Conference of States Parties, with a number of votes equal to the number of their member States that are Parties to this Convention. Such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

Article 45 - Entry into force

1. The present Convention shall enter into force on the thirtieth day after the deposit of the twentieth instrument of ratification or accession.

2. For each State or regional integration organization ratifying, formally confirming or acceding to the Convention after the deposit of the twentieth such instrument, the Convention shall enter into force on the thirtieth day after the deposit of its own such instrument.

Article 46 - Reservations

1. Reservations incompatible with the object and purpose of the present Convention shall not be permitted.

2. Reservations may be withdrawn at any time.

Article 47 - Amendments

1. Any State Party may propose an amendment to the present Convention and submit it to the Secretary-General of the United Nations. The Secretary-General shall communicate any proposed amendments to States Parties, with a request to be notified whether they favour a conference of States Parties for the purpose of considering and deciding upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States Parties present and voting shall be submitted by the

Secretary-General to the General Assembly for approval and thereafter to all States Parties for acceptance.

2. An amendment adopted and approved in accordance with paragraph 1 of this article shall enter into force on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment. Thereafter, the amendment shall enter into force for any State Party on the thirtieth day following the deposit of its own instrument of acceptance. An amendment shall be binding only on those States Parties which have accepted it.

3. If so decided by the Conference of States Parties by consensus, an amendment adopted and approved in accordance with paragraph 1 of this article which relates exclusively to articles 34, 38, 39 and 40 shall enter into force for all States Parties on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment.

Article 48 - Denunciation

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. The denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

Article 49 - Accessible format

The text of the present Convention shall be made available in accessible formats.

Article 50 - Authentic texts

The Arabic, Chinese, English, French, Russian and Spanish texts of the present Convention shall be equally authentic.

In witness thereof the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

The States Parties to the present Protocol have agreed as follows:

Article 1

1. A State Party to the present Protocol ("State Party") recognizes the competence of the Committee on the Rights of Persons with Disabilities ("the Committee") to receive and consider communications from or on behalf of individuals or groups of individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of the provisions of the Convention.

2. No communication shall be received by the Committee if it concerns a State Party to the Convention that is not a party to the present Protocol.

Article 2

The Committee shall consider a communication inadmissible when:

(a) The communication is anonymous;

(b) The communication constitutes an abuse of the right of submission of such communications or is incompatible with the provisions of the Convention;

(c) The same matter has already been examined by the Committee or has been or is being examined under another procedure of international investigation or settlement;

(d) All available domestic remedies have not been exhausted. This shall not be the rule where the application of the remedies is unreasonably prolonged or unlikely to bring effective relief;

(e) It is manifestly ill-founded or not sufficiently substantiated; or when

(f) The facts that are the subject of the communication occurred prior to the entry into force of the present Protocol for the State Party concerned unless those facts continued after that date.

Article 3

Subject to the provisions of article 2 of the present Protocol, the Committee shall bring any communications submitted to it confidentially to the attention of the State Party. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

Article 4

1. At any time after the receipt of a communication and before a determination on the merits has been reached, the Committee may transmit to the State Party concerned for its urgent

consideration a request that the State Party take such interim measures as may be necessary to avoid possible irreparable damage to the victim or victims of the alleged violation.

2. Where the Committee exercises its discretion under paragraph 1 of this article, this does not imply a determination on admissibility or on the merits of the communication.

Article 5

The Committee shall hold closed meetings when examining communications under the present Protocol. After examining a communication, the Committee shall forward its suggestions and recommendations, if any, to the State Party concerned and to the petitioner.

Article 6

1. If the Committee receives reliable information indicating grave or systematic violations by a State Party of rights set forth in the Convention, the Committee shall invite that State Party to cooperate in the examination of the information and to this end submit observations with regard to the information concerned.

2. Taking into account any observations that may have been submitted by the State Party concerned as well as any other reliable information available to it, the Committee may designate one or more of its members to conduct an inquiry and to report urgently to the Committee. Where warranted and with the consent of the State Party, the inquiry may include a visit to its territory.

3. After examining the findings of such an inquiry, the Committee shall transmit these findings to the State Party concerned together with any comments and recommendations.

4. The State Party concerned shall, within six months of receiving the findings, comments and recommendations transmitted by the Committee, submit its observations to the Committee.

5. Such an inquiry shall be conducted confidentially and the cooperation of the State Party shall be sought at all stages of the proceedings.

Article 7

1. The Committee may invite the State Party concerned to include in its report under article 35 of the Convention details of any measures taken in response to an inquiry conducted under article 6 of the present Protocol.

2. The Committee may, if necessary, after the end of the period of six months referred to in article 6.4, invite the State Party concerned to inform it of the measures taken in response to such an inquiry.

Article 8

Each State Party may, at the time of signature or ratification of the present Protocol or accession thereto, declare that it does not recognize the competence of the Committee provided for in articles 6 and 7.

Article 9

The Secretary-General of the United Nations shall be the depositary of the present Protocol.

Article 10

The present Protocol shall be open for signature by signatory States and regional integration organizations of the Convention at United Nations Headquarters in New York as of 30 March 2007.

Article 11

The present Protocol shall be subject to ratification by signatory States of this Protocol which have ratified or acceded to the Convention. It shall be subject to formal confirmation by signatory regional integration organizations of this Protocol which have formally confirmed or acceded to the Convention. It shall be open for accession by any State or regional integration organization which has ratified, formally confirmed or acceded to the Convention and which has not signed the Protocol.

Article 12

1. "Regional integration organization" shall mean an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by the Convention and this Protocol. Such organizations shall declare, in their instruments of formal confirmation or accession, the extent of their competence with respect to matters governed by the Convention and this Protocol. Subsequently, they shall inform the depositary of any substantial modification in the extent of their competence.

2. References to "States Parties" in the present Protocol shall apply to such organizations within the limits of their competence.

3. For the purposes of article 13, paragraph 1, and article 15, paragraph 2, any instrument deposited by a regional integration organization shall not be counted.

4. Regional integration organizations, in matters within their competence, may exercise their right to vote in the meeting of States Parties, with a number of votes equal to the number of their member States that are Parties to this Protocol. Such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

Article 13

1. Subject to the entry into force of the Convention, the present Protocol shall enter into force on the thirtieth day after the deposit of the tenth instrument of ratification or accession.

2. For each State or regional integration organization ratifying, formally confirming or acceding to the Protocol after the deposit of the tenth such instrument, the Protocol shall enter into force on the thirtieth day after the deposit of its own such instrument.

Article 14

1. Reservations incompatible with the object and purpose of the present Protocol shall not be permitted.

2. Reservations may be withdrawn at any time.

Article 15

1. Any State Party may propose an amendment to the present Protocol and submit it to the Secretary-General of the United Nations. The Secretary-General shall communicate any proposed amendments to States Parties, with a request to be notified whether they favour a meeting of States Parties for the purpose of considering and deciding upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a meeting, the Secretary-General shall convene the meeting under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States Parties present and voting shall be submitted by the Secretary-General to the General Assembly for approval and thereafter to all States Parties for acceptance.

2. An amendment adopted and approved in accordance with paragraph 1 of this article shall enter into force on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment. Thereafter, the amendment shall enter into force for any State Party on the thirtieth day following the deposit of its own instrument of acceptance. An amendment shall be binding only on those States Parties which have accepted it.

Article 16

A State Party may denounce the present Protocol by written notification to the Secretary-General of the United Nations. The denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

Article 17

The text of the present Protocol shall be made available in accessible formats.

Article 18

The Arabic, Chinese, English, French, Russian and Spanish texts of the present Protocol shall be equally authentic.

In witness thereof the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Protocol.