

Valentina Della Fina · Rachele Cera
Giuseppe Palmisano *Editors*

The United Nations Convention on the Rights of Persons with Disabilities

A Commentary

 Springer

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of Persons with Disabilities

Valentina Della Fina • Rachele Cera •
Giuseppe Palmisano
Editors

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ISBN 978-3-319-43788-0 ISBN 978-3-319-43790-3 (eBook)
DOI 10.1007/978-3-319-43790-3

Library of Congress Control Number: 2016956097

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Printed on acid-free paper

This Springer imprint is published by Springer Nature
The registered company is Springer International Publishing AG
The registered company address is: Gewerbestrasse 11, 6330 Cham, Switzerland

Foreword

The UN Convention on the Rights of Persons with Disabilities (CRPD), international human rights instrument approved by the UN General Assembly in 2006, and effective since 2008, establishes the paradigm of human rights of persons with disabilities, which provides a multifocal look at the conception on the right holder: the addition between the impairment a person can experience, including physical, sensory, intellectual and/or psychosocial levels; the interaction with various barriers; and the impact it produces as to restrictions on full and effective participation in society.

Barriers are a key factor in respect of which society as a whole must work intensively and permanently both in removing obstacles as creating necessary conditions for equal opportunities and even material equality or of results. The concomitance of both pathways will involve reducing restrictions to participation in society, in terms that the subject of law can enjoy and exercise his/her human rights and fundamental freedoms in the civil, political, social, economic, and cultural fields.

In addition, the Convention expresses various changes in the approach to human rights in the twenty-first century, which include the interdisciplinary nature in the drafting of the Treaty, determining a significant impact on its implementation, and monitoring at national and international levels.

Another change is shown by the gestation and development of the Convention with full participation of civil society of persons with disabilities. Such participation is explicitly reflected in various provisions of the Convention, and in practice it is translated into the decisive role played by persons with disabilities in the implementation of the Treaty, and in the different phases of monitoring at national and international levels.

The aforementioned transformation also shows how an international Treaty takes its own life and independence from the different lines of thought that were taken into account in drafting its articles. Thus, even though it was initially noted that the Convention would not create new rights, now the question is whether this Treaty conceived the genesis of new rights. On this analytical view, we can

examine aspects with legal impact such as accessibility, habilitation and rehabilitation, personal mobility, independent life, and being included in the community. Undoubtedly, the development of the abovementioned precepts poses deep theoretical and practical challenges to the research world. In considering the above prescriptions, we must agree that they have their own and specific elements that have given way to the regulatory interpretation even from the sphere of justiciability, as the Courts and Tribunals are admitting lawsuits in areas such as accessibility. Another example is the explicit mention of habilitation and rehabilitation as a right in national legislation.¹ Furthermore, the Committee on the Rights of Persons with Disabilities has expressly stated the right to reasonable accommodation in education, which is immediately applicable in accordance with the recommendations of the Treaty body.²

The repertoire of recommendations of the CRPD Committee provides extensive evolution and development in the interpretive look for practical implementation of the Treaty rules. The same has been done by the Committee in its opinions on individual or group complaints under the Optional Protocol to the Convention. This hermeneutics has deepened in areas such as equal recognition as a person before the law/legal capacity and accessibility, through its General Comments No. 1 and No. 2, respectively.³

The richness of a comprehensive and integral human rights Treaty, such as the Convention on the Rights of Persons with Disabilities, produces the need for the international community to have analytical texts on the rights of persons with disabilities and their international legal protection. At the same time, a text of this nature will become a useful tool for the implementation of the Convention, by the examination of the work of the CRPD Committee at international level and the identification of best practices nationally.

Accordingly, the publication of “The United Nations Convention on the Rights of Persons with Disabilities – A Commentary” is a significant contribution to the theoretical and practical universe, and in the legal and interdisciplinary field.

The work provides an introduction in three main lines: historical overview from the United Nations to promote and protect the rights of persons with disabilities, incorporating the CRPD under the umbrella of the international law of human rights; understanding the new human rights model under the CRPD, and the possibility of signature and ratification of the Treaty by regional integration organizations, such as the European Union.

¹Act 20.422 establishes Rules on Equal Opportunities and Social Inclusion of Persons with Disabilities, year 2010.

²CRPD/C/ESP/CO/1, para. 44.

³In prioritizing matters for interpretive work, the Committee adopted in 2016 a General Comment on women and girls with disabilities and a General Comment on the right to inclusive education of persons with disabilities.

The work continues with a detailed analysis of the CRPD articles, taking into account the legal obligations contained in each provision of the Convention and their practical implementation.

The study of the articles takes into account other international human rights treaties, EU legislation, and, where appropriate, national legislation. Where relevant, it takes into account the jurisprudence of the Committee on the Rights of Persons with Disabilities and of other treaty bodies.

The knowledge and experience of the authors of the work make this a must-read text in contemporary reading and requisite material in university libraries, and other public and private libraries.

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Chairperson of the CRPD Committee
Santiago de Chile, Chile; Geneva, Switzerland
March 2016

María Soledad Cisternas Reyes

Preface

At the turn of ten years from the adoption of the UN Convention on the Rights of Persons with Disabilities (CRPD), the time has come to enrich the international law literature with an in-depth scholarly analysis of its provisions and Protocol, in the light also of the first years of practical operation and implementation of the Convention.

This is precisely the purpose of the present Commentary, whose publication offers an opportunity not only to celebrate the 10th anniversary of the Convention but also to create new momentum towards its critical assessment and promote its sound knowledge.

The Commentary has been conceived and prepared by the Institute for International Legal Studies (ISGI) of the National Research Council of Italy as the main outcome of its multiyear researches on the rights of persons with disabilities.

As a public research Institute with specific competencies in international and European Union law, the ISGI has developed a unique scientific expertise on the implementation of international treaties within the Italian legal order. Its researches on the CRPD have, therefore, a long-standing and solid background. This may be evinced, in particular, by the Project “The 2007 UN Convention on the Rights of Persons with Disabilities: Implementation Modalities, National and Regional Adoption, Monitoring Instruments,” which was commissioned to the ISGI by the Italian Ministry of Labour, Health and Social Policy in 2008, prior to the ratification of the Convention and its Optional Protocol by Italy.⁴ The study aimed at providing guidance to the Government on the domestic legal measures necessary for adapting the Italian legal system to the obligations under the CRPD. The Project outcomes have been the point of reference for the activities of the National Observatory on the Condition of Persons with Disabilities and its working groups,⁵ in particular for preparing the initial report of Italy to the CRPD Committee and for developing the

⁴Italy ratified the CRPD and its Optional Protocol with Law No. 18 of 3 March 2009.

⁵http://www.osservatoriodisabilita.it/index.php?option=com_content&view=article&id=92&Itemid=257&lang=en. Accessed 15 February 2016.

“Biennial Programme of Action for the Promotion of the Rights and the Integration of Persons with Disabilities.”⁶

ISGI research activities in the field of disability rights went on with the publication of the volume “La Convenzione delle Nazioni Unite sui diritti delle persone con disabilità. Commentario,”⁷ which is still today the only article-by-article Commentary to the CRPD published in Italy.

On such grounds, in 2014 the ISGI has also been a partner of Autism-Europe in the European Project “Promoting equal rights for people with autism in the field of employment and education,” which was aimed at improving the understanding of the CRPD implementation in the specific fields of inclusive education and employment.⁸

And now, with the present Commentary to the CRPD and its Optional Protocol, the ISGI aims at filling a gap in international law literature, providing a legal study on the Convention that takes into account a substantial number of years of CRPD implementation, both at international and national levels.

The general purpose of the volume is to clarify the content of the CRPD, highlighting the improvements and the novelties introduced by the Convention in the international human rights law. These issues are specifically outlined in wide-ranging contributions enriching the Commentary with an academic perspective over the Convention.

The three introductory chapters deal with the drafting history of the CRPD, the new human rights model embedded in the Convention, and the EU adhesion, while the final chapter illustrates the development of human rights law through the CRPD.

The Commentary follows an article-by-article approach, with the exceptions of Articles 34–36 (concerning the CRPD Committee, the Reports by States Parties, and the Consideration of Reports) and Articles 41–43, 45–50 (final clauses of the Convention), which are covered respectively by single contributions. Also, the Optional Protocol is analyzed through a unique contribution.

Each comment generally incorporates the preparatory works of the CRPD; the references to international and domestic jurisprudence, where appropriate; the relevant practice of the UN human rights treaty bodies, *in primis* the CRPD Committee; and a short bibliography. However, no rigid approach has been imposed on authors in analyzing the scope and the content of the individual provisions, leaving a large autonomy with regard to the aspects to be treated while respecting the volume’s objectives. Only for an easy use of the Commentary,

⁶The “Programma di azione biennale per la promozione dei diritti e l’integrazione delle persone con disabilità” was adopted by the Decree of the President of the Republic on 4 October 2013. <http://www.gazzettaufficiale.it/eli/id/2013/12/28/13A10469/sg>. Accessed 15 February 2016.

⁷Edited by S. Marchisio, R. Cera, V. Della Fina, Aracne, Roma, 2010, pp. XVII-560.

⁸The scientific results of the ISGI study on the implementation of Articles 24 and 27 of the CRPD are contained in the book titled “Protecting the Rights of People with Autism in the Fields of Education and Employment,” edited by V. Della Fina and R. Cera and published with open access by Springer (2015).

all contributions follow a common format, but each comment is an expression of the author's point of view.

The CRPD provisions are examined in the framework of the relevant international human rights norms and the European Union law concerning the rights of persons with disabilities and the fight against discrimination. A special emphasis is dedicated to the States Parties' obligations in order to clarify their legal nature and scope. In this perspective, the Commentary is designed to provide a useful tool guide for the application of the Convention at domestic level and a source of consultation for the community of professionals and academics dealing with international human rights.

Having this in mind, the authors have been selected among legal scholars and academics in the field of international human rights law, practitioners of disability rights, and leading experts who took part in the negotiations of the CRPD. We are deeply grateful to the authors and extend heartfelt thanks to them for their dedication in preparing the Comments.

The editors sincerely hope that this Commentary will serve as a vehicle to improve the knowledge of the Convention, by favoring the process for strengthening the awareness of the disability rights and their international protection, in the perspective of promoting a greater social inclusion of persons with disabilities.

Rome
September 2016

Valentina Della Fina
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Contents

From Invisible Citizens to Agents of Change: A Short History of the Struggle for the Recognition of the Rights of Persons with Disabilities at the United Nations 1

A New Human Rights Model of Disability 41

The European Union and the Convention on the Rights of Persons with Disabilities: Complexities, Challenges and Opportunities 61

Preamble 77

Article 1 [Purpose] 89

Article 2 [Definitions] 107

Article 3 [General Principles] 119

Article 4 [General Obligations] 137

Article 5 [Equality and Non-Discrimination] 157

Article 6 [Women with Disabilities] 175

Article 7 [Children with Disabilities] 195

Article 8 [Awareness-Raising] 213

Article 9 [Accessibility] 225

Article 10 [Right to Life] 243

Article 11 [Situations of Risk and Humanitarian Emergencies] 253

Article 12 [Equal Recognition Before the Law] 263

Article 13 [Access to Justice] 281

Article 14 [Liberty and Security of Person] 295

Article 15 [Freedom from Torture or Cruel, Inhuman or Degrading Treatment or Punishment]	307
Article 16 [Freedom from Exploitation, Violence and Abuse]	317
Article 17 [Protecting the Integrity of the Person]	327
Article 18 [Liberty of Movement and Nationality]	339
Article 19 [Living Independently and Being Included in the Community]	353
Article 20 [Personal Mobility]	375
Article 21 [Freedom of Expression and Opinion, and Access to Information]	387
Article 22 [Respect for Privacy]	401
Article 23 [Respect for Home and the Family]	417
Article 24 [Education]	439
Article 25 [Health]	471
Article 26 [Habilitation and Rehabilitation]	487
Article 27 [Work and Employment]	497
Article 28 [Adequate Standard of Living and Social Protection]	509
Article 29 [Participation in Political and Public Life]	525
Article 30 [Participation in Cultural Life, Recreation, Leisure and Sport]	541
Article 31 [Statistics and Data Collection]	557
Article 32 [International Cooperation]	569
Article 33 [National Implementation and Monitoring]	591
Article 34 [Committee on the Rights of Persons with Disabilities] Article 35 [Reports by States Parties] Article 36 [Consideration of Reports]	607
Article 37 [Cooperation Between States Parties and the Committee] . . .	635
Article 38 [Relationship of the Committee with Other Bodies]	643
Article 39 [Report of the Committee]	657
Article 40 [Conference of States Parties]	667
Article 41 [Depositary] Article 42 [Signature] Article 43 [Consent to Be Bound]	671

Article 44 [Regional Integration Organizations] 679

**Article 45 [Entry into Force] Article 46 [Reservations] Article 47
[Amendments] Article 48 [Denunciation] Article 49 [Accessible Format]
Article 50 [Authentic Texts] 691**

**Optional Protocol to the Convention on the Rights of Persons with
Disabilities 703**

Charting the Development of Human Rights Law Through the CRPD. . . 731

Table of Treaties and Other International Instruments 749

Index 757

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Abbreviations

ACHPR	African Charter on Human and Peoples' Rights
ACHR	American Convention on Human Rights
al.	Alias (other)
ASEAN	Association of Southeast Asian Nations
AU	African Union
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CAT Committee	Committee against Torture
CCPR	Human Rights Committee
CED	Committee on Enforced Disappearances
CEDAW	Convention on the Elimination of Discrimination against Women
CEDAW Committee	Committee on the Elimination of Discrimination against Women
CERD Committee	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
cf.	Compare
CFI	Court of First Instance
CHR	Commission on Human Rights
cit.	Cited
CJEU	Court of Justice of the European Union (Lisbon)
CMW	Committee on Migrant Workers
CoE	Council of Europe
COSP	Conference of the States Parties
CPED	International Convention for the Protection of All Persons from Enforced Disappearance
CRC	Convention on the Rights of the Child
CRC Committee	Committee on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities

CRPD Committee	Committee on the Rights of Persons with Disabilities
DDA	Disability Discrimination Act
DESA	Department of Economic and Social Affairs
Doc.	Document
DPOs	Disabled people's organisations
EAT	Employment Appeal Tribunal
EC	Treaty establishing the European Community/European Communities
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ECJ	European Court of Justice see also CJEU
ECommHR	European Commission of Human Rights
ECOSOC	UN Economic and Social Council
ECR	European Court Reports
ECSR	European Committee of Social Rights
ECtHR	European Court of Human Rights
ed	Editor
edn.	Edition
eds	Editors
edt. by	Edited by
EHRR	European Human Rights Reports
EO	European Ombudsman
EP	European Parliament
ESF	European Social Fund
et al.	Et alii (and others)
et seq(q).	Et sequens, et sequentes (and the following)
EU	European Union
EUCFR	European Union Charter of Fundamental Rights
ex p.	Ex parte
FAO	Food and Agriculture Organization
fn.	Footnote
HL	House of Lords
HRA	Human Rights Act
HRC	Human Rights Council
i.e.	Id est (that is)
I/A Court H.R.	Inter-American Court of Human Rights
IAEA	International Atomic Energy Agency
ibid.	Ibidem
IBRD	International Bank for Reconstruction and Development
IC	Constitution of the Italian Republic
ICAO	International Civil Aviation Organization
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP1	Optional Protocol to the International Covenant on Civil and Political Rights

ICCPR-OP2	Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICESCR - OP	Optional Protocol to the Covenant on Economic, Social and Cultural Rights
ICJ	International Court of Justice
ICMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the Former Yugoslavia
id.	Idem
IDA	International Development Association
IFAD	International Fund for Agricultural Development
IFC	International Finance Corporation
ILC	International Law Commission
ILO	International Labour Organization
IMF	International Monetary Fund
IMO	International Maritime Organization
ITC	International Training Centre of the ILO
ITU	International Telecommunication Union
LDCs	Least developed countries
loc. cit.	Loco citato (in the place already cited)
NGO	Non-governmental organization
NHRIs	National Human Rights Institutions
No.	Number
nyr	Not yet reported
O.J.	Official Journal
O.J. C	Official Journal of the European Union (Communications)
O.J. L	Official Journal of the European Union (Legislation)
OAS	Organization of American States
OAU	Organization of African Union
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the High Commissioner for Human Rights
OP	Optional Protocol
op.cit.	Opus citatum (in the work already cited)
OP-CAT	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CEDAW	Optional Protocol to the Convention on the Elimination of Discrimination against Women
OP-CRC-AC	Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

OP-CRC-CP	Optional Protocol to the Convention of the Rights of the Child on a Communication Procedure
OP-CRC-SC	Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography
OP-CRPD	Optional Protocol to the Convention on the Rights of Persons with Disabilities
p.	Page(s)
para.(s)	Paragraph(s)
passim	Frequently mentioned
PCIJ	Permanent Court of International Justice
Res.	Resolution
RP	Rules of Procedure
SG	UN Secretary General
SPT	UN Subcommittee on Prevention of Torture
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNDESA	UN Department of Economic and Social Affairs
UNDP	United Nations Development Programme
UNESCAP	United Nations Economic and Social Commission for Asia and the Pacific
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNGA	UN General Assembly
UNICEF	United Nations Children's Fund
UNIDO	United Nations Industrial Development Organization
UNTS	United Nations Treaty Series
UPU	Universal Postal Union
Vol.	Volume
WBG	World Bank Group
WHO	World Health Organization
WIPO	World Intellectual Property Organization
WMO	World Meteorological Organization
WTO	World Trade Organization
WTO	World Tourism Organization

Abbreviations of Reviews and Encyclopaedia

Adel L Rev	Adelaide Law Review
Aff soc int	Affari sociali internazionali
Afr Hum Rights Law Jour	African Human Rights Law Journal
Afr Journ Int Law	African Journal of International Law
Afr J Physiother Rehabil Sci	African Journal of Physiotherapy and Rehabilitation Sciences
Am J Comp Law	American Journal Comparative Law
Am Journ Int Law	American Journal of International Law
Am Journ of Preventive Medicine	American Journal of Preventive Medicine
Am Soc Int Law Proc	American Society and International Law Proceedings
Am Univ Int Law Rev	American University International Law Review
An der int	Anuario de derecho internacional
Ann CEDH/YB ECHR	Annuaire de la Convention européenne des droits de l'homme/Yearbook of the European Convention on Human Rights
Ann dir int	Annuario di diritto internazionale
Ann fr dr int	Annuaire français de droit international
Ann Intern D H	Annuaire International des Droits de l'Homme
Ariz J Int Comp Law	Arizona Journal of International and Comparative Law
Asia Pac Disabil Rehabil J	Asia Pacific Disability Rehabilitation Journal
Austr Int Law J	Austrian International Law Journal
Austr YB Int Law	Australian Yearbook of International Law
AWR Bull	AWR Bulletin
Berkeley Journ Int Law	Berkeley Journal of International Law

Berkeley J Employ Labor Law	Berkeley Journal of Employment & Labor Law
Berkeley Technol Law J	Berkeley Technology Law Journal
Boll CE	Bollettino delle Comunità europee
Boll UE	Bollettino dell'Unione europea
Boston Univ Int Law J	Boston University International Law Journal
Br J Psychiatry	The British Journal of Psychiatry
Br YB Int Law	British Yearbook of International Law
Bull Cour	Bulletin de la Cour européenne des droits de l'homme
Bull dr homme	Bulletin des droits de l'homme
Bull quot Eur	Bulletin Quotidien Europe
BverfGE	Entscheidungen des Bundesverfassungsgericht
Cah dr eur	Cahiers de droit européen
Calif Law Rev	California Law Review
Camb Law Jour	Cambridge Law Journal
Case West J Int Law	Case Western Journal of International Law
Case W Res J Int'l L	Case Western Reserve Journal of International Law
Cass pen	Cassazione penale
Chic Jour Int Law	Chicago Journal of International Law
Chr Dalloz	Chronique Dalloz
Clin Psychol Sci Pract	Clinical Psychology: Science and Practice
CIJ Recueil/ICJ Reports	Recueil des arrêts, avis consultatifs et ordonnances de la Cour Internationale de Justice/Reports of Judgments, Advisory Opinions and Orders of the International Court of Justice
Coll Courses Ac Eur Law	Collected Courses of the Academy of European Law
Com int	La Comunità internazionale
Com st	Comunicazioni e Studi
Common Mark Law Rev	Common Market Law Review
Comm Tech L Rev	Communication, Technology and Law Review
Crit Soc Policy	Critical Social Policy
Dermatol Clin	Dermatologic Clinics
Dir com sc int	Diritto comunitario e degli scambi internazionali
Dir comm int	Diritto del commercio internazionale
Dir int	Diritto internazionale
Dir pub comp eur	Diritto pubblico comparato ed europeo
Dir umani, dir int	Diritti umani e diritto internazionale
Dir Un eur	Il diritto dell'Unione europea
Dir uomo	I diritti dell'uomo. Cronache e battaglie
Disabil Handicap Soc	Disability, Handicap and Society
Disabil Soc	Disability and Society
Disabil Rehabil	Disability and Rehabilitation
Disabil Stud Q	Disability Studies Quarterly

DR	Decisions and Reports of the European Court of Human Rights
Drake Law Rev	Drake Law Review
Duke J Comp Int Law	Duke Journal of Comparative & International Law
E Afr J Peace & Hum Rts	East African Journal of Peace and Human Rights
Emory Law J	Emory Law Journal
Enc dir	Enciclopedia del diritto
Enc giur	Enciclopedia giuridica Treccani
Entertain Sports Law J	Entertainment and Sports Law Journal
ERA Forum	ERA Forum
Equal Rights Rev	Equal Rights Review
Eur Anti-Discrimination Law Rev	European Anti-discrimination Law Review
Eur For Aff Rev	European Foreign Affairs Review
Eur Hum Rights Law Rev	European Human Rights Law Review
Eur Hum Rights Rep	European Human Rights Reports
Eur Intellect Prop Rev	European Intellectual Property Review
Eur J Migr Law	European Journal of Migration and Law
Eur J Health L	European Journal of Health Law
Eur Journ Int Law	European Journal of International Law
Eur J Women Stud	European Journal of Women's Studies
Eur Law Journ	European Law Journal
Eur Law Rev	European Law Review
Eur Pub Law	European Public Law
Eur YB Disability L	European Yearbook of Disability Law
Eur Yearb Minor Issues	European Yearbook of Minority Issues
Fam dir	Famiglia e diritto
Fordham Int Law Journ	Fordham International Law Journal
Foro it	Il Foro italiano
Geo Immigr LJ	Georgetown Immigration Law Journal
Germ YB Int Law	German Yearbook of International Law
Giur cost	Giurisprudenza costituzionale
Giur it	Giurisprudenza italiana
Giust pen	Giustizia penale (La)
Harv Hum Rts J	Harvard Hum Rights Journal
Harv Int Law Journ	Harvard International Law Journal
Harv Law Rev	Harvard Law Review
Hum Rights	Human Rights
Hum Rights Brief	Human Rights Brief
Hum Rights Law Journ	Human Rights Law Journal
Hum Rights Law Rev	Human Rights Law Review
Hum Rights Quart	Human Rights Quarterly
ICJ Reports	v. CIJ Recueil
Indian J Glob Leg Issues	Indian Journal of Global Legal Issues

Innov Issues Approaches Social Sci	Innovative Issues and Approaches in Social Sciences
ILSA J Int Comp Law	ILSA Journal of International & Comparative Law
Int Comp Law Quart	International and Comparative Law Quarterly
Int J Constitutional Law	International Journal of Constitutional Law
Int J Disabil Commun Rehabil	International Journal of Disability, Community & Rehabilitation
Int J Discrimination Law	International Journal of Discrimination and the Law
Int J Law Psychiatry	International Journal of Law and Psychiatry
Int J Law Context	International Journal of Law in Context
Int Law Rep	International Law Reports
Int Leg Mat	International Legal Materials
Int Org	International Organization
Int Pol	International Politics
Int Rehabil Rev	International Rehabilitation Review
Int Soc Sci J	International Social Science Journal
Int'l J H R	International Journal of Human Rights
Int J Incl Educ	International Journal of Inclusive Education
Int Organ Law Rev	International Organizations Law Review
IPRax	Praxis des Internationalen Privat-und-Verfahrensrecht
Iowa Law Rev	Iowa Law Review
Is LR	Israel Law Review
It YB Int Law	Italian Yearbook of International Law
J Am Med Assoc	Journal of the American Medical Association
J Common Market Stud	Journal of Common Market Studies
J Contemp Health Law Policy	The Journal of Contemporary Health Law Policy
J Disabil Policy Stud	Journal of Disability Policy Studies
J Hum Rights	Journal of Human Rights
J Hum Rights Pract	Journal of Human Rights Practice
J Int Crim Justice	Journal of International Criminal Justice
J Int Spec Needs Educ	Journal of International Special Needs Education
J Law Med Ethics	Journal of Law, Medicine & Ethics
J Law Med Health	Journal of Law, Medicine & Health
JCP	Juris-Classeur périodique-La semaine juridique
Jour Pr Int Law	Journal of Private International law
Jour Refug St	Journal of Refugee Studies
J Soc Welf Fam Law	Journal of Social Welfare Family Law
Journ dr int	Journal du droit international
JT	Journal des tribunaux
Jus	Jus
Lang Policy	Language Policy
Leg Iss Eur Int	Legal Issues of European Integration

Leiden Journ Int Law	Leiden Journal of International Law
Maastricht Journ Eur Comp Law	Maastricht Journal of European and Comparative Law
Max P Enc Pub Int Law	Max Planck Encyclopedia of Public International Law
Max P YB Un Nat Law	Max Planck Yearbook of United Nations Law
McGeorge Law Rev	McGeorge Law Review
Med Law	Medicine Law
Melb Jour Int Law	Melbourne Journal of International Law
Ment Phys Disabil Law Rep	Mental and Physical Disability Law Reporter
Michigan J Int Law	Michigan Journal of International Law
Modern Law Rev	The Modern Law Review
Neth Int Law Rev	Netherlands International Law Review
Neth Q Hum Rights	Netherlands Quarterly of Human Rights
Neth YB Int Law	Netherlands Yearbook of International Law
Neue Jur Woch.	Neue Juristische Wochenschrift
Nor Jour Hum Rts	Nordic Journal of Human Rights
Nor Jour Int Law	Nordic Journal of International Law
Nov.mo dig it	Il Novissimo Digesto Italiano
Nuove leggi civ comm	Le nuove leggi civili commentate
Open Med	Open Medicine
Öst Zeit öff Recht	Österreichische Zeitschrift für öffentliches Recht
Öst-Eur Recht	Öst-Europe Recht
Oxford Journ Leg St	Oxford Journal of Legal Studies
Pediatr Transplant	Pediatric Transplantation
Philos Public Aff	Philosophy & Public Affairs
Phys Med Rehabil J	Physical Medicine & Rehabilitation Journal
Polit Perspect	Political Perspectives
Pol dir	Politica del diritto
Pol Int	Politique internationale
Pol Sc Quart	Political Science Quarterly
Psychiatry Psychol Law	Psychiatry, Psychological and Law
Pub Law	Public Law
Racc uff sent ord Corte cost	Raccolta ufficiale delle sentenze e ordinanze della Corte costituzionale
Raccolta	Raccolta della giurisprudenza della Corte di giustizia (fino al 1958: Raccolta della giurisprudenza della Corte di giustizia CECA; dal 1990: e del Tribunale di primo grado)
Rass parl	Rassegna parlamentare
Rec Dall	Recueil Dalloz Sirey—Recueil périodique et critique de doctrine, de jurisprudence et de législation en matière civile, commerciale, criminelle, administrative et de droit public

Recueil des arrêts/ décisions	Recueil des arrêts et décisions de la Cour européenne des droits de l'homme
Recueil des cours	Recueil des cours de l'Académie de La Haye de droit international
Rel int	Relazioni internazionali
Reports of Judgments	Reports of Judgments and Decisions of the European Court of Human Rights
Rev aff eur	Revue des affaires européennes
Rev arb	Revue de l'arbitrage
Rev comm int juristes	Revue de la commission internationale des juristes
Rev cr dr int pr	Revue critique de droit international privé
Rev cr jur belge	Revue critique de jurisprudence belge
Rev der com eur	Revista de Derecho Comunitario Europeo
Rev der cons eur	Revista de Derecho Constitucional Europeo
Rev dr aff int	Revue de droit des affaires internationales— International Business Law Journal
Rev dr int dr comp	Revue de droit international et de droit comparé
Rev dr pub	Revue de droit public
Rev dr Un eur	Revue du droit de l'Union européen
Rev eur der fund	Revista Europea de Derechos Fundamentales
Rev eur dr int	Revue européenne de droit international
Rev fr dr adm	Revue française de droit administratif
Rev gén dr int pub	Revue générale de droit international public
Rev Int Law Pol	Review of International Law and Politics
Rev M comm	Revue du Marché commun (from 1993: et de l'Union européen)
Rev M un eur	Revue du Marché unique européen
Rev trim dr eur	Revue trimestrielle de droit européen
Rev trim dr homme	Revue trimestrielle des droits de l'homme
Rev univ dr homme	Revue universelle des droits de l'homme
Riv coop giur int	Rivista della cooperazione giuridica internazionale
Riv dir cost	Rivista di diritto costituzionale
Riv dir eur	Rivista di diritto europeo
Riv dir int	Rivista di diritto internazionale
Riv dir int priv proc	Rivista di diritto internazionale privato e processuale
Riv dir proc	Rivista di diritto processuale
Riv int dir uomo	Rivista internazionale dei diritti dell'uomo
Riv int fil	Rivista internazionale di filosofia del diritto
Riv it dir pub com	Rivista italiana di diritto pubblico comunitario
Riv st pol int	Rivista di studi politici internazionali
Riv trim dir proc civ	Rivista trimestrale di diritto e procedura civile
Riv trim dir pub	Rivista trimestrale di diritto pubblico

Seton Hall J Dipl Int Relat	Seton Hall Journal of Diplomacy and International Relations
Sign Lang Stud	Sign Language Studies
Soc Leg Stud	Social and Legal Studies
Soc Philos Policy	Social Philosophy and Policy
Stud Soc Just	Studies in Social Justice
St integr eur	Studi sull'integrazione europea
St Jour Int Law	Stanford Journal of International Law
Stanf Law Rev	Stanford Law Review
Stud Soc Just	Studies in Social Justice
Süddeut Zeit	Süddeutsche Zeitung
Sur-Int J Hum Rights	Sur-International Journal on Human Rights
Sydn Law Rev	Sydney Law Review
Syracuse J Int'l L & Com	Syracuse Journal of International Law and Commerce
Temple Polit Civil Rights Law Rev	Temple Political & Civil Rights Law Review
Tul Jour Int Comp Law	Tulane Journal of International and Comparative Law
Tex J Civ Lib Civ Rights	Texas Journal on Civil Liberties & Civil Rights
Univ Ark Little Rock Law Rev	University of Arkansas at Little Rock Law Review
Univ Mich J Law Reform	University of Michigan Journal of Law Reform
U Mich Law Rev	University of Michigan Law Review
UC Davis Law Review	University of California Davis Law Review
Univ Tor Law J	University of Toronto Law Journal
Un Law Rev	Uniform Law Review—Revue de droit uniforme
Univ Chicago Leg For	University of Chicago Legal Forum
Univ of NSWLJ	University of New South Wales Law Journal
Vanderbilt Law Rev	Vanderbilt Law Review
Vanderbilt Journ Tr Law	Vanderbilt Journal of Transnational Law
Virginia Journ Int Law	Virginia Journal of International Law
Virginia Law Rev	Virginia Law Review
Wash Law Rev	Washington Law Review
Women Int Hum Rights Law	Women and International Human Rights Law
Women Ther	Women & Therapy
Yale Hum Rts & Dev L J	Yale Human Rights and Development Law Journal
Yale Journ Int Law	Yale Journal of International Law
YB Eur Law	Yearbook of European Law
YB Int Hum Law	Yearbook of International Humanitarian Law
YB Int Law Comm	Yearbook of the International Law Commission
YB Un Nat	Yearbook of the United Nations

ZaöRV	Zeitschrift für ausländisches öffentliches Recht und Völkerrecht
Zeit Schw Recht	Zeitschrift für Schweiz Recht
Zör	Zeitschrift für öffentliches Recht (Austrian Journal of Public and International Law)

From Invisible Citizens to Agents of Change: A Short History of the Struggle for the Recognition of the Rights of Persons with Disabilities at the United Nations

Contents

- 1 Introduction 1
- 2 Disability Policy in the United Nations: Before the Dawn 2
 - 2.1 Disabled Persons as Invisible Citizens, 1945–1970 2
 - 2.2 Disabled Persons as Subjects of Rehabilitation, 1970–1980 4
 - 2.3 Disabled Persons as Objects of Human Rights, 1980–2000 6
 - 2.4 Disabled Persons as Agents of Human Rights in the New Millennium 11
- 3 Asserting Rights: Drafting the Convention on the Rights of Persons with Disabilities ... 15
 - 3.1 The First Meeting: Still No Agreement on the Need for a Convention 16
 - 3.2 The Second Meeting: Securing the Participation of Persons with Disabilities 17
 - 3.3 The Working Group: Drafting Begins 19
 - 3.4 The First Reading of the Draft: Momentum Stalls 21
 - 3.5 The Second Reading: The Ad Hoc Committee Gets Down to Business 22
 - 3.6 The Third Reading: The Chair Issues a Clean Text 30
 - 3.7 Adoption by the General Assembly 36
- 4 Conclusion 37
- References 38

1 Introduction

The Convention on the Rights of Persons with Disabilities was negotiated in 4 years—in UN terms that is lightening quick. It took decades, however, to prepare the political and legal ground for the Convention. Earlier attempts to convince the General Assembly to open the gate for a convention focusing on persons with disabilities failed.¹ According to modern human rights theory, the struggle for new rights is determined by several factors, such as an organised social movement that

¹Degener (1995), p. 12.