Persons with disabilities: a treaty seeks to break new ground in ensuring equality

A milestone international accord is in the works to promote the rights of persons with disabilities

This May, governments will consider a breakthrough treaty on persons with disabilities, which, if approved, would create a legally binding framework for the protection and promotion of their rights. It will go far beyond the traditional concept of access to the physical environment to a broader implication of equal access to social opportunities, health, education, employment and effective political, economic and social development. And in a dramatic global leap, governments that sign on will be legally bound to treat persons with disabilities not just as victims or a minority, but as subjects of the law with enforceable rights.

An initiative proposed by Mexico in 2001 at the fifty-fifth session of the UN General Assembly led to the drafting of the Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities. The increasing international acknowledgement of disability rights as human rights can be traced to the International Year of Disabled Persons (1981), which led to the adoption of the World Programme of Action concerning Disabled Persons. The early nineties saw the adoption of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities. In the same decade, the UN Human Rights Commission recognized that it was up to the international community to create a legal framework to protect the rights of people with disabilities.

The rights of persons with disabilities are only covered implicitly by the existing human rights conventions to the extent that they apply to all human beings. Only the Convention on the Rights of the Child makes explicit reference to children with disabilities in one article. At the same time, instruments that address the rights of people with disabilities are legally non-binding. Consequently, persons with disabilities face the dilemma of being legally “invisible” in their societies and even in the international arena. Most concerns raised by persons with disabilities have been largely treated as part of a social welfare approach. Now they stand to become “rights holders” and “subjects of law” with full participation in the formulation and implementation of plans and policies affecting them.

The road ahead is an obstacle course of competing viewpoints. Some countries are pushing for a comprehensive convention that not only restates the rights contained in existing human rights instruments, but goes further to provide tangible services and equal opportunities. Others have pointed out that the rights of persons with disabilities are intrinsically connected with the economic resources of a country. They are therefore concerned that in the developing world the financial burden of compliance will make a treaty unappealing to many governments which are committed to the principle of equal opportunity but could not make it a reality. The unique feature about this treaty is that the process of negotiation is open, consultative and accessible to persons with disabilities and their organizations as they work together with government experts at the United Nations. Partnership is the key word – both as governments develop their own inputs to the convention and as they work together in the drafting process. Clearly, this new legal instrument brings to the fore the need to raise awareness of a wide range of related issues, and this is an area where the media can play a key role in focusing attention on a matter of vital concern to some 600 million people worldwide who experience disabilities of various types and degrees.

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