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# Legal Harmonisation

## Guidance for organisations of persons with disabilities

Part 1: Convention on the Rights of Persons with Disabilities (CRPD) and Domestic Law



**Note:** This document is Part 1 of a series of three guides to help clarify the relationship between the Convention on the Rights of Persons with Disabilities (CRPD), and domestic laws. Part 2 relates to law reforms to align with CRPD, and Part 3 relates to monitoring and reporting under CRPD.

These documents should be read together.

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All links were correct at the time of publication.

# Introduction

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## Summary

The Convention on the Rights of Persons with Disabilities (also referred to as “the Convention” or ‘CRPD’), is the international law on the rights of persons with disabilities. The Convention sets out the obligations of States (i.e., Countries) to promote and protect the rights of persons with disabilities. States agree to abide by the Convention, and fulfil their obligations, through its domestic (national) laws and policies.

This document helps clarify the relationship between the Convention and domestic laws. In many countries across the world, laws and policies often provide insufficient protection or inadequately address the rights and inclusion of persons with disabilities. Sometimes, laws perpetuate discrimination, or create additional barriers or otherwise harm persons with disabilities.

When States agree to abide by the Convention, they are required to align their domestic laws to meet the obligations in the Convention. This involves the review of their domestic laws to identify gaps, discriminatory provisions or areas for reform. Legislative review identifies what changes need to be made to domestic laws.

Persons with disabilities and their representative organisations play a key role in the review process. Their participation is essential to ensuring that laws and policies are inclusive, responsive to the needs of persons with disabilities, and reflect the diverse perspectives of the disability community.



## Purpose

The purpose of this guidance is to prepare OPDs with an understanding of the relationship of the Convention to domestic law. It is supported by a glossary of key terms, as well as a list of non-exhaustive resources and technical guidance available for further information.

# CRPD and domestic law

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## What is the CRPD?

- The CRPD is the key international convention which protects the rights of persons with disabilities. It is the international law on the rights of persons with disabilities.
- The CRPD does not set out new rights. CRPD reflects rights that already existed in earlier international human rights laws (for example the laws on civil and political rights, and economic social and cultural rights established in the 1960s) through a disability lens. CRPD interprets existing human rights as they apply to people with disabilities. People with disabilities are 'rights holders' in the CRPD.
- The Convention sets out the obligations of States to protect, promote and ensure the rights of persons with disabilities and sets out steps to help States to fulfill these responsibilities. States, including all State funded agencies and staff, they are 'duty bearers' in the CRPD.

## How do States become party to the CRPD?

- States join the Convention (this is known as becoming 'party' to the Convention - like becoming party to a contract) and 'consent to be legally bound' by the obligations it sets out, through ratification or accession. These two terms mean the same thing - but are slightly different processes depending on when the State joins up.

## How does the CRPD become part of a country's domestic law?

The main ways that the CRPD becomes part of domestic law, are:

- **Immediately upon joining the CRPD:** this is most often the case in countries where laws are founded on 'civil law' systems e.g., most European countries, most States in the Americas (except Canada); many Asian countries; and those countries whose laws were founded on American and European legal systems e.g., the countries in Micronesia (Guam, Palau, the Federation States of Micronesia). These States see international law and domestic law as part of the same system. In these States, the Courts can enforce international laws, like CRPD, without needing to have domestic laws specific to the Convention.
- **The State adopts laws to implement the Convention:** this is most often the case in countries where laws are founded on 'common law' systems e.g., all Commonwealth countries/former British territories, including most Polynesian and Melanesian States in the Pacific region. These States treat international law and domestic law as separate systems. If existing domestic laws are different from international law, the domestic laws need to be reviewed to align with international law.

- **On some rare occasions, the CRPD becomes part of domestic law through a mix of both the above approaches.** In these countries, parts of the CRPD will automatically become law once ratified, and other parts of the CRPD may need new legislation to be adopted.

## What obligations exist under the CRPD in relation to a State's domestic law?

The Convention sets out specific obligations to ensure that a country's laws protect and promote the rights of persons with disabilities. **Under Article 4, States must:**

- **Adopt all appropriate legislative, administrative and other measures** for the implementation of the rights recognised in the present Convention (Article 4(1)(a))
- Take all appropriate measures, including legislation, **to modify or abolish existing laws, regulations, customs and practices** that constitute discrimination against persons with disabilities (Article 4(1)(b))
- Take all appropriate measures to **eliminate discrimination** on the basis of disability by any person, organisation or private enterprise (Article 4(1)(e)).

In addition to the general requirements above, the CRPD sets out instructions in relation to specific rights. For example, States must:

- **Take appropriate measures**, including legislative measures, to prevent persons with disabilities from being subjected to torture or cruel, inhuman or degrading treatment or punishment (Article 15), and
- **Protect** persons with disabilities from all forms of exploitation, violence and abuse (Article 16).

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**Part 2** of this series sets out the role of persons with disabilities and their representative organisations (OPDs) in legal review and reform processes to ensure that domestic (national) legislation aligns with the obligations under the Convention.

# Glossary of Key Terms

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- **Convention on the Rights of Persons with Disabilities or 'CRPD':** An international human rights treaty adopted by the United Nations in 2006, aiming to protect and promote the rights and dignity of persons with disabilities while ensuring their full and equal participation in society.
- **Duty bearers:** Individuals, groups, or institutions that are responsible for upholding and fulfilling specific rights or obligations under national or international law.
- **Law:** A system of rules which are upheld through the Courts and legal system. These rules are established by a State to maintain order, regulate behaviour, resolve disputes, and enforce standards, and apply to all individuals and agencies. No one is above the law. Regulations are lower level laws that relate to a principal law.
- **Organisations of Persons with Disabilities or 'OPDs':** Groups formed and led by individuals with disabilities. OPDs advocate for their rights, interests, and inclusion in society, and may also provide services to support people with disabilities.
- **Policy:** A set of principles, guidelines, or plans established by governments or organisations to guide their actions towards specific outcomes. While laws provide a legally enforceable framework governing behaviour and actions, policies serve as guiding principles or strategies used by governments and organisations to help them to practically implement obligations under law. In CRPD policies are captured under the term 'measures' to implement the Convention. Taken together, laws (including regulations), policies and procedures are referred to as the 'regulatory framework'.
- **Rights holders:** Individuals or groups who possess legal entitlements and protections under national or international law, granting them specific rights and benefits. In CRPD, the rights holders are persons with disabilities.

# Key resources

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## National Legislation

- UNDESA. (2023). [Disability Laws and Acts by Country / Area](#)
- W3C. (2024). [Web Accessibility Laws and Policies by country](#)

## UN Reports and Thematic Studies

- UNOHCHR. (2009). [Thematic Study by the Office of the United Nations High Commissioner for Human Rights on enhancing awareness and understanding of the Convention on the Rights of Persons with Disabilities](#)