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مجلس حقوق الإنسان

الدورة الثالثة عشرة

البند ٣ من جدول الأعمال

تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

معلومات مقدمة من شبكة المؤسسات الوطنية الأفريقية لحقوق الإنسان باسم المؤسسات الوطنية لحقوق الإنسان في أفريقيا المعتمدة ضمن الفئة "ألف"

مذكرة من الأمانة

تحيل أمانة مجلس حقوق الإنسان طيه الرسالة المقدمة من شبكة المؤسسات الوطنية الأفريقية لحقوق الإنسان باسم المؤسسات الوطنية لحقوق الإنسان في أفريقيا المعتمدة ضمن الفئة "ألف"، وهي مستنسخة أدناه وفقاً للمادة ٧(ب) من النظام الداخلي الوارد في المرفق بقرار المجلس ١/٥ والتي تنص على أن مشاركة المؤسسات الوطنية لحقوق الإنسان تتحقق استناداً إلى ترتيبات وممارسات وافقت عليها لجنة حقوق الإنسان، بما في ذلك القرار ٧٤/٢٠٠٥ المؤرخ ٢٠ نيسان/أبريل ٢٠٠٥.

* مستنسخة في المرفق كما وردت، باللغة التي قدمت بما فقط.

Annex

Written contribution by the Network of African National Human Rights Institutions to the Panel on national frameworks under article 33 of the Convention on the Rights of Persons with disabilities

Human Rights Council, 13th session, 1st to 26th March 2010

Introduction

A disability is an umbrella term, covering impairments, activity limitations, and participation restrictions. Impairment is a problem in body function or structure ; an activity limitation is a difficulty encountered by an individual in executing a task or action ; while a participation restriction is a problem experienced by an individual in involvement in life situations. Thus disability is a phenomenon, reflecting an interaction between features of a person's body and features of the society in which he or she lives. An individual may also qualify as disabled if he/she has had impairment in the past or is seen as disabled based on a personal or group standard or norm. Such impairments may include physical, sensory, and cognitive or intellectual impairments. Mental disorders (also known as psychiatric or psychosocial disability) and various types of chronic disease may also be considered qualifying disabilities. A disability may occur during a person's lifetime or may be present from birth. A physical impairment is any disability which limits the physical function of limbs or fine or gross motor ability. Persons with disabilities are entitled to exercise their civil, political, social, economic and cultural rights on an equal basis with others

Development of disability policy

The work of the UN constitutes the most important actions taken by an international organization in the area of disability. Based on the International Bill of Rights, the UN formulated the first specific document regarding disabilities in 1971 in the Declaration on the Rights of Mentally Retarded Persons. Important other documents followed but none of them are legally binding. The 1980s mark the main phase of activity regarding establishing international norms pertaining to persons with disabilities. In 1981, the General Assembly declared the first International Year of Disabled Persons. It was followed by the World Programme of Action Concerning Disabled Persons in 1982 and the Decade of Disabled Persons 1983-1992. Throughout the 1990s all UN conferences dealt with disability rights and addressed the need for protective instruments (World Conference on Human Rights 1993, Fourth World Conference on Women 1995, Habitat II 1996). Other important regional observances include the Asian and Pacific Decade of Disabled Persons (1993-2002), the African Decade of Disabled People (2000-2009), and the Arab Decade of Disabled Persons (2003-2012).

Article 33 of the Convention on the Rights of Persons with Disabilities focuses on National implementation and monitoring. It obligates States Parties, in accordance with their system of organization, to designate one or more focal points within government for matters relating to the implementation of the present convention, and giving due consideration to the establishment or designation of a coordination mechanism within government to facilitate related action in different sectors and at different levels.

According to the article, 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 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.

Civil society, in particular persons with disabilities and their representative organizations, shall be enjoined, involved and participate fully in the monitoring process of the implementation of the convention.

African Governments and the persons with disabilities

The key role of governments

Governments are vital to enabling institutional responses to addressing the plight of persons with disabilities in line with the article 33 of the Convention on the Rights of Persons with Disabilities. In view of this, the government has the following roles regarding persons with disabilities :

- a. Taking into account the importance of consulting with, integrating and supporting disabled persons' community-based initiatives in order to ensure their effective and sustainable protection ;
- b. Provide practical and political support for the formation of disabled persons' organizational processes which reinforce their efforts to address their concerns and advocate for their rights in accordance with the international bill of human rights ;
- c. Guarantee a secure working environment for disabled persons' organizational processes by making public statements in favour of these processes and training local and regional officials on the rights of the disabled ;
- d. Effectively monitor to ensure proper implementation of protective measures as formulated and stipulated by regional mechanisms ;
- e. Assess the effectiveness of national policies on the persons with disability on the ground through regular monitoring and public reporting with the active participation of the disabled persons themselves and local NGOs working on their behalf ;
- f. Encourage local NGOs to provide relevant data on the numbers, needs and conditions of the disabled persons with a view to enhancing efforts to assist and protect them ;
- g. Support exchanges for the disabled with a view to improving their psychosocial well being.

National Human Rights Institutions and the persons with disabilities

The key role of National Human Rights Institutions

A central rationale for national human rights institutions is that they provide an accessible, no-cost means of redress for the most vulnerable sections of society, who have particular difficulty gaining access to conventional legal means of resolving their problems. National human rights institutions make an important contribution to national efforts toward promoting and protecting human rights. They enjoy official recognition by governments and also often command significant respect within national societies as they usually are headed by influential and eminent people. National institutions can take the following steps to promote and protect the rights of the disabled :

a. NHRI should commence a program of action to protect and promote the rights of the disabled. It should recognize the disabled constitute a segment of society that is particularly vulnerable by virtue of their condition and subject to discrimination from a variety of actors.

b. NHRI should develop a policy on the role it intends to play with regard to the disabled. This policy should be disseminated among its staff, particularly its field offices, among the staff of government institutions, particularly those dealing with the disabled and among the general public. In developing this policy NHRI should take into account the existing regional human rights mechanisms.

c. Monitor the disabled conditions to ensure that they enjoy the same rights as other citizens in the country and do not face discrimination in seeking to access their rights and that they receive the protection and assistance they require ;

d. Conduct inquiries into reports of serious violations of disabled persons' human rights and work to ensure an effective response by the authorities ;

e. Advise the government on the rights of the disabled persons, in particular by working with national legislative bodies in the development of national laws regarding persons with disabilities based on the present convention, and helping to frame policies and plans of action, in collaboration with government officials, to effectively address situations of the disabled persons ;

f. Monitor and report on governments' implementation of national legislation and compliance with international treaty obligations as well as on implementation of national policies and plans of action for the disabled persons ;

g. Ensure that persons with disability are informed about the initiatives being taken on their behalf and are invited to contribute ideas and to participate in the decision-making ;

h. Forge strong relationships with disabled persons associations as well as local NGOs and representatives of civil society advocating for the protection of disabled persons rights ;

i. Network with national human rights institutions in other countries and relevant regional bodies to share information and experiences on the persons with disabilities with a view to developing best practices.

In order to undertake these activities, the capacity of NHRIs has to be developed. Capacity building should involve both domestic and international human rights and humanitarian organizations.

NANHRI and the persons with disabilities

The key role of NANHRI

NANHRI can be more proactive in its regional advocacy on behalf of the protection concerns of the disabled persons. Other possible roles of NANHRI include :

- a. Endorse the present Convention on the Rights of Persons with Disabilities as a clear restatement of the international humanitarian and human rights law principles that apply to disabled persons ;
 - b. Mainstream the issue of disability throughout NANNHRI's policies and dialogues through the adoption of a Common Position on this specific theme, and engage into new structured human rights dialogue thereon to ensure a coherent, visible and effective policy of NANHRI in this area, and assess their effective implementation ;
 - c. Actively promote the implementation of the present Convention on the Rights of Persons with Disabilities by state parties and give higher priority to protection issues in international and regional fora dealing with human rights ;
 - d. Foster the efforts of NHRIs to develop effective and constructive dialogue with disabled persons leaders and communities with a view to designing joint actions whose goals are to implement the present Convention on the Rights of Persons with Disabilities ;
 - e. Support community-based protection by raising issues of concern with national human rights institutions and other relevant regional mechanism.
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