



Queen's University
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SCHOOL OF
Sociology, Social Policy
and Social Work

DISABILITY
RESEARCH
NETWORK



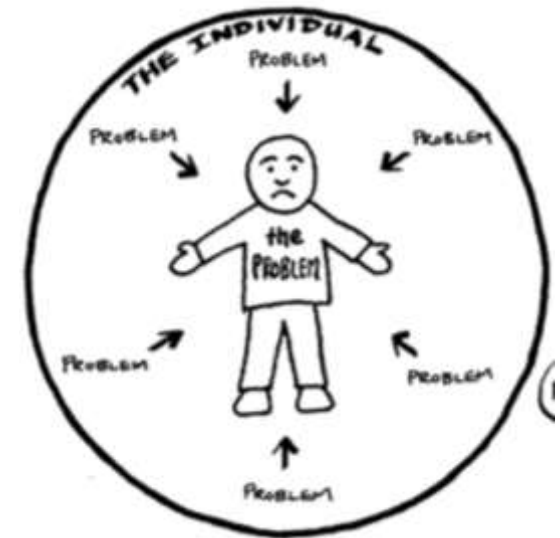
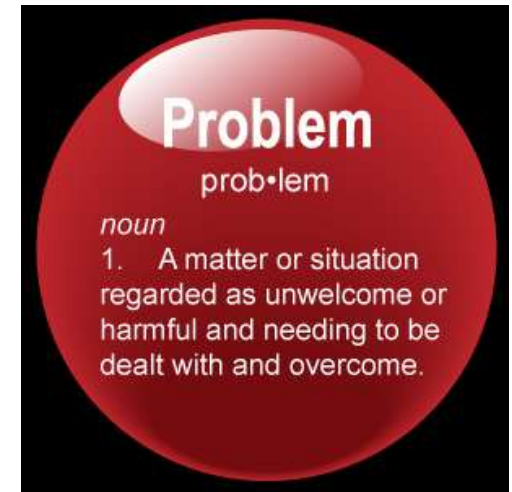
The UN Convention on the Rights of Persons with Disabilities: A Tool for Change?



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Context

- Disabled people traditionally viewed as 'problems' and objects of charity.
- Rendered invisible by an 'able-bodied' human rights discourse
- International human rights law has been underpinned by **medical/individual model of disability**, with a **social model of disability** particularly slow to penetrate the human rights arena.



New Beginnings and Great Expectations

- United Nations Convention on the Rights of Persons with Disabilities (CRPD) adopted by General Assembly December 2006.
- To date, 159 States have ratified the CRPD.
- Contains a comprehensive range of economic, social, cultural, civil and political rights.
- Optional Protocol (2006).



A Closer Look: What's Different?



1. Involvement of Disabled People

Drafting

Result of 'unprecedented collective and collaborative action' (Kanter, 2007: 294).



Implementation

Article 4(3) CRPD

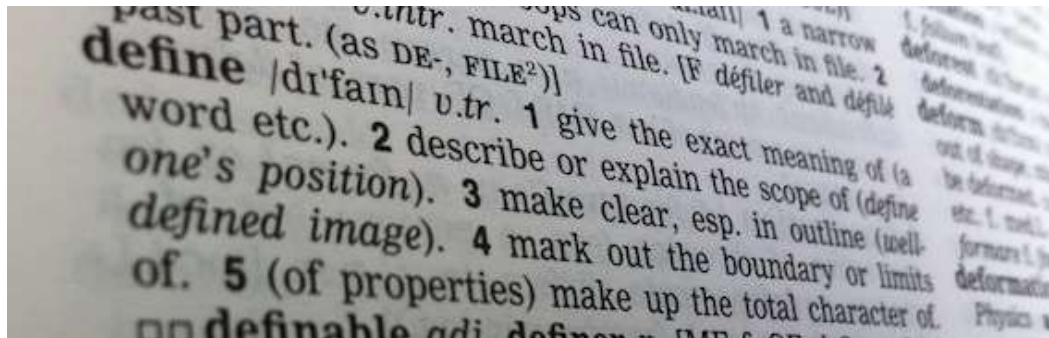
Committee on
Rights of
Persons with
Disabilities

Monitoring

Article 33(3) CRPD

2. Challenging Definitions of 'Disability'

- Under the CRPD, rights holders are 'persons with disabilities'.
- Disability is a characteristic that is often subject to routine questioning, categorisation and assessment in a way that is different from other groups.
- How disability is conceptualised has implications for how disabled people are perceived by society.



‘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 1 CRPD)

Hungary

State Party Report: ‘Individuals with psycho-social disabilities are not considered persons belonging to the group of disabled people..... persons living with disabilities are the individuals who are to a significant extent or entirely not in possession of sensory.., locomotive or intellectual functions, or who are substantially restricted in terms of communication..’

Concluding Observations: ‘The Committee notes with concern that definitions of disability and persons with disabilities in the State party’s legislation focus on the impairments of an individual rather than on the barriers he/she faces. The Committee expresses its concern that such definitions fail to encompass all persons with disabilities...’

3. Accommodation (if it's 'reasonable'!)

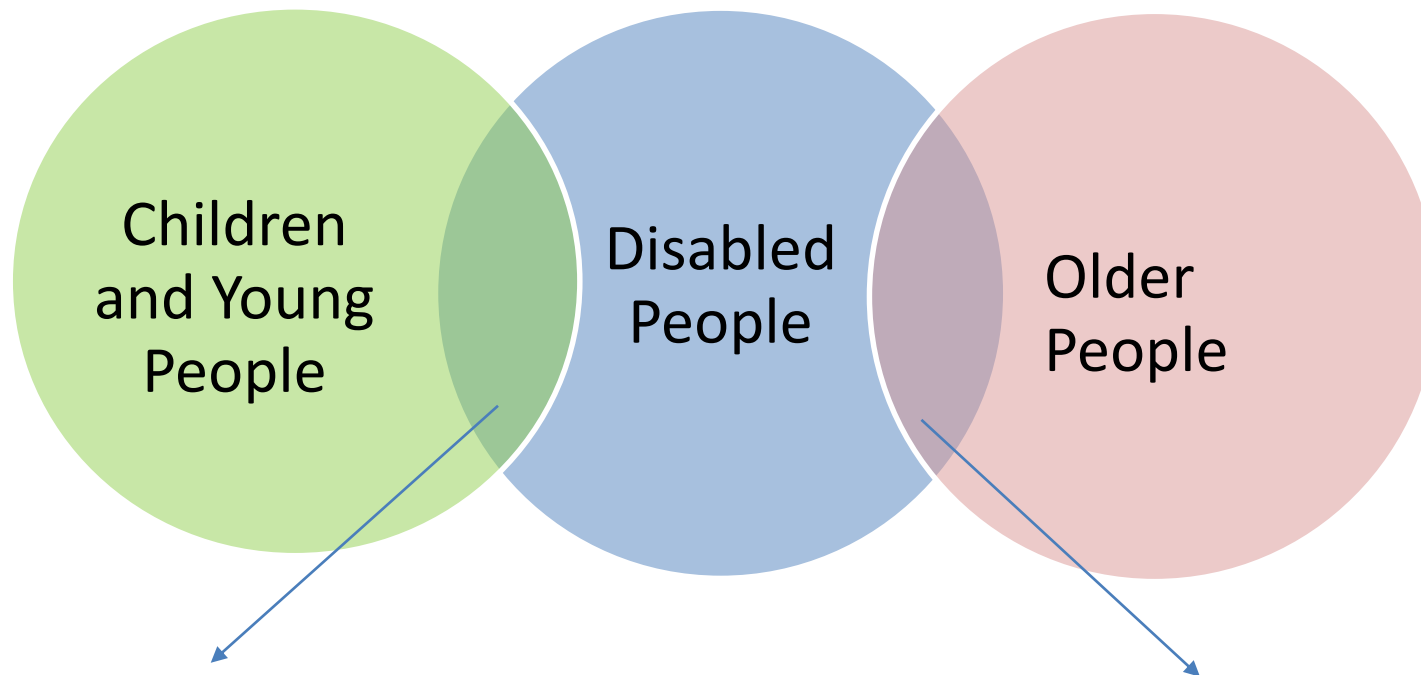
‘Necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.’
(Article 2)

A Double-edge sword??

- Allows for discrimination to be justified where needs are perceived to be 'unreasonable' or too costly.
- Ultimately, decision of what is 'un/reasonable' and an 'undue burden' is made by the State, not the individual.
- Legitimizes forms of **conditional inclusion**, and opens space for the emergence of a **conditional rights discourse** e.g.. 'a disabled person can have a right to inclusive education so long as **their** needs are not too expensive or burdensome.....'



The Intersectionality of Disability



‘Social housing programmes should offer housing that is, inter alia, accessible for persons with disabilities and the elderly.’
(GC1, para 42)

Article 7 CRPD plus reference to ‘age-appropriate assistance and services

No equivalent discrete article, but reference to need for ‘age-appropriate services and assistance’

Conclusions

- Innovative and much potential to be harnessed.
- What kind of effect will involvement of disabled people in drafting, implementation and monitoring have on the realisation of rights?
- Committee will continue to play crucial role in inducing States to 'rights' and 'right' behaviour, but States remain ultimate gatekeeper to the full realisation of rights for disabled people.
- Implementation and monitoring critical if 'rights talk' is to be translated into effective 'rights action'.