**SEMINAR:** Creating inclusive policies, systems and services for children with Disabilities in Accordance With The UN Convention on the Rights of Persons with Disabilities (CRPD)

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"CHILDREN WITH DISABILITIES FROM THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES CRPD AND THEIR OPTIONAL PROTOCOL: INTERSECTIONALITY WITH THE CONVENTION ON THE RIGHTS OF THE CHILD".

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**1. - INTRODUCTION**

**SOCIAL MODEL AND HUMAN RIGHTS OF THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES / CRPD**

Around one THOUSAND million people in the world have one or more limitations in physical, sensory, intellectual and / or psycho-social aspect. This number represents about 15% of the world population, according to the World Health Organization WHO. It also notes that 95 million are disabled children (0-14 years), equivalent to 5.1% of the total universe of people with disabilities.

A significant number of persons with disabilities live in poverty and socially excluded of the access to education and equal employment opportunities.

The Convention on the Rights of Persons with Disabilities has been the answer to a long process gestated by civil society of people with disabilities, which in
essence means the consecration of the social model and human rights, leaving behind past medical visions, assistentialist and charitable visions.

The CRPD is raised up to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities and to promote respect for their inherent dignity. (Article 1 Clause 1 CRPD).

The development of this legal instrument, representative of the international consensus has as priorities equality and non-discrimination as well as the treatment of diversified rights and its implementation for all people without exception.

From this perspective the Convention has explained that people with disabilities include those who have 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 subsection 2 CRPD).

We note that this rule is the multifocal conjunction of the current model which observes people with disabilities as subjects of the law.

This means that, to define the disability status of a person, we must take into consideration three concomitant elements: limitations a person may experience at various levels, their interaction with various barriers and the impact it produces in terms of restrictions in their social participation. This last element results in the enjoyment of human rights and fundamental freedoms.

Consequently, at present, there is a significant social role in removing barriers and in implementing measures of equality of opportunity in order to achieve full participation of persons with any type of disability.

This social vision and human rights can be appreciated throughout the whole Convention and is connected with the absolute prohibition of discrimination for disability reasons, which is any distinction, exclusion or restriction on the basis of disability with the purpose or effect of impairing or nullifying the recognition, enjoyment or practice, on an equal footing, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or otherwise. It includes all forms of discrimination, including denial of reasonable accommodation. These last will be the necessary and adequate modifications and adaptations not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or practice on an equal basis with others, of all human rights and fundamental freedoms.

It is important to note that the Convention has introduced new concepts in law, which stresses the importance of certain bridges that enable the enjoyment and
practice of rights by people with disabilities. These catalysts are accessibility, and awareness.

In terms of accessibility, which has a broad spectrum over the physical context, transportation, information, communication, processes and products, among others, the Convention, from start point dealt States Parties shall also take appropriate measures to promote design, development, production and distribution of systems and information technology and communications accessible at an early stage, so that these technologies and systems become accessible at a minimum cost. (Article 9, h CRPD).

It should be noted that the most profound transformations to the full force of the CRPD will be in the awareness-raising of society about the disabled person as a subject of law. The Convention emphasized this point, noting that States Parties undertake to adopt immediate, effective and appropriate measures to combat stereotypes, prejudices and harmful practices relating to persons with disabilities, including those based on gender or age, in all areas of life (Article 8 No 1, b CRPD). These measures will include encouraging at all levels of the education system, including in all children from an early age, an attitude of respect for the rights of persons with disabilities (Article 8 No 2, b CRPD).

This worldview and paradigm shift described stipulate certain general obligations for States parties. It is noted that in the development and implementation of legislation and policies to implement the Convention, and in other decision-making processes on issues related to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations. (Article 4 No 3 CRPD)

The Convention on the Rights of Persons with Disabilities and its Optional Protocol were adopted on December 13, 2006 by the General Assembly of the United Nations in New York. This is the first comprehensive and integral instrument on human rights of the XXI century and the first Human Rights Convention that opens up to signature by regional organizations of integration. To date, 133 countries have ratified the Convention and 77 have ratified its Optional Protocol.

2. INTERSECTIONALITY BETWEEN THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES / CRPD AND THE CONVENTION ON THE RIGHTS OF CHILDREN / CRC
CRPD and CRC have a clear intersectionality in the MANAGEMENT of children with disabilities. The CRC defines a child as any person under the age of eighteen unless, under the law and if applicable to the child, overage is attained at an earlier stage. (Article 1 CDN). Therefore, in the scope of protection of the CRC there are children with disabilities. Reason why a separate article was devoted to this sector.
Thus, it is emphasized that children with disabilities are entitled to enjoy a full and
decent life, in conditions which ensure dignity, promote self-reliance itself and facilitate
the child's active participation in the community.
Their right to special care It is also recognized and States Parties shall encourage and
ensure, subject to available resources, whatever provision of child care is requested and
which is appropriate to the child and the circumstances of the parents or others caring
for him.
The assistance provided will be free of charge whenever this is possible, in order for the
child to achieve social integration and individual development, including their spiritual
and cultural development, to the maximum extent possible. The precept concludes
rising the importance of international cooperation, so that States Parties can improve
their capabilities, knowledge and broaden their skills and experience in these areas. In
this regard, particular account shall be taken on the needs of developing countries.
(Article 23 CRC)
Besides the above, there are several areas of overlap between CRPD and CRC, which
will be discussed in subsequent headings.

2.-PRINCIPLES OF the CRPD
The Convention stresses in the third article the following principles:
   a) Respect for inherent dignity, individual autonomy including the freedom to
      make one's own choices, and independence of persons;
   b) The non-discrimination;
   c) participation and full and effective inclusion in society;
   d) Respect for difference and acceptance of persons with disabilities as part of
      human diversity and humanity;
   e) Equality of opportunity;
   f) The accessibility;
   g) Equality between men and women;
   h) Respect for the evolving capacities of children with disabilities and their right
to preserve their identity.

One can see that these principles are universal, ie, applicable to all human beings without
distinction. Only two of them specifically mention disability: the one that refers to the
recognition of diversity in society and the one referred to children with disabilities,
recognizing their evolution and personal identity.

   From this perspective we shall see the spirit that inspires all the articles of the
CRPD

3.-DISABLED CHILDREN FROM the CRPD and its relations WITH CRC
The Convention on the rights of persons with disabilities gives special attention to the
challenges faced by States in the treatment of the legislation and public policies
concerning children with disabilities. Subsequently, we will examine the rights which are specifically recognized by the Convention, in relation to children with disabilities and in order to get to other rights associated with this sector.

3.1.- RIGHTS RECOGNIZED explicitly IN the CRPD, RELATED TO CHILDREN WITH DISABILITIES

The CRPD was concerned specially regarding children with disabilities. Thus, starting from its preamble states:

- Recognizing that children with disabilities should have full enjoyment of all human rights and fundamental freedoms on an equal basis with other children, and recalling obligations that were undertaken by States Parties in the Convention on the Rights of Children
- Recognizing that women and girls with disabilities are often at greater risk, both within and outside of their home, of violence; injury or abuse; abandonment or negligent treatment, mistreatment or exploitation
- Convinced that the family, as a fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, must receive the necessary protection and assistance to fully assume its responsibilities within the community, Recognizing that the child, for the full and harmonious development of his/her personality, should grow up in a family, in an atmosphere of happiness, love and understanding,

The articulation of the Convention was in charge of highlighting the challenges regarding children with disabilities in a thematic article, and also from a cross perspective in other articles of the CRPD, in relation to specific rights.

3.1.1. - SPECIFIC ITEM:

Thus, the Article 7 of the Convention, entitled Children with Disabilities establishes that:

- States Parties shall take all necessary measures to ensure that all children with disabilities enjoy of all human rights and fundamental freedoms on an equal basis with other children.
- In all activities related to children with disabilities, a primary consideration will be the protection of the best interests of the child.
- States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, this opinion shall receive adequate consideration taking into account their age and maturity, on an equal basis with other children, and to receive appropriate assistance according to disability and age, in order to practise this right.

This article emphasizes a relevant principle which is the "best interests of the child" and a fundamental right just as it is freedom of expression and opinion.

This makes full agreement with the Convention on the Rights of the Child, namely:

- Best Interest of the child:
In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the primary consideration will be served the best interests of the child. (Article 3 CRC)

- **Right to express opinion and that this will be heard and considered:**

States Parties shall assure to the child who is capable of forming his or her own views, the right to express their opinion freely in all matters affecting the child, taking into account the views of the child, according to his/her age and maturity. (Article 12 Number 1 CRC)

- **Right to be heard in any judicial or administrative proceeding:**

With this purpose, particular opportunity shall be given to the child to be heard in any judicial and administrative proceedings affecting the child, either directly or through a representative or an appropriate body, in accordance with the rules of procedure of the national law. (Article 12 No 2 CRC)

- **Freedom of expression and access to information, with free choice of format:**

The child has the right to freedom of expression, this right shall include freedom to seek, receive and spread information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other means chosen by the child. (Article 13 No 1 CRC)

- **Restrictions on the right to freedom of expression, in accordance with the law:**

The practice of this right may be subject to certain restrictions, but these shall only be foreseen by law and if necessary:

a) For respect of the rights or other’s reputation;

b) For protection of national security, public order, to protect health or public moral. (Article 13 No 2 CRC)

The CRPD visualised those aspects of high significance in terms of enjoyment of rights by children with disabilities, whose vulnerability can lead to the interruption or violation of these rights. In this regard it should be noted:

3.1.2.-**OTHER ARTICLES ON CHILDREN WITH DISABILITIES IN THE CRPD**

Protection from exploitation, violence and abuse (EVA) (Article 16 CRPD)

- **States Parties shall adopt measures to prohibit exploitation, violence and abuse:**

States Parties shall take all appropriate legislative, administrative, social, educational and other measures relevant to protecting people with disabilities, both within and outside their home, from all forms of exploitation, violence and abuse, including their gender-related aspects.
States shall take measures to prevent EVA and measures of assistance and support, taking into consideration gender and age:
States Parties shall also take all appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring, between other things, the existence of appropriate forms of assistance and support that take into account gender and age for people with disabilities and their families and caregivers, including providing information and education on how to prevent, recognize and report instances of exploitation, violence and abuse. States Parties shall ensure that protection services will take into account age, gender and disability.

Supervision by independent authorities, of the programs and services for PwD:
In order to prevent the occurrence of exploitation, violence and abuse, States Parties shall ensure that all facilities and programs designed to serve persons with disabilities are effectively monitored by independent authorities.

Recovery of the physical, cognitive and psychological aspects, rehabilitation and social reintegration, taking into consideration gender and age:
States Parties shall take all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disabilities who become victims of any form of exploitation, violence or abuse, including through the provision of protective services. Such a recovery and reintegration shall take place in a favourable environment which fosters health, welfare, self-esteem, dignity and autonomy of the person and that will take into account gender-specific needs and age.

Measures for EVA cases to be identified, investigated and prosecuted, focusing on women and children:
States Parties shall take effective legislation and policies, including legislation and policies focusing on women and childhood, to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, when appropriate, prosecuted.

Children with disabilities experience violence at a rate nearly four times higher than those without disabilities, according to a study commissioned by the World Health Organization (WHO) and published in the medical journal The Lancet.

This survey concluded that children with disabilities are victims of some form of violence at a rate 3.7 times higher than those without disabilities, are victims of physical violence at a rate 3.6 times higher and victims of sexual violence at a rate 2.9 times higher.

On the same survey, it was also identified that children with intellectual disabilities are the most vulnerable as they experience sexual violence at a rate 4.6 times higher than their peers without disabilities.
The Convention on the Rights of Persons with Disabilities has reiterated that the Convention on the Rights of the Child had said, stating that States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of or physical or mental abuse, neglect or negligent treatment, mistreatment or exploitation, including sexual abuse, while the child is in the care of parents, legal guardian or any other caregiver in charge. Such protective measures should comprise, as appropriate, effective procedures for the establishment of social programs to provide necessary support for the child and those who care for him as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and final observation of the above described cases of child mistreatment and, as appropriate, for judicial involvement. (Article 19 CRC)

The CRC establishes that States Parties undertake to protect the child from all forms of sexual exploitation and abuse. With this aim, States Parties shall take in particular all necessary measures of national, bilateral and multilateral character to prevent:

a) The inducement or coercion of a child to engage in any unlawful sexual activity;

b) The exploitative use of children in prostitution or other unlawful sexual practices;

c) The exploitative use of children in pornographic performances and materials (Article 34 CRC)

In turn, the CRC prescribes that States Parties shall adopt all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of negligence, exploitation or abuse, torture or other forms of cruel treatment or punishment, inhuman or degrading treatment or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters good health, self-respect and dignity of the child. (Article 39)

This last item should be analyzed in correlation with Article 15 of the CRPD which prohibits all forms of torture and cruel, inhuman or degrading treatment of persons with disabilities, noting the inadmissibility of medical or scientific experimentation without the free and informed consent of people with disabilities.

On the same way, a connection of this article with Article 17 of the CRPD on the protection of personal integrity should be made.

In this regard it should be noted that the Special Rapporteur against Torture, in its 2013 report, has explained that abuse in the field of health in relation to people with disabilities, can be seen as cruel, inhuman or degrading treatment by the vulnerability of this sector of the population. Of course, this is of particular relevancy in the case of children with disabilities, for the eventual helplessness that can be found with respect of the various forms of abuse.
EDUCATION (Art. 24 CRPD)

States should ensure effective enjoyment of the right to education without discrimination and equal opportunities. This means that States must ensure educational inclusion without segregation of any kind, for which they must ensure access to education systems through removal of barriers, provision of support and other reasonable and necessary adjustments.

1-inclusive education system. States Parties recognize the right of persons with disabilities to education. With a view to making this right effective without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and education throughout life, with a view to:

a) Development of human potential, dignity, self-esteem and respect for human rights: The full development of human potential and sense of dignity and self-esteem and strengthen respect for human rights, fundamental freedoms and human diversity;

b) Development of the personality, talents and creativity: to develop personality, talents and creativity of people with disabilities to its maximum capacity as well as mental and physical skills;

c) Participation in a free society: To enable people with disabilities to participate effectively in a free society.

2. States Parties shall assure:

a) No exclusion: People with disabilities are not excluded from the general education system for disability reasons, and that children with disabilities are not excluded from free and compulsory primary neither from secondary education for disability reasons;

b) Inclusive Education, of good quality and free of cost: People with disabilities can access to an inclusive primary and secondary education, of good quality and free of cost, on equal terms with others in the community in which they live;

c) Reasonable adjustments: Reasonable adjustments should be made based on individual needs;

d) Support in the general education system: Support should be given to people with disabilities according to their needs and within the general education system, to facilitate their effective education;

e) Customized Support in an inclusive environment: personalised and effective support measures should be facilitated in environments that encourage academic and social development at its maximum capability, in accordance with the goal of full inclusion.

3. Life learning and social development towards participation States Parties shall give persons with disabilities the possibility to learn life skills and social development activities in order to promote their full education and on equal opportunity basis as members of the community. To this end, States Parties shall adopt appropriate measures, including:

a) Specific Learning and peer tutoring: To facilitate the learning of Braille, alternative script, alternative modes, means and formats of communication skills or alternative orientation and mobility, as well as mentoring and peer support;
b) **Sign language and language identity:** To facilitate the learning of sign language and the promotion of the linguistic identity of the deaf community;

c) **Blind, deaf and deaf-blind Children:** To ensure that the education of the people, especially the blind, deaf or deaf-blind children, is delivered in the languages, modes and most appropriate means of communication for each individual, and in environments which can allow them to reach their full academic and social development.

4. **Qualified teachers, included teachers with disabilities** To contribute to the implementation of this right, States Parties shall take appropriate measures to employ teachers, included teachers with disabilities, who are qualified in sign language or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate awareness of disability and the use of modes, means and formats of appropriate, augmentative and alternative communication, and educational techniques and materials to support persons with disabilities.

5. **Higher education, including reasonable accommodation** States Parties shall ensure that persons with disabilities have general access to tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable adjustments are implemented for persons with disabilities.

According to the World Report on Disability WHO 2011, "Children with disabilities are less likely to enroll in school, stay in it and overcome all years. School failure is observed in all age groups in both high-income countries and low, but with a more intense pattern in the poorest countries. The difference between the percentage of children with disabilities and the percentage of children without disabilities attending primary school ranges from 10% in India to 60% in Indonesia. With respect to secondary education, the difference in attendance rates between 15% in Cambodia and 58% in Indonesia. Even in countries with high rates of primary school enrollment, such as Eastern Europe, many children with disabilities do not attend school, according to the WHO report."

For its part, the Convention on the Rights of the Child recognizes the right to education broadly, explaining specific measures for effectiveness in the practice of this right. These measures indicate the implementation of free and compulsory primary education, promotion of free secondary education by providing financial assistance if necessary; higher education accessible for all, adequate and accessible information for children about educational and professional issues and adoption of measures to encourage school attendance and reduce dropouts. (Article 28 CRC)

The CRC refers to children with disabilities who require assistance for care, which mainly focus ensure that children with disabilities have effective access to education, training, health services, rehabilitation services, preparation for employment and recreation opportunities and receive such services in order for the child to achieve social integration and individual development, including their spiritual and cultural development, to the maximum extent possible. (Article 23 CRC)
The convention in this article stipulates that States must take a series of measures to give protection to the family. This means that States must ensure that there is no discrimination for people with disabilities to marry and have children.

• **States Parties shall take measures to prevent discrimination in the context of the family:** States Parties shall take effective and appropriate measures to end discrimination against people with disabilities in all matters relating to marriage, family, parenthood and personal relationships, and to ensure that people with disabilities will be on an equal opportunity situation with others, with the goal of guarantee that:

  a) **Right to marry and raise a family, with consent:** It recognizes the right of all persons with disabilities in marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses;

  b) **Rights to the number of children, spacing and information on reproduction:** The rights of people with disabilities to decide freely and responsibly the number of children they have and the time that elapses between a birth and another, and access to information, education on reproductive and family planning appropriate to their age, and the necessary means to enable them to practice these rights;

  c) **Maintenance of fertility, including children:** People with disabilities, including children, maintain their fertility on an equal basis with others.

• **PwD rights to custody and other forms of custodianship and adoption of children:** States Parties shall ensure the rights and obligations of people with disabilities in regard to guardianship, wardship, trusteeship, adoption of children or similar institutions, where these concepts exist in national legislation, in all cases the superior interests of the child shall be safeguarded at its maximum. States Parties shall render appropriate assistance to persons with disabilities in the performance of their responsibilities in parenting.

• **Right of children with disabilities in family life:** States Parties shall ensure that children with disabilities have equal rights with respect to family life. To implement these rights, and to prevent concealment, abandonment, neglecting and segregation of children with disabilities, States Parties shall undertake to provide early and comprehensive information, services and support to children with disabilities and their families.

• **No separation of children from their parents, especially for disability reasons:** States Parties shall ensure that children are not separated from their parents against their will, except when competent authorities subject to judicial review, determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. In no event shall a child be separated from parents on the basis of a disability of the child, both parents or one of them.

• **Care of children with disabilities, alternatively by the extended family or the community:** States Parties shall make every effort, where the immediate family is unable to care for a child with disabilities, to provide alternative care within the family extensive and, failing that, within the community in a family setting.
The Report on the State of Children 2013 emphasizes that children should grow up in a family environment. This means that families of children and adolescents with disabilities should receive adequate support to provide the best possible environment and better quality of life for their children. Support for families and carers will be given in different ways, for example through subsidized daycare centers. A support of this kind can also improve the chances of children returning to the community after living in an institution.

Meanwhile the Convention on the Rights of the Child refers to this area noting that States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community, in accordance with what was established by local custom of the legal guardians or other caregivers. (Article 5 CDN)

a). States Parties commit to respect the right of the child to preserve his or her identity, including nationality, name and family relations according with the law and without unlawful interference. (Article 8 CRC)

b). States Parties shall take appropriate measures:
   To develop preventive health care, guidance for parents and education and family planning services. (Article 24. F)

DATA COLLECTION AND STATISTICS (Article 31CRPD)

To address the difficulties in each state, it is crucial to have updated information on the number of people with disabilities, with a breakdown of gender, age and ethnicity. This allows targeting of public policies and ensure compliance of the Convention.

1. Statistical data collection and research: States Parties undertake to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the Convention. In the process of collecting and maintaining this information the following shall be done:

a) Protection of data and confidentiality: by respecting legally established guarantees including legislation on data protection, to ensure confidentiality and respect of the privacy of persons with disabilities;

b) Compliance of norms on Protection and ethic principles: Comply with internationally accepted norms to protect human rights and fundamental freedoms, as well as ethical principles in the collection and use of statistics.

2. Breakdown of useful data for evaluation and identification of barriers: The information collected in accordance with this article shall be breakdown, as appropriate,
and used to help assess the implementation of States Parties' obligations under this Convention as well as to identify and address the barriers faced by persons with disabilities in practicing their rights.

3. **Diffusion in accessible formats:** States Parties shall assume responsibility for the dissemination of these statistics and to ensure their accessibility for people with disabilities and others.

According to the State of the World's Children 2013, few countries have reliable information on how many children have a disability, which type and how it impacts their lives. In some countries, families with disabled children face ostracism, where even parents and relatives are often reluctant to report that one of their children presents this situation. This is explained by the need to avoid rejection, the desire to overprotect the child, or both. When a child is born with some form of disability, birth is not always recorded. These excluded children are unknown to the social, educational and health systems. Therefore, they lose access to these services to which they are entitled.

3.2 **OTHER RELATED ARTICLES ABOUT CHILDREN WITH DISABILITIES IN THE CRPD**

In addition to the items listed above, in the cross treatment of children with disabilities, there are other precepts that are directly linked to the practice of their rights. In this order we can mention the thematic paper on women with disabilities, which scope applies to girls with disabilities, while notes that States Parties recognize that women and girls with disabilities are subject to multiple discrimination, and in this respect shall take measures to ensure that they enjoy full and equal conditions for all human rights and fundamental freedoms. Also they commit to adopt measures for the development, advancement and empowerment of this sector (Article 6 CRPD).

- **ACCESS TO JUSTICE:** States Parties shall ensure that persons with disabilities have access to justice on an equal basis with others, including through the provision of procedural and age-appropriate, to facilitate effective performance of the functions of these individuals as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.
- This requirement has high significance in terms of enforceability of rights. You can say it's the "right to rights" and therefore the importance to consider the procedural adjustments due to disability in conjunction with the age of the person, which includes the perspective of children with disabilities. (Article 13 Paragraph 1 CRPD)
- **Freedom of movement and nationality**
  The children with disabilities shall be registered immediately after birth and shall have the right from birth to a name, to acquire a nationality and, as far as possible, to meet their parents and be cared by them (Article 18 No.2 CRPD)
This right has its correlation in the CRC:

Article 7
1. The child shall be registered immediately after birth and shall have the right from birth to a name, to acquire a nationality and, as far as possible, to meet her parents and be cared for them.

Article 8
1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

- **RIGHT TO LIVE INDEPENDENTLY AND BEING INCLUDED IN THE COMMUNITY**

States Parties recognize the equal right of all persons with disabilities to live in the community, with equal choices to those of others, and shall take effective and appropriate measures to facilitate full enjoyment of this right by people with disabilities and their full inclusion and participation in the community (Article 19 CRPD).

This right does not know the meaning of institutionalization as a way suitable for the raising, growth and development of children with disabilities. This may be related to the requirements of personal freedom of people with disabilities (Article 14 CRPD).

This right is correlated in the CRC:

Preamble: Considering that the child should be fully prepared to live an individual life in society and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations and, in particular, in a spirit of peace, dignity, tolerance, freedom, equality and solidarity. Also, Article 23 of the CRC makes accordance with what is stated in this section

- **PERSONAL MOBILITY**

States Parties shall take effective measures to ensure that persons with disabilities enjoy personal mobility with the greatest possible independence (Article 20 CRPD).

This disposition, even though does not name children with disabilities, has great links to the personal and social development of those, including the practice of other rights. It relates directly to accessibility, reasonable accommodation and rehabilitation.

- **HEALT**

States Parties shall provide the health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to prevent and minimize the appearance of new disabilities, including children and the elderly (Article 25, b CRPD).
It is important to note that this requirement refers to secondary prevention of disability. This means that, for children with disabilities, the advance of the limitation or progression to other disabilities should be prevented.

This right is correlated in the CRC
Article 24
1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his right of access to such health care services.

● ENABLING AND REHABILITATION
States Parties shall develop and strengthen programs and various training and different rehabilitation actions in order for people with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life. Attempt shall be made to these services and programs begin at the earliest possible stage, and are based on the multidisciplinary assessment of the needs and abilities of the person (Article 26 No. 1, a CRPD)

The enabling and rehabilitation processes find their correlation in Article 23 of the CRC

● SUITABLE level of LIVING and SOCIAL PROTECTION
States Parties shall ensure access for people with disabilities, in particular women and girls and older people with disabilities, to social protection programs and strategies for poverty reduction, (Article 28, b CRPD)

This right is correlated in the CRC
Article 3
1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the primary consideration to be served shall be the best interest of the child.

2. States Parties commit to ensure to the child protection and care as is necessary for their well-being, taking into account the rights and duties of their parents, guardians or other persons responsible for it before the law and, to that end, shall take all the legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, number and suitability of their staff, as well as in relation with the existence of adequate supervision.
PARTICIPATION IN CULTURAL LIFE, RECREATION, LEISURE AND SPORT

States Parties shall ensure that children with disabilities have equal access with other children to participation in games, recreation, leisure and sporting activities, including those activities in the school system (Article 30, d CRPD)

This right is correlated in the CRC Article 31
States Parties recognize the right of the child to rest and leisure, to engage in games and recreational activities appropriate to their age and to participate freely in cultural life and the arts.
We must also consider the application of the provisions on equality and non-discrimination as well as the equal recognition as a person before the law, which includes the expression of the will and support system applying safeguards (Article 5 and Article 12 CRPD, respectively)

4. COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES IN RELATION TO CHILDREN WITH DISABILITIES

The Committee / CRPD has dealt especially on the perspective of children with disabilities. This can be appreciated since the first statement of the board of the Treaty (February 27, 2009), which highlighted, since the beginning, that in the course of their duties would consider all persons with disabilities with the same priority, taking into account the specific conditions of those who are vulnerable, as is the case of children with disabilities.

4.1.-FINAL REMARKS REGARDING THE COMMITTEE REPORTS OF STATES PARTIES:

The Committee when developing its specific mandate (Articles 34 and following of the CRPD), in consideration of the reports of States Parties, has been particularly involved in the recommendations to ensure the enjoyment of rights by children with disabilities. Thus, there will be a systematization of the pronouncements of the Committee in the respective subjects.

a) General principles and obligations (Articles 1 and 4)

Spain

Concerns
- The Committee regrets the lack of information on the effective participation of persons with disabilities and their representatives in their representative organizations at
regional level in the process of drafting the laws, policies and decisions and in the process of evaluating their application as well as the lack of information on the participation of children with disabilities at all levels.

Recommendation
- That the State party adopt specific measures to ensure the active participation of people with disabilities in the public processes of decision-making at regional level and to include children with disabilities at all levels.

Peru

Reason for concern
The Committee, while acknowledging positive developments, such as the creation of a multi-sectoral permanent commission and the establishment of the National Council for the Integration of Persons with Disabilities (CONADIS), regrets that no meaningful participation of people with disabilities, particularly of children and women with disabilities, or the organizations that represent them in preparing legislation and other policy processes and decision-making.

Recommendation
- The Committee recommends the State party to take concrete measures to ensure the active participation of people with disabilities, including children and women with disabilities in the planning, implementation and monitoring processes of public decision-making at all levels, particularly in matters that affect them.

b) Equality and non-discrimination (Article 5)

Peru

Concern
- The Committee is concerned that, despite the existence of a large number of different ethnic groups in Peru, it is considered that people with disabilities from minority and indigenous groups are at high risk of multiple discrimination and that no Data is available on the number of these people neither about their situation. In relation to this, the Committee expresses its concern about the situation of people with disabilities belonging to indigenous and minority groups, in particular women and children with disabilities living in rural areas as well as people with disabilities who are African descendants.

Recommendation
- The Committee urges the State party to improve data collection in order to have clear statistics on persons with disabilities from minority and indigenous groups. The Committee recommends the State party to pay special attention to the formulation of policies and programs concerning persons with disabilities from minority and indigenous groups, particularly women and children with disabilities living in rural areas, as well as Afro- descendants, in order to end to the multiple forms of discrimination against these people.
c) Children with disabilities (Article 7)

**Spain**

Concerns
- The Committee is particularly concerned about rates of mistreatment of children with disabilities, who are reportedly higher than those of other children. The Committee also expresses concern about the lack of early identification of children with disabilities and the lack of intervention and support given to families knowingly provided to children with disabilities, which endangers its full development and its ability to express their opinions as well as by the lack of available resources and a coordinated public administration in social services, health and education, among others.

Recommendation
- That the State party
  a) Strengthen its efforts to promote and protect the rights of children with disabilities and undertake research on violence against children with disabilities, to take steps to eradicate the violation of their rights;
  b) Adopt policies and programs that ensure the right of children with disabilities to express their own opinions;
  c) Develop coordinated public policies that have sufficient resources to ensure inclusive access to some services including therapeutic, rehabilitation and enabling knowingly rendered as well as the care that address the needs in the areas of health, education and psychosocial needs of children with disabilities, particularly during early childhood.

**Tunisia:**

Concerns
- The Committee is particularly concerned about the low rate of complaints ("signalement") of common abuse cases that are considered dangerous situations, given the results of the Multiple Indicator Cluster Survey (2006) which indicate that 94% of the Children between 2 and 14 are victims of verbal, physical and psychological violence in their family environment.

Recommendation
- That the State party
  a) Evaluate the phenomenon of violence against children with disabilities and compile breakdown of systematic data in order to combat this better;
  b) Ensure that care institutions for children with disabilities have staff with specialized training that meets the appropriate criteria, is being regularly monitored and evaluated, and ensure they dispose of an adapted mechanism of complaints that is accessible to children with disabilities

**Peru**
Concern

-The Committee is concerned that, although the Code of Children and Adolescents (Law No. 27337) recognizes certain rights of children with disabilities, they cannot enjoy in fact these rights. The Committee is concerned about the non-visibility of children with disabilities, particularly indigenous children in the State party's statistics.

Recommendation

The Committee recommends to the State party that as a priority, special attention shall be paid and assistance to children with disabilities, particularly indigenous children, and to invest the maximum amount of resources available to end discrimination against them as well as to seek accurate information to verify the defense of their rights. The Committee recommends that the State party take measures to prevent violence, abuse and extreme neglect of children with disabilities.

China

Concern

- The Committee is concerned that children with disabilities in the State party are at high risk of being abandoned by their parents left on boarding institutions frequently isolated. As regards children with disabilities living at home in rural areas, is concerned about the lack of services and community assistance.

Recommendation

- The Committee urges the State party to take measures to combat the generalised stigma associated with children with disabilities and review its strict family planning policy in order to combat the root causes of abandonment of children with disabilities. It requests the State party to provide adequate community support services and also in rural areas.

Hong Kong:

Concern

- While the Committee welcomes the service of assessment and early childhood education offered by the Government of Hong Kong (China), is concerned that the services provided are not sufficient to meet the overwhelming demand.

Recommendation

-The Committee recommends to Hong Kong (China) to allocate more resources to the services provided to children with disabilities to ensure that they can fulfill their potential.

Hungary:
Concern
- The Committee notes the commitment expressed by the State party to protect and promote the rights of children with disabilities. However, it is concerned about the large number of children living in institutions and that many children with disabilities are cared for in institutions rather than in their homes. Emphasizes the importance of allocating sufficient resources for children with disabilities to continue living with their families in their own communities.

Recommendation
- The Committee urges the State party to strengthen its efforts to make available the necessary professional and financial resources, especially at the local level, to promote and expand rehabilitation programs and other community services in their respective localities for children with disabilities and their families so that these children live with their families, in accordance with the recommendation of the Committee on the Rights of the Child (CRC/C/HUN/CO/2).

Argentina
Concern
- The Committee notes with concern that Law No. 26,061 on the comprehensive protection of the rights of children and adolescents are not including specific provisions for children with disabilities. It also expresses concern at the lack of information on the situation of children with disabilities in the State party.

Recommendation
- The Committee recommends the State party, as a priority, to incorporate the disability perspective in Law No. 26,061 and in the system of comprehensive protection of the rights of children and adolescents. The Committee urges the State party to invest the maximum amount of resources available to end discrimination against children with disabilities and ensure their incorporation into health insurance plans and the services provided which they have the right, such as pensions and housing.

Paraguay
Concern
- The Committee notes with concern that the National Program of Comprehensive Care for Children and Adolescents with Disabilities is limited only to the prevention and early detection of disability that emphasizes the medical model to the detriment of all the rights granted to children and girls with disabilities. The Committee is also concerned that the resources to implement a policy of inclusion of children with disabilities are inadequate. The Committee regrets the lack of information about children with disabilities who are at risk of mistreatment and abuse, including the indigenous children with disabilities.

Recommendation
- The Committee urges the State party to allocate the necessary resources and sufficient for the implementation of a comprehensive policy of inclusion of children with disabilities in all areas of life, including family and community, for example, by
developing inclusive programs of community-based rehabilitation for children with disabilities as recommended by the Child Rights Committee in its final observation on the third periodic report of Paraguay (CRC/C/PRY/CO/3, para. 49). Furthermore, the Committee requests the State party to investigate and document what is the status of children with disabilities in rural and indigenous communities in order to provide protective measures against abuse and mistreatment.

d) Right to life (Article 10)
China
Concern
- The Committee expresses its deep concern over the abduction of persons with intellectual disabilities, most of them children, and the preparation of "mining accidents" in Hebei, Fujian, Liaoning and Sichuan, which results in the killing of the victims in order to claim compensation to the owners of the mines.

Recommendation
- The Committee urges the State party to continue to investigate these facts, prosecute those responsible and impose appropriate sanctions. Also asked to adopt comprehensive measures to prevent further abducting children with intellectual disabilities and provide repair to victims.

e) Protection against exploitation, violence and abuse (Article 16)
Hong Kong
Concern
- The Committee is concerned about the incidents of women and girls with intellectual disabilities who are subjected to sexual violence.

Recommendation
- The Committee suggests to Hong Kong (China) to further investigate these facts and prosecute the perpetrators and those responsible. It also recommends that sexual education should provided to children and adolescents with intellectual disabilities and to train the law enforcement officers on how to deal with cases of violence against women and girls with disabilities.

Macao
Concern
- The Committee is concerned about the high risk of women and girls with disabilities are victims of domestic violence and abuse.
Recommendation

-The Committee recommends that services and information are made available to these victims. Specifically, encourages Macao (China) to establish a complaint mechanism and organize mandatory training for police forces in relation to this issue.

**Hungary**

Concern

-The Committee welcomes the State party has taken steps to include specific provisions on disability in its laws and policies to prevent exploitation, violence and abuse. However, it is concerned that women, men, girls and children with disabilities continue to be victims of violence, abuse and exploitation.

Recommendation

-The Committee recommends that the State party, in order to ensure protection to women, men, girls and children with disabilities from exploitation, violence and abuse, and according to the Convention, to take effective measures, for example, protocols for early detection of violence, especially in residential institutions, new procedures for taking statements from victims and measures for the prosecution of those responsible, and to provide redress to victims. It also recommends to ensure that protection services are accessible and take into account the age, gender and disability.

**Argentina**

Concern

- The Committee notes with concern that neither the Law on Comprehensive Protection 26,485 to prevent, punish and eradicate violence against women, nor the Law 26,061 on the comprehensive protection of the rights of children and adolescents, are taking into account the specific situation of women and also of children with disabilities respectively. The Committee also expresses its concern about the lack of protection from violence and abuse that may suffer institutionalized disabled people.

Recommendation

-The Committee urges the State party to ensure the protection of women and girls and children with disabilities respectively in the review of laws and the 26,061 26,485 and its regulatory developments. Also, it urges the mainstreaming disability perspective in policies and programs developed from the existing legislative framework. Additionally, it recommends the establishment of appropriate protocols for the prevention of violence against people with disabilities who are institutionalized. The Committee recommends the State party to collect data and information on violence and abuse against persons with disabilities, with particular attention to women, children and institutionalized people. For this purpose it shall, between other things, establish institutionalized mechanisms for early detection of situations where violence may exist, to diligently
investigate allegations of violence, including adjustments of the procedure that will allow them to collect the testimony of the victims and prosecute those responsible.

e) Freedom of movement and nationality (Article 18)

Paraguay

Concern
- The Committee is concerned that children with disabilities are not registered in the State party and that at present there are no specific measures to promote enrollment of children with disabilities, particularly in rural areas.

Recommendation
- The Committee urges the State party to encourage a program for enrollment of children with disabilities in the civil registry at the time of his birth, on an equal basis with other children, and that registration services are decentralized and can be carried out easily, expeditiously and free of charge.

f) Respect for home and the family (Article 23)

Hungary

Concern
- The Committee notes with concern that persons with disabilities continue to face various economic, physical and psychological barriers in order to bring a family, and that the lack of support services that enable them to lead an independent life in fact is a barrier to the full and effective enjoyment of the rights set forth in Article 23 of the Convention.

Recommendation
- The Committee urges the State party to take appropriate measures so that men and women with disabilities in age to marry can marry and bring a family, and to provide appropriate support services to men and women, children and girls with disabilities so they can live with their families, in order to avoid or reduce the risk of being institutionalized.

Paraguay

Concern
- The Committee is concerned that the State party strengthen schemes shelter homes of children with disabilities to the detriment of the right of family living.

Recommendation
- The Committee urges the State party to take measures to encourage and foster families financially support low-income families with children or children with disabilities so they can remain there and actively participate in the community. The Committee also
urges the State party to ensure equal treatment of disabled children in the Foster Care Program for Children and Adolescents Subject to Protection and Advocacy and to review the draft of Operating Rules for Inviting Families Subsidy and Residential Care Institutions and adapt it to the mandates set forth in Article 23 of the Convention.

g) Education (Article 24)

Spain

Concern

- The Committee is pleased that the studies of students with special educational needs are governed by the principle of inclusion, which prohibited discrimination in education, and that most children with disabilities are integrated into the mainstream education system. The Committee welcomes the Organic Law No. 2/2006 on education, which requires education authorities to provide specialist teachers, trained professionals and the materials and resources, as well as laws requiring schools to introduce the necessary adjustments and diversification in programs for students with disabilities. However, the committee is concerned about the application of these laws, given that reportedly, there are cases where no reasonable adjustment has been provided for the student, where segregation and exclusion are continuing, where economic arguments have been adduced to justify discrimination and where children are enrolled in special education programs against the will of their parents. The Committee notes with concern that parents who reject the inclusion of children with disabilities in special education programs have no chance to appeal, and that their only alternative is to educate them on their own or to pay for reasonable inclusion of their children in the traditional education system.

Recommendation

The Committee reiterates that denial of reasonable accommodation of students is discrimination and that the obligation to provide reasonable accommodation to students is of immediate application and not subject to progressive implementation. The Committee recommends the State party:

a) Strengthen its efforts to provide students with a reasonable accommodation in education, allocating sufficient financial and human resources to implement the right to inclusive education, with particular attention to assessing the availability of teachers with specialized skills and ensuring that education departments of the autonomous communities understand their obligations under the Convention and act in accordance with the provisions of this;

b) Ensure that decisions to place children with disabilities in special schools or special classes, or to offer them a reduced curriculum, are adopted in consultation with parents;

c) Ensure that parents of children with disabilities are not required to pay for education or measures to provide students with a reasonable accommodation in traditional schools;

d) Ensure that decisions on the placement of children in segregated frameworks can be appealed swiftly and effectively.
**Tunisia**

Concern
- The Committee notes the national school integration program for children with disabilities. However, it notes with deep concern that, in practice, the integration strategy does not apply equally to all schools, that it is common not follow the rules on the number of children integrated and the management of integrative classes, and that the "inclusive schools" are not distributed equally among the various regions of the same province.
- It is also concerned that many mainstream schools do not have the equipment to accommodate children with disabilities and considers that the State party the training of teachers, directors, officers, principals and educational consultants in relation to disability remains a problem.

Recommendation

That the State party
a) Strengthen its efforts to reinforce the rules of integration and to achieve uniform application of the integration strategy in all schools;
b) Strengthen the training of staff, particularly teachers, directors, officers, principals and educational consultants;
c) Allocate adequate financial and human resources to the implementation of the national program of school integration for children with disabilities.

**Peru**

Concern
- The Committee notes with appreciation the adoption of various ministerial directives aimed at establishing the framework of an inclusive education system, but notes with regret the shortcomings in the effective implementation of the provisions of those directives, particularly illiteracy rates of indigenous peoples and Afro-Peruvian communities as well as the effect this can have on children with disabilities from minority and indigenous communities.

Recommendation
- The Committee recommends that the State party allocate sufficient budgetary resources for further progress in the establishment of an inclusive education system for children and adolescents with disabilities and to take appropriate measures to reduce illiteracy rates among children with disabilities, especially children indigenous and Afro-Peruvian.
China

Concern

- The Committee is concerned about the high number of special schools and the State party's policy to actively promote these schools. It is particularly concerned that, in practice, only students with certain types of disabilities (physical or mild visual impairment) can attend to regular schools, while all other children with disabilities are forced to enter a special school or completely abandon their studies.

Recommendation

- The Committee reminds the State party that the concept of inclusion is one of the fundamentals of the Convention and should be especially respected in the field of education. In this sense, it recommends to reallocate resources of special education system to promote inclusive education in mainstream schools, to ensure that more children with disabilities to attend regular schools.

Hungary

Concern

- The Committee is further concerned that there are not enough social programs to ensure access of Romanian children with disabilities into general education neither appropriate consultations are made with them and their parents in order to decide what support they need to meet their right to education.

Recommendation

- The Committee urges the State party to allocate sufficient resources to the development of an inclusive education system for children and adolescents with disabilities. Reiterates that the denial of reasonable accommodation constitutes discrimination and recommends the State party to increase significantly their efforts to provide such accommodations to children and adolescents with disabilities, according to the needs of each individual, to provide students with disabilities the support needed in the general education system, and to continue to train teachers and other education staff so they can work in inclusive educational settings.

- The Committee urges the State party to develop programs to ensure that Romanian children with disabilities are included in general education programs, without overlooking the reasonable accommodation that may be needed to obtain the desired result.

Argentina

Concern

- The Committee notes that the legislative framework governing education in the State party explicitly contains the principle of inclusive education (Article 11 of Law No. 26,206). However, it notes with concern that the implementation of this principle is limited in practice, by the lack of alignment of programs and curricula to the characteristics of students with disabilities, as well as the prevalence of barriers of all
type that prevent people with disabilities to have access to education in conditions of equality and non-discrimination with other students. The Committee expresses its deep concern at the high number of children with disabilities served in special schools and the lack of educational resource centers to support the effective inclusion of students with disabilities.

Recommendation

- The Committee recommends that the State party develop a comprehensive education policy that guarantees the right to inclusive education and to allocate sufficient budgetary resources to advance the establishment of a system of inclusive education of students with disabilities. The Committee also urges the State party to intensify its efforts to ensure the enrollment of all children with disabilities in the compulsory age established by the State party, paying attention to the indigenous communities and other rural communities. It also urges the State party to take the necessary measures for students with disabilities enrolled in special schools are incorporated into inclusive schools and provide reasonable accommodation to students with disabilities in the general education system.

Paraguay

Concern

- The Committee is concerned about the low levels of children with disabilities enrolled in schools (less than 1%), and that these are mostly special education schools, and the persistent use of terminology that reflects the medical model of disability for the classification of education levels. It regrets the lack of information indicating educational enrollment levels in urban and rural areas, as if education is imparted with ethnic and linguistic relevance.

Recommendation

- The Committee recommends the State party to implement a strategy to allow access of all children and adolescents with disabilities to the national education system, and that the education is inclusive at all levels and across the country, with a gender perspective and ethno-linguistic relevance. The Committee urges the State party to amend educational terminology that reflects the medical model and counsel while promoting the transition from special segregated education to the inclusive model.

h) The right to health (Article 25)

Peru

Concern

- The Committee is concerned that, as the State party points in its replies to the list of issues, 81% of people with disabilities have access to rehabilitation services and only 1.42% are covered by programs social security. Also concerned about the lack of health services, particularly in rural areas, as well as the many limitations that the Supreme Decree No. 004-2007-SA on the Comprehensive Health Insurance imposes on
individuals with disabilities. It is unfortunate that there are no programs for early detection of deafness in children in order to minimize its consequences and prevent the occurrence of other disabilities.

Recommendation

-That the State party to provide services for early detection of disabilities, including deafness in children, in order to minimize its consequences and prevent the occurrence of other disabilities.

i) Data collection and statistics (article 31)

Spain

Concern

- The Committee regrets that the situation of children with disabilities are not reflected in the data on the protection of children.

Recommendation

-The Committee recommends the State party to systematically collect, analyze and disseminate data breakdown by sex, age and disability on abuse and violence against children.

Tunisia

Concern

- The Committee regrets the invisibility of children with disabilities in the data relating to the protection of children.

Recommendation

- The Committee encourages the State party to systematize the collection, analysis and dissemination of data breakdown by sex, age and disability in relation to abuse and violence against children.

Hungary

Concern

- The Committee is concerned about the lack of information on Romanian children with disabilities. Also concerns the State party's understanding of how to consider the confidentiality and privacy of children with disabilities.

Recommendation

-The Committee recommends that the State party systematize the collection, analysis and dissemination of data breakdown by sex, age and disability, increase measures of capacity building in this regard and develop indicators that take into account gender
issues and age, in order to support the enactment of legislation, policy and strengthening of institutions that monitor progress in the implementation of the various provisions of the Convention and to report thereon, taking into account the passage of a medical approach of disability to another approach based on human rights.

-The Committee recommends that the State party develop a system for collecting appropriate data to understand the nature and characteristics of Romanian people with disabilities in general, and in particular children.

4.2. - OPTIONAL PROTOCOL AS A TOOL FOR THE PROTECTION OF THE RIGHTS OF CHILDREN WITH DISABILITIES
The protocol (PF) of the Convention will be a useful legal tool for reporting violations to children with disabilities. Indeed the protocol states that

1. Any State Party to the present Protocol ("State Party") recognizes the competence of the Committee on the Rights of Persons with Disabilities ("the Committee") to receive and consider communications from individuals or groups of individuals subject to its jurisdiction claiming to be victims of a violation by that State Party of any of the provisions of the Convention, or on behalf of such persons or groups of people.

2. The Committee will not receive any communication if it is concerned to a State Party in the Convention that is not party to this Protocol. (Article 1 PF)

The Protocol establishes grounds for rejection of complaints when:

a) is anonymous;

b) It is an abuse of the right to submit such communications or is incompatible with the provisions of the Convention;

c) The same matter has already been examined by the Committee or has been or is being examined under another procedure of international investigation or settlement;

d) Not have exhausted all available domestic resources, unless the application of the resources is unreasonably prolonged or unlikely that they will bring effective relief;

e) It is manifestly unfounded or not sufficiently substantiated, or

f) The facts of the communication occurred prior to the date of entry into force of this Protocol for the State Party concerned unless those facts continued after that date. (Article

Without prejudice to the provisions of Article 2 of this Protocol, the Committee shall inform the State party, in confidence, any communication received under the Protocol. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy that the State party has taken, if any. (Article 3)

With the registration of a communication starts the process of analyzing the information send by the parties, all of which ends up in a "opinion" of the Committee, containing the
analysis of eligibility, credit analysis and recommendations to the State party. If the complaint is accepted. These recommendations can be directed to restoring the rule of law for the victim, but can also contain recommendations "erga omnes" of general application, such as modification of legislation, public policies and training of officials and judges.

The Optional Protocol also establishes an inquiry procedure, where gross and systematic violations of human rights, which is regulated as follows:

1. If the Committee receives reliable information indicating grave or systematic violations by a State Party of rights set forth in the Convention, the Committee shall invite that State Party to cooperate in the examination of the information and to this end to submit observations on that information.

2. Taking into consideration the comments submitted by the State Party concerned as well as any other reliable information available to it, the Committee may designate one or more of its members to conduct an inquiry and a matter of urgency, a report the Committee. Where warranted and with the consent of the State Party, the inquiry may include a visit to its territory.

3. After examining the findings of the investigation, the Committee shall transmit to the State Party concerned together with any comments and recommendations, as appropriate.

4. Within six months of receiving the findings of the investigation and the comments and recommendations transmitted by the Committee, the State party shall submit its observations to the Committee.

5. The inquiry shall be conducted confidentially and at all stages will be sought cooperation of the State Party. (Article 6 PF)

4.3. - DISABLED CHILDREN AND SOCIAL DEVELOPMENT

In view of the high-level meeting of September 2013 that aims to review the objectives of the Millennium Development Goals MDG and the post-2015 development agenda, in relation to people with disabilities, the CRPD Committee issued a public statement to the co-facilitators of this meeting, calling to considering the social model and human rights of people with disabilities in the development process and in the final document of conclusions. This approach implies the importance of human rights, civil, political, economic, social and cultural rights, along with the fulfillment of the legal obligations undertaken by States Parties under the ratification of the Convention, in order to inclusive social development and sustainable for people with disabilities.
This includes the active participation of the same people with disabilities and their representative organizations, with special emphasis on the various sectors, including children with disabilities. The Committee emphasizes data collection, considering the age of the disabled, as well as eliminating barriers to the accessibility and the adoption of measures for the full practice of legal capacity of all persons with disabilities. To this end emphasizes the importance of international cooperation and accountability by States parties.

Consequently, the Committee, recognizing the important historical moment in relation to social, inclusive and sustainable, with full mainstreaming of persons with disabilities, has considered relevant to expressly make children with disabilities clearly visible.

5.-COMMITTEE ON THE CHILDREN’S RIGHTS: GENERAL COMMENTS IN INTERSECTION WITH CHILDREN WITH DISABILITIES

The Committee on the children’s Rights has registered a general comment about the rights of children with disabilities, September 2006.

However, the Committee has made recent general comments, where the interpretation of the rights considered in the CRC, highlight the situation of children with disabilities.

Followed by it, a statement of synthetic and systematized of these comments is effected.

5.1 RIGHT OF CHILDREN TO THEIR BEST INTERESTS TO BE CONSIDered ESSENTIAL (ARTICLE 3, PARAGRAPH 1 CRC) General Comment No. 14 (2013)

The BEST interests of the child will be related to the specific characteristics of the child or children concerned, specifically noting the presence of a physical, sensory or intellectual disability and social and cultural context of these children.

The Committee states that the fact that even if the child is very small or is in a vulnerable situation for example, children with disabilities, shall not be denied of their right to express their opinion, neither reduces the importance to be given to their views in determining best interests. The adoption of concrete measures to ensure the equal practice of the rights of children in such situations should be subject to an individual assessment that gives a role to the children themselves in the decision-making process and allow reasonable adjustments providing support, where necessary, to ensure their full participation in the assessment of their best interests.

In addition, the CRC Committee stresses that children not be separated from parents in case of disability in any of them.
5.2 RIGHT OF CHILDREN TO ENJOY THE HIGHEST LEVEL OF HEALTH (SECTION 24 CRC) General Comment No. 15 (2013)

In its General Comment number 4, the Committee emphasized the best interest of the child to have access to adequate information on health, noting that special attention should be paid to certain categories of children, including children and adolescents with psychosocial disabilities. They are entitled to receive care and attention, primarily in the community in which they live and in a family setting, if possible in their own family, giving them all the necessary support.

It is recommended that the data and information gathered and analyzed should be breakdown by age, gender, disability status relative socioeconomic, sociocultural and geographic location, among others.

The general comment underlines the importance of accessibility as a key player of welfare. With respect to this, It observes that non-discrimination, physical accessibility, economic accessibility / affordability and accessibility to information, must be considered.


The Committee notes to be especially concerned about the difficulties faced by certain categories of children to enjoy the rights set forth in Article 31, including children with disabilities, which in many cases are faced discrimination.

Children with disabilities should be afforded with facilities and accessible and inclusive environments that allow them to enjoy the rights they have under Article 31. Families, children caregivers and professionals must recognize the value of inclusive game as a right and as a means to achieve optimal development for children with disabilities., Creating awareness among adults and peers and offering support or age-appropriate assistance.

The CRC Committee has made a special statement on the actions decided by adults, and which may affect the rights of the child, for example excessive rehabilitation exercises.

The Committee stresses that many obstacles prevent children with disabilities to practice the rights provided in Article 31. These include exclusion from school and informal social environments that are settlement for friendships and where game and recreation are developed , home isolation, cultural attitudes and negative stereotypes that are hostile to them and reject them, the physical inaccessibility of public spaces, parks, playgrounds and equipment, cinemas, theaters, concert halls and sports facilities, among other places, the policies that exclude sporting and cultural venues for security reasons, problems of communication and the fact that technology is not provided for the interpretation and adaptation, and the lack of accessible transportation. Children with disabilities may also be deprived of the enjoyment of their rights if investments are not made in offering within reach a radio, television, computers and tablets, between other things including the use of assistive devices.
The CRC Committee, aware of intersectionality, welcomes Article 30 of the Convention on the Rights of Persons with Disabilities, which emphasizes the obligation of States parties to provide children with disabilities the same access than other children to participation in games, recreation, sport and leisure, including those activities in the school system.

The Committee emphasizes that proactive measures are needed to remove barriers and promote accessibility and inclusion opportunities available to children with disabilities to participate in all these activities.

It also requires legislation to ensure access of all children, without discrimination on any grounds at all recreational settings, cultural and artistic.

The Committee provides that States parties should take a variety of measures in collaboration with the children themselves, as well as non-governmental organizations (NGOs) and community organizations, for example through children's clubs and associations, sports groups and community arts, organizations representing children and adults with disabilities, representatives of minority communities and games organizations.

In particular, attention should be paid to non-discrimination measures, emphasis on universal accessibility and enhance the role of the school

6.-THE IMPORTANCE OF THE CRPD CONVENTION RATIFICATION AND ITS OPTIONAL PROTOCOL

By ratifying a Convention, the country accepts the legal obligations THAT ARE incumbent to it under the Treaty. After the Treaty enters into force, the State shall adopt the legislation and public policies that are appropriate to enforce them. This means that Member States should harmonize its domestic legislation to the standard established by the Convention and shall report to the Committee of Experts (Committee on the Rights of Persons with Disabilities), the compliance of its implementation.

The Optional Protocol allows individuals belonging to a Member State, to report violations of the treaty, as seen above.

The Convention on the Rights of the Child has been ratified by 193 States Parties, achieving a universal standard of ratification.

The Convention on the Rights of Persons with Disabilities, is going rapidly in the same direction of universality, currently represents an international standard which is useful to guide States parties in the implementation of rights, in the case of people with disabilities and therefore for children with disabilities.

Thus the ratification of the CRPD and its Optional Protocol means placing ratifying States on a path to full inclusion in the exercise of human rights and fundamental freedoms, as well as in place solid foundations for inclusive and sustainable social development.
Ratifying States shall be those deeply committed to the international promotion and protection of human rights system, with the fulfillment of the objectives for the Development of the Millennium Goals and with the development of the agenda post 2015 with the perspective of people with disabilities and also directly concerned to reach directly the equalization of living conditions and welfare of persons with disabilities who are within its jurisdiction. This generates both a power circuit that is visible and empowers the civil society of people with disabilities, including children with disabilities, which will give consistency to the social, legal and political system prevailing in the national realities.

Accordingly, the ratification of the CRPD and its Optional Protocol implementation processes shall open the ways of international cooperation, which will facilitate the challenges identified, contributing both to raise the country in rates of human development and human security.