UN Convention on the Rights of Persons with Disabilities

South Africa ratified the Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol in 2007. Article 8 of the CRPD requires of States Parties to adopt immediate, effective and appropriate measures that will:

- raise awareness throughout society regarding persons with disabilities,
- foster respect for the rights and dignity of persons with disabilities;
- combat stereotypes, prejudices and harmful practices relating to persons with disabilities in all areas of life; and
- promote awareness of the capabilities and contributions of persons with disabilities.

Although all the Articles apply to Deafblind children, the following articles and obligations are of particular importance in the South African context:

Preamble

(h) Recognizing also that discrimination against any person on the basis of disability is a violation of the inherent dignity and worth of the human person,

(j) Recognizing the need to promote and protect the human rights of all persons with disabilities, including those who require more intensive support,

(n) Recognizing the importance for persons with disabilities of their individual autonomy and independence, including the freedom to make their own choices,

(p) Concerned about the difficult conditions faced by persons with disabilities who are subject to multiple or aggravated forms of discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age or other status,

(q) Recognizing that women and girls with disabilities are often at greater risk, both within and outside the of violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation,

(r) 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 to that end undertaken by States Parties to the Convention on the Rights of the Child,

(v) Recognizing the importance of accessibility to the physical, social, economic and cultural environment, to health and education and to information and communication, in enabling persons with disabilities to fully enjoy all human rights and fundamental freedoms,

(x) Convinced that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State, and that persons with disabilities and their family members should receive the necessary protection and assistance to enable families to contribute towards the full and equal enjoyment of the rights of persons with disabilities,

Article 7 - Children with disabilities

1. States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.

2. In all actions concerning children with disabilities, the best interests of the child shall be a primary consideration.

3. States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right.
Article 24 - Education

3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including:

(c) Ensuring that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.

Other Articles
- Article 9: Accessibility
- Article 12: Equal recognition before the law
- Article 15: Freedom from torture or cruel, inhuman or degrading treatment or punishment
- Article 19: Living independently and being included in the community
- Article 20: Personal mobility
- Article 21: Freedom of expression and opinion, and access to information
- Article 23: Respect for home and the family
- Article 25: Health
- Article 26: Rehabilitation
- Article 28: Adequate standard of living and social protection
- Article 30: Participation in cultural life, recreation, leisure and sport

White Paper on the Rights of Persons with Disabilities

Cabinet approved the White Paper on the Rights of Persons with Disabilities (WPRPD) in December 2015. It commits duty bearers to realising the rights of persons with disabilities by:
- Accelerating implementation of existing legislation that advocates equality for persons with disabilities;
- Taking calculated action to ensure that their rights as equal persons are upheld;
- Removing discriminatory barriers to access and participation;
- Ensuring that universal design informs access and participation in the planning, budgeting and service delivery value chain of all programmes;
- Recognising the right to self-representation;
- Acknowledging that not all persons with disabilities are alike, and that personal circumstances, gender, age, sexuality, religious and cultural backgrounds, geographical location, requires different responses; and
- Embedding the obligations contained in the UN Convention on the Rights of Persons with Disabilities in legislation, policy and service delivery. This also includes the relevant articles of the UN Convention on the Rights of the Child.

The WPRPD is built on nine (9) Strategic Pillars:
- Strategic Pillar 1: Removing Barriers to Access and Participation
- Strategic Pillar 2: Protecting the Rights of Persons at risk of Compounded Marginalisation
- Strategic Pillar 3: Supporting Sustainable Integrated Community Life
- Strategic Pillar 4: Promoting and Supporting the Empowerment of Children, Women, Youth and Persons with Disabilities
- Strategic Pillar 5: Reducing Economic Vulnerability and Releasing Human Capital
- Strategic Pillar 6: Strengthening the Representative Voice of Persons with Disabilities
- Strategic Pillar 7: Building a Disability Equitable State Machinery
- Strategic Pillar 8: Promoting International Co-operation
- Strategic Pillar 9: Monitoring and Evaluation

The Directives under each of these strategic pillars task duty-bearers with the responsibility of eradicating the persistent systemic discrimination and exclusion experienced by persons with disabilities, including Deafblind children.

Of particular relevance to the context of the Launch of the 2016 Disability Rights Awareness Month, is the following:

3.3 Key Principles and Considerations

The generic key principles reflected in the Table below consolidates the principles set out in Article 3 of the UNCRPD and the principles contained in the Bill of Rights in South Africa’s Constitution.

Respect for inherent human dignity and individual autonomy
This includes:
- Respecting the freedom of Deafblind children and teenagers to make their own choices and decisions,
- Respecting the independence and human dignity of Deafblind children and teenagers,
- Valuing the experiences and opinions of Deafblind children and teenagers,
- Allowing Deafblind children and teenagers to form and express their opinions without fear of physical, psychological or emotional harm, and
- Respecting the right of Deafblind children and teenagers to a private life that is subject to minimum interference.
Non-discrimination
This encompasses prohibiting discriminatory acts against Deafblind children and teenagers and their families; and taking steps to protect them against potential future discrimination and hidden discrimination and promoting equality.

Full and effective participation and inclusion in society
This involves:
- Ensuring consultation and meaningful involvement of Deafblind children and teenagers in activities and supported decision-making processes,
- Creating opportunities for them to voice opinions, influence and complain when participation is denied, and
- Providing an accessible, barrier-free physical and social environment, as well as access to information and communication for them.

Respect for difference and acceptance of Deafblind children and teenagers as part of human diversity and humanity
This involves:
- Respecting differences and diversity, and
- Accepting and appreciating Deafblind children and teenagers for who they are rather than pitying them or seeing them as a problem that needs to be fixed.

Equalisation of Opportunities
This involves ensuring that Deafblind children and teenagers are able to access and participate in all opportunities available to all other children and teenagers.

Accessibility
This involves:
- Enabling Deafblind children and teenagers to live independently when they enter adulthood and to participate fully in all aspects of life, and
- The dismantling of barriers that hinder the effective enjoyment of all rights by Deafblind children and teenagers.

Equality between men and women
This involves expressing and recognising equitable rights for girls and boys on an equal footing, and taking sustainable measures to ensure that girls have the opportunity to exercise their rights.

Respect for the evolving capacities of children with disabilities and for their right to preserve their identities
This involves:
- Respecting the evolving capacities of Deafblind children and teenagers as a positive and enabling process that supports the child’s maturation, autonomy and self-expression,
- Enabling their participation in supported decision-making processes that affect them, including their right to preserve their identities; and
- Respect for the sanctity of family, the right to family life, and the right to alternative care within the wider family in respect of the preservation of family for Deafblind children.

The following pillars provide direction for what is required to be done to ensure that the rights of Deafblind children are promoted, protected and upheld:

Pillar 1: Removing Barriers to Access and Participation
The WPRPD provides clarity with regards the responsibility of duty-bearers to ensure that there is a structured programme in place that aims to change the attitudes and behaviour of society in general, and duty-bearers in particular, towards persons with disabilities, including Deafblind children and teenagers and their families.

The policy also puts measures in place to ensure that Deafblind children and their families can negotiate freely and safely within the built environment, and make use of transport services, including scholar transport services.

It requires of everyone to make all information and communication platforms fully accessible to Deafblind children and teenagers, and requires the development of costed plans for the recognition and development of South African Sign Language (including the tactile form), Braille standards as well as equitable access for children who are print disabled.

Pillar 2: Protecting the Rights of Persons with Disabilities at Risk of Experiencing Compounded Marginalisation
Important policy directives for Deafblind persons in this Pillar includes a review of all laws which deprive Deafblind persons from the right to take decisions and manage their own finances. It also requires that police services and courts put measures in place to ensure that Deafblind children and adults can open cases; can give testimony; and have access to justice.

This pillar also requires that government develops a national action plan to inform and empower Deafblind children and their families of what their rights are, as well as how to access recourse should these be infringed upon.
Pillar 3: Supporting Sustainable Integrated Community Life

Pillar 3 provides clarity of what needs to be done to ensure that Deafblind children and their families can participate in all programmes and services in their neighbourhoods; that families receive financial and non-financial support services as well as information on what services are available; and that all community services must be accessible.

The Pillar also requires of government to develop a sustainable community-based system for personal assistance to support independent living within the community for, among others, Deafblind persons. This subsidised system must be:

- person-centred and self-directed,
- maximise opportunities for independence and participation in the economic, social and cultural life of the community,
- be responsive to the particular needs and circumstances of persons with complex and high needs for support,
- provide persons with disabilities requiring personal assistance with choice of where they live and with whom they live, and
- provide access to relevant integrated community and home-based support services for persons requiring independent living.

Personal Assistants include personal aides, guides, lip-speakers, whisper interpreters, South African Sign Language interpreters, note-takers, interpreters for Deaf-blind persons, service dogs, guide dogs.

Pillar 4: Promoting and Supporting the Empowerment of Persons with Disabilities

This pillar requires that government puts in place a tracking and referral system for Deafblind children between the ages of 0-18 years of age to ensure that they have access to all the information, support and services they require to develop (early childhood development programmes); to learn and be educated (lifelong education and training); to live and play with other children in their neighbourhoods (social integration support); to be healthy and be assisted to communicate and negotiate their way independently (access to health care and lifestyle support); to learn to make decisions of their own (supported decision-making); and to take action if their rights are violated (strengthening recourse mechanisms).

Pillar 5: Reducing Economic Vulnerability and Releasing Human Capital

This pillar focuses on the steps government must take to ensure that Deafblind children, teenagers, adults and their families have an adequate standard of living by, among others, reducing the cost of disability for Deafblind persons and their families through social protection measures as well as tax rebates; by strengthening affirmative action for employment opportunities; and by creating opportunities for preferential procurement.

Pillar 6: Strengthening the Representative Voice of Persons with Disabilities

This pillar provides guidance and requires that specific steps be taken to ensure that Deafblind persons are able to represent themselves; and that they can make their collective voice heard in issues affecting their lives through, among others, organisations of Deafblind Persons. It calls in particular for preference to be given and steps to be taken to strengthen and support groups who do not have a strong voice, including Deafblind persons.

Pillar 7: Building a Disability Equitable State Machinery

This pillar focuses on the responsibilities of government institutions, Parliament and institutions promoting democracy to ensure that they do not discriminate against Deafblind children and adults and their families, and that they can be held accountable if they fail to promote, protect and uphold the rights of persons with disabilities. Measures to achieve this include, among others, changing the way in which they design, plan, budget, deliver services, monitor and report on progress, as well as what training they should provide to ensure that public servants and officials are able to carry out their duties.