

**Statement by Louise Arbour,**  
**UN High Commissioner for Human Rights**  
**General Assembly Ad Hoc Committee, 7th session**  
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Thank you Mr. Chairperson  
[Amb. Don MacKay, New Zealand]

Your Excellencies, Ladies and Gentlemen,

*Introduction*

I am delighted to have the opportunity to address this session, as you continue your efforts to draft a new international convention to promote and protect the rights and dignity of persons with disabilities. I have been frustrated that – for different reasons – it has proven impossible for me and my predecessors to be with you during previous sessions and I have been very much looking forward to this occasion.

I want to recognize at the outset all those who have contributed to making this effort possible: the Government of Mexico's efforts and interest have played such a large role in making this process possible; I wish to thank the Government of Ireland for providing funding that allowed my Office to contribute to this effort. I also wish to single out and thank the Government of New Zealand for allowing you, Mr. Chairperson, to continue to lead this process. You have very ably continued the work of Ambassador Gallegos in chairing this body and you are making a vital contribution to its success. I know I speak for all in thanking you, your team and your Government for this contribution. There are many others – including in civil society – whose contributions have been key. Time is limited, and I take the liberty of thanking them all collectively.

Mr. Chairperson, I would like to make some general comments on this convention, and then refer specifically to resource constraints and to monitoring.

*General*

As you know, under the leadership of the Secretary-General and with the endorsement of its Member States, the United Nations has embarked on a programme of reform that aims, among other things, to strengthen its capacity to contribute to the protection and promotion of human rights. There is no doubt that the existing human rights system was meant to promote and protect the rights of persons with disabilities. There is also no doubt that the existing standards and mechanisms have in fact, failed to provide adequate protection in the specific cases of person with disabilities. It is clearly time for the United Nations to remedy this shortcoming.

I have had experience as a judge in confronting the unique and invidious difficulties persons with disabilities face, and I know that you are addressing squarely the

complex issues that need to be clarified in order to ensure that persons with disabilities can enjoy their human rights on an equal basis with everyone else. Let me add also that I am well aware that the United Nations itself, like its human rights system, has much work to do in this area. Our facilities, our methods of work, even our attitudes and understanding are not geared towards treating persons with disabilities equally, towards accommodating and respecting differences while acknowledging equality in rights and dignity. We have much to learn and much to change, and the experience of this Committee has already taught us many useful lessons.

This new treaty will play a key role. It will affirm the rights of persons with disabilities explicitly and spell out the action needed to implement them. It will also raise awareness about the human rights of persons with disabilities – not least within the existing human rights mechanisms, as well as my own Office and the rest of the United Nations. We need to understand better the specific challenges that persons with disabilities face in accessing their human rights, and this treaty will serve to educate as well as to ensure that obligations are met.

My colleagues have kept me informed about the progress that has been made in the negotiations. I want to congratulate you for the extent to which you have acknowledged the need for innovative measures and approaches to ensure equality. A paradigm shift is needed if we are really going to eliminate discrimination against persons with disability and to provide reasonable accommodation to ensure they can claim and enjoy their rights. I know that you are still considering in detail a broad range of rights that are fundamental to all human beings. I encourage you to ensure that nothing in this treaty could set a lower standard of protection than that already recognized in the other core human rights treaties. Empowering persons with disabilities to claim their human rights is our collective obligation. States bear the primary responsibility for ensuring equality and eliminating discrimination, but all of us - all organs of society in the phrase used by the Universal Declaration - must also acknowledge our own responsibility and act accordingly.

I welcome your efforts to consider the special protection that may be needed by children with disabilities, at the same time that we give them the full recognition as subjects of rights that all children are entitled to. I also appreciate your efforts to take account of the specific needs of women with disabilities. The multiple discrimination faced by women with disabilities – who are also marginalized on additional grounds – requires specific attention and effort to ensure they enjoy their rights equally and that women with disabilities are empowered, rather than rendered more vulnerable.

We face an urgent task in addressing stereotypes and prejudices that are at the root of so many of the barriers faced by persons with disabilities; barriers that prevent them from obtaining equal access to education, to employment, to full participation in decision-making and to all their other rights. But it is not only the public sphere that should concern us. Persons with disabilities are entitled to full equality in the enjoyment of their rights not only with regard to public institutions and services but also in their dealings with society and in the privacy of their own homes and personal relations.

Families, the private sector and the public at large are equally in need of access to

appropriate and accurate information, as they are often also in need of support - as well as encouragement and pressure - so that harmful attitudes and practices based on misconception and misunderstanding are eliminated.

### *Resources*

Let me now refer to resource constraints. I know that some of the efforts needed to implement this convention and ensure that persons with disabilities access their rights may imply considerable cost. The General Assembly has specifically noted that this treaty must address social development, as well as human rights.

Ensuring respect for human rights always has resource implications. International human rights standards – both for civil and political rights and for economic and social and cultural rights - impose on States a series of obligations, some of which have been labeled ‘negative’ obligations - to refrain from certain action - and others ‘positive’ obligations – the obligation to adopt specific measures. The resource implications in the implementation of both types of obligations can be significant. For example, ensuring due process in criminal justice proceedings, ensuring free and fair elections or even taking appropriate measures to reduce the risk of torture, can require the investment of significant resources on the part of the State. In many cases, the efforts deployed by the State will be progressive and proportional, linked to the availability of resources. But some rights – both civil and political as well as economic, social and cultural - impose immediate obligations on States. Irrespective of their resources, all States must refrain from actions that interfere with the ability of any individuals or groups to enjoy their economic, social and cultural rights. States must also ensure that the allocation of available resources is not discriminatory either in intent or in effect.

The concept of reasonable accommodation acknowledges that disproportionate burdens cannot be imposed to provide absolute equality of opportunities, much less equal outcomes. But available resources must be used in a non-discriminatory manner and accommodation of specific difference must be provided where it does not impose an unreasonable burden. Wealthier States will be held accountable for a higher level of accommodation since the discharge of the obligation to accommodate is commensurate with means and capacity. International cooperation must also play a role in ensuring that progress is made everywhere, particularly in less developed States.

There will also be instances where the current distribution of resources may be discriminatory and require correction. The concept of “reasonableness” of State action is a well known legal concept and long used in adjudication in the field of civil and political rights. The growing body of jurisprudence at national and regional levels illustrates that it can be similarly employed to assess the extent to which States respect their obligations in the area of economic, social and cultural rights. Such rights may not be fully achievable for all on an immediate basis, yet they remain rights. The obligations of States in that domain can be fully enforced while taking into account their resource constraints.

We should acknowledge that it is often attitudes, rather than resource constraints, that create the strongest barriers to the enjoyment of civil and political rights and of

economic, social and cultural rights by persons with disabilities. Rules that block persons with certain disabilities from obtaining personal documentation or from voting in elections - because they make no allowance for difference - can be modified, often at little expense. Access to education or employment can sometimes be improved also through simple and inexpensive regulatory changes.

In the end, the legitimate resource debate should not obscure deeply rooted discriminatory neglect or obstruction.

### *Monitoring*

Finally, let me refer to the issue of monitoring. I am deeply impressed at the excellent level of participation that the Ad Hoc Committee has attracted not only from civil society, but also from national human rights institutions. The experience of the human rights system has shown, as the Secretary-General noted in his report, *In Larger Freedom*, that respect for human rights must be ensured, above all, by strong systems of national protection. Experience has shown that independent, impartial and adequately resourced national human rights institutions – particularly when they comply with the Paris Principles - make an important difference in allowing and assisting States to implement their human rights obligations. I would like to encourage delegates to ensure that this treaty strongly reflects the need for an effective machinery for human rights protection at the national level.

As for international monitoring, as you know, I am calling for States to engage in a serious effort to improve the functioning of the existing system of human rights treaty monitoring bodies. These bodies can and have made an important contribution to the protection and promotion of human rights, but their capacity to assist States could be greatly enhanced. Reform will not happen overnight but because the task of genuine improvement is complex and challenging, it should engage our full attention and efforts immediately. In the meantime, I would urge you to ensure that any monitoring mechanism established by this treaty reflects the lessons that we have learnt and the best practices of the existing system. International monitoring must provide maximum opportunities for informed national deliberation and reflection on how to improve enjoyment of human rights, must provide useful advice and guidance to States and help raise awareness, must promote international cooperation, and must facilitate full participation of those whose rights are in question and provide effective remedies for those whose human rights are violated. I am sure that your deliberations will keep those principles in mind and ensure that any new mechanism established has the flexibility to adjust to any future efforts to strengthen the overall monitoring system.

### *Conclusion*

I would like to conclude by welcoming the excellent collaboration extended by the Department of Social and Economic Affairs to my Office, which has allowed us to contribute to your work in spite of limited resources. This Committee provides shining examples of how different actors can work together to advance human rights. I believe such positive examples reflect the importance of your work.

Mr. Chairperson, colleagues,

I can assure you that I am committed to increasing awareness of the human rights challenges faced by persons with disabilities within the human rights system, as well as in my own Office. I am only sorry that I cannot stay with you to follow your debates, but my staff will continue to keep me fully informed about your progress.

The work of this Committee is essential for persons with disabilities. It is crucial to ensure that the international human rights system provides effective protection for all human rights for all. I wish you much success in your continuing deliberations!