



Physical Disability Council of Australia Ltd (PDCA)

P O Box 38

Willawarrin. NSW. 2440

02 6567 1500

1300 781 786

pdca@pdca.org.au

www.pdca.org.au

**Submission on the Consultation on the Possible
Ratification of the United Nations Convention on the
Rights of Persons with Disabilities**

from

Physical Disability Council of Australia Ltd (PDCA)

March 2008

The Physical Disability Council of Australia Ltd (PDCA) is the national disability peak organisation representing the interests and views of people with physical disability across Australia. PDCA is funded by the Department of Families, Housing, Community Services and Indigenous Affairs.

People with physical disability in Australia:

According to the Australian Bureau of Statistics in 1998, 3.6 million people in Australia had a disability (19% of the total population). A further 3.1 million had an impairment or long-term condition that did not restrict their everyday activities. Of those with a disability, 87% (3.2 million) experienced specific restrictions in core activities, schooling or employment. Self care, mobility and communication are fundamentally important activities underlying all aspects of everyday life. Most people with a disability (78%, or 15% of the total population) were restricted in one or more of these core activities. Depending on the level of assistance needed or difficulty experienced, restriction in core activities was:

- profound 3% of the total population
- severe 3% moderate 4%
- mild 6%

Participation in education and the labour force contributes to personal development and independence. Of those with a core activity restriction, 47% (1.3 million) people were also restricted in schooling or employment. A further 327,900 people without a core activity restriction were restricted in schooling or employment.

The experience of people with physical disability

Regardless of individual differences, it can be said with confidence that people with a physical disability, particularly those with significant mobility handicaps:

1. Will experience discrimination within the community in some form;
2. have great difficulty gaining access to public and private buildings because of physical barriers such as steps, steepness of site and lack of parking;
3. face greater costs than other people because of their disability (equipment, modifications to vehicles, household appliances and housing, home maintenance, transport, personal and health care and managing a household)
4. generally cannot access public transport and are reliant on taxis, with varying levels of subsidy throughout Australia, or on private vehicles
5. face significant discrimination in finding a job and obtaining promotional opportunities, despite the avenues for redress through disability discrimination legislation
6. have lower incomes than their age/education peers due to greater difficulties in getting employment and in achieving promotion
7. have fluctuating income if their impairment is associated with medical conditions leading to episodic periods of hospitalisation and/or absence from work. (Such people include some people with spinal cord injury, multiple sclerosis, muscular dystrophy).
8. Lack access to affordable, secure and appropriately designed housing, and is a critical issue for people with a physical disability. Lack of access to such housing has a major impact on our capacity to participate fully in the life of the community and to live as

independently as possible within our own households.

PDCA's Position

PDCA is in full support of ratifying and implementing the United Nations Convention on the Rights of Persons with Disabilities, to promote and protect the Rights and Dignity of Persons with Disabilities.

The obligations imposed by the Convention:

The CRPD is about applying human rights to people with disability, it does not develop new rights and is a thematic UN Convention. Human Rights are universal issues irrespective of their status.

What, if anything, will need to be done to implement the Convention:

There are currently in Australia laws which exclude Jury Service, boards, Company Directors and Voting in secret. There are major concerns about Laws relating to Mental Illness and Sterilisation Legislation.

Other concerns are:

- Young people in Nursing Homes because there is no alternative accommodation or housing.
- The rights of children with disabilities, often overlooked because it is assumed that someone is caring for them.
- The prison system and people with disability who are often denied basic rights because of their disability.
- The DDA, which took 10 years to develop a Transport Standard and has taken over 4 years to get a Draft Access to Premises Standard so far.
- HREOC which has had considerable cutbacks over previous years, both financially and in its powers to support those who are discriminated against.
- Wages paid to people with disability in dead end jobs, sheltered workshops (sometimes called business services) and those who are overlooked for promotion and work in unsuitable conditions.
- Insurance issues where people with disability must pay extra premium in order to be insured.
- Social Security Laws with issues of compliance, capacity and job capability.
- Religious organisations where disability is often negatively focussed and treated.
- Education – all children with disabilities do not go to Mainstream Schools and many are still placed in 'Special' Units.
- Sign Language where there are no laws requiring teachers to be fluent in AUSLAN as there are in NZ,
- Welfare to Work issues, of being forced into employment.

The likely financial cost, if any, of implementing the Convention:

The benefits:

- The amount of money spent on people with disability will increase in order to include all people with disability in society, and not just by government, but by business, and community alike.
- people with disability will be more participatory in employment and

community opportunities, therefore contributing more to society both physically, socially and financially.

- Will help to end the waste of money on social exclusion, such as institutions, exclusive services etc.
- Eliminate many of the personal costs to people with disability, such as the additional cost of having a disability in a society that excludes people with disability.
- New technology and new industry with more money being spent by business and community in conforming to International law.
- More affordable and efficient technology, such as innovative access practices, reduction in the cost of lifts and other mobility devices, as the usage increases.
- More people with disability in the community and therefore spreading the work, the education, the contributions.
- Eliminate the cost of maintaining people in institutions as more solutions and innovative practices are discovered and developed.
- More taxes paid by more people with disability
- More contribution to society by people with disability.

The disadvantages:

- Short term transition costs for the changes and inclusion to come.
- Cost of moving people into communities away from segregated institutions and services.
- Cost of 'accommodations and adjustments' in society.
- Cost of recognising the extra cost of disability for people who have a disability in the short term.
- Business may not like the idea of the Convention, but in the long term will benefit by having a more inclusive society, therefore more customers.

Foreseeable economic, environmental, social and cultural effects of implementing the Convention.

PDCA believes that the potential benefits of a CRPD are:

- The more pressure on countries to conform the better in order to ensure the human rights of people with disability are met;
- The CRPD will be a new tool to use for people with disability especially in the case of the DDA Complaints mechanism as it currently stands, where the onus is on people with disability to prove discrimination has occurred;
- There will be potential for leadership by specific countries, particularly Australia;
- Progressive realisation of a rights based framework;
- Puts the spotlight on people with disability who for too long have been left behind in exclusionary society;
- It has the potential to improve people with disability rights, awareness and services, which are far from perfect and need updating to the 21st Century expectations;
- The focus will be on minimal compliance, rather than unrealistic compliance;
- Provides a Human Rights framework for Domestic Law and Disability Law;
- Spotlight on Australian implementation of Laws and services for people with disability
- Internationally responsible for compliance;

- Will become part of the Australian Agenda;
- A new Tool for advocates to use;
- Consolidates and recognises the Rights of people with disability;
- Provides a reward for the effort of lobbying for rights;
- Leadership from the disability sector, which is long overdue;
- Has the ability to Strengthen communities through social inclusion;
- Moves away from the medical model of disability and the older understanding of disability and instigates change.

Positive Environmental Impacts?

- Better access to premises
- reduction in resources needed
- reduce carbon emissions by using many forms of transport instead of just public transport.
- Participation in improving environmental outcomes
- Universal Housing adoption
- Positive social impacts and awareness
- Improved opportunities and spotlight for people with disability
- Improved opportunities and spotlight for indigenous people with disability
- recognition of diversity
- more socially oriented and aware community
- greater cohesion in families of people with disability
- improve partnerships in International local communities
- better lives, good lives
- more children in mainstream schools
- Provides a normative framework for disability

Negative Environmental Impacts

- Costs to improve lives

Positive Cultural Impacts

- People with disability in Island and Aboriginal communities no longer ignored
- Labelling and removal from communities ceases
- More representation of indigenous people, by indigenous people
- Address taboo issues within aboriginal communities
- Address the economic impact of disability in aboriginal communities
- Greater diversity and creativity of views
- Stronger leadership within a Human Rights framework for people with disability
- greater recognition of the contribution that people with disability make to society
- greater recognition and inclusion of differing languages and customs, such as sign language
- Creates expectations that should be met

Negative Cultural Impacts

- Cultural groups labelled and isolated
- Lack of representation of marginal groups

PDCA Believes in the following principles:

- It is not enough just to sign the Treaty, the Treaty must be ratified and celebrated as a way forward for Australia and Human Rights.
- There needs to be unconditional support for the implementation of an independent monitoring mechanism.
- There should be Independent and secure funding for implementation.
- Embrace the capacity of monitoring and compliance and be able to consult and report freely
- Allows for Parliamentary monitoring, public scrutiny and accountability
- Promotes and encourages the ongoing education of people with disability about their rights and how to use the CRPD.
- Provides robust advocacy systems supporting people with disability and their associates and families.
- More people with disability and stakeholders will be engaged in protecting the human rights of people with disability.
- Guarantees Constitutional Equality
- Governments at all levels accept responsibility to implement CRPD at all levels.
- Transport – HREOC would have its own power to complain with the resources and powers to ensure change, rather than the onus being on a person with a disability to prove that they have been discriminated against.
- Recognition and strengthening of mechanisms for promoting cultural diversity.
- Instills a framework for governments to work from.

What monitoring process is needed?

- a) A National Disability Strategy across all government Departments and encompassing all areas of disability
- b) genuine consultations
- c) quality of data assured
- d) Audit office to look at effectiveness and efficiency because it comes under Australian Law
- e) Should have an appropriate and independent Audit process
- f) Consistency and conformity of data collections and treatments, both qualitative and quantitative.
- g) Look at ways of establishing disability input into data sets
- h) A National Report Card which is outcome focussed and comes from both the Government and the Opposition of Government.
- i) Significant strengthening of Advocacy within the sector
- j) Mechanism for people with disability to have a formal way of reporting to government on issues affecting disability unlike the current process where some Councils, committees or Advisory bodies are gagged.
- k) People with disability need to own the process and be accountable back to their sector
- l) people with disability should be involved in every step of the process.
- m) Strengthened Advocacy organisations who support the Human Rights of those who are unable to protect themselves.
- n) Review the capacity of HREOC and strengthen HREOC so that issues can be taken up independently, where it is clear that discrimination has occurred.
- o) A Concerted outreach approach.

- p) Set up and support a National Disability Rights Defenders Network for the use of people with disability.
- q) Self determination and a balance between decision makers and people with disability.
- r) Needs a champion in higher office, who works on social inclusion at all levels.
- s) Human Rights Commission should have a Board of people with disability
- t) A permanent Disability Commissioner
- u) A permanent Disability Minister
- v) A National Disability Strategy

PDCA would like to thank the Attorney General for the opportunity to comment on this consultation.

Should you wish any further information on this submission, please contact the writer at the address given on the letterhead.

Yours faithfully



Sue Egan
Physical Disability Council of Australia Ltd.