

# The international Human rights instruments

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Convention on the Rights of Persons with Disabilities = The Convention

## 1. General Human rights texts

- Non-legally binding text:
  - Universal declaration of Human rights
- Legally binding texts:
  - 2 covenants
  - 7 conventions + the **Convention on the rights of persons with disabilities**

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### •Non-legally binding text

The Universal Declaration of Human Rights of the United Nations **is not** legally binding, and is only a declaration of intentions. It was adopted by the General Assembly on December 10th 1948.

The signature of the Declaration being a precondition for accession to the UN, the founders of the United Nations have deemed necessary not to confer a legally binding character to the Declaration in order to allow the accession of all countries, without hurting the political sensitivities of the concerned governments.

In other words, certain countries would have not ratified such a document if it was binding, preventing the UN from having a maximum number of members.

### •Legally binding texts

These texts are the basis of all the international human rights system.

These texts **apply to everybody, to all human beings, including persons with disabilities** even if a text does not consider their specific situation.

It is worth noting that the monitoring committee of the international covenant on economic, social and cultural rights has drafted a general comment n°5 specific to disability. This general comment (which is not legally binding) gives a new interpretation of the covenant and adapts to the specific situation of persons with disabilities.

*See. General comment n 5*

### •List of legally binding international conventions:

International covenant on civil and political rights (1966)

International covenant on economic, social and cultural rights (1966)

Convention on the elimination of all forms of racial discrimination (1966)

Convention on the elimination of all forms of discrimination against women (1979)

Convention against torture and other cruel, inhuman or degrading treatment or punishment (1984)

Convention on the rights of the child (1989)

Convention on the protection of the rights of all migrant workers and members of their families (1990)

Convention for the protection of all persons from enforced disappearance (not yet into force)

**Convention on the rights of persons with disabilities**

## 2. Texts directly linked to disability

➤ The disability issue has already been addressed by the UN in non-legally binding texts:

- Several resolutions of the General Assembly (1971)
- World programme of action (1982)
- Standards rules on the equalization of opportunities (1993)

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•The first resolution of the General Assembly dates from 1971. However, the old resolutions about disability are now outdated because they were inspired by a medical vision of disability.

•The world programme of action brings to light a new objective, the equalization of opportunities. It opens the “United Nations Decade of Disabled Persons” which aims to give a temporal framework to States and organisations to implement the world programme of action.

➤ Standards rules on the equalization of opportunities for persons with disabilities:

- All human beings are equal in rights
- However, they are not equal in fact

Aim of the Standards rules: to promote the equalization of opportunities to reach equality in fact.

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•As long as the Convention is not in force, it is the fundamental text to set up disability policies.

•**All human beings are equal in rights, they have the same rights. However, they are not equal in fact, they do not have the same access to the rights, not the same opportunities.**

-The Convention is strongly inspired by the Standard Rules, notably as regards of equalisation of opportunities, definition of disability...

## ➤ Standard Rules

- Are not principles but practical measures :
  - ➔ indicate what **should be done** to enable access to the rights intended to all for persons with disabilities.
- Are complementary to the new Convention

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- The Standards rules are practical rules, setting up mechanisms. They are complementary to the recent Convention and they will remain a fundamental text in the future.
- A monitoring mechanism exists: a special rapporteur
- The Standards rules are not-legally binding for the States, they are less known and are not really used in practice.

➤ **Conclusion:**

- Persons with disabilities are often invisible (socially and legally)
- Their marginalization is linked to the refusal to see them



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- International Law does not efficiently protect the rights of persons with disabilities

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The invisibility of persons with disabilities results in the non-respect of their fundamental rights. The new Convention gives a place to the disability issue in all human rights issues and obliges the States to consider the situation of persons with disabilities in all policies (The States will have to justify the implementation of the Convention before an international monitoring committee).

As long as the Convention is not in force, the international texts do not efficiently protect the rights of persons with disabilities. Indeed, the legally binding texts do not consider the specific situation of persons with disabilities. The texts directly linked to disability are not legally binding. In order to enable persons with disabilities to enjoy the same rights as everybody, a new international legally binding convention on disability was essential.

*See. « Human rights and disability » Quinn and Degener about invisibility p17*