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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by Human Rights Advocates Inc., a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 January 2020]

* Issued as received, in the language(s) of submission only.



The right to culture: Access to Information and Communication Technologies for persons with disabilities

Introduction

It is recognized that the International Covenant on Economic, Social, and Cultural Rights (“ICESCR”), its Optional Protocols, the Convention on the Rights of Persons with Disabilities (“CRPD”), its Optional Protocols, and the mandate of the Special Rapporteur on cultural rights have made great advancements in addressing adherence to cultural rights globally. However, cultural rights in the context of persons with disabilities including access to Information and Communication Technologies (“ICT”) have continued to be ignored.

Article 27 of the Universal Declaration of Human Rights (“UDHR”) guarantees that “everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.” Article 15 of the ICESCR similarly recognizes this right as well and emphasizes “the steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.” Furthermore, Article 30 of the CRPD recognizes the right of persons with disabilities to take part in cultural life on an equal basis with others, emphasizing State Parties’ duty to take appropriate measures to ensure persons with disabilities enjoy access to cultural materials, activities, performances, and services in accessible formats. The Article also emphasizes the importance of measures which enable persons with disabilities to participate in the development of culture for their benefit as well as that of society. Article 30 further adds that State Parties shall take appropriate steps in ensuring that laws protecting intellectual property rights do not constitute a discriminatory barrier against persons with disabilities. The Human Rights Council (“HRC”) resolution 40/6 requests the Special Rapporteur “to pay due attention to the enjoyment of cultural rights by persons with disabilities.”

The importance of access to ICTs in modern society

ICTs are considered to include products that store, retrieve, send, and receive information electronically in digital form. The usage of ICTs has become prevalent within society in modern times as technological advancements have become integrated with a variety of aspects of everyday life. However, while there has been a surge in usage of ICTs, it has occurred without a similar upkeep in accessible products that provide equal enjoyment and usage to persons with disabilities.

Efforts to increase access of ICTs for persons with disabilities has generally been excused as absent due to the high cost of assistive technology and a lack of policies implemented to address issues with ICT access. While this is apparently an issue for State Parties to address, it would be unreasonable to expect persons with disabilities themselves to find a solution. Furthermore, if countries adopted universal principles of design when creating ICTs, then production would likely be more affordable as it would not require specialized elements in order to cater to people with disabilities. According to an article by the International Telecommunication Union, “[o]nly 36 percent of countries have a definition of accessibility which includes ICT or electronic media in their laws of regulations compliant with the definition of accessibility in UNCRPD Article 9.”¹

¹ International Telecommunication Union, *The ICT Opportunity for a Disability-Inclusive Development Framework*, International Telecommunication Union (September 2013), https://www.itu.int/en/action/accessibility/Documents/The%20ICT%20Opportunity%20for%20a%20Disability_Inclusive%20Development%20Framework.pdf

Effects on the Rights to culture of inadequate access to ICTs for persons with disabilities

In a society where ICTs are becoming a more prevalent requirement for people to participate, a lack of sufficient access for persons with disabilities continues to leave them behind as their needs to participate are not accounted for. According to the World Health Organization (“WHO”), around 15% of the world’s population live with disabilities, that is approximately 1 billion people.² Many individuals with disabilities face hardships in terms of employment, education, health, and violence. With a continually emerging use of ICTs comes an increase in these hardships for persons with disabilities.

The 2018 Disability and Development Report by the United Nations’ Department of Economic and Social Affairs included information that indicated that the percentage of persons with disabilities using the internet is typically lower than that of persons without disabilities.³ An example of this is Guyana, where approximately 50% of persons without disabilities use the internet as compared to approximately 15% of persons with disabilities.⁴ In countries such as Chile and Sri Lanka, 8-18% of adults do not use, but would need assistive products for work, while 29-54% already use assistive products for work, but would need more.⁵ Additional data provided in the same report shows that in countries such as Nepal, the gap between the percentage of households that have Internet access with or without persons with disabilities is quite large. In Nepal, approximately 2% of households with persons with disabilities have internet access, an astonishingly low percent especially when compared to the approximate 10% for households without persons with disabilities.⁶ In some countries, programs targeted at increasing access for people with disabilities covers all individuals, while others focus particularly on children’s access.

China is a country with an estimated population of 85 million persons with disabilities.⁷ In China, one of the largest mobile providers offers a special SIM card to users with disabilities at a discounted price.⁸ The same company also provides users with a visual impairment access to an audio version to its new service.⁹ In 2015, Chinese Premier Li Keqiang initiated the “Internet Plus” action plan that focused on access to ICTs by persons with disabilities.¹⁰ It proposed an “Information Construction Scheme” in the “Thirteenth Five-year Plan (2016–2020)” for ICTs to be utilized in the areas of rehabilitation, education, employment, poverty alleviation, social support, and social security.¹¹ Other big ICT companies have also implemented plans for expanding the accessibility to ICTs for persons with disabilities. For example, more than 2.3 million persons with disabilities have been able to shop through Alibaba’s Taobao.¹² Another example of developments in China, is the General Eye and Low Vision Centre’s which has a centralized system that purchases bulk supplies of high-quality low-vision devices at an affordable price.¹³ This is a prime example of mass production helping to lower costs of ICTs as it is less costly to produce products that use universal design principles.¹⁴

² World Health Organization, *World Report on Disability*, World Health Organization (2011), https://www.who.int/disabilities/world_report/2011/report.pdf

³ Department of Economic and Social Affairs, *Disability and Development Report*, United Nations (2019), <https://social.un.org/publications/UN-Flagship-Report-Disability-Final.pdf>

⁴ *Id.* at 113.

⁵ *Id.* at 154.

⁶ *Id.* at 175.

⁷ Zhongxuan Lin, Liu Yang, & Zhi’an Zhang, *To include, or not to include, that is the question: Disability digital inclusion and exclusion in China*, Sage Journals (May 18, 2018), <https://journals.sagepub.com/doi/10.1177/1461444818774866>.

⁸ World Health Organization, *supra* note 2, at 192.

⁹ *Id.*

¹⁰ *Supra* note 7, at 4440.

¹¹ *Id.* at 4441.

¹² *Id.*

¹³ *Supra* note 2, at 192.

¹⁴ *Id.* at 118.

Additional examples include a project focused on improving payphone access for person with disabilities in Sri Lanka as well as the creation of a system to evaluate and correct access problems on web sites in Japan, set up by the Ministry of Internal Affairs and Communications.¹⁵

The effect of a lack of access to ICTs is also prevalent in academia. An essential component to inclusive development in society is access and knowledge to ICTs. Students with disabilities without the appropriate ICTs to be able to effectively engage in class with students without disabilities, face long-term effects that stay with them beyond school through their entrance into the workforce. Beyond access, “[w]hen teachers lack the required competencies, it is very difficult to use these technologies for setting inclusive classrooms open to participation of persons with disabilities.”¹⁶

The preamble of the CRPD recognizes the critical role that information plays in ensuring that persons with disabilities fully enjoy the same fundamental freedoms and to the same extent as others. Without developments in policies and technology that are inclusive of persons with disabilities, there is an inability for such individuals to enjoy fundamental freedoms to the same capacity as others, which therefore constitutes a violation. In the United Kingdom, a grocery supplier has incorporated an accessible website as a part of its online service that it developed with the help of the Royal Institute of Blind People and a panel of visually impaired shoppers.¹⁷

Recommendations

Human Rights Advocates (“HRA”) urges the HRC to urge State Parties to:

- facilitate private entities and mass media to provide accessible means for persons with disabilities to acquire content and information generally accessible to the rest of the public;
- promote the development of new technologies that are cost-efficient and considerate of ability to be used by persons with disabilities;
- increase government funding for research and implementation of new technology; and
- develop policies that directly address this issue - making sure to include persons with disabilities in the conversation.

¹⁵ *Id.* at 190.

¹⁶ *Supra* note 1, at 22.

¹⁷ *Supra* note 13.