

**MONITORING GUIDELINE FOR IMPLEMENTATION OF THE
CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITY
(CRPD) IN TANZANIA**

A Tool for Human Rights Monitors

PREPARED BY:
DOMINIC NDUNGURU (ADVOCATE),
WHILE CONDUCTING PROFESSIONAL INTERNSHIP AT LHRC
+255 713 66 90 44
dendunguru@yahoo.co.uk

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@DominicNdunguru

Following my dissertation at the University of Leeds @2019 which depicted the need for much effort in monitoring disability rights in Tanzania. During my professional internship at LHRC I thought it is of great value I devoted my time to produce a simple to use monitoring guide for human rights monitors in Tanzania. The guide remains open for public consumption as aider that aims to advocate for spread for implementation of CRPD. Any shortcoming on it remains author's personal responsibility.

Caveat

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ABBREVIATION

CSO	Civil Societies Organization
CRPD	Convention on the Rights of Persons with Disabilities
DPO	Disabled Persons Organizations
LHRC	Legal and Human rights Center
PWDs	Persons with Disabilities
UN	United Nations

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MONITORING GUIDELINE FOR IMPLEMENTATION OF CRPD IN TANZANIA

1. Introduction

Monitoring the rights of PWDs has been crucial and critical in enhancing and making the rights of PWDs as stated in CRPD. Monitoring reports provide for the opportunities to the State parties and other disability actors, to evaluate themselves for the level of implementation reached in that particular country.

In Tanzania monitoring of disability rights has not been given special priority by both State parties to CRPD as well as CSOs and particularly DPOs. This led to the implementation of the rights of PWDs not to be well understood, despite the fact that it is ten years now since Tanzania ratified the CRPD.

This monitoring guideline provides for the key issues which are to be considered during monitoring exercises, procedures to be followed and communications of the findings to State parties, public and international treaties bodies. Therefore, setting systems that ensure regular progress reporting is essential for tracking CRPD implementation.

2. Obligation of State Parties to Report to the Committee of the Rights of PWDs

As a member of the United Nations and signatory to the United Nations Convention of the Rights of Persons with Disabilities (UNCRPD), Tanzania is bound to respond to the commitment set in the UNCRPD. However, these obligations have not been achieved in terms of submission of the initial report (Required to be submitted two years after ratification) or even progress report (Required to be submitted every four years after initial report).

On part of CSOs which have opportunity to prepare and submit alternative reports (shadow reports), no formal system and procedures have been established to enhance the occurrence of the same. Therefore, knowledge and skills for establishment and institutionalization for this system is essential to support relevant meaningful governance.

3. Background to UNCRPD Monitoring

Section 4 of the Convention on the Rights of Persons With Disabilities, 2006, put obligations to the States, to domesticate UNCRPD by taking all appropriate measures, including legislation, administrative and other measures such as adaptation and eradication of malpractice customs, traditions, including modifying existing laws, regulations, customs and practices that constitute discrimination against PWDs. This aims to ensure that the rights set into it are implemented by partner states accordingly.

In order to make sure that these obligations are met by the State partners, section 35 of CRPD requires State parties to submit periodic reports stating the progress on domestication of CRPD and its implementation course. The reports may state challenges affecting fulfillment of obligations under the Convention.

‘By way of substance, the voices and experiences of persons with disabilities must be central in monitoring reports, in recognition of the fact that persons with disabilities are experts on their own situation’.¹

4. The UNCRPD’s Monitoring Mechanisms

These mechanisms are established for both national and international platforms. This is according to section 33 of CRPD.

i. At the national level three mechanisms are available to monitor the implementation:

- a. First, States have to designate one or more focal points within government for matters relating to implementation.
- b. Second, States have to give due consideration to the establishment or designation of a coordination mechanism within government to facilitate actions across sectors and at different levels.

¹ Monitoring the CRPD, Guidance for Human Rights Monitors, Professional Training Series no. 17, UNHR, Office of the High Commissioner for Human Rights

- c. Third, States have to establish or designate a framework that includes one or more independent mechanisms to promote, protect and monitor the Convention's implementation.

ii. At the international level two platforms are created:

- a. Article 34 establishes the Committee on the Rights of Persons with Disabilities, this is a committee of independent experts with several functions. First, on the basis of periodic reports received from States and other interested parties such as national monitoring mechanisms and civil society organizations, the Committee engages in a constructive dialogue with States on the implementation of the Convention, and issues concluding observations and recommendations for follow-up action to improve and strengthen implementation. Second, the Committee holds days of general discussion, open to the public, during which it discusses issues of general interest arising from the Convention. Third, the Committee may issue authoritative statements, known as general comments, to clarify specific provisions in the Convention or specific issues arising in the implementation of the Convention.
- b. Fourth, the Optional Protocol gives to the Committee authority to receive complaints, known as

communications, from individuals alleging violations of any of the Convention's provisions by a State that has ratified the Optional Protocol. The Committee may present its views after considering the complaint in the light of the comments from the State concerned.

- c. Fifth, the Optional Protocol also provides the Committee with an opportunity to undertake inquiries in States parties if it receives reliable information indicating grave or systematic violations of the Convention.

NB: Human rights Monitors and Disability Rights Activists should be aware of these mechanisms and of their functions. Monitoring activities could:

- i. Provide national monitoring mechanisms with information on the state of implementation of the Convention;
- ii. Provide information to the Committee for its constructive dialogue with States;

Civil Society Platform

Section 33.3 states that, "Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process".

5. Monitoring Disability Rights in Practice

Monitoring disability rights have a series of activities. These activities are interconnected i.e. one activity leads to the next and in that way they form a monitoring cycle. These activities are in the following series.

- i. Collection of information
- ii. Legal and information analysis
- iii. Documentation
- iv. Reporting
- v. Corrective action
- vi. Follow-ups

6. Core Examples of Issues to be Monitored

The following are some of the core issues that can be monitored:

i. Policy and Laws

In laws and policies we check how CRPD and other international protocols relating to disability are incorporated in national legislations to comply with the international standards. So it is necessary to monitor their domestication and implementation through programmes or other measures.

ii. Media Reports

Media is key to influence how PWDs are portrayed in the community. This involves traditional and digital including how social media cover issues of PWDs. If the media is used properly in favour of PWDs, it will improve the way the society perceive and treat them. Good pro-disability coverage practices need to be noted and popularized.

iii. Violation of PWDs Rights

Monitoring violations of PWDs is critical in order to establish the increase or decrease of disability cases. This informs and helps the duty bearers to reach decisions such as where to put emphasis on eradicating measures.

iv. Programmes

The term programme has a wider meaning to include poverty reduction programmes, development programmes, education and health programmes, job creation programmes, insurance programmes, etc. programmes are monitored to check if they include PWDs because it is in the programmes whereby impact of laws and policies are effected.

v. Courts Judgments

Tracking courts or other tribunal judgments are necessary to see the interpretation of laws and policies by courts. These interpretations help to build case-law.

vi. Budget Allocation and Disbursement

Budget allocation in parliament, councils, public institutions against disbursement are critical in realizing rights of PWDs. Here the monitor tracks what have been allocated and if it has been fully released.

vii. Parliamentarians Debates

follow-ups on parliamentary and councils debates on questioning government compliance on disabilities issues is very important to get responses on reporting and implementation of disability rights in the country. In this way obstacles of implementation measures are addressed to the government and responses given on time.

7. Working With PWDs in Monitoring Processes

In monitoring the rights of PWDs it is necessary to consider two main aspects:

i. Involvement PWDs

The slogan ‘Nothing of us Without us’ put a cardinal rule that no one should work on the issues of PWDs without their involvement.

ii. Monitor Rights, But Not Disability

Here you monitor the enjoyment of the implementation of rights but not how the disability affects the implementation.

8. Building the Capacity of CSOs, PWDs and Their Organization

For effective monitoring of CRPD it is important to build capacity of persons and institutions which will be involved in the monitoring processes. Since people of different capabilities especially on education

wise, it is advised to consider simplification of the training and other materials involved. This should go hand in hand with consideration of accessibility in the involved team.

9. Proposed Team Composition

In monitoring CRPD the leading monitoring organization has to form a participatory team. This team is engaged in all processes of monitoring circle. However, the liability of the work remains at the leading organization. Choosing the team will depend on the focus of the report, whether, it is general or thematic. The general focus will cover every aspect while the thematic covers a special theme such as children, women, youth, elderly, etc.

10. Overview of the Review Processes, Methodology for the Report Preparation

The review may involve;

- i. Formation of CSOs multi-sectorial technical team
- ii. Conduct consultations from stakeholders
- iii. Input and supervision from technical experts
- iv. Sharing a draft report for further public scrutiny as to appropriateness
- v. Give the report, a national image
- vi. Share the draft with the management for approval

vii. Final submission

11. Framework For Shadow Report

There is no existing formal format for the shadow report. However, there has been a practice which has developed important contents format that have been used for years. The proposed content can be as follows: Introduction, mandate, methodology, content of the report (a CRPD article, current situation, what has been done, recommendations), key final recommendations, bibliography. Citation is recommended for further reference.

12. Communications to CRPD Committee

Reporting and publication of monitoring results is very important activities as they aim to engage authorities to take corrective actions against issues revealed in the reports. The reports can be circulated to local and international authorities as well. Therefore, communication of information needs to take different forms so as to properly reach each particular group. For instance the public need information while the international community needs solid information supported by concrete data.

13. Conclusion and Commitment

Monitoring disability rights is not a one-time event, rather, a continuous process. CSOs and DPOs need to work together to follow issues of PWDs daily, weekly, monthly and yearly. These processes need commitment in terms of resources, time and energy.

Monitoring activities should be done in all spheres of life. For example; universities' DPOs can monitor inclusion processes at their campuses. Things like how many PWDs are enrolled, support they get from authorities, existing gaps, etc. All these will give basic information of the real situation on how PWDs are enjoying their rights at the campuses.

All in all, monitoring report should be evidence-based and full of statistical data and photographs as well. These provide authentication of the report. So, considering modality of monitoring is a vital decision to take. Further, involving PWDs in the monitoring processes is the key issue to be considered as the pro-disability slogan says, 'Nothing for us without us'.

Attachments

i. Tools for Monitoring Exercises

These tools are considered to be standard as prepared by UNHR, Office of the High Commissioner in the professional training manual for human rights monitors. However, the monitoring team can adjust them to suit their monitoring focus. These tools were prepared in light to the obligation to respect, protect and fulfill.

ii. Monitoring in Practice

a. Complying With the Venue

Checklist of accessibility considerations for capacity-building and monitoring activities:

1. Printed materials.(e.g., training manuals, information about the monitoring process, consent forms, questionnaires);

Ensure production of materials in all formats and languages necessary for full participation (e.g., Braille, large print, electronic, sign languages, easy-to-read-and-understand formats)

2. Visual aids (e.g., computer slide presentations, photographs, diagrams, maps, videotapes);

Ensure that an adequate description of the information conveyed through these aids is communicated in an accessible format (e.g., providing text and descriptions of images displayed in the slides of a computer presentation)

3. Verbal communications.(e.g., face-to-face and telephone meetings, training sessions, audiotapes, monitoring interviews);

Ensure allocation of adequate time and the involvement of the necessary interpreters/facilitators to ensure that persons who are deaf, deaf-blind, with intellectual disabilities or who use augmentative and alternative communication both understand what is being said by others and can communicate their own ideas (e.g., sign-language interpretation, real-time transcription, communications assistant)

4. Locations.(e.g., for meetings, training sessions, interviews)

- Ensure access for those using mobility devices (e.g., avoid locations with stairs, narrow passages, cramped rooms)

- Ensure availability of accessible toilets

Ensure participants can reach location by cost-effective and accessible transport

- Ensure adequate signs in multiple formats and/or the availability of people to assist participants to reach the location (e.g., signs in Braille, greeters)

- Remember to consult closely with partner DPOs to identify accessibility requirements. Whenever possible, consult directly with the person(s) participating in the activity to ensure that their particular requirements are met

Note that these considerations are not exhaustive. Monitors must remember to address accessibility case by case.

b. Tools to be Used

1. Monitoring the media

- > Do the media report on persons with disabilities?**
- > If so, which media do that, in which sections of their products?**
- > Are persons with disabilities portrayed as victims or rights-holders?**
- > Do the media represent the point of view of persons with disabilities?**
- > Are language and images appropriate?**
- > Does the media's message reinforce or counter stereotypes?**
- > has there been a change in media reporting on persons with disabilities over time? If so, in which way (e.g., more or less reporting, different approach)? Which factors contributed to the change?**
- > Is it an accurate representation of real life?**
- > Are the media accessible to persons with disabilities?**

2. The right to equal recognition before the law and legal capacity (cont.)

Obligation to protect:

- how does the State protect persons with disabilities from abuse of their right to exercise their legal capacity? has the State established appropriate and effective safeguards to prevent abuse of the support provided to persons with disabilities in the exercise of their legal capacity?
- What redress is available to persons with disabilities if their right to exercise legal capacity is denied? (E.g., if a service provider refuses to accept a person's expression of will as valid; if the consent of a family member or guardian is required in all circumstances for a person with a disability to access medical treatment.)

Obligation to fulfill:

- has the State enacted laws, policies and programmes, including legally recognized mechanisms, to provide persons with disabilities with the support they may require in the exercise of their legal capacity?
- Does the State provide persons with disabilities with support where required to directly participate in legal proceedings and exercise their legal capacity to act, including through facilitating the use of sign language, Braille or plain language? Or are they allowed to participate only through their legal guardians?

Example: Monitors have documented cases in which persons with disabilities have been forced to live in institutions. The right to live independently requires States to ensure access by persons with disabilities to residential and other community services to support living independently in the community. Failure to do so constitutes a breach of the obligation to fulfill.

3. Living independently and being included in the community

General monitoring question:

Do persons with disabilities have the right to live in the community, with choices equal to others?

Obligation to respect:

- Are there legal protections recognizing the right of persons with disabilities to choose their place of residence and where and with whom they want to live on an equal basis with others?
- Are there legal protections to ensure that persons with disabilities are not forced into particular living arrangements?

Obligation to protect:

- Are there legal protections to ensure that persons with disabilities are not forced by family members or others into particular living arrangements?
- Are there legal mechanisms and remedies that persons with disabilities can use to challenge barriers to living independently?
- has the State taken measures to enforce and monitor the implementation of the right to live independently in the community?

Obligation to fulfil:

- Are there laws, policies and programmes that ensure access for persons with disabilities to a range of in-home and other community services, including personal assistance, necessary to support living and inclusion in the community?
- Are there laws, policies and programmes to ensure that community services and facilities for the general public are made available on an equal basis to persons with disabilities and are responsive to their needs?

4. Accessibility

General monitoring question:

Do persons with disabilities enjoy access on an equal basis with others to the physical environment, transport, information and communications technologies and systems and other facilities and services open to the public?

Obligation to respect:

- **Are there legal protections to ensure access on an equal basis with others to all physical environments, transport, information and communications technologies and systems and other facilities and services open to the public?**
- **has the State developed minimum accessibility standards and guidelines?**
- **Do the minimum standards and guidelines apply in both rural and urban areas?**
- **Is the State engaging in any acts, customs or practices that create barriers to accessibility?**

Barriers to accessibility can take many forms, including:
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| <ul style="list-style-type: none">➤ physical - barriers in the environment, particularly those in infrastructure (e.g., public toilet stalls that are too small for wheelchairs);➤ informational - barriers can arise from both the form and the content of information (e.g., electronic documents in formats that cannot be read using screen readers are not accessible to persons who are blind; information that is not in plain language is not accessible to many persons with intellectual disabilities, oral information not available in sign language or where there is no possibility of sign-language interpretation can be inaccessible to most deaf people). |
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5. Accessibility (cont.)

Obligation to protect:

- has the State taken legal action to ensure that private entities (e.g., restaurants, theatres, grocery shops, taxi companies and other businesses offering facilities and services to the public) remove existing barriers to access for persons with disabilities and do not create new ones?
- Are there legal remedies and mechanisms that persons with disabilities can use when access is not available?
- has the State taken measures to enforce and monitor the implementation of minimum accessibility standards and guidelines?

Obligation to fulfill:

- Does the State provide training for stakeholders on accessibility for persons with disabilities?
- has the State taken steps to provide signs in Braille and easy-to-read-and-understand forms and other types of live assistance and intermediaries (e.g., guides, readers and sign-language interpreters)?
- has the State taken measures to promote access to new information and communications technologies and systems, including the Internet, at an early stage?

6. The right to education

General monitoring question:

Do persons with disabilities have access to inclusive education at all levels?

Obligation to respect:

- Does legislation expressly recognize the right to inclusive education?
- Does the State refuse students with disabilities entry into the general education system?
- Does the State maintain a system of segregated schools which students with disabilities are required to attend?
- Are students with disabilities forced to study certain subjects or are they excluded from taking certain classes on the basis of their disability?
- Are students with disabilities required to undergo any medical treatment as a condition of being admitted to school?

Obligation to protect:

- has the State adopted legislative and other measures to prevent persons with disabilities from being excluded from the general education system?
- Does the State require private educational facilities to take steps to ensure the accessibility of their premises and technology with a view to removing obstacles to the inclusion of persons with disabilities in the education system?

6. The right to education (cont.)

Obligation to fulfill:

- Do girls with disabilities suffer multiple discrimination in enjoying their right to education?
- has the State taken steps to provide support, including individualized support, to students with disabilities consistent with the goal of inclusive education?
- has the State taken steps to ensure the accessibility of schools, other educational facilities and technology?
- has the State taken steps to employ teachers, including teachers with disabilities, who are qualified in sign language and Braille?
- Does the State provide and require the training of teachers and other professionals who can help ensure inclusive education?

7. The right to liberty and security of the person

General monitoring question:

Are persons with disabilities deprived of their liberty on the basis of their disability?

Obligation to respect:

- Do persons with disabilities have the right to liberty and security on an equal basis with others?
- Do laws permit the deprivation of liberty (in a prison, psychiatric institution or other facility) on account of a person having a disability, whether alone or in combination with other factors?

Obligation to protect:

- Does the State prohibit third parties, such as family members, from institutionalizing persons with disabilities on the basis of their disability?
- Does the State provide a remedy to persons with disabilities who are deprived of their liberty on the basis of their disability?

Obligation to fulfil:

- Does the State provide reasonable accommodation for persons with disabilities who are legally deprived of their liberty (e.g., as a result of criminal proceedings)?

8. Monitoring freedom from exploitation, violence and abuse

General monitoring question:

1. Given the abuse that persons with disabilities have suffered in institutions and through services which nominally should serve them, such as health institutions, article 16 on “freedom from exploitation, violence and abuse” specifically requires States to monitor facilities and programmes:
2. “In order to prevent the occurrence of all forms of exploitation, violence and abuse, States Parties shall ensure that all facilities and programmes designed to serve persons with disabilities are effectively monitored by independent authorities.”

Further Reference

Disability Rights Promotion International (DRPI): <http://www.yorku.ca/drpi/resources.html>

From Exclusion to Equality, Realizing the Rights of Persons With Disabilities, Handbook for Parliamentarians on the Convention on the rights of Persons With Disabilities and Its Optional Protocol, UN Geneva, 2007

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