



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ



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**LAW AND  
SOCIETY**

Yogyakarta, 04 – 07 April 2017

LP3M & Faculty of Law Universitas Muhammadiyah Yogyakarta  
2017

## **PROCEEDING**

### **International Conference on Law and Society**

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Farid Sufian Shuaib (Guest Editor)

Sonny Zulhuda (Guest Editor)

Iwan Satriawan

Yordan Gunawan

M. Endrio Susila

Design: Djoko Supriyanto

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# Message from Chairman

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## **Yordan Gunawan**

Chairman, International Conference on Law and Society 6,  
Universitas Muhammadiyah Yogyakarta

Assalaamu'alaikumWarahmatullahiWabarakatuh,

In the Name of Allah, the most Gracious and the most Merciful. Peace and blessings be upon our Prophet Muhammad (S.A.W).

First and foremost, I felt honoured, on behalf of the university to be warmly welcomed and to be given the opportunity to work hand in hand, organizing a respectable conference. Indeed, this is a great achievement towards a warmers multilateral tie among Universitas Muhammadiyah Yogyakarta (UMY), International Islamic University Malaysia (IIUM), Universiti Islam Sultan Sharif Ali (UNISSA), Universiti Sultan Zainal Abidin Malaysia (UNISZA), Fatoni University, Istanbul University, Fatih Sultan Mehmet Vakif University and Istanbul Medeniyet University.

I believe that this is a great step to give more contribution the knowledge development and sharing not only for eight universities but also to the Muslim world. Improving academic quality and strengthening our position as the procedures of knowledge and wisdom will offer a meaningful contribution to the development of Islamic Civilization. This responsibility is particularly significant especially with the emergence of the information and knowledge society where value adding is mainly generated by the production and the dissemination of knowledge.

Today's joint seminar signifies our attempts to shoulder this responsibility. I am confident to say that this program will be a giant leap for all of us to open other pathways of cooperation. I am also convinced that through strengthening our collaboration we can learn from each other and continue learning, as far as I am concerned, is a valuable ingredient to develop our universities. I sincerely wish you good luck and success in joining this program

I would also like to express my heartfelt thanks to the keynote speakers, committee, contributors, papers presenters and participants in this prestigious event.

This educational and cultural visit is not only an avenue to foster good relationship between organizations and individuals but also to learn as much from one another. The Islamic platform inculcated throughout the educational system namely the Islamization of knowledge, both theoretical and practical, will add value to us. Those comprehensive excellent we strived for must always be encouraged through conferences, seminars and intellectual-based activities in line with our lullaby: The journey of a thousand miles begin by a single step, the vision of centuries ahead must start from now.

Looking forward to a fruitful meeting.

Wassalamu'alaikumWarahmatullahiWabarakatuh

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# Foreword

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**Trisno Raharjo**

Dean, Faculty of Law, Universitas Muhammadiyah Yogyakarta

Alhamdulillah all praise be to Allah SWT for his mercy and blessings that has enabled the Fakultas Hukum, Universitas Muhammadiyah Yogyakarta in organizing this Inaugural International Conference on Law and Society 6 (ICLAS 6).

This Conference will be providing us with the much needed academic platform to discuss the role of law in the society, and in the context of our two universities, the need to identify the role of law in furthering the progress and development of the Muslims. Muslim in Indonesia and all over the world have to deal with the ubiquity of internet in our daily lives life which bring with it the advantages of easy access of global communication that brings us closer. However, internet also brings with it the depraved and corrupted contents posing serious challenges to the moral fabric of our society. Nevertheless, we should be encouraged to exploit the technology for the benefit of the academics in the Asia region to crat a platform to collaborate for propelling the renaissance of scholarship amongst the Muslims.

This Conference marks the beginning of a strategically planned collaboration that must not be a one off event but the beginning of a series of events to provide the much needed platform for networking for the young Muslim scholars to nurture the development of the Muslim society.

UMY aims to be a World Class Islamic University and intend to assume an important role in reaching out to the Muslim ummah by organising conferences hosting prominent scholars to enrich the developmment of knowledge. This plan will only materialise with the continous support and active participation of all of us. I would like to express sincere appreciation to the committee in organising and hosting this Conference.

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# Table of Content

---

XX	Scientific Committee
XX	Message From Chairman
XX	Foreword
XX	Committee
1	Safeguarding Patient Safety: A Need to Re-Examine the Legal Responsibilities of Medical Trainees <b>Nur Farha binti Mohd Zaini, Puteri Nemie Jahn Kassim</b>
14	The Nigerian Policy on Critical Information Infrastructure <b>Mu'azu Abdullahi Saulawa, Ida Madieha Abdul Ghani Azmi, Sunny Zulhuda, Suzy Fadhilah Ismail</b>
30	A Study on Demographic Information of the Respondent in Cross-Border Marriage: An Empirical Evidence from the State of Perlis <b>Muhamad Helmi Md Said, Noraini Md Hashim, Nora Abd. Hak, Roslina Che Soh, Muhammad Amrullah Bin Drs Nasrul</b>
41	The Legal and Economic Ramifications of Apology in Civil Dispute Resolution Process <b>Muhammad Ridhwan Saleh and Puteri Nemie Jahn Kassim</b>
52	Internet of Things: Investigating Its Social and Legal Implications in A Connected Society <b>Sonny Zulhuda and Sidi Mohamed Sidi Ahmed</b>
61	General Average and Jettison: The Policy Under Marine Insurance to Assist Master to Make Decision During Distress <b>Mohd Sharifuddin Bin Ahmad, Zuhairah Ariff Abd Ghadas</b>
66	The Protection of Endangered Animals Under Indonesian Legal System: The Case of Illegal Poaching for Trade <b>Hanna Nur Afifah Yogar, Muhammad Hari Adipurna, and Nasrullah</b>
71	Dynamics and Problematics of Regional Head Election Disputes Settlement in Indonesia <b>Nasrullah, TantoLailam</b>
88	Criminal Legality Affecting Cybercrimes in Yemen <b>Ammar Abdullah Saeed Mohammed, Dr.Nazli Ismail Nawang, Prof. Dato' Dr.Hussin Ab Rahman</b>
99	A Comparison on the Scope of Limited Liability in Companies and <b>Shirkah al-Inan</b>
107	The Implications of ASEAN Banking Integration Framework (ABIF) to Indonesia Banking Law Reform <b>Lastuti Abubakar Tri Handayani</b>
119	The Effectiveness of Interparty Coalition-Building in Presidential Democracy <b>Nanik Prasetyoningsih</b>

- 130 Strengthening Constitutional Democracy through Constitutional Adjudication Institutions: A Comparative Study between Indonesia and Australia  
**Iwan Satriawan, KhairilAzmin Mokhtar, Muhammad Nur Islami, Salim Farrar**
- 147 Position and Acceptance of Fatwa of Council of Indonesian Ulama (MUI) by the State in Indonesian Legal System and Religious Court  
**IfaLatifaFitriani**
- 153 Penang World Heritage Office: *Quo Vadis?*  
**Nizamuddin Alias**
- 163 Measuring Feasibility of the Use of Chemical Castration Toward Offender of Sexual Violence Against Children in View of Human Rights And Proportionality Theory  
**Rusmilawati Windari**
- 178 The Dynamics of Human Rights Enforcement In Indonesia: a Misconception and Political Consideration in the Formulation of Law Number 26 Year 2000 on Human Rights Court  
**Muhammad Iqbal Rachman&SahidHadi**
- 187 The Challenges to Build the Culture of Human Rights in Islam  
**Martinus Sardi**
- 195 International Perspective on Incorporating Good Governance Principles in Three Countries' Land Administration System: Malaysia, Turkey and Indonesia  
**Sunarno, Ainul Jaria Maidin**
- 210 Mergers and Acquisition Law: The Need for Harmonization in ASEAN  
**Mushera Bibi Ambaras Khan, Ida Madieha, Nasarudin Abdul Rahman, Mohd Radhuan Arif Zakaria**
- 220 The Urgency of Strengthening the Regulation And the Implementation of *Musharaka Mutanaqishah* Financing on Islamic Banking in Indonesia  
**Isti'anah ZA, Falah Al Ghozali**
- 233 Securing the Right to Life on the War on Terror: A Comparative Analysis of Indonesia and Europe  
**Prischa Listiningrum, RizqiBachtiar, MohFadli**
- 241 The Inconsistency of Supreme Court Decision to Annul the Arbitratral Award in Indonesia  
**Fadia Fitriyanti**
- 246 Utilization (*intifa'*) of Unlawful Wealth Acquired by Unlawful Means from Islamic Legal Perspective  
**Badruddin Hj Ibrahim**
- 254 The Urgency of ASEAN Human Rights Court Establishment to Protect Human Rights in Southeast Asia  
**YordanGunawan, Tareq Muhammad Aziz Elven**

- 266 Religiosity in Criminal Law: Islamic Perspective  
**Abdurrahman Raden Aji Haqqi**
- 283 Assessing the Legal Protection for Farmers in the Policy Agricultural Insurance Facility  
**Dwiwiddy Jatmiko, Bayu, Hartini, Rahayu, Isrok, Mohammad**
- 299 Reviews Juridical on Fee Arrangements in Bankruptcy Curator After the Supreme Court Decision no. 54 P/HUM/2013  
**Rahayu Hartini**
- 310 The Causes of Terrorism in Malaysia  
**ZulKepli, Mohd Yazid bin**
- 319 Adequacy of the Law in Protecting the Rights of Adopted Children in Malaysia  
**Roslina Che Soh, Nora Abdul Hak, Noraini Md. Hashim, Mohd Helmi Said**
- 328 New Developments on Waqf Laws in Malaysia: Are They Comprehensive?  
**Nor Asiah Mohamad, Sharifah Zubaidah Syed Abdul Kader**
- 336 Detention under Anti Terrorism laws in Malaysia and Nigeria: An Expository Study on Boko Haram Suspects  
**Babagana Karumi, Farid Sufian Shuaib**
- 349 Robust Yet Fragile: Enactment of Law Number 16 Of 2011 to Promote the Role of Advocate in Implementing Legal Aid  
**Laras Susanti and Bayu Panji Pangestu**
- 356 2017 Constitutional Reform in Turkey: What the Constitutional Ammendment Draft will Change  
**Murat TUMAY**
- 357 Monitoring Implementation of the Convention on the Rights of Persons with Disabilities (CRPD) at National Level: Obligations on and Options for Malaysia  
**Khairil Azmin Mokhtar**
- 368 The Roles of KPPU on Supervision of Business Competition: A Case Study of Cartel Dispute Settlement in Indonesia  
**Mukti Fajar ND.; Diana Setiawati**
- 376 Role of Criminal Investigation Under Malaysian Land Law  
**Mohd Helmi Mat Zin**
- 382 The Importance of Comparatýve Law in Legal Educatýon  
**M. Refik Korkusuz**
- 385 The Reposition of Mediation Process in Islamic Economic Dispute Resolution Trough Religious Court After Perma No. 1 of 2016  
**Nunung Radliyah, Dewi Nurul Musjtari**

# Monitoring Implementation of the Convention on the Rights of Persons with Disabilities (CRPD) at National Level: Obligations on and Options for Malaysia

**KHAIRIL AZMIN MOKHTAR**

Ahmad Ibrahim Kulliyah of Laws, International Islamic University Malaysia  
ka\_mokhtar@iiu.edu.my

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## ABSTRACT

The Convention of the Rights of People with Disabilities is an international human rights treaty of the United Nations that has the objective to safeguard the rights and upheld the dignity of persons with disabilities. It was adopted on 13 December 2006. Malaysia ratified the Convention on 6 July 2010. Consequently, the country is obliged to fulfil obligations and duty under the convention. The Convention includes both national and international monitoring mechanisms. One of the obligations that Malaysia has to fulfil is to monitor the implementation of the Convention at the national level. Article 33 of the Convention requires the States set up national focal points governments in order to monitor implementation of the Convention's precepts. States must also set up some sort of independent monitoring mechanisms. States also need to establish or designate a framework that includes one or more independent mechanisms to promote, protect and monitor the Convention's implementation. After almost a decade of its adoption by the UN, and seven years after its ratification by Malaysia, it is pertinent to determine to what extent have the country managed to realize the spirit and to achieve the objective of the Convention. This is a qualitative and legal studies adopting doctrinal and legal research approaches. The focus of this paper is to outline obligations and duties of Malaysia under article 33 of the CRPD. It also examines whether the country has fulfilled the obligations and duties as well as outlining the current position on the matter. It also considers available options in fulfilling the obligations in monitoring the implementation of the Convention.

Keywords: *People with disabilities, Convention of the Rights of People with Disabilities, Human Rights, Monitoring.*

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## I. Introduction

WHO and World Bank estimated that there are 15% of the world population have some form of disabilities in 2011. Over 650 million persons around the world live with disabilities. While poor people are significantly more likely to acquire disabilities during their lifetimes, disability can result in poverty, too, since disabled persons often face discrimination and marginalization. There are 445,006 people with disabilities registered In Malaysia as of 2012. However, as registration is voluntary, it is not reflective of the real numbers in the country. Disabled people are part of the community. Therefore, they have equal rights and opportunities to live a life like other members of society.

## II. Discussion

### 2.1 Rights of Persons with Disabilities and the CRPD

Persons with disabilities are still primarily viewed as "objects" of welfare or medical treatment

rather than “holders” of rights. Despite being theoretically entitled to all human rights, persons with disabilities are still, in practice, denied those basic rights and fundamental freedoms that most people take for granted. Rights-based approach (rights-based) and protection should be used to ensure of the interests and well-being of the disabled.

In order to realize the rights the Convention on the Rights of Persons with Disabilities and its Optional Protocol, was adopted by the United Nations General Assembly on 13 December 2006. At its core, the Convention ensures that persons with disabilities enjoy the same human rights as everyone else and are able to lead their lives as full citizens who can make valuable contributions to society if given the same opportunities as others.

The Convention clarifies the obligations and legal duties of States to respect and ensure the equal enjoyment of all human rights by all persons with disabilities. Once a country ratifies the Convention, the obligations established by the Convention must be reflected in the State’s national legal framework, development planning and budgeting, and in related policies. The Convention highlights the concrete, pragmatic steps that States Parties should take to support the inclusion of persons with disabilities into all areas of development. Implicit in the Convention are three distinct duties of all States parties:

- a. The obligation to respect – States parties must refrain from interfering with the enjoyment of the rights of persons with disabilities;
- b. The obligation to protect – States parties must prevent violations of these rights by third parties. States must be diligent in protecting persons with disabilities from mistreatment or abuse; and
- c. The obligation to fulfil – States parties must take appropriate legislative, administrative, budgetary, judicial and other actions towards the full realization of these rights.

## 2.2 Rights of Persons with Disabilities and the CRPD in Malaysia

Malaysia is fully committed in improving the welfare and development of its disabled population. This is evident in the signing of the Proclamation on Full Participation and Equal Opportunities for People with Disabilities in Asia and the Pacific region on 16 May 1994; and the ratification of the Convention of the Rights of the Child. The government has also endorsed the “Biwako Millennium Framework for Action Towards an Inclusive, Barrier-free and Rights-based Society for PWDs in Asia and the Pacific” to enable them to enjoy equal opportunities and to participate in the mainstream development of the country. The national Advisory and Consultative Council for People with Disabilities was established to coordinate the implementation of this framework.

In Malaysia, an act that specifically addressed the concern of this group had been suggested in 2002 through various consultations between government and disabled people organisations. The current legislation dealing with disabled people known as Persons with Disabilities (PWD) Act 2008 (Act 685) was enacted to fulfill the spirit of the CRPD. Malaysia ratified the United Nations Convention on the Rights of Persons with Disabilities (CRPD) on 6 July 2010, with reservations to Articles 15 and 18. Malaysia has not signed the Optional Protocols to this Convention. However, ratification of the CRPD is a step towards proving Malaysia’s readiness to translate these rights into action. Enactment of the Act is consequential to the ratification of CRPD by Malaysia in 2010.

Besides the parent act, there are also other stipulated legislations covering the protection for disabled people such as Education Act 1996, Street, Drainage, and Building Act 1984, Employees’ Social Security Act 1969, Limitation Act 1953. The current PWD Act 2008 has the objective

stated in the preamble 'to provide for the registration, protection, rehabilitation, development and wellbeing of persons with disabilities, the establishment of the National Council for Persons with Disabilities, and for matters connected therewith.' This statute, divided into 5 parts and 46 sections, is the first right-based legislation promoting and protecting the rights of disabled people in Malaysia

### 2.3 Monitoring the Implementation of CRPD

In accordance with article 4 of the Convention on the Rights of Persons with Disabilities, States parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind. To that end, States parties are required to adopt all appropriate legislative, administrative and other measures for the implementation of the Convention. In all human rights treaties, the implementation obligation is closely linked to a monitoring component.

The process of monitoring can be defined as 'collection, verification and use of information to address human rights problems.' It may be done through researching, gathering, analyzing and reporting information to identify human rights abuse and violations together with a systematic plan to reform the laws, policy, institutions and remedy to such violations.

The monitoring of human rights treaties is needed to assess not only whether measures to implement the treaty are adopted and applied but also to evaluate their results and therefore provide feedback for implementation. Monitoring mechanisms foster accountability and, over the long term, strengthen the capacity of contracting parties to treaties to fulfil their commitments and obligations. The Convention includes both national and international monitoring mechanisms. The relevant articles of the CRPS in this aspect are articles 33 and 34.

### 2.4 International Monitoring Mechanisms

International monitoring mechanisms (IMM) is provided in article 34. It establishes the Committee on the Rights of Persons with Disabilities, a committee of independent experts with several functions. Among the functions are stated below:

- a. 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;
- b. The Committee holds days of general discussion, open to the public, during which it discusses issues of general interest arising from the Convention;
- c. 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;
- d. The Optional Protocol gives 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; and
- e. 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.



## 2.5 National Monitoring Mechanisms

National monitoring mechanisms (NMI) is dealt with by article 33 of the Convention on the Rights of Persons with Disabilities (CRPD). The article outlines state obligations regarding national implementation and monitoring. Historically the main accountability mechanism in UN human rights treaties has been periodic reporting by states to a UN expert committee or monitoring at the international level. An innovation in the CRPD is the requirement of states to create a framework to facilitate constructive domestic dialogue with the aim of promoting ongoing implementation of the Convention. Other conventions outline obligations only. They are silent on how these obligations are to be realized.

Article 33 obligates states to take concrete procedural, organizational, and administrative actions to transform rights into actions. The Convention thus provides practical guidance as to how it should be implemented: (through adoption of new acts, policies and measures that need all to be consistent with provisions of the Convention), and on the other side, it also indicates a number of institutions that need to be set up in order to coordinate and promote the implementation of the Convention.

Article 33 National implementation and monitoring:

- a. States Parties, in accordance with their system of organization, shall designate one or more focal points within government for matters relating to the implementation of the present Convention, and shall give due consideration to the establishment or designation of a coordination mechanism within government to facilitate related action in different sectors and at different levels;
- b. States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the present Convention. When designating or establishing such a mechanism, States Parties shall take into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights; and
- c. Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process.

At the level of institutions, article 33 clearly identifies three mechanisms that are relevant for the implementation and monitoring of the Convention:

- a. States have to designate one or more focal points within government for matters relating to implementation;
- b. 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; and
- c. States have to establish or designate a framework that includes one or more independent mechanisms to promote, protect and monitor the Convention's implementation.

## 2.6 Focal Points Within Government

Under article 33 (1) States have to designate one or more focal points within government for matters relating to implementation. To fulfil this requirement the Malaysian government established the National Council for Persons with Disabilities by virtue of section 3 of the Persons with Disabilities Act 2008. The Council consists of:

- a. The Minister who shall be the Chairman;
- b. The Secretary General of the Ministry responsible for social welfare, who shall be the Deputy

- Chairman;
- c. The Attorney General of Malaysia, or his representative;
- d. The Secretary General of the Ministry responsible for finance;
- e. The Secretary General of the Ministry responsible for transport;
- f. The Secretary General of the Ministry responsible for human resources;
- g. The Director General of Education;
- h. The Director General of Health;
- i. The Chairman of the Commercial Vehicle Licensing Board; and
- j. Not more than ten persons having appropriate experience, knowledge and expertise in problems and issues relating to persons with disabilities to be appointed by the Minister.

The Department of Social Welfare, Ministry of Women, Family and Community Development is basically in charge of matters pertaining to Persons with Disabilities. The Minister who is responsibility for PWD's matters is the Minister of Woman, Family and Community Development (MWFCD). Two main institutions that been given responsibility under the act are the National Council for PWD and Department for the Development of PWD (Section 2, PWD Act 2008).

The act gives many functions and power to the Council for PWD to make recommendations, coordinate, oversee, monitor the implementation and impact of any laws, policies, programs and activities relating to PWD including encouraging, promoting research and development (R&D) relating as directed by Minister (Section 9, PWD Act 2008). The promotion and protection towards people with disabilities must be consistent with the Federal Constitution and any written laws, and take into consideration the financial obligation held by government (Section 14, PWD Act 2008). The law also listed down several rights of promoting the wellbeing of people with disabilities.

Various rights for disabled people are being protected under the legislation including access to public facilities, amenities, services and buildings, public transport facilities, education, employment, information, communication, and technology, cultural life, leisure and sports (Section 26-32, PWD Act 2008). In addition, the rights also cover rehabilitation, healthcare, community support services and assistance during a situation of risk and humanitarian emergencies (Section 33-40, PWD Act 2008).

The Social Welfare Department Malaysia (JKMM) was established in 1946 and has been through several structural changes since. The department started with its involvement in managing problems that stemmed from World War II. From there, its roles and functions have expanded to preventive and rehabilitative services in social issues and the development of the community. It is one of the agencies under the administration of the Ministry of Women, Family and Community Development. One of the objectives of the Department is to provide rehabilitation of People with Disabilities. The objectives of the rehabilitation services for People with Disabilities (PWDs) are to assist PWDs to be self-reliant and to achieve their full potential. Services provided include:

- a. Registration;
- b. Artificial Aid and Assistive Devices;
- c. Launching Grants;
- d. Disabled Workers Allowance;
- e. Work Placement;
- f. Institutional Training and Medical Rehabilitation;
- g. Community Based-Rehabilitation Programmes; and
- h. Group Homes.

## 2.7 Designation or Establishment of One or More Independent Mechanisms

Article 33 (2) of CRPD requires that States designate or establish one or more independent mechanisms to promote, protect and monitor the implementation of the Convention taking into account the 'Principles relating to the status and functioning of national institutions for the protection and promotion of human rights'. These Principles, commonly called the *Paris Principles*, were drafted at the First International Workshop of National Human Rights Institutions held in Paris in 1991 and endorsed by both the UN General Assembly and Commission on Human Rights in 1993.

The Paris Principles basically is a set of international standards which frame and guide the work of National Human Rights Institutions (NHRI). NHRIs have been created by States to implement human rights at the national level and are a response to the gap between human rights standards and their practical application. NHRIs have mainly three functions: the monitoring and advising of State authorities, the promotion and providing of human rights education and the handling of complaints on alleged human rights violations (the last function being optional according to the *Paris Principles*). Regarding the first function, NHRIs examine the compliance of both legislation and practice with human rights. They evaluate not only their conformity with human rights treaties but also the broader implications of policies for human rights enjoyment. NHRIs may also conduct general inquiries and submit reports to State authorities on human rights issues that seem important or urgent.

Regarding the second function, NHRIs aim to increase awareness of human rights by disseminating information on human rights. They do so both within and outside the formal education system. Some NHRIs also focus on research in order to promote a better understanding of human rights. In addition to setting out the functions of NHRIs, the *Paris Principles* lay emphasis on two fundamental principles: independence and pluralism. Independence has facets in the *Paris Principles*.

First, NHRIs should be functionally independent. This means that they should be free from governmental interference. They must also be able to choose their own staff and to determine their priorities. Second, NHRIs should be personally independent. This means that their members should be able to act in a pressure-free environment and be appointed (and, if necessary, dismissed) according to a fair and clear procedure. Third, NHRIs should be financially independent. They must have sufficient resources at their disposal, which should be determined preferably by parliament. Pluralism links NHRIs with civil society. The *Paris Principles* provide that the composition of NHRIs should ensure 'the pluralist representation of the social forces (of civilian society) involved in the promotion and protection of human rights'.

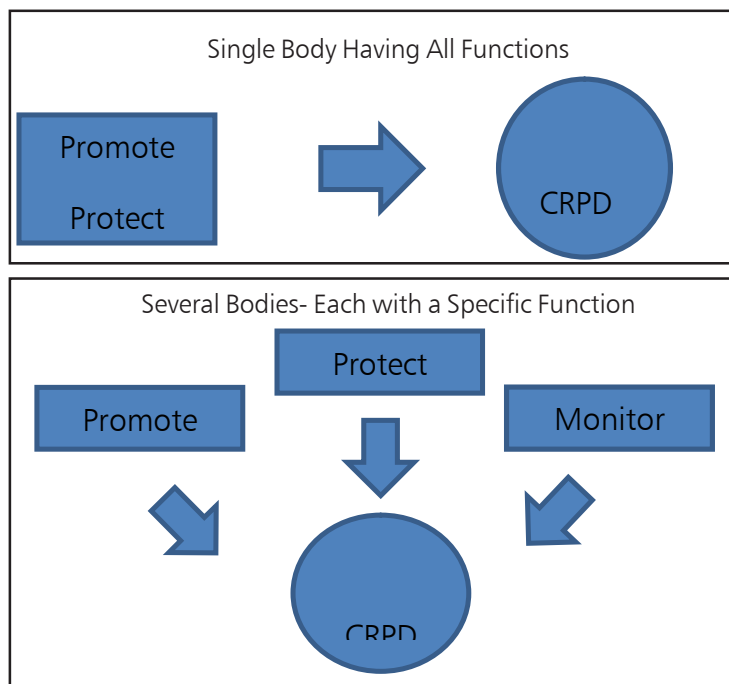
Human rights treaties define which rights States should respect, protect and fulfil. However, these treaties do not determine through which means they should do this. This follows from the principle of subsidiarity, which considers that States are best placed to determine how they should implement human rights. Thus treaties like International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) do not state what measures exactly States should take in order to reach the objectives of the treaties. In contrast, Article 33(2) of CRPD provides that States should designate or establish one or more independent mechanisms to promote, protect and monitor the implementation of the Convention taking into account the *Paris Principles*.

Article 33(2) of CRPD requires that States 'maintain, strengthen, designate or establish' 'one or more independent mechanisms'. States should 'maintain, strengthen, designate or establish' in-

dependent mechanisms. This gives them two possibilities. First, they may *designate* existing bodies, which means that they may maintain these bodies and give them the functions to promote, protect and monitor the implementation of the Convention. This option is interesting for States that already have bodies exercising some of these functions and avoids the creation of new bodies. As required by the *Paris Principles*, there should be an official designation act and not a mere statement that one or more bodies will play the role of independent mechanisms. Second, States may *establish* independent mechanisms. They can therefore start from scratch and create new bodies that will exercise the functions provided for by Article 33(2) of CRPD. This option is made for States that have no bodies that can fulfil these functions.

States should designate or establish 'one or more independent mechanisms'. There gives them again two possibilities. First, States may designate or establish a *single* body carrying out the functions to promote, protect and monitor the implementation of CRPD. This option can facilitate coordination between different organisations and help them to adopt a comprehensive approach to disability issues.

Second, States may designate or establish *several* bodies which together play the functions provided for by Article 33(2). States may therefore share these functions between these bodies, whereas federal or decentralised States may designate or establish regional or local bodies.



Based on these functions to a certain extent, the Malaysian Human Rights Commission (SUHAKAM) can be seen to be playing a role as an independent monitoring mechanism. However, it has not been officially appointed as an independent mechanism to monitor the implementation of the CRPD by the Malaysian government. Since Malaysia is found to have not officially appointed an independent mechanism as yet the options in the process of designating or establishing the independence mechanism cannot be examined. Similarly, factors that made up the argument in favor of the option to be chosen also cannot be determined as of now since the appointment process has yet to take place.

## 2.8 Framework of Independent Mechanisms

Article 33 (2) of CRPD provides that States must designate or establish ‘a framework, including one or more independent mechanisms, as appropriate’. The idea is that the independent mechanisms should form a coherent whole. Different bodies operating in isolation would be counter-productive, especially if they share similar functions. There should therefore be some form of coordination between them.

The flexibility of Article 33 (2) of CRPD allows different combinations to be adopted by a state. First, a State might either have an NHRI or an equality body or ombudsman that is already exercising these functions and could simply designate it independent mechanism. Germany, for instance, designated the German Institute for Human Rights (GIHR). Latvia designated its Ombudsman.

Second, a State may designate both its NHRI and its equality body or ombudsman and provide a division of labour between them and organise their collaboration, as done by Northern Ireland which designated both the Northern Ireland Human Rights Commission and the Equality Commission of Northern Ireland and by France which designated both the Commission nationale consultative des droits de l’homme (CNCDH) and the Haute autorité de lutte contre les discriminations et pour l’égalité (HALDE). Third, a State could designate or establish a representative body, as done by Austria which established the Austrian Monitoring Committee and by Spain which designated the Committee of People with Disabilities Representatives (CERMI).

Fourth, a State could combine the first or second option with the third option, that is designate its NHRI or its equality body or ombudsman, or do both, and establish or designate a representative body. Spain, for instance, designated the Spanish Defensor del Pueblo in addition to CERMI.

These options can be tailored to federal or decentralised States in which regional or local bodies could be designated or established too, as allowed by Article 33(2) of CRPD. This may result in a combination of several options. The United Kingdom, for instance, designated three NHRIs independent mechanism, namely the Equality and Human Rights Commission, the Scottish Human Rights Commission and the Northern Ireland Human Rights Commission, in addition to the Equality Commission of Northern Ireland (as far as Northern-Ireland is concerned). The possibility to have more than one independent mechanism may also facilitate the involvement of regional or local organizations of persons with disabilities (DPOs). These organizations could either be represented in the independent mechanism or be individually designated independent mechanism in the framework. After knowing all the options available above, it is essential that one body leads the framework.

Following the CRPD ratification. Malaysia enacted the Persons with Disabilities Act 2008 aimed at providing for the “registration, protection, rehabilitation, development and wellbeing of persons with disabilities” and the establishment of the National Council for Persons with disabilities. Several obligations under CRPD have been included in the Act. This could be a good start, yet it still has a long way to go and a lot to be improved in order to achieve its primary goal and objectives.

## 2.9 Civil Society and Cooperation with Disabled Persons

Disabled persons have had an important role in the elaboration of CRPD. Under the slogan ‘Nothing about us without us’, they successfully convinced the drafters of the necessity to guarantee their participation in the adoption of any measure concerning them. This is why Article

33(3) of CRPD stipulates that '[c]ivil society, in particular persons with disabilities and their representative organisations, shall be involved and participate fully in the monitoring process'. Article 33(3) is not the only article in the Convention that refers to the participation of disabled persons. Article 4(3) provides that States should consult disabled persons in the implementation of CRPD, thereby providing them with general participatory rights. Article 33(2), through its reference to the *Paris Principles*, also requires that DPOs, in addition to other actors, be involved in the work of the independent mechanisms. DPOs, as a result, are given three different ways of participating in the implementation of the Convention. First, they can directly interact with State authorities that is through the focal points. States must even endeavour to reach them by virtue of Article 4(3) of CRPD. Second, DPOs should be involved in the work of the independent mechanisms. This follows from the *Paris Principles* as well as Article 33(3). Third, they may participate through other means, again by virtue of Article 4(3). They can therefore withdraw from existing structures, if they deem that acting on their own will enable them to better realize their aims.

The CRPD has shown 'new development' on the importance to monitor the human rights condition for a person with disabilities in the country by various parties such as international and domestic non-governmental organisations (NGO), disabled people organisations (DPO), and others global society organisations. This monitoring approach will be in line with a social model which proposes by the UNCRPD which upholds the standard of human rights for disabled in any countries.

In relation to the process of monitoring, the initiative to conduct training and employing several techniques are important to ensure the reliability of data. The monitoring process might be done by organisations such as DPO individually or collectively analysing the situation of human rights for disabled people through qualitative research nature covering interviewing the experience, types of violation occurred, analysing statistical data and studying relevant reports. These processes are crucial to ensure the reliability and validity of data represented with the intention to create awareness for the government and society on various human rights violations suffered by people with disabilities. The process of monitoring human rights situation is also in line with the issues and challenging facing research and development of the potential for disabled people especially in developing nation.

In Malaysia persons with disabilities have somewhat been empowered in the implementation and monitoring of the Convention through the Persons with Disabilities Act 2008 and the membership of persons with disabilities in the National Council of Persons with Disabilities as well as in its six subcommittees. Although some improvements have taken place, much is yet to be desired despite the establishment of these bodies since the ratification of the Convention. Membership of persons with disabilities in the National Council of Persons with Disabilities comes from DPOs or individuals who may not necessarily be associated with DPOs but have the necessary expertise. At the moment there is no formal coordination mechanism between the National Council as the focal point and the DPOs Representatives of DPOs in the National Council or its six committees are consulted in the decision-making process, while representatives from other DPOs are also consulted from time to time- depending on the issues. It is currently up to the Minister and the Secretariat of the National Council to ensure that DPOs consulted duly represent the different groups of persons with disabilities.

### III. Conclusions

The Government in Malaysia provides social protection services in areas such as health, reha-

bilitation and education people with disabilities guided by the National Policy for Persons with Disabilities and the National Plan of Action for Persons with Disabilities. Malaysia also has taken an important step to protect the rights of people with disabilities by adopting the Persons with Disabilities Act 2008 and by ratifying the Convention on the Rights of Persons with Disabilities (CRPD) in 2010. The challenge ahead for Malaysia is to transform its approach from a welfare perspective to a human rights one. The fulfilment of obligation under CRPD has been fulfilled by Malaysia but only in certain areas. Among the notable success is that the requirement in article 33 (1) for States to designate one or more focal points within government for matters relating to implementation is fulfilled by the establishment of the National Council for Persons with Disabilities by virtue of section 3 of the Persons with Disabilities Act 2008.

The Government will be better positioned to protect and promote the rights of People with Disabilities by withdrawing its formal reservations to the CRPD concerning the prohibition of torture and other ill-treatment (article 15), the right to liberty of movement and nationality (article 18) and its declaration limiting the government's legal application of the principles of non-discrimination and equality. Additionally, the Government should sign and ratify the CRPD's Optional Protocol, which allows individuals to send complaints of human rights violations to an international monitoring body. These steps will guide the country in implementing policy and legal frameworks fairly, reducing disparities in access to essential services and coordinating multisector efforts more effectively.

The Government should establish a national monitoring mechanism (NMM) comprising independent bodies to promote, protect and monitor the implementation of CRPD. It should be designated as the main or coordinating body of the NMM. Other bodies in the NMM may include civil society organisations (CSOs), in particular CSOs representing persons with disabilities. To materialise this aim, there must be full support and commitment from multi-sectoral involvement of all government ministries and other stakeholders such as civil society organisations, academic institution, private sector. There are a few countries that have assigned their NHRIs role of coordinating the other focal agencies or as one of the agencies monitoring the implementation of the Convention. Among countries whose NHRIs have been designated to play a role in the NMM are Australia, Germany, Jordan, Kenya, Northern Ireland, Scotland, Thailand and United Kingdom. Having this in mind within the context of Malaysia SUHAKAM is the appropriate body the play the role for the time being.

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