



*Your attitude ...  
is it a barrier?*

# DRAFT FIRST COUNTRY REPORT TO THE UNITED NATIONS ON THE IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

## FOR PUBLIC COMMENT

26 November 2012



women, children &  
people with disabilities  
Department:  
Women, Children and People with Disabilities  
REPUBLIC OF SOUTH AFRICA

**The Department of Women, Children and People with Disabilities (DWCPD) invites public comment on the content of the First Country Report to the United Nations on the implementation of the Convention on the Rights of Persons with Disabilities (CRPD).**

South Africa ratified the UN Convention on the Rights of Persons with Disabilities and its Optional Protocol in November 2007. The Convention subsequently entered into force on 3 May 2008. The purpose of the Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity. (Article 1) More information on as well as the full text of the Convention and the Optional Protocol can be downloaded from <http://www.un.org/disabilities>. Electronic copies can also be obtained through [DisabilityRights@dwcpd.gov.za](mailto:DisabilityRights@dwcpd.gov.za).

Submission of the first comprehensive Country Report was due within two years after the entry into force, i.e. by 3 May 2010. The draft Report was compiled after extensive consultation between 2010 and 2012 with national and provincial government departments and public entities, municipalities, human rights bodies, organisations of and for persons with disabilities, and to a more limited extent, the corporate and labour sector through its NEDLAC constituencies. An analysis of the first draft conducted in November 2012 with support by the UN Department of Economic and Social Affairs highlighted significant gaps in the quality of information, and a second phase was embarked upon in 2012 to improve the quality of baseline information.

The CRPD reporting process allows South Africa an opportunity to critically analyse the situation and status of persons with disabilities in the country. Every effort has been made to present a transparent and realistic account of achievements and challenges as well as the measures needed to further advance the rights of persons with disabilities. The Department therefore wishes to express our sincerest appreciation for the submissions received, as well as to the Portfolio and Select Committees on Women, Children and People with Disabilities in Parliament for conducting public hearings between July and November 2012 on the implementation of the CRPD.

Stakeholders are invited to validate the content of the draft report by indicating whether they agree/disagree with the content of each article as well as providing additional information for the baseline report on both achievements and challenges.

A template to assist stakeholders with structuring their comments is provided. Comments should reach the DWCPD at [DisabilityRights@dwcpd.gov.za](mailto:DisabilityRights@dwcpd.gov.za) or fax: **0862416626** before **25 January 2013**.

Government is on track to ensure depositing of the final First Country Report with the United Nations before 31 March 2013.

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**Important Note**

South African Rand (ZAR) – US Dollar (USD) Exchange Rate  
used for purposes of this report:

**ZAR 8 = USD 1**

The statistics contained in the report spans the period 2008 (when the Convention came into force and March 2012.

# **PART ONE – SUMMARY OF COMMON CORE DOCUMENT**

## **BACKGROUND**

The 1994 elections heralded in a new era of a South African society built on the principles of non-discrimination, democracy and equality for all South Africans, including persons with disabilities. The African National Congress, whilst preparing to govern, held extensive consultations with the disability rights movement, represented by Disabled People South Africa, to determine the approach the incoming government should take towards the protection and promotion of the rights of persons with disabilities. Consensus was reached that the principles of self-representation of persons with disabilities in all matters affecting their lives, as well as that of mainstreaming disability considerations across the government machinery, was non-negotiable. This consensus translated into, among others,

- the establishment of the Disability Programme in the former Reconstruction and Development Programme (RDP) in the Presidency in 1995, evolving into the Office on the Status of Disabled Persons (OSDP) established in 1997 in the Presidency, and eventually into the Department of Women, Children and Persons with disabilities, established in 2009;
- self-representation by persons with disabilities in Parliament, provincial legislatures, municipal Councils, human rights instruments such as the SA Human Rights Commission, the Commission on Gender Equality, the Office of the Public Service Commission, as well as development agencies such as the then National Youth Commission, later restructured under the National Youth Development Agency, and of course the Office on the Status of Disabled Persons established in the Presidency and the majority of provinces, among others;
- the release of the White Paper on an Integrated National Disability Strategy (INDS) in 1997, which was developed through a widely consulted process utilising the UN Standard Rules on the Equalisation of Opportunities for Persons with Disabilities as well as the South Africa Disability Rights Charter. The INDS provided guidance for the mainstreaming of disability considerations across all government departments as the legislative and policy reform in the newly established democratic South Africa took off.

South Africa as such became a leading force in the campaign for, and eventual development of the UN Convention on the Rights of Persons with Disabilities, which, in its final format, embodies the principles of the South African process embarked upon in 1994 to advance the progressive realisation of the rights of persons with disabilities as equal citizens. Implementation of the UN Convention on the Rights of Persons with Disabilities therefore in a way commenced in 1994 in South Africa, and

not in 2007 when the Convention was officially ratified by South Africa or in May 2008 when it came into force.

## **PREVALENCE**

A lack of adequate, reliable, relevant and recent information on the nature and prevalence of disability in South Africa remains a challenge. The last national census for which data is available, was conducted in 2001. The subsequent annual general household surveys and the more elaborate community survey conducted in 2007, are sample surveys, and usage of the disability data emanating from these surveys should therefore be treated with some circumspection.

Data for the national census of 2011 is not yet available. It should furthermore be noted that it will not be possible to do comparative analysis utilising the 2001 census data against that of 2011 due to the significant shift in approach to asking the disability-related questions.

### **2001 Census Data**

According to the 2001 National Census there were approximately 2.3 million people (estimated at 5% of the total population) reported to have a serious disability - namely an impairment that prevented their full participation in life activities such as socialising, education and work.

According to this Census, the prevalence of disability was as follows:

<b>Population Group</b>	<b>Number</b>	<b>Percentage</b>
African	1 854 376	5.2%
White	191 693	4.5%
Coloured	168 678	4.2%
Indian	41 235	3.7%

The table below shows the prevalence of different types of disabilities in South Africa.

<b>Disability</b>	<b>Number</b>	<b>Percentage</b>
Visual Disability	577 000	1.3%
Physical Disability	558 000	1.2%
Hearing Disability	314 000	0.7%
Emotional Disability	269 000	0.6%
Intellectual Disability	206 000	0.5%
Communication Disability	75 000	0.2%
Multiple Disabilities	257 000	0.6%

## 2011 General Household Survey

The questions used on disability were developed by the Washington Group and was first introduced in the 2009 General Household Survey questionnaire, and were also used in the 2011 National Census.

These questions require each person in the household to rate their ability level for a range of activities such as seeing, hearing, walking a kilometre or climbing a flight of steps, remembering and concentrating, self-care, and communicating in his/her most commonly used language, including sign language. During the analysis, individuals who said that they had some difficulty with two or more of the activities or had a lot of difficulty/were unable to perform any one activity, are then ranked as disabled. The analysis was confined to individuals aged 5 years or older as children below the age of five years are often mistakenly categorised as being unable to walk, remember, communicate or care for themselves when it is due to their level of development rather than any innate disabilities they might have.

Using this classification system, 5,2% of South Africans aged 5 years and older were classified as disabled. Women (5,4%) were slightly more likely to be disabled than men (5,0%). Northern Cape (10,2%), North West (7,7%) and Free State (6,7%) presented the highest rates of disability in the country.

No clear patterns emerge when the findings are compared to the results from 2009 and 2010. While nationally, the percentage of disabled individuals over the age of four years increased from 5,7% in 2009 to 6,3% in 2010, before declining again to 5,2% in 2011; different provincial patterns emerge. The disability question used before 2009 shows similar provincial variations over time. This continued variation makes it very difficult to identify enduring patterns and inter-provincial differences, thus making an analysis of possible reasons impossible.

### ***Number and percentage of persons aged 5 years and older with disability by gender and province, 2011***

Indicator	Statistic (Numbers in thousands)	Province									
		Western Cape	Eastern Cape	Northern Cape	Free State	KwaZulu- Natal	North West	Gauteng	Mpumalanga	Limpopo	South Africa
Male	Number	93	176	47	90	187	120	155	85	125	1 080
	%	3,8	6,2	9,5	7,2	4,2	7,8	3,1	5,4	5,8	5,0
Female	Number	129	189	59	87	252	121	170	96	158	1 260
	%	5,0	6,1	10,8	6,3	5,0	7,6	3,4	5,7	6,4	5,4
Total disabled	Number	221	366	105	177	438	241	325	181	283	2 339
	Per	4,4	6,1	10,2	6,7	4,6	7,7	3,3	5,5	6,1	5,2

Indicator	Statistic (Numbers in thousands  cent	Province									
		Western Cape	Eastern Cape	Northern Cape	Free State	KwaZulu- Natal	North West	Gauteng	Mpumalanga	Limpopo	South Africa
Subtotal	Number	5 031	5 972	1 035	2 641	9 513	3 149	9 914	3 282	4 642	45 179
Unspecified	Number	12	9	4	3	38	8	54	9	27	165
Total	Number	5 044	5 981	1 039	2 644	9 551	3 158	9 968	3 291	4 669	45 345
Total disabled 2009	%	4,0	5,3	5,6	9,1	7,7	4,9	5,3	3,7	4,8	5,7
Total disabled 2010	%	5,0	7,9	9,8	10,1	6,6	8,5	3,3	5,0	8,2	6,3

Based on the sample of the 2011 General Household Survey, of the total of 45,345,000 South Africans aged five years and older who reported some degree of impairment/difficulty with carrying out activities:

- 3,001,000 had sight impairments;
- 840,000 had hearing impairments;
- 1,028,000 experienced difficulty walking;
- 1,107,000 reported challenges remembering and concentrating;
- 1,564,000 reported challenges with self-care; and
- 364,000 experienced difficulties with communication.
- 4,271,000 made use of spectacles/contact lenses;
- 110,000 used hearing aids;
- 347,000 made use of walking sticks/walking frames;
- 83,000 used wheelchairs; and
- 24,000 used other assistive devices

The results of the 2011 national census will be released during the last quarter of 2012. Statistics South Africa will conduct additional surveys early in 2013 to address the unreliability of the responses for the 0-5 years age group due to the nature of the disability-related questions.

The results of the 2011 national census and supplement surveys will be reported on in the Periodic Country Report due in May 2014.

## PART TWO – THE CRPD SPECIFIC REPORT

### ***SEGMENT A: MEASURES TAKEN BY THE STATE TO IMPLEMENT THE OUTCOMES OF THE UN CONFERENCES, SUMMITS AND REVIEWS***

The South African Government remains committed to implementing the outcomes of the relevant United Nations conferences, summits and reviews.

South Africa participated in the first five Conferences of States Parties to the Convention on the Rights of Persons with Disabilities. Participation in the conferences received high-level political support, and was led by the respective Ministers for Women, Children and Persons with disabilities in 2009, 2010 and 2011. South Africa chaired the sessions on legislative measures to implement the CRPD and on legislative measures to promote the shift from guardianship to supported decision-making under Article 12 of the CRPD, and also presented two statements on accessibility and reasonable accommodation, in 2009. In 2010 South Africa presented on education and chaired the session. Statements on employment, international co-operation and participation in political and public life were presented in 2011.

South Africa has supported the process of establishing the Committee on the Rights of Persons with Disabilities. The country also nominated a candidate to stand for election to serve on the Committee of Experts to the CRPD in consultation with disabled people's organisations through the South African Disability Alliance (SADA).

There has been an effort to mainstream disability into Millennium Development Goals (MDGs) since this issue was highlighted at the second Conference of States Parties. South Africa has not, however, effectively built the inclusive MDGs into its planning frameworks in terms of the alignment and harmonization of programs. There is also a lack of coherent data to measure progress. South Africa will ensure a stronger focus on poverty reduction and the improvement of health for persons with disabilities as well as children.

This baseline country report also incorporates and consolidates all relevant recommendations that have been made by the South African Human Rights Commission (SAHRC) to the public sector as it affects persons with disabilities.

#### **Consultative Process followed**

This report was drafted over a period of three (3) years, and finalisation was delayed due to the changes in organisational arrangements with the transition from the Office on the Status of Disabled People in the Presidency to the Department of Women, Children and Persons with disabilities, which impacted negatively on government's capacity in the short term to finalise and deposit the First Country Report on the UNCRPD within two years post ratification, as required by the Convention.

In developing this report, the Government of South Africa consulted extensively with government institutions across all three spheres of governance, as well as with organisations for and of persons with disabilities, including:

- all thirty three national government departments (including their state owned enterprises), individually as well as through the Inter-departmental Coordinating Committee on Disability;
- all nine provincial government administrations individually as well as through the Inter-Provincial Forum;
- all forty-four (44) district municipalities and eight (8) metropolitan councils;
- the National Disability Machinery (NDM), comprising representatives from both government, business and civil society organisations;
- the National Economic Development and Labour Council (NEDLAC);
- the South African Disability Alliance (SADA), comprising representatives from thirteen (13) national affiliated organisations of and for persons with disabilities.

In addition, consideration was also given to the verbal and oral submissions made to the Joint Committee of Parliament by research institutions, organisations for and of persons with disabilities, the South African Human Rights Commission and parents of children with disabilities and disabled persons themselves on the implementation of the CRPD during July 2012. The debate in both the National Assembly as well as National Council of Provinces, which jointly constitutes Parliament, on the recommendations of the Joint Committee, will furthermore be integrated into the report before depositing to the United Nations.

The Government of South Africa acknowledges the valuable contributions made by government institutions across all three spheres of governance, and will work with these institutions over the next 12 months to strengthen the government-wide knowledge management systems required to report accurately and in detail on progress being made with the implementation of the UN CRPD.

Government recognises the role that the disability sector, and Disabled People's Organisations (DPOs) in particular, continue to play in promoting and adopting a rights-based approach for persons with disabilities and their families. Government acknowledges that capacity and resource constraints limited the extent to which DPOs and disability service organisations were able to participate in the development of the Country Report. The contributions by the South African National Council for the Blind (SANCB), the National Council for Persons with Physical Disabilities in South Africa (NCPDPSA) and the South African Federation on Mental Health (SAFMH) are therefore appreciated. We remain committed to working with the sector in creating a more enabling environment for DPOs to realise their right to self representation, conduct their advocacy work, capacitate their grassroots affiliates and participate in governance processes.

## **SEGMENT B: THE STATE'S ALIGNMENT WITH THE GENERAL PROVISIONS OF THE UNCRPD AS OUTLINED IN ARTICLES 1-4**

### **I. Definition of Disability**

1. South Africa aligns itself with the definition of disability as articulated in the CRPD, which refers to disability as *“an evolving concept resulting from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others”*.
2. In the South African context, it is agreed that disability is defined by the limitations hindering the full and effective participation of persons with disabilities in society on an equal basis with others which is expected to last for longer than a year and which exists after maximum correction or control of the impairment. The standardisation of the definition of disability is therefore a complex matter as the definition is to a large degree context as well as purpose linked.
3. For the purposes of social security benefits, the country has adopted the following definition of disability:

*“Disability’ is the loss or elimination of opportunities to take part in the life of the community, equitably with others that is encountered by persons having physical, sensory, psychological, developmental, learning, neurological or other impairments, which may be permanent, temporary or episodic in nature, thereby causing activity limitations and participation restriction with the mainstream society. These barriers may be due to economic, physical, social, attitudinal and/or cultural factors.”*

4. For the purposes of employment equity benefits, the Employment Equity Act, Act 55 of 1998, notes that the scope of protection for persons with disabilities in employment focuses on the effect of a disability on the person in relation to the working environment, and not on the diagnosis of the impairment. The Act therefore defines ‘disability’ as *“people who have a long-term or recurring physical or mental impairment which substantially limits their prospects of entry into, or advancement in, employment”*.
5. Raising awareness on the purpose and application of definitions of disability remains a challenge.

### **II. Implementation of the General Principles and Obligations**

6. The Constitution of South Africa, Act 106 of 1996, ensures an environment conducive to the full and equal participation of men, women and children with disabilities in society, including equal access to opportunities, accessibility and the protection of the inherent dignity of the person. The Constitution specifically mentions the principles of non-discrimination based on disability, gender or age;

equality between men and women; equality of opportunity; accessibility; respect for diversity and full inclusion in society.

7. The first democratic government of South African took a conscious decision after extensive consultation with the disability sector in general, and the disability rights movement of the country, Disabled People South Africa, in particular, that disability be mainstreamed across all sectors post 1994. This led to the establishment of the Office on the Status of Persons with Disabilities in the Presidency as well as the release of the White Paper on an Integrated National Disability Strategy in 1997, which provided guidance to the unfolding legislative and policy reform of the post-Apartheid South Africa.
8. South Africa subsequently passed the Promotion of Equality and Prevention of Unfair Discrimination Act (Act 4 of 2000) (PEPUDA). The Act gives effect to the Bill of Rights which prohibits unfair discrimination. The Act defines ‘discrimination’ as *“any act or omission, including a policy, law, rule, practice, condition or situation which directly or indirectly— (a) imposes burdens, obligations or disadvantage on; or (b) withholds benefits, opportunities or advantages from any person on one or more of the prohibited grounds”*. ‘Equality’ as per the definition of the Act includes equality in terms of outcomes. The South African Law Review Commission is currently reviewing all legislation against the equality clause in the Constitution.
9. The Employment Equity Act, Act 55 of 1998, defines ‘reasonable accommodation’ as *“any medication of adjustment to a job or to the working environment that will enable a person from a designated group to have access to or participate or advance in employment”*. A Code of Good Practice on the Employment of Persons with Disabilities was subsequently released to set standards for the employment of persons with disabilities in the work place, with an accompanying Technical Assistance Guidelines on the Employment of Persons with Disabilities providing more guidance to employers.
10. The Code of Good Practice defines ‘unjustified hardship’ as action that requires significant or considerable difficulty or expense. This involves considering, amongst other things, the *“effectiveness of the accommodation and the extent to which it would seriously disrupt the operations of the business”*. To invoke unjustifiable hardship requires an objective process.
11. The interpretation of, among others, equality and non-discrimination as well as reasonable accommodation has been tested in a number of legal actions, and examples thereof are discussed under the relevant Articles.
12. South Africa endorses the general obligations stipulated in Article 4, and has progressively been increasing access to free assistive devices, independent living support and communication technologies for indigent persons with disabilities, as well as access to broader socio-economic rights, details of which are provided under relevant Articles in the Report.

13. The White Paper on an Integrated National Disability Strategy (INDS), released in 1997, is currently under review with the aim of strengthening, among others, institutional mechanisms, the monitoring and evaluation framework, national priorities and targets for the next 10-15 years, and finally, ensuring full alignment with the CRPD.

### **III. Prioritisation of implementation of CRPD articles**

14. Priority areas for implementation of the CRPD for the period 2009 – 2014 have been aligned with the national priorities of government, i.e. education, employment, health, safety and security as well as rural development, and in particular putting in place measures to ensure equal access for persons with disabilities to opportunities and services in these sectors.
15. Additional CRPD articles that have been prioritized include equality, awareness raising, accessibility, access to information, statistics and data collection, developing and implementing a capacity building and support programme for structures and individuals responsible for mainstreaming disability across all three spheres of government, reviewing all legislation and policy to determine extent of alignment with the CRPD, ensuring the development of an effective monitoring and evaluation framework and adequate capacity to track progress on implementation of the CRPD.
16. The right of persons with disabilities to participate in the development, implementation and evaluation of all legislation and policies through their recognised organisations of and for persons with disabilities, is well established in South Africa. Giving meaningful effect to this right across all three spheres of government and across all disability organisations, however remain a challenge due to severe capacity constraints within the disability sector especially at provincial and local levels.

## ***SEGMENT C: PROGRESS IN IMPLEMENTATION OF SPECIFIC CRPD ARTICLES***

### **A. ARTICLE 5: Equality and non-discrimination**

17. South Africa complies fully in law and policy with Article 5. Persons with disabilities are, in principle, able to use the law to protect and pursue interests on an equal basis with others.
18. South Africa pursues a ‘substantive’ rather than ‘formal’ approach to equality, in other words, where the circumstances of people are taken into account and where the focus is on ensuring equality of outcome. The Constitution requires a focus on

substance and on the purpose or effects of rules and conduct and not merely on their form. The real social and economic circumstances of groups or individuals are taken into consideration when determining whether the constitutional commitment to equality was achieved.

19. The Constitutional Court determined in *Prinsloo v Van der Linde*, 1997 that human dignity constitutes a criterion to determine unfair discrimination. The Court endorses the view that “[a]t the heart of the prohibition of unfair discrimination lies a recognition that the purpose of our new constitutional and democratic order is the establishment of a society in which all human beings will be accorded equal dignity and respect regardless of their membership of particular groups.”
20. The importance of human dignity was also emphasised in *WH Bosch v The Minister of Safety and Security & Minister of Public Works* Case no. 25/2005 (9) when the Equality Court in Port Elizabeth held that ‘[t]here is no price that can be attached to dignity or a threat to that dignity. There is no justification for the violation or potential violation of the disabled person’s right to equality and maintenance of his dignity that was tendered or averred by the respondent. ... The court therefore found the discrimination to have been unfair.’
21. The Promotion of Equality and Prevention of Unfair Discrimination Act (Act 4 of 2000) provides for the establishment of Equality Courts in all magisterial districts, which in principle should provide easy access to persons who believe they have been discriminated against on, among others, the basis of disability. It is important to note that the onus is on the alleged discriminator to prove in the Equality Courts.
22. The Esthe Muller out-of-court settlement of 2004 for example created precedence by directing that all court building be made accessible, and the Willem Hendrik Bosch Court Judgement in 2005 directed that all police stations be made accessible. These judgements resulted in the creation of a dedicated programme within the Department of Public Works to renovate existing public services buildings.
23. Similarly, the Equality Court ruled in favour of Lettie Oortman against the St Thomas Aquinas private school when it directed that not only was the school obliged to re-admit Chelsea Oortman, but that the school had to “take reasonable steps to remove all obstacles to enable Chelsea to have access to all the classrooms and the toilet allocated to her by using a wheelchair.”
24. Another example is the *Standard Bank Ltd. v CCMA* [2008] 4 BLLR (LR) 356-390 case, where the Bank employee was dismissed after being injured in a car accident. The Bank failed to accommodate the employee which renders dismissal “automatically unfair”. The Bank had not complied with the Code of Good Practice on Dismissal. The Court noted that the underlying constitutional rights are the right to equality, the right to human dignity, the right to choose an occupation, and the right to a fair labour practice. Justice Pillay noted that marginalisation of persons

with disabilities in a workplace is not because of their ability to work BUT because the disability is seen as an abnormality or flaw; that integration and inclusion in mainstream society aim not only to achieve equality, but also to restore the dignity of persons with disabilities; that dignity for employees with disabilities is about being independent socially, and most of all, economically, about managing their normal day-to-day activities with minimum hardship for themselves and others and about contributing and participating in society; and that it is about self-respect and self worth.

25. There are, however, a number of obstacles to the application of this right. The obstacles include poverty and therefore the inability to afford legal fees, lack of information in the use of equality courts, accessibility of equality courts, communication barriers, lack of trained judiciary and court staff, inaccessible buildings and transport. Court papers are for example not available in braille.
26. The South African Human Rights Commission is mandated by the Constitution as an independent body responsible for promoting and protecting the rights of all South Africans. Capacity challenges however delay effective investigation and finalisation of complaints.
27. Various measures over and above those contained in the Constitution and PEPUDA, have been taken to guarantee effective legal protection against discrimination. Persons with disabilities have been included as a designated group in all affirmative action policies and programmes to redress past discrimination, for example in the White Paper on Affirmative Action in the Public Service (1998); the Broad-based Black Economic Empowerment Act, Act 53 of 2003; the Employment Equity Act, etcetera.

## **B. ARTICLE 8: Awareness Raising**

28. South Africa has undertaken a number of actions in order to raise awareness of the rights of persons with disabilities and inform persons with disabilities and society in general about the obligations contained in the CRPD.
29. Popularisation of the CRPD within organs of the state was a major focus of the disability awareness campaign over the past four years, and workshops have been conducted with all national and provincial government department. Similar workshops took place with disability organisations predominantly at national level.
30. The local sphere of governance was a particular focus during the reporting period, with the aim of ensuring that municipal Integrated Development Plans (IDPs) are rights-based, equitable and articulates the obligations of the Convention. The Office on the Status of Persons with Disabilities, supported by the Department of Cooperative Governance and Traditional Affairs, provincial Offices on the Status of Persons with Disabilities and the South African Local Government Association

(SALGA), conducted workshops and sessions with over 60 district and local municipalities in six provinces, as well as organisations of and for persons with disabilities between 2008 and 2011 to popularise the Convention. The outcome of this process was the publishing of the ‘Disability Framework for Local Government: 2009-2014’, aimed at enabling local government and other role-players to mainstream disability in the development programmes of municipalities.

31. The majority of disability awareness work however targets the public at large. Some initiatives include:

- Government’s political outreach programmes, including “Taking Parliament to the People” (quarterly) and the “Izimbizo” programme, where Members of Parliament and Provincial Legislatures as well as Cabinet Ministers and Mayors, provide a monthly platform for communities, particularly in deep rural areas, to engage their leadership directly on issues of human rights, development and service delivery. The guidelines for these public meetings require that persons with disabilities and their organisations be targeted as participants, and that it be ensured that all venues are accessible and sign language interpreters are available. Responses to public questions with regards disability are based on the CRPD. These events also coincide with bringing services closer to remote communities, with mobile services from the Departments of Home Affairs, Health and Labour, the South African Social Security Agency and the National Youth Development Agency present on site for ease of access to those who would normally find it difficult to access these services.
- The Office on the Status of Disabled Persons (OSDP) developed and distributed policy guidelines for portraying disability in the media to media practitioners. The aim of the policy guidelines was to encourage frequent and positive portrayals of people with disability in mass media.
- The Department of Social Development (DSD) conducted 64 community advocacy and awareness programmes that benefited 20 000 people;
- The Department of Basic Education (DBE) in collaboration with the Government Communication and Information Service (GCIS) produced and broadcast awareness raising programmes on national television and subsequently distributed DVDs on the right of children with disabilities to school in the communities to schools. The DBE website also has the Thutong Education Portal that raises awareness on an ongoing basis.
- A number of departments conduct media campaigns to raise awareness on the portrayal of persons with disabilities in a manner consistent with the principles of the CRPD.

32. Awareness campaigns peak during Disability Rights Awareness Month, which is launched on the 3<sup>rd</sup> of November every year and culminates in the commemoration of the International Day of Persons with Disabilities on December 3. All organs of

the state participate in the Disability Rights Awareness Month programme in collaboration with organisations of and for persons with disabilities.

33. Information pertaining rights of persons with disabilities as well as on disability-related services is currently available through a number of government departments (Department of Women, Children and Persons with Disabilities and its provincial counterparts, Department of Social Development, Department of Health, Department of Labour, Department of Home Affairs etc), as well as disability service organisations and organisations of disabled persons. Invaluable work is being done by these smaller organisations with some commendable innovation being undertaken, for example the Sponge Project, run by three disabled activists as an SMS information service at extremely low operational cost.
34. Specific challenges that require attention include:
  - Strengthening coordination and continuity of the various campaigns through centralised materials and message development as well as branding of the National Accessibility Campaign;
  - Strengthening monitoring and evaluation of the impact of awareness campaigns;
  - Strengthening a central comprehensive disability information service;
  - Strengthening cooperation and coordination capacity within the disability sector.
35. While the efforts to raise awareness on disability by the three spheres of government are recognised, the need for more collaborative initiatives with civil society is acknowledged. Stereotypes, deep-seated prejudices and harmful practices relating to persons with disabilities remain a concern.

### **C. ARTICLE 9: Accessibility**

36. The Promotion of Equality and Prevention of Unfair Discrimination Act (Act 4 of 2000) (PEPUDA) qualifies a lack of accessibility as unfair discrimination. Subject to PEPUDA, no person may unfairly discriminate against any person with a disability by contravening the Code of Good Practice on Employment of Persons with disabilities (2002) or regulations of the South African Bureau of Standards that govern environmental accessibility; or by failing to eliminate obstacles that unfairly limit or restrict persons with disabilities from enjoying equal opportunities. Failing to take steps to reasonably accommodate the needs of such persons with disabilities constitutes discrimination.
37. ***Built environment***
  - 37.1. The South African Human Rights Commission made a number of recommendations in its “*Towards a Barrier-free Society*” Report in 2002, noting that legislation governing the accessibility of built environments must focus on improving the preconditions for equal participation and dignity and providing mechanisms for governance, administration and enforcement, and that an urgent

review of the South African legislative framework for accessibility and the built environment was required to reflect Constitutional rights; ensure safe, healthy and convenient use for all; and include international standards for universal access.

- 37.2. Legislation governing access to the built environment is currently under review to bring it in line with universal access principles. The National Building Regulations and Building Standards Amendment Act (Act 103 of 1977) as well as the National Guidelines for Accessibility provide guidance nationally. For any building used by the public to meet the legal requirements of the National Building Regulations, its facilities must meet the standards and measurements contained in the 'SANS 10400-S' document: "The application of the National Building Regulations Part S: Facilities for persons with disabilities". In South Africa compliance has been historically low. The disability sector has pointed out that there is an urgent need to strengthen monitoring of new building developments to ensure compliance with accessibility. Persons with disabilities furthermore currently require special dispensation to renovate sectional title properties for the purposes of reasonable accommodation.
- 37.3. Any person with a disability could prosecute any organisation through the Promotion of Equality and Prevention of Unfair Discrimination Courts should that organisation's building be legal in terms of the National Building Regulations – Part S.
- 37.4. Government has prioritised the revamping of public buildings in order to meet the diverse needs of persons with disabilities. The Department of Public Works (DPW) identified 209 buildings for remodelling, including the construction of access ramps, rails, conversion of lifts and ablutions facilities. Results of an accessibility audit revealed that 39% of national hospitals and 49% of rural health institutions scored more than 60% according to the National Health accessibility tool. The Department of Arts and Culture identified a total of 92 facilities utilised by the Department and its public entities during an audit in 2009 requiring accessibility renovations at an estimated cost of USD 2,875,000. Challenges such as lack of funds still hinder full accessibility of health establishments and various facilities are in need of upgrading.
- 37.5. In 2010/2011, National Government prioritized seventy five (75) buildings to ensure that they comply to accessibility standards for persons with disabilities.
- 37.6. There are discussions with National Treasury to increase this fiscal allocation in the future to ensure the urgent remodelling of buildings where services are offered to the public, for example, buildings of the Departments of Health, Education, Social Development respectively and the South African Social Security Agency (SASSA).
- 37.7. In the Willem Bosch matter that was heard in court, a precedent was set to make all South African Police Services (SAPS) stations accessible for persons with

disabilities. One hundred and twenty nine (129) police stations underwent renovations to improve accessibility between the period April 2010 and April 2012, with an additional 30 police stations scheduled for the 2012/13 financial year.

- 37.8. Similarly, a total of five (5) courts have been renovated between 2010 and 2012, with a further fifty six (56) courts due for renovation in the current financial year, following the Esthe Muller settlement.
- 37.9. With regard to accessible schools, the new *National School Infrastructure Norms* includes specifications for universal design so that all new schools that are being built are accessible. A number of schools that serve as pilot sites have been converted to be accessible: 10 have been completed to date and a further 20 are currently being converted.
- 37.10. The gap between will and commitment, implementation and enforcement was highlighted during the 2010 FIFA World Cup, when organisations of persons with disabilities pointed out that some of the newly built/upgraded stadia failed to make adequate disability provisions in their plans despite the prior consultation with the disability sector.
- 37.11. The South African National Council for the Blind (SANCB) in its submission notes that some buildings cannot be made accessible due to structure or financial barriers, professionals in the construction industry ignore specifications for people with sensory disabilities. The DPO highlights the need for universal design and responsive budgeting to be included in training of construction professionals and to strengthen monitoring and consequences for non-compliance.

### **38. ICT**

- 38.1. The Electronic Communications Act (ECA) (Act 36 of 2005) constitutes overarching legislation addressing the universality of accessibility and redress within the ICT sector in South Africa. As regulator for the South African electronic communications, broadcasting and postal services sector, ICASA, is mandated, through the ECA, to license operators and regulate activities in electronic communications and broadcasting services, and, by the Postal Services Act, to regulate the postal services. Enabling legislation also empowers ICASA to monitor licensees' compliance with license terms and conditions; to develop regulations for the three sectors, to plan and manage the radio frequency spectrum as well as to protect consumers of these services. In terms of Section 2(c) of the ECA, ICASA is required to promote the empowerment of historically disadvantaged persons including black people, with particular attention to the needs of women, opportunities for youth, and challenges for persons with disabilities.

- 38.2. Universal access has been mainstreamed across Communications legislation, including the Postal Services Act, the Post Bank Act, the Independent Communications Act, the ICT Charter, as well as the Broadcasting Digital Migration Policy and the Broadband Policy.
- 38.3. The Independent Communications Authority of South Africa (ICASA), the regulatory body, developed a Code on Persons with disabilities as required by Section 70 of the ECA as well as section 2(h) of the Postal Services Act No. 124 of 1998. This Code provides and regulates key aspects of access to ICT services for persons with disabilities and compels ICT service providers to comply with its requirements. These include:
- All service providers are required to meet specific targets in respect of the rights of access for persons with disabilities, including access to postal services and the built environment, as an integral component of their licences;
  - Annual awareness programmes on the rights of persons with disabilities to universal access to ICT services are coordinated through ICASA and the Code has been made available in different formats across all nine provinces;
  - Awareness programmes through the use of community radio stations in local languages
- 38.4. The South African Bureau of Standards' Sub-Committee on ICT Accessibility standards annually review standards as it relates to access for persons with disabilities.
- 38.5. The Department of Communications is currently finalising a Sector Strategy for Persons with Disabilities in consultation with organisations of disabled persons, experts, manufacturers of ICT equipment, regulators and standard generating bodies.
- 38.6. A disability portal, the National Accessibility Programme (NAP), was launched in 2008 as a partnership project between government, the African Advanced Institute for Information and Communication Technology and the disability sector, and *"is positioned as an integrated service provider to the disability community and industry offering accessible technology services, communication services, data synthesis services and other commercial services. NAP is thus a one-stop information, services and communications channel that will support everyone involved in the disability field – persons with disabilities, caregivers, the medical profession, and those offering services in this domain."* The NAP has employed 7 persons with disabilities to assist with conceptualisation and implementation of the portal. The website can be accessed at <http://www.napsa.org.za>.
- 38.7. The South African Broadcasting Corporation (SABC), as the national public broadcaster, is required to broadcast information that is accessible to all. Progress has been slow due to financial constraints, but selected daily television news bulletins have dual sign language interpreting services as well as sub-titling,

and the corporation has increased disability content across its radio and television programming considerably over the past few years.

- 38.8. South Africa hosted the 2008 World Telecommunications Standardisation Assembly and included a side event on ICT accessibility in collaboration with the ITU Bureau to engage member states on issues of universal access and design in ICT.
- 38.9. Blind SA receives an annual grant to enable it to provide economic empowerment as well as run a Braille service for clients in South Africa and some African countries at affordable prices;
- 38.10. The South African Federation for Mental Health (SAFMH) in its submission emphasises the need for accessible information to people with mental and intellectual disabilities, which has been neglected in current developments to promote universal access.

### **39. Accessible Transport**

- 39.1. Adequate, efficient and accessible transport is required to support productivity and assist all persons to access basic services. South Africa's 221 000 km of rural roads continue to pose major funding and management challenges with regard to accessible transport, as these roads are often difficult to negotiate by any form of vehicle, limiting access in general to rural settlements.
- 39.2. South Africa's public transport system does not comply with universal access principles and continues to marginalise persons with disabilities by denying them access not only to transport but, indirectly, to a variety of other rights. Public transport is generally poorly developed in the country and remains mainly inaccessible and unaffordable to the majority of persons with disabilities. The most common forms of public transport are subsidised bus services, privately operated minibus taxis as well as subsidised rail and air.
- 39.3. The Department of Transport (DOT) has published legislation that incorporates the principles of universal access by requiring all public transportation to accommodate persons with disabilities alongside elderly people, pregnant women, young children and those accompanying children.
- 39.4. Preparations for the 2010 FIFA World Cup was a catalyst for much change in the area of accessible transport, including the provision of relevant technical equipment the assurance that all public transport operations contracts will be restructured to include accessibility as a major component.
- 39.5. In March 2007, Cabinet approved significant road and rail transport initiatives on the "Implementation of the Public Transport Strategy and Action Plan" as well as the "Provision of Transport for the 2010 FIFA World Cup".

- 39.6. Disabled people organisations extensively consultations with the DOT and its implementing agencies with regard to the needs of persons with disabilities and the specifications during the design and planning phases. However, due to the pressure of rolling out infrastructure, only some of the recommendations were considered resulting in corrective measures needing to be taken post-2010 FIFA World Cup.
- 39.7. Funding was committed over the 2009/13 Medium Term Expenditure Framework (MTEF) for the refurbishment of 2 000 Metro rail coaches for the provision of dedicated rail commuter services during the 2010 FIFA World Cup. These coaches are fully accessible and are deployed in all urban centres where Metro rail services are provided. Even though the Gautrain Project consulted with the disability sector, challenges are currently being addressed with regards weaknesses in universal access on the Project.
- 39.8. Funding was furthermore allocated during the same MTEF period to Passenger Rail Agency of South Africa (PRASA) for the building of new stations and the provision of major upgrades. This includes full accessibility to all existing stations and platforms in all corridors that were linked to host cities of the 2010 World Cup.
- 39.9. Standard design guidelines (Universal accessibility standards) to address accessibility in the passenger rail environment commenced in 2005 and culminated in the adoption of such universal guidelines in March 2008 by PRASA and the Department of Transport (DOT). PRASA is currently updating the guidelines and policy in consultation with organisations of disabled persons to strengthen universal access on its trains and stations as an integral component of its Modernization Program which will upgrade 134 core stations by 2014.
- 39.10. The Airport Companies of South Africa (ACSA) has worked with the disability sector to improve services on passenger assistance units (PAUs) by increasing the number of units available at ACSA airports as well as training PAU personnel. Disabled people organisations periodically report on isolated instances where people with physical disabilities are discriminated against in terms of boarding flights, but these are usually resolved through intervention by, among others, the Civil Aviation Authority (CAA), the Department of Transport, as well as Department of Women, Children and Persons with disabilities.
- 39.11. The Department of Transport is furthermore finalising norms and standards for accessible scholar transport across the value chain, and specifications for accessible school buses have been developed.
- 39.12. The Integrated Transport System, which provides universal accessibility on municipal bus services, are currently being rolled out in metropolitan and larger local municipalities. The Cape Town metropolitan is also supported in implementing a Dial-A-Ride door-to-door specialised transportation service for

persons with disabilities. Sustainability of this service is currently under pressure due to the consistent increase in the number of persons with disabilities requiring the service.

- 39.13. The National Council of Persons with Physical Disabilities (NCPDPSA) has been appointed as agent to issue parking discs for persons with physical disabilities. The system has however not been institutionalised across the country, requiring different discs with different criteria applied for each municipality. Past attempts to develop a uniform system have failed. The NCPDPSA is also contracted by the Department of Environmental Affairs to regulate access to beaches through 4X4 vehicles driven by persons with disabilities, through the issuing of certificates. To date, approximately 218 applicants have been successful.

#### **D. ARTICLE 10: Right to life**

40. The South African Constitution recognises and protects the right to life and survival of persons with disabilities on an equal basis with others.
41. The Termination of Pregnancy Act (TOP), Act 92 of 1996, provides for the choice of termination of pregnancy from the 13th up to and including the 20th week of the gestation period if *“there exists a substantial risk that the foetus would suffer from a severe physical or mental abnormality”*, and after the 20th week of the gestation period if *“the continuation of the pregnancy would result in a severe malformation of the foetus”*.
42. South African Federation for Mental Health (SAFMH) asserts that genetic counsellors should be trained to take into account the right to life of severely intellectually and/or physically disabled fetuses before recommending termination on the grounds of amniocentesis or other tests.

#### **E. ARTICLE 11: Situations of risk and humanitarian emergencies**

43. The Disaster Management Act, Act No. 57 of 2002 provides for, among others, *“an integrated and co-ordinated disaster management policy that focuses on preventing or reducing the risk of disasters, mitigating the severity of disasters, emergency preparedness, rapid and effective response to disasters and post-disaster recovery”*. The Act requires amendments to bring it in line with Article 11 as it is currently silent on the need to ensure equitable access to disaster management services for persons with disabilities during emergencies. The result is that none of the provincial, district and local municipal disaster plans will incorporate provisions such as mapping homesteads where persons who might require special assistance during emergencies, training of disaster management

personnel, prevention of injury during evacuations which might result in primary or secondary impairments etcetera.

44. South Africa has taken some measures to ensure the inclusion of persons with disabilities in all emergency and disaster relief activities, for example, when people with severe mental illnesses or profound intellectual disabilities require the services of the South African Police Service to transport them to hospital, this should be done in a safe and decent manner in accordance with the Mental Health Care Act (Act 17 of 2002), supported by guidelines issued by the SAFMH.

#### **F. ARTICLE 12: Equal recognition before the law**

45. South Africa has put legislative measures in place to ensure that persons with disabilities have the right to be recognised as equal citizens before the law.
46. Persons with disabilities in South Africa have the right to own or inherit property, to control their own financial affairs and have equal access to bank loans, mortgages and other forms of financial credit. They also have the right not to be arbitrarily deprived of their property, and can access recourse through the courts, including the Equality Court, if this right is infringed upon on grounds of disability.
47. The South African Law Reform Commission is concluding a lengthy participatory process of reviewing legislation with regards to assisted decision-making for adults with impaired decision-making capacity which seeks to deal with inadequacies of the current curatorship system.
48. The interpretation of the CRPD in document A/HRC/10/48 suggests that in no context will it be necessary to make decisions in the interest of persons with disabilities. The Government of South Africa suggests that at times, temporary measures may be required to respond to a person with mental illness when there may be a lack of capacity to act legally.

#### **G. ARTICLE 13: Access to justice**

49. The Bill of Rights provides for equal access to justice through the right to access courts, the right to a fair trial, the rights to appeal and the rights to an interpreter during trial. South Africa had to redress a number of challenges in realising the right of especially black South Africans to access to justice post-apartheid. Challenges with regard to access to justice in general include a lack of capacity, backlog of cases, delays in case proceedings and inadequate security. There is a shortage of trained professionals for both the judiciary and legal professions.
50. Some initiatives have included the creation of special courts (including sexual offences courts, family courts, labour courts and equality courts). Although full

accessibility of the justice system has not yet been achieved, government has created a range of institutions and mechanisms for facilitating equal access to justice. Among these institutions and programmes is Legal Aid, providing legal assistance at the expense of the State especially to impoverished persons. With regard to access to courts by persons with disabilities in rural areas, the Proximity of Courts Programme is noteworthy. This service provides periodic courts to rural and remote communities that would otherwise have no access.

51. South Africa currently has 220 equality courts. Every magistrate court in the land also acts as an equality court. The challenges in relation to accessing equality courts relate to the lack of information to persons with disabilities regarding its existence, despite on-going road shows and awareness campaigns among the general population conducted by the SA Human Rights Commission and the Department of Justice and Constitutional Development. There are also systemic issues in terms of environmental accessibility.
52. With regard to access to justice for offenders, it is noted that the Correctional Services Act is silent on disability and needs to be reviewed to ensure equal access to justice for offenders with disabilities. In South Africa, the protection of offenders with disability is exercised in correctional institutions through segregation of persons with disabilities from violent offenders as per the recommendation of the National Integrated Strategy of Offenders with Disability.
53. Although progress has been made, significant challenges in relation to equal access to justice for persons with sensory, communication and intellectual disabilities remain.
54. The South African Police Service (SAPS) has prioritised the training and sensitisation of SAPS personnel towards the rights of persons with disabilities. A total of 9,555 staff members attended 527 workshops between the period 2010-2011, and an additional 196 SAPS managers participated in 10 workshops during the same period. Over 17,571 participants participated in a total of 249 disability-related calendar events.
55. Some police stations have taken the initiative to place community sign language interpreters on an on-call basis, but this practice has not been institutionalised within the South African Police Service.
56. The right to an appropriate sign language interpreter during trial currently presents a major challenge for deaf persons within the justice system, in part due to the low education levels and subsequently lack of knowledge of official sign language by a large number of deaf persons.
57. The Children's Act 38 of 2005 recognises the special needs of children with disabilities as one of its main objectives. Section 6 of the Act calls for all proceedings, actions or decisions in a matter concerning a child, to protect the child

from unfair discrimination on the grounds of the disability of the child or a family member of the child, and calls for an enabling environment to respond to the special needs that the child might have.

58. With regard to age appropriate accommodations, the Criminal Procedure Second Amendment Act, 1995 (Act 75 of 1995) governs the judicial processes and procedures associated with all crimes including those against children. It also provides for the use of intermediaries in cases where children have to give evidence in court.
59. As reported earlier, a total of five (5) courts have been renovated to improve physical access to courts between 2010 and 2012, with a further fifty six (56) courts due for renovation in the current financial year, following the Esthe Muller settlement in 2004 that instructed the Department of Justice and Constitutional Development to make all courts accessible by 2009. The SA Human Rights Commission was directed to monitor the accessibility of courts.
60. Major challenges are still being experienced in providing reasonable accommodation measures for persons with intellectual and/or psychiatric disabilities, resulting in perpetrators accused of violence against and abuse often walking free.
61. The SA Federation for Mental Health (SAFMH) in its submission recommends that this injustice be redressed with immediate training of all judicial officials on reasonable accommodation measures that have to be implemented.

#### **H. ARTICLE 14: Liberty and security of the person**

62. South Africa has moved from institutionalization to supported integration of persons with disabilities.
63. The Mental Health Care Act does provide for procedures for application for involuntary mental health care, including a 72 hour assessment following which the Mental Health Review Board considers such an application for involuntary mental health care for referral to the High Court for consideration. The Act furthermore provides for legal representation when admission is made and reviewed.
64. There are still residential mental health care facilities as well as public and private residential institutions for persons with disabilities whose families cannot take care of them, and where admission is voluntary. However, there is a move towards focussing on community-based care where possible. Although there are norms and standards that govern the quality of care and governance matters, there is currently a need to strengthen monitoring of quality of care more vigilantly and address the gap that exists in terms of overseeing private residential facilities.

65. The Department of Correctional Services (DCS) separates offenders with disabilities who are housed in a secure detention unit to ensure that they are not exposed to any danger, in particular within the context of the current over-crowding in the majority of correctional facilities.
66. Monitoring and evaluation is done by means of Statistical tool G388 form which has been reviewed and mainstreamed to accommodate offenders with disabilities. Statistical analysis to monitor trends in the prisoners with disabilities population is done monthly through reporting on the Management Information System (MIS), which reports on location, type of disability, age, gender and racial group.
67. With regard to deprivation of liberty, the CRPD in document A/HRC/10/48 states *“Prior to the entrance of the Convention, the existence of a mental disability represented a lawful ground for deprivation of liberty and detention under international human rights law. The Convention radically departs from this approach by forbidding deprivation of liberty based on the existence of a mental disability, including mental or intellectual disability, as discriminatory”*.
68. South African legislation agrees that mental disability should not be a ground for depriving a person of their liberty and has several legal articles in different laws to this effect. However, in particular if a person is a danger to self or others and the reason for this is the presence of mental disorder, then they may be admitted in a healthcare facility for treatment. Parliament deliberated and consulted widely before passing the Mental Health Care Act (Act 17 of 2002). This Act is aligned to the Criminal Procedure Second Amendment Act, 1995 (Act 75 of 1995) and the Constitution.
69. The Gauteng Consumer Advocacy Movement (GCAM), which is a member of the national advocacy movement, is in favour of involuntary admissions, and takes a view that *“mental health organisations and facilities of treatment should not be seen as depriving people of their liberty but rather facilitating people to obtaining their liberty”*. GCAM also confirms their satisfaction with the current Mental Health Care Act 17 of 2002 relating to involuntary admission and the SAPS involvement, and would not recommend any changes to the Act at this point in time.

**I. ARTICLE 15: Freedom from torture or cruel, inhuman or degrading treatment or punishment**

70. The Constitution states that *“Everyone has the right to be free from all forms of violence from either public or private sources; not to be tortured in any way; and not to be treated or punished in a cruel, inhuman or degrading way.”*
71. South Africa signed the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) on 29 January 1993. By order of the National Commissioner policy has been developed to ensure

that torture and other forms of cruel, inhuman or degrading treatment of persons in custody of the SAPS are prevented.

72. In South Africa, the protection of offenders with disability is exercised in correctional institutions through segregation of persons with disabilities from violent offenders as per the recommendation of the National Integrated Strategy of Offenders with Disabilities, as reported under Article 14.
73. Mental Health Review Boards, appointed for all psychiatric hospitals as well as care and rehabilitation centres in all 9 provinces, monitor mental health institutions to uphold human rights and ensure quality of care and receive complaints with regards ill-treatment and torture which might occur.
74. A mental health patient's rights charter was developed and distributed for use in all health establishments, and all Mental Health Review Board members received training.
75. A training manual for law enforcement officers was developed detailing their role, responsibilities and procedures to be followed when requested to intervene when a person is deemed in danger to self or others, as well as procedures for handling reports of abuse.
76. The SA Human Rights Commission (SAHRC) has conducted a number of investigations into allegations of human rights violations in mental health facilities over the past few years, and has made recommendations with regards both prevention of re-occurrence as well as improving conditions in general. The SAHRC monitors implementation of these recommendations.

## **J. ARTICLE 16: Freedom from exploitation, violence and abuse**

77. The Constitution states clearly that *“Everyone has the right to freedom and security of the person, which includes the right not to be deprived of freedom arbitrarily or without just cause; not to be detained without trial; to be free from all forms of violence from either public or private sources; not to be tortured in any way; and not to be treated or punished in a cruel, inhuman or degrading way.”*
78. The Domestic Violence Act, Act 116 of 1998, legislates against any forms of violence within domestic relationships. This includes relationship between family members or caregivers and persons with disabilities.
79. However, persisting violence against women and girls in particular remains a major challenge in South Africa. In line with the UN Secretary-Generals' UNiTE to End Violence against Women Campaign, the country is intensifying the dedicated, comprehensive and integrated programme on the 365 Days National Action Plan, including the 16 Days of Activism Campaign on No Violence against Women and Children campaign. Disability considerations have been mainstreamed in the

Action Plan as well as 16 Days Campaign, and the sector is represented on the Council against Gender-Based Violence, established to develop a more holistic and proactive response to the unacceptably high levels of gender-based violence.

80. South Africa abolished corporal punishment as referred in the Corporal Punishment Act, 1977 (Act 51 of 1977). The Act repeals any law that authorizes corporal punishment by a court of law, including a court of traditional leaders.
81. The Children's Act, Act 38 of 2005, provides for protective measures for children in residential care, including children with disabilities in boarding schools attached to special schools. The regulations to the Act requires of the Minister of Social Development to conduct regular audits of such facilities to ensure that the minimum norms and standards prescribed by the regulations, are adhered to. Insufficient monitoring and lack of implementation of recommendations contained in, among others, the extensive 2002 audit conducted by the Department of Education, continues to make these institutions places of vulnerability for children with disabilities.
82. The SAHRC also monitors matters relating to exploitation, violence, abuse and violation of human rights in general, and functions as an independent monitoring body.
83. Periodic reporting of exploitation and abuse of social grant recipients by their families, especially persons with intellectual and psychiatric disabilities, require further investigation.

#### **K. ARTICLE 17: Protecting the integrity of the person**

84. The forced sterilization of persons with disabilities is prohibited by the Constitution and the National Health Act (Act 61 of 2003), as well as the Sterilization Act No 44 of 1998 (Act 44 of 1998).
85. The conditions under which pregnancies might be terminated have been discussed under Article 10, but it should be noted that forced termination of pregnancy is prohibited by law.

#### **L. ARTICLE 18: Liberty of movement and nationality**

86. The Bill of Rights in Chapter 2, Section 21 (1-4) refers to freedom of movement and residence. All policies developed in various departments regarding this right, are informed by the Constitution.
87. South Africa put in place measures, including promulgation of the South African Citizenship Act (Act 88 of 1995), which facilitates legislative or administrative

measures to ensure the rights of persons with disabilities to equal access to a nationality. Similarly persons with disabilities have a right to enter or leave the country arbitrarily.

88. There is legislation to ensure that every newborn child, including children with disabilities, is registered at birth and provided with a name and a nationality.

**M. ARTICLE 19: Living independently and being included in the community**

89. Government supports the right of choice by persons with disabilities, and offers a range of support services to this effect within the context of major challenges in providing safe shelter to indigent South Africans. There is however a pre-disposition towards the integration and enable participation of persons with disabilities to live within communities, but does provide support for residential facilities where people are homeless, and/or require 24 hour care.
90. Persons with disabilities with an income less than R3,500 per month (and meeting other relevant criteria as indicated in the National Housing Code) are eligible for government housing subsidies. The normal subsidies are supplemented with additional funding to provide for the specific needs in relation to the disability and impairment and the environmental barrier experienced. Government and the disability sector acknowledge that many persons with disabilities living in informal settlements and in shacks are further disadvantaged by not having access other basic amenities including sanitation and clean water. Municipalities are therefore required to keep a register of people with disabilities living in informal settlements with the aim of accelerating housing provision for this group.
91. A total of 25 361 beneficiaries with disabilities applied and qualified for access to the housing subsidy between 2008 and 2012. Progressive access has been slow albeit steady, with 163 beneficiaries accessing the additional amount to cover reasonable accommodation measures, a total of 195 in 2009/2010, a total of 203 beneficiaries in 2010/11, and a total of 299 in 2011/2012.
92. The Department of Social Development (DSD) supports residential facilities predominantly through subsidisation of non-governmental organisations. There are approximately 149 residential facilities with an estimated budget, for the period under review, of R36 601 006.

<b>Number of facilities - Residential Facilities</b>				
	<b>Urban</b>	<b>Peri-Urban</b>	<b>Rural</b>	<b>Total</b>
<b>South Africa</b>	101	19	29	149

Table 1: Database of residential facilities supported by the DSD

	Clients Currently Served			% Target Currently Served*		
	Urban	Rural	Total	Urban	Rural	Total
<b>National</b>	6416	1566	7982	1.51	0.38	0.95

Table 2: Database of people served in the facilities supported by the DSD

93. The DSD has developed policy guidelines on residential facilities and minimum norms and standards for residential facilities, which have given effect to providing guidelines, minimum norms and standards to the transformation and improvement of the quality of life for persons with disabilities in residential facilities.
94. Supported/assisted living and independent living programs constitute a move towards units/homes that are more open and smaller and within the community to facilitate de-institutionalisation. These are suitable for people who do not require 24 hour care and have some degree of independence.
95. Training and development programmes to assist beneficiaries with disabilities to be involved in the day to day running of the facility is on offer in some residential facilities.
96. Training on the policy guidelines was conducted with DSD officials working in the field of disability and this contributed to the transformation and closer monitoring and evaluation of residential facilities. The implementation of the policy commenced with the pilot process of residential facilities that range between poorly established facilities to the more established facilities. Structures and processes were put in place contributing to further development of residential facilities. There is a much greater focus in improving the conditions in residential facilities, despite funding and resource limitations.
97. Major challenges being faced by residential facilities which are currently receiving attention include:
  - Inadequate resources allocation linked to the need for affordability costing models
  - Overstretched and less capacitated service providers and employees in facilities
  - Dependency on social grants by persons with disabilities as the only mode of survival
  - Lack of effective skills development of persons with disabilities resulting in minimal or lack of advancement
  - The need to extend and expand residential facilities especially in rural areas
  - Governance challenges
  - Transfer skills from established to emerging organizations
98. The Social Security Act (Act 13 of 2004), provides for among others, an additional Grant-in-aid for disability grant recipients who require full-time attendance by another person owing to his/her physical or mental disabilities.

99. The Mental Health Care Act (Act 17 of 2002) promotes the provision of community-based care, treatment and rehabilitation services, and the regulations to this Act prescribes standards for residential and/or day care community based mental health services. Psychiatric hospitals have halfway homes as part of psychosocial rehabilitation in preparation for independent living in the community.

#### **N. ARTICLE 20: Personal mobility**

100. To give effect to the right of persons with disabilities to move freely and with independence, the National Rehabilitation Policy (2006) and Standardisation of Assistive Devices in the Public Sector, provide for funding for assistive devices. The latter states that “there shall be no discrimination against clients on the grounds of disability, age, gender, social conditions, financial situation, disease, medical condition, or any other basis in the assessment for issuing an assistive device.” Assistive Devices form part of the public sector health service package offered free of charge to qualifying members e.g. children under six and disabled people qualifying for free health care. It should however be noted that the guidelines make provision for issuing of Augmentative and Alternative Communication devices only at tertiary level of health care, placing these devices outside the reach of the majority of persons with disabilities.
101. Stringent safety measures are taken to make sure that the devices are of high quality and are user-friendly.
102. The provisioning of assistive devices is prioritised on rehabilitation budgets, although waiting periods between date of application and date of issuing remain a challenge. Accurate and updated statistics are currently not available, but work is being done to include the issuing of assistive devices on the District Health Information System.
103. The South African Disability Development Trust (SADDT), which receives part-funding through government subsidies, fills a critical gap by providing assistive devices that are critical to maintain or retain employment, whether in the open labour market or for self-employment purposes, but not in instances where the employer has an obligation to provide equipment for the workplace under reasonable accommodation, where these devices are available through the Department of Health policy or whereby medical aid schemes provide funding for the required devices. The SADDT for example assisted 30 employed persons with disabilities in 2009/10 with a range of assistive devices at a total cost of USD48,750.
104. The Department of Public Services and Administration is currently costing the draft policy on reasonable accommodation in the public service, which will bring uniformity across the public service in the provisioning of assistive devices,

personal assistance services and technology for disabled public servants. The South African Police Services (SAPS) have for example procured an extensive range of personal assistive devices for employees with disabilities, including manual and motorised wheelchairs, prostheses, white canes, vehicle adaptations, as well as a range of technological equipment, to promote independence and productivity during the period 2008-2011.

**O. ARTICLE 21: Freedom of expression and opinion, and access to information**

105. The Bill of Rights in Chapter 2, Section 16 (1) and (2) refers to Freedom of expression. All policies developed in various departments regarding freedom of expression are informed by the Constitution.
106. The Independent Communications Authority of South Africa (ICASA) was established as the body entrusted with compliance monitoring and enforcement. A Disability Directorate was created and Focal Points established in all State Owned Enterprises to monitor, facilitate and evaluate progress on the implementation of disability programmes.
107. The National Accessibility Programme (NAPSA), as reported on under Article 9, specifically focuses on innovation to ensure that information is accessible to persons with disabilities.
108. The South African Public Broadcaster, the SABC, has dedicated radio and television slots across all its stations in which persons with disabilities are given an opportunity to express themselves freely, including a dedicated actuality programme for deaf South Africans on television.
109. As reported earlier, the right of persons with disabilities to self-representation in matters affecting their lives are well enshrined in South African public life and the formulation of legislation and policies.
110. The Department of Arts and Culture has just completed an investigation into national braille production needs and related braille policy matters with the aim of developing a braille production strategy for the country.
111. The SA Federation for Mental Health notes that the opinions and ideas of people with mental disabilities are often regarded as of lesser value, and communication between this user group and the rest of government requires further work.

**P. ARTICLE 22: Respect for privacy**

112. The Bill of Rights in Chapter 2, Section 14 (a-d) provides for the right to privacy.

113. Persons with disabilities enjoy the right to privacy of personal, health and rehabilitation information on an equal basis with others.

**Q. ARTICLE 23: Respect for home and the family**

114. In South Africa, persons with disabilities are free to marry and found a family on the basis of full and free consent. Section 12 (2) of the Constitution provides for the right to bodily and psychological integrity, including decisions about reproduction and control of one's body.

115. The National Health Act (Act 61 of 2003) stipulates that all persons including those with disabilities have a right to reproductive health services including family planning.

116. The SA Divorce Law of 1979 requires revision as it currently makes provision for the court to grant a decree of divorce on the ground of the mental illness as well as on the ground that the defendant is by reason of a physical, disorder in a state of continuous unconsciousness in certain circumstances, whereby a legal practitioner is appointed to represent the defendant.

117. The Social Security Act (Act 13 of 2004), provides for among others, access to a care dependency grant for parents (including foster parents) and/or care-givers of children with permanent, severe disabilities between the ages 0-18 years of age, on condition that these children are not permanently cared for in a State Institution;

118. The Department of Social Development is in the process of finalising a strategy for orphans in order to provide them with places of safety if the immediate family is unable to care for a child with a disability. South Africa undertakes every effort to provide alternative care within the wider family, and failing that, within the community in a family setting.

**R. ARTICLE 24: Education**

119. All policies published in terms of the National Education Policy Act (Act 27 of 1996) aim at redressing inequalities created under apartheid and ensuring societal transformation through education which values diversity and aims at developing the full potential of each learner, irrespective of his or her social and cultural background. These policies include the National Curriculum Statement Grades R to 12 (2011), which makes inclusivity a core principle, the White Paper on Early Childhood Education (2001) and the White Paper on Inclusive Education (2001).

120. The South African Schools Act (Act 84 of 1996) embodies the obligations of the Bill of Rights by stating that public schools must admit learners and serve their educational requirements without unfairly discriminating in any way. In determining

the placement of a learner with special education needs, the Head of Department and principal must take into account the rights and wishes of the parents of such learners and uphold the principle of “what is in the best interest of the child” in any decision making. The Act further states that “where reasonably practicable”, the State must provide education for learners with special education needs at ordinary public schools and provide relevant educational support services for such learners and take all reasonable measures to ensure that the physical facilities at public schools are accessible to people or learners with disabilities.

121. Education White Paper 6 on Special Needs Education: Building an Inclusive Education and Training System (2001) outlines government’s strategy to transform the current education system to make it more efficient, more equitable and more just, recognizing the right of all learners to attend their local neighbourhood school and to receive the necessary support. The policy embodies the principles of Article 24 of the Convention as it sees inclusive education as a means through which society can be transformed to promote tolerance and respect for diversity and the human rights of all people, specifically persons with disabilities who have been and are marginalized and excluded to a great extent.
122. The policy is being incrementally introduced over a period of 20 years through short, medium and long-term strategies. In the short term or first stage of policy implementation (2002 – 2009) 30 of the 81 districts in the country were targeted for development. 30 ordinary schools were selected in the poorest parts of the country for conversion into full-service schools to serve as model sites of full inclusion. Furthermore, 34 special schools were selected for upgrading and conversion into resource centres. In all 30 districts transversal district-based support teams were established and trained to provide support services in an integrated way, thus maximizing existing services through coordination and inter-sectoral collaboration.
  - A comprehensive audit of all special schools conducted in 2002 to determine where schools were dysfunctional, under-resourced, lacked training and needed upgrading or other interventions, including addressing abuse of learners, revealed huge disparities in provision and quality between schools in urban and metropolitan areas and those in townships and especially rural areas. In 60% of districts in the country, there were no special schools at all. The National Treasury made additional funds available in 2006 – 2011 for the improvement of the most neglected special schools, training of teachers and provision of assistive devices and specialised equipment. As part of this programme, more new special schools were also built.
  - These key systemic measures to build a single inclusive system were accompanied by an extensive public advocacy campaign and aimed at laying the foundation for a system-wide implementation of the policy of Inclusive Education in South Africa.
  - At the end of the first stage of implementation, mainly through donor funding, the South African government re-confirmed its commitment to the implementation of

the policy by recognising inclusive education as a national priority area in education and allocating approximately USD250,000,000 over four years (2008 – 2012) for taking the system to scale.

- During this period attention has been given to up-scaling strategies for provincial implementation of inclusive education, increasing the number of ordinary schools to be converted into full service schools from 30 to 513, strengthening of transversal support structures at all levels such as district and school support teams through the creation of more specialist posts, training on inclusive education, screening, identification, assessment and support, curriculum differentiation, use of assistive technology and other areas of specialisation.

### **123. Qualitative and Quantitative Achievements, Challenges and Remedies and implementing measures to increase access and reasonable accommodation**

- 123.1. Legislative and policy barriers to the inclusion of children, youth and adults in ECD, primary, secondary, post-secondary and adult education have been removed but need to be further strengthened in regulations.
- 123.2. The Constitution of South Africa stipulates that the provisioning of basic education is a concurrent national and provincial function. So although the national policy framework promotes primary and secondary education of all children and youth (including those with disabilities) in one system, this is not always carried through at the provincial level where new segregated special schools (in many cases with residential facilities) are still being built, leading to separation of children with disabilities from their families and communities.
- 123.3. A strategy that will drive the implementation of the inclusive education policies has been field tested, revised and refined since 2006 and is currently being finalised as national policy. The National Strategy on Screening, Identification, Assessment and Support; 2008 (SIAS) has been developed in response to the inclusive education policy call for an overhaul of the process of identifying, assessing and enrolling of learners in special schools and to curb the unnecessary placement of learners in special schools. The strategy is also responding to the enhancement of the nature and quality of support that has to be provided to learners who require additional support. The SIAS strategy provides guidelines for early identification and support, how to determine the nature and level of support required by learners and how to determine the best learning site for the support. The strategy also provides guidelines on the central role that parents and teachers play in implementing the strategy as well as on the alignment of services by various government sectors.
- 123.4. As indicated above, there is a constitutional guarantee of free and compulsory basic education to all children, without discrimination on the basis of disability. However, not all children with disabilities of school going age are currently being supported to exercise this right.

- 123.5. The right to education of children with severe and profound disabilities to education has not yet been acknowledged in education legislation. Although previous legislation which defined such children as 'in-educable' has been repealed through the passing of the Mental Health Care Act (Act 17 of 2002), these children are in practice still being accommodated in day and residential care facilities funded by the Department of Health with no access to education subsidies. An integrated strategy and programme of action for the provision of educational support to learners with severe and profound disabilities is currently in development following the November 2010 judgment against the Government of the Republic of South Africa and the Government of the Province of the Western Cape, when the , the Western Cape Forum for Intellectual Disability (WCFID) petitioned for the right to education for children with severe and profound intellectual disability to be recognised by the Department of Education.
- 123.6. The education and health authorities are rolling out an Integrated National School Health Programme through which mass screening has been conducted in the poorest schools in the country to identify disabilities and other developmental delays. The screening includes a mental health screening tool. Since the inception of the programme in 2010, more than 200,000 children have been screened. Once identified, they will be more fully assessed through the protocols outlined in the *National Strategy on Screening, Identification, Assessment and Support* to ensure that they acquire relevant support in their local schools. The right to early identification and assessment is however not yet universal and availability of support and services is limited due to a shortage of health professionals in especially rural areas. Early Childhood Educators are also incrementally being trained on strategies for early identification and intervention.
- 123.7. There are no universal accountability mechanisms in place to monitor birth registration, school registration and completion of grade 12 by children with disabilities. A process has been initiated by the Department of Basic Education to track individual learners (including learners with disabilities) with the introduction of the Learner Unit Record Information Tracking System (LURITS) in 2008. It should however be noted that the quality of the data is not in all cases reliable and up to date and mostly tracks only learners who are in special schools.
- 123.8. There is as yet no reliable system to track learners with disabilities who are out of school and/or have been denied admission to school. The estimated number of children with disabilities of school going age who are out of school, could be as high as 480,036. This indicates an increase of 220,036 from the 260,000 learners who were estimated to be out of school in 2001. This point to urgent action that should be taken to ensure access to education for all children with disabilities.

- 123.9. Several policy implementation guidelines have been developed distributed to managers throughout the system as well as universities as core materials for teacher development in the field of inclusive education with the aim of outlining 'reasonable accommodation' in education. These include the Guidelines for Inclusive Teaching and Learning (2009), the National Strategy on Screening, Identification, Assessment and Support (2008), the Guidelines to Ensure Quality Education and Support in Special Schools and Special School Resource Centres (2007), the Guidelines for Full-Service/Inclusive Schools (2010), and the Guidelines for Responding to Diversity through the National Curriculum Statement (2011).
- 123.10. There are no accurate statistics available on the percentage of schools that comply with norms for environmental accessibility. The National Education Infrastructure Management System which was established in 2007 did not conduct a formal audit on accessibility features but only looked at basic optimal functioning of school sites, for example, in terms of availability of running water, electricity and sanitation, and how many schools are still mud structures. A survey of 25,156 ordinary schools conducted by the Department of Education across all nine provinces in 2006, revealed that 97,1% had no accessible toilets and 97,8% had no ramps.
- 123.11. A total of 108 ordinary schools have been physically upgraded to comply with principles of universal design and to serve as model Full-service/Inclusive schools between 2006 and 2011. These schools were also supplied with a wide range of assistive technology and teachers were trained on basic principles and practices of inclusive education. Provinces have committed funds to convert a further 405 full-service schools by 2014 that have been selected.
- 123.12. The school infrastructure improvement programme which is currently being implemented will ensure that all school refurbishment and rebuilding will incorporate universal design principles. The Department of Basic Education has committed to ensure that all schools will over time be accessible as required by the South African Schools Act (Act 84 of 1996).
- 123.13. Steps have been taken to develop specifications for accessible school buses in KwaZulu Natal Province. The scholar transport policy which is being developed will incorporate norms for accessibility. Mobile ramps have been procured by the national Department of Education for selected schools to ensure that mini bus taxis can be made accessible.
- 123.14. The Guidelines for Inclusive Teaching and Learning (2010) and the Guidelines to Respond to Learner Diversity through the National Curriculum Statement (2011) is currently being utilised as a manual for training about 100,000 teachers in the system who are being orientated in 2011 - 2012 to implement the National Curriculum Statement Grades R – 12 to understand the principles and practice of curriculum differentiation and inclusive classroom management.

- 123.15. More than 39,515 educators and 7,148 officials received in-service training on the key policy implementation guidelines listed above, so that they can respond effectively to diversity in the classroom (see Table 10 below). These guidelines introduce radically new approaches to determine the measures for reasonable accommodation needed by learners with disabilities and for making the curriculum accessible. The impact of the training must be made systemic by ensuring that all sectors of the department and national and provincial levels implement the principles.
- Schools with School-based Support Teams: 8,696
  - Learning Support Educators appointed: 1,415
  - Teachers trained (2008 – 2011): 39,315
  - District officials trained: 7,148
  - School-Based Support Team members trained: 16,672
- 123.16. The National Policy Framework for Teacher Education (2007) determines that the identification and addressing of barriers to learning should be a key component of all teacher education at pre-service and in-service levels. The Draft Policy on the Minimum Requirements for Teacher Education Qualifications (2010) emphasises the critical need for all teachers to be conversant with the requirements of implementing inclusive education practice. The need has also been identified for reintroducing teacher education certificates with specialisation in areas such as education of learners with hearing and visual disabilities and learners with Autistic Spectrum Disorders and intellectual disability. The national strategy for Continued Professional Teacher Development (CPTD) emphasises inclusive education as a priority area and the Minister of Basic Education has set the goal of ensuring that at least one educator in each of the 26,000 schools in the country is trained to screen and support learners who experience barriers to learning by 2014.
- 123.17. The revision of the National Curriculum Statement Grades R – 12 was completed in 2011 and is being rolled out throughout the system between 2011 and 2014. Main areas have been identified in which implementation has not been up to standard. One of these areas is the implementation of inclusive education. Inclusivity has been reconfirmed as a key principle of the curriculum and the national programme for orientating all teachers in the system ensures that practical knowledge is conveyed on approaches towards curriculum differentiation and support as part of day to day teacher practice.
- 123.18. A National Protocol on Assessment (2011) and the Policy on the Conduct of Assessment (currently being reviewed) include chapters on Adapted Methods of Assessment for system wide implementation from Grade R to Grade 12. The policy not only addresses adaptations and concessions in final examinations but throughout the teaching and learning process and in continuous assessment.

123.19. Human rights principles form an integral part of all subjects of the National Curriculum Statement. One of the main aims of the introduction of the policy on inclusive education has been to change school policies, cultures and practices at every level to increase the participation and reduce the exclusion of children with disabilities.

123.20. Significant challenges are still being experienced in providing appropriate support to learners with disabilities in both special school as well as ordinary school environments. The National Strategy on Screening, Identification, Assessment and Support, currently being finalised, is a response to this and will require that support is no longer be organised according to category of disability but according to level and nature of support needs. The support outlined in the Strategy includes the following:

- Accommodation to assure physical access to the school and classroom, including accessible transport and other technical support. The measures are reinforced through norms and incremental increase in budgets dedicated for this purpose.
- Draft guidelines have been developed to strengthen the capacity of school managers and districts in the procurement, management and maintenance of assistive devices and technology with regard to assistive technologies for communication and other instructional purposes.
- Individual support, on an as-needed basis, from a para-professional or peer is utilised as a strategy in the provision of an Individual Support Plan which outlines the frequency and intensity with which professionals such as therapists and part time learning support facilitators should provide individual support in the face of the shortage of specialists in rural areas. A model has been developed for a peripatetic service to be rendered.
- Appropriate provision of supports such as sign language interpretation, Braille training and associated equipment and materials, and other individualized supports is currently being addressed through short-term interventions and the development of a system for sustainable provision.
- Teacher and learner access to diverse professional expert collaboration to assist with health needs, behaviour challenges and other requirements. Progress has been made to convey the notion that teachers are primary support providers at school level. The introduction of multi-professional transversal district-based support teams is considered to be a key policy lever.

123.21. Criteria for eligibility to be admitted to special schools that should in the short to medium term only cater for learners with very high level support needs and should also serve a dual function as resource centres. Through training provided since 2007 special school staff has been orientated towards their changing role within an inclusive landscape. At least 30% of the budget allocated by the National Treasury has been made available to raise standards of physical

infrastructure and curriculum delivery at special schools to improve quality teaching and learning.

123.22. It should be noted that although the policy framework is in place, significant challenges remain with implementation, with the result that a large percentage of children with disabilities are currently either completely excluded from compulsory education, or unable to effectively access the curriculum in either special school or ordinary school settings.

#### **124. Qualitative and Quantitative Achievements, Challenges and Remedies in promoting social inclusion, self-actualisation and effective transition to work.**

124.1. Teachers in a limited number of schools have been trained in the use of assistive technology and alternative and augmentative communication for learners with hearing, visual and physical disabilities. A basic minimum package has been developed for schools for visual, hearing, physical and intellectual disabilities.

124.2. To kick-start the programme, 912 learners in 34 schools have received appropriate assistive devices that will enable them to access education and become integrated into society. In many cases children who had been carried by their parents and could not attend school, now have fitted wheelchairs that ensure mobility and also provide postural support. Devices for learners with visual or hearing disabilities and, communication diversity will substantially improve educational expectations for hundreds of learners who were previously denied such opportunities.

124.3. In 2009 an audit was conducted in all 22 schools for learners with visual disabilities and a strategy was developed for improving quality of teaching and learning at these schools as well as introducing support measures in ordinary schools. In 2011, the programme of capacity building started by training of school managers to improve quality of curriculum delivery in these schools. The University of Pretoria has developed a short course in the field for introduction in 2012 and which could be expanded to a full qualification at post-graduate level. The aim is to ensure that 700 out of 900 teachers teaching in schools specialising in visual impairment have knowledge of Braille by 2014.

124.4. Measures have also been taken to improve access to Braille and large print textbooks and learning and teaching materials. Donor funding has been made available to adapt and print the Learner Workbooks for grades 1 – 9 in Braille as well as textbooks and prescribed works. Progress has been delayed because of lack of capacity in the national Braille printing facilities. The investigation into the status of Braille production in the country reported on earlier, with a view to establish a national facility, should alleviate this challenge. Negotiations are underway with the publishing industry to make prescribed works and textbooks available in digital format.

- 124.5. A Curriculum for South African Sign Language is currently being drafted by a Ministerial Task Team for introduction into the system in 2013. Once this curriculum is completed Higher Education Institutions will be encouraged to increase the number of teacher training courses for teachers using Sign Language as medium of instruction across subject fields. Currently there are only 3 teacher training programmes, namely at Free State University, University of the Witwatersrand and UNISA.
- 124.6. The National Treasury has prioritised funds to ensure that more accessible learners, teacher, support materials is made available at ordinary and special schools that include learners with visual and hearing disabilities. No specific provision has as yet been made for learners who are deaf-blind.
- 124.7. It is expected that the initiatives mentioned above will improve the availability of Braille and teachers training in Braille as well as in Sign Language. The Guidelines on Inclusive Teaching and Learning will also support teachers to create enabling learning environments and accessible teaching and learning materials. Appropriate augmentative and alternative communication devices and training for teachers has been introduced and this training will be expanded to more schools over the next three years.
- 124.8. It is acknowledged that the poor standard of delivery in all areas mentioned above has to a large extent excluded learners in the education system from the curriculum.
- 124.9. The pass rate in the National Senior Certificate in 2010 was higher than the national average for ordinary schools (77%). However the number of schools that offered the National Senior Certificate and the total number of learners who wrote and passed were relatively small. The curriculum offered at special schools are currently under review to ensure that learners are encouraged to follow academic programmes which do offer access to higher education learning opportunities and positively impacts on the percentage of young adults who can enter the formal job market.
- 124.10. There has been a gradual improvement on the number of learners in special schools who wrote matric from 2007 (727 learners), 2008 (804 learners), 2009 (872 learners) and 2010 (942 learners), as well as in the pass rate of these learners, which improved from 481 learners in 2007, to 636 learners in 2008, 697 learners in 2009, and 745 in 2010.
- 124.11. Between 2002 and 2011 the number of public special schools in the country increased from 375 to 423. The enrolment into public special schools increased from 77,700 learners in 2002 to 104,633 in 2010. The number of learners with disabilities in ordinary schools increased from 100,618 in 2008 to 118,490 in 2010. There are special schools in all nine provinces but these are not evenly distributed and can mostly be found in urban and metropolitan

areas, and preliminary results of a survey conducted in 2012 are pointing at very low levels of learning and teaching happening in a large percentage of these schools.

- 124.12. Approximately 94% of 7 to 15 year old of children with disabilities attended an educational institution. This figure increased significantly from 73% in 2002 to 94% in 2010, reflecting the positive effects of the *Education White Paper 6*. However, learners with disabilities still have a disadvantage in relation to learners who do not have a disability with respect to physical access to schooling. (Source: *Statistics South Africa, General Household Survey, 2010, DBE own calculations*) This gap needs to be closed.
- 124.13. The same cannot be said of children with disabilities in the 16 to 18 year old age group. In 2010, 68% of 16 to 18 year old children with disabilities attended an educational institution, compared to the overall figure of 83% for all children this age group. The disparity suggests that disability remains a barrier to education access. The participation of this category of children in educational institutions increased significantly from 51% in 2002 to 68% in 2010. (Source: *Statistics South Africa, General Household Survey, 2010, DBE own calculations*)
- 124.14. In 2010, approximately 6% of children in the schooling system, had a disability. The percentage of learners with disabilities as a percentage of all learners attending school has increased from at least 1% in 2002 to approximately 7% in 2010. The huge increase happened in 2009 when the data shows that close to 4% of all learners in schools had a disability.
- 124.15. It should be noted that Statistics South Africa however cautions that the pattern between 2002 and 2010 is not consistent, and that this could be due to the small sample of persons with disabilities in this age group in the survey.

## 125. Post School Education

- 125.1. The Department of Basic Education in 2011 introduced the process of developing a skills and vocational orientated exit level qualification at Grade 9 level for learners with intellectual disability which would enable them to enter into the world of work or in further vocational training programmes at Further Education and Training level.
- 125.2. Support services are available through disability rights units at 11 Higher Education Institutions for students with disabilities. A unit has been established in the Department of Higher Education to expand these services to all Universities and other Higher Education Institutions.

ENROLMENT						
Disability	2005	2006	2007	2008	2009	2010
<b>Total</b>	6,432	4,888	5,092	4,861	4,662	5,027

<i>Data excludes University of Stellenbosch</i>						
<b>GRADUATES</b>						
<b>Disability</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
<b>Total</b>	830	811	1,108	995	904	801
<i>Data excludes University of Stellenbosch</i>						
<i>HEMIS 29 Aug 2011.</i>						

125.3. The Kha Ri Gude Mass Adult Literacy Campaign which was launched in 2008 has achieved exceptional results in terms of training adults with disabilities. It is recognised that this adult literacy programme is a critical vehicle to improve the quality of life and access to the world of work for adults with disabilities who have not had access to quality education.

- The total number of learners with disabilities that have to date participated in the Kha Ri Gude Adult Literacy Campaign is 129 121. In 2010, 7.2% of the learners in the programme were persons with disabilities.
- Volunteer educators with visual disabilities received contracts to conduct the training with assistants with visual disabilities. Between 2008 and 2011 a total of 3,843 persons with disabilities were involved in the training programme as tutors and supervisors.
- The programme distributed Perkins brailers, braillette boards, ping-pong balls, shapes, talking calculators and Braille paper to learners with visual disabilities.

**Table 11 a: Kha Ri Gude – Adult literacy campaign for persons with disabilities**

PROVINCES	ADULT LEARNERS WITH DISABILITIES				VOLUNTEER TUTORS WITH DISABILITIES			
	2008	2009	2010	2011	2008	2009	2010	2011
Total disability	27,120	72,620	28,858	523	67	908	735	422
Grand total	54,240	145,240	57,716	1,046	134	1,589	1,276	844

**Table 11 b: Learners and tutors by category of disability**

DISABILITY	LEARNERS				TUTORS			
	2008	2009	2010	2011	2008	2009	2010	2011
Visual	11288	19621	11999	227	32	398	300	206
Deaf	3881	7892	6164	155	35	190	207	211
Physical	9329	12200	6866	103	-	242	23	3
Other	2622	7060	3828	34	-	78	205	2
Total Disabled	27,120	72,620	28,858	523	67	908	735	422
Grand Total	54,240	145,240	57,716	1,046	134	1,589	1,276	844

## **126. Pre-school education (early childhood development)**

- 126.1. Approximately 1,393,236 (27.5%) of the total population (5,063,500) of children between the ages of 0 and 4 years are children with disabilities. However only 665,247 children attend ECD facilities. (Source: Statistics South Africa, General Household Survey Interactive dataset, 2009-2010, DBE calculations)
- 126.2. Approximately 85% of 5 year olds children with disabilities attended an educational institution. (Source: Statistics South Africa, General Household Survey, 2010, DBE own calculations)

## **127. Challenges and remedies**

- 127.1. One of the main challenges of the first stage of implementation of inclusive education has been that the scale was too small and the time frame too extended to make a significant impact and to ensure that all learners with disabilities have access to free education in an inclusive education system.
- 127.2. The absence of stronger legislative measures and funding norms to ensure that more dedicated funding would be redirected to mainstream education and support, led to an increase of learners not necessarily requiring very specialised or high levels of support being referred to and admitted to special schools. In spite of several measures taken, there are still insufficient legal actions introduced against ordinary schools that exclude learners with disabilities and refer them to segregated special education without having taken any steps to introduce reasonable accommodation. The Equality Court judgement in the Oortman case in 2010 therefore set an important legal precedent.
- 127.3. Of the initial USD250,000,000 allocated by the National Treasury for the expansion of Inclusive Education in 2008 more than 50% went into other priority areas at the provincial level. Furthermore, only 5 of the 9 provinces have utilised the funding made available for the expansion of inclusive education. As a consequence the impact of the programme was seriously compromised. Steps are currently being taken by the Department of Basic Education to improve accountability measures in provincial departments of education and to raise the level of awareness about the critical need to strengthen this sector.
- 127.4. The implementation of the policy was furthermore significantly impeded by the fact that it has not been seen as a central driving force of educational change as intended. Support from various levels of the education system has been limited. This has, and continues to, contribute to the observed slow, poorly coordinated, unsystematic implementation of inclusion in most provinces. Up to 2012, inclusive education has not been mainstreamed in most of the intervention programmes and therefore senior managers within departments have not been held accountable for implementing the policy directives.

- 127.5. The intention of building an inclusive society and breaking down negative attitudes towards disability still has a long way to go to be fully achieved. In spite of the advocacy initiatives, there is still a high level of victimisation and exclusion of children with disabilities in communities. Some of the most vulnerable groups are children with albinism, children with behavioural difficulties and children with severe intellectual disabilities.
- 127.6. The introduction of the policy of inclusive education mainly targeted the general education band, and to a limited extent Early Childhood Development. Over the past two years, significant progress has been made in adult education and also in higher education through the establishment of student support services. Stronger measures still need to be put in place to expand support for children aged 0 – 4 years who are attending Early Childhood Education facilities.
- 127.7. Government remains committed to strengthen legislation and norms in 2012 and 2013 to increase access to quality education and support for out-of-school children with disabilities in ordinary and in special schools, and in particular children in rural and poor communities will be targeted.
- 127.8. The national advocacy strategy will be strengthened with the aim of mobilising communities to be inclusive and capacitating parents, parent organisations and disabled peoples organisations as key partners of government.

**128. Response to the SA Human Rights Commission (SAHRC) recommendations following the public hearings on the Right to Basic Education held in 2006**

- 128.1. In the SAHRC's Report on the Public Hearing on the Right to Basic Education which was published in 2006, the following recommendations were made on inclusivity relating to availability, accessibility and adaptability:
- It is strongly recommended that the Department consult regularly with the disability sector in South Africa. The policy of inclusive education needs to be debated and transformed from written policy to lived experiences that are beneficial to the individual and promote a culture of learning.
  - The Department needs to adequately determine, through regular consultation, monitoring and research, where the policy of inclusive education is failing children with disabilities, what the reasons are and what can be done to remedy the situation. This process needs to begin urgently and,
  - Where learners are currently completely excluded from the system, creative measures must be implemented with immediate effect.
- 128.2. The development of a National Strategy for expanding the implementation of Inclusive Education over the period 2012 – 2014 during 2011/12 as part of a set of transversal strategies to improve education at all levels, was a direct response to the SAHRC findings. The key pillars of the strategy is to improve access to education and support through the implementation of the Strategy on Screening, Identification, Assessment and Support, the large scale training of teachers, the

strengthening of capacity at district level to support inclusive education as a cross cutting and transversal responsibility of all sectors of education and the involvement of parents and stakeholder organisations through advocacy and mobilisation programmes.

## **S. ARTICLE 25: Health**

129. Section 27 of the Constitution, the National Health Act (Act 61 of 2003), the National Rehabilitation Policy (2006) and related policies and protocols secure the right of all persons including persons with disabilities to have equal access to healthcare which includes mental health and rehabilitation services.
130. All health services at the primary level of care are free. No payment is made for health care or rehabilitation if such services are provided at a home based or community level. Persons with disabilities who meet nationally determined criteria for eligibility based on household income, are able to access free health care and rehabilitation services at a hospital level in the public sector. While policies are intended to support access to services for persons with disabilities, it is acknowledged that persons with disabilities experience difficulties accessing health care due to systemic problems within the health care system, aggravated by challenges outside the health sector for example, accessible and affordable transport.
131. Various protocols have been developed to facilitate early detection to prevent and minimise the emergence of secondary disabilities. However, such initiatives are often impeded by compromised quality of services due to the lack of appropriately trained human resources, high turn-over of specialised personnel within the public health sector and poor living conditions for people discharged from hospital.
132. Efforts have been made to ensure that health promotion programmes and campaigns are accessible especially to people with visual and hearing disabilities through publication of information in Braille, cartoons, audio, different official languages as well as subsidisation of disabled people organisations. There is however potential for greater impact to be achieved.
133. Training of nurses, doctors, management and administrative personnel on the rights of persons with disabilities and reasonable accommodation measures required to give effect to these rights, occur at an in-service level. The training of rehabilitation personnel on the rights of persons with disabilities is expected at basic training and undergraduate levels. In both instances, it is strongly recommended that persons with disabilities conduct the training.
134. Health treatment is provided to persons with disabilities on the basis of their free and informed consent. The National Health Act emphasises the importance of obtaining the user's consent to a health service and that the health care provider

must take all reasonable steps to make sure that the user makes an informed decision. The Act states that informed consent is consent given by a person with legal capacity to do so, therefore, the Act's definition of informed consent could exclude consent of a mentally disabled person.

135. The Sterilization Act (Act 44 of 1998), provides for sterilisation of persons who are incapable of consenting, for example when a person is mentally disabled to such an extent that he/she cannot make his/her own decisions about contraception or sterilisation or is unable to fulfil the parental responsibility associated with giving birth. The Act defines a severe mental disability as “a range of functioning extending from partial self-maintenance under close supervision, together with limited self-protection skills in a controlled environment through limited self-care and requiring constant aid and supervision, to severely restrained sensory and motor functioning and requiring care”. In terms of the Act the parent, spouse, guardian or curator may give consent to sterilisation on behalf of a person who is incapable of consenting to the person in charge of the hospital. Upon receipt of the request the person in charge of the hospital must convene a panel of professionals that must consist of a psychiatrist, or medical practitioner if no psychiatrist is available, a psychologist or social worker and a nurse. If the person to be sterilised is in custodial care, none of the members of the panel may be the employee of the custodial institution and if the sterilisation take place in a private health care facility, members of the panel may not be employees of the facility or have financial interests in the said facilities.
136. Accessibility to health facilities is monitored through the Office of Standards Compliance in the Department of Health. Design guidelines are currently being developed as part of comprehensive health facility standards to expand and clarify the statutory requirements to architects, engineers, and above all, contractors and inspectors. The Health Facility Standards are due for final approval by the National Health Council in the current financial year.
137. Prevention of impairment remains a priority within the health system. The Policy Guidelines for the Management and Prevention of Genetic Disorders, Birth Defects and Disabilities.
138. In the 2009 Report on the Public Inquiry on the Right to Health, the SAHRC made a number of recommendations with regards ensuring that all health care facilities being physically accessible for persons with disabilities. The following progress has been recorded against the recommendations contained in the report:

Recommendation	Progress
Budget and resource allocations to mental healthcare should be reviewed and addressed	Mental health services are integrated at all levels of care in the health system, except for the stand alone specialised psychiatric hospitals that receive a separate budget allocation. Due to the integrated

Recommendation	Progress
accordingly.	nature of the budget it has been difficult to quantify expenditure for mental health services. This period has also been a particularly difficult one for the Department of Health from a financial point of view as the costs for rolling out the HIV treatment programme has been very high.
There should be substantial mental health research that clearly quantifies varying mental disabilities by region for resource allocation.	The department collaborates with various research institutions on mental health research. The most recent studies with mental health epidemiology include (i) Youth Risk Behaviour Survey 2008 (ii) Mental Health and Poverty Project 2008, (iii) The South African Stress and Health Survey, 2009.
There are cultural sensitivities on the perception and treatment of mental disabilities that must be explored with faith-based organisations and traditional healers in order to create a healthy working relationship with formal mental healthcare facilities.	Formal policies, structures and programmes at both national and provincial health departments exist relating to the interaction between the formal health system and traditional healers. At the recent mental health summit hosted by the Minister of Health, traditional healers and other stakeholders emphasising African epistemology contributed.
Mental healthcare facilities and services by trained staff should be available throughout the country at a community level.	Community based services are developed by provinces incrementally as recommended by mental health policy. In 2007 the Department of Health established the sub-programme on community based mental health services to focus on this aspect and support provinces in scaling up these services.
There should be incentives to train and retain psychiatric staff in public sector.	The training and retention of psychiatric staff is done through a wide range of policies and programmes. In October 2011 the Minister of Health launched the Health Sector Human Resources Strategy 2012/13-2016/17. Mental health practitioner's training is prioritized. The recently introduced "occupation specific dispensation" (OSD), has improved the retention of practitioners except for psychiatric nurses where there were problems with the translation of the policy. This is being addressed through a review process.
There should be	Chronic medication for those who need monthly

Recommendation	Progress
consistent access to prescribed medicine for people with disabilities.	supplies is pre-packed and distributed monthly. There is also prescribed minimum benefits expected from medical schemes that address chronic medication as well.
The nursing staff should be trained on sensitivities and symptoms of different disabilities.	Nurses' training has incorporated a module on disability and nurses are also placed in rehabilitation units during their training. Nurses are also involved in all open days on different types of disabilities throughout the year. Sensitivity training for health workers is done on an ongoing basis.
There should be awareness programmes at a community level that seeks to eliminate discrimination and stigmatisation around mental health so that people with mental disabilities requiring treatment can access services.	The department provides financial resources for advocacy and creating public awareness on mental health through a Treasury approved grant to the South African Federation for Mental Health. Community awareness campaigns and programmes to address stigma are conducted by this organization during the awareness days and months in the health calendar using various forms of media and materials. All health care point also conducts awareness raising and education campaigns during the dedicated dates and months indicated in the health calendar.
There should be relevant considerations for clients with disabilities when issuing wheelchairs rather than a one-size-sits-all approach.	All assistive devices in the department are prescribed and fitted by appropriately trained professionals. Wheelchairs in particular are also issued in accordance with the new national contract which compels issuing practitioners to be specific and that in the minimum standard in the public sector. The department also has seating specialists who go around training others on the science of seating.
Healthcare facilities should be technologically advanced so that new technologies are introduced as they emerge to facilitate the highest quality of health.	The department has embraced the use of technology in healthcare and the many facilities have state of the art technology. For instance more than 90% of all hearing aids issued are digital and required the necessary diagnostic equipment to be digital as well. Mayo-electrical technology has also been introduced for fitting artificial limbs in some major centres in South Africa. This trend is unavoidable because most of the equipment is sourced from outside the country and it comes with its own technology.
The code of conduct for healthcare staff should be monitored. The quality of	The Office of Standards Compliance has been established to look at all service standards, including conduct of healthcare personnel. The HPCSA and

Recommendation	Progress
services and implementation of policy should be monitored.	the SA Nursing council are also responsible for disciplining errant practitioners and the public has direct access to these bodies.
The client feedback mechanism must be monitored.	This will also be monitored once the legislation on the office of Standards Compliance is passed through parliament.
Guidelines for the treatment of vulnerable groups and individuals should be developed to ensure acceptable quality of treatment for all health care users.	<p>A number of guidelines have been developed by the department, including the National Rehabilitation Policy, Guideline on the Standardization of Provision of Assistive Devices in South Africa, Guideline on the Prevention of Hearing Impairment due to Otitis Media at Clinic Level.</p> <p>A number of guidelines on mental health care practice have been developed including: admission procedures, reporting of abuses, electro convulsive therapy, use of constraint and seclusion etc.</p>

## T. Article 26: Habilitation and Rehabilitation

139. In line with the Constitution, the choice of persons with disabilities to participate in habilitation and rehabilitation services is fully protected. Rehabilitation services offered by the Department of Health are guided by the National Rehabilitation Policy (2006) of the Department of Health and are aimed at helping persons with disabilities to attain maximum independence and full inclusion in all aspects of life.
140. This policy adopts Community Based Rehabilitation (CBR) as the underlying philosophy to the provision of rehabilitation services. The department observes that successfully implemented services offered within a CBR approach are crucially dependant on effective relationships between government and the disability sector.
141. General habilitation and rehabilitation programmes for persons with disabilities are made available by DOH, DSD, DOL, DBE as well as civil society organizations and DPOs. While more formal programmes exist in urban and well developed areas, DPOs in partnership with government and the private sector play a critical role in making programmes accessible in rural communities.
142. All nine provinces have rehabilitation programmes within the Primary Health Care or related programmes. The availability and quality of rehabilitation services offered by the Department of Health however varies across provinces. Most provinces are constrained by the lack of human, financial and other resources as well as competing priorities. For example, a predominantly rural province reports that their Provincial Wheelchair and Hearing aid Dispensing Protocol ensures a dedicated budget of USD812,500 per year. The province has at least 1 established

wheelchair repair workshop per district and 35 324 persons with disabilities were reached through Community Based Rehabilitation services. Compared to the above, another province reports spending USD62,500 on the training and employment of 22 Community Based Rehabilitation workers and referred approximately 21 000 persons with disabilities since 2008. It is noted that in this province 83% (54/65) hospitals have rehabilitation services for persons with disabilities, those at risk and their families that include prevention, promotion, assessment, treatment and referral. The most populated province of the country reports significant progress in rehabilitation service delivery. They report rehabilitation service coverage in all community health centres. Furthermore, 98% of the wheelchair waiting list was met in 2009 and the 11 wheelchair repair sites. The number of specialised rehabilitation beds at facilities increased from 100 to 140. Still another province reported that 1,987 blind and partially sighted persons received rehabilitation at 4 different rehabilitation institutions in the Province.

143. The number of qualified rehabilitation practitioners registered with the HPCSA as at March 2012, with those working in the public service in brackets, is:

- Occupational Therapists: 3816 (794)
- Occupational Therapy Assistants: 344
- Occupational Therapy Technicians: 354
- Physiotherapists: 6162 (1040)
- Physiotherapy assistants: 270
- Audiologists/ speech therapists: 2267 (403)
- Community speech and hearing workers: 22
- Medical orthotists and prosthetists: 419
- Orthopaedic footwear technicians: 57
- Psychologists: 369

144. A major challenge in the health system remains the unequal access to services between the public and private sector. As at August 2012,

- there was on average one occupational therapist per 14 500 population, and one physiotherapist per 9 000 population;
- in the public sector there was one occupational therapist per 53 000 population, and one physiotherapist per 50 000 population;
- in the private sector, there was one occupational therapist per 2 800 population, and one physiotherapist per 600 population;

145. The Department of Social Development funds day care centres and home based care projects. There are 91 organisations that funded at an amount of USD1,548,587. This funding benefits 4161 persons with disabilities with regard to day care centres, while significant funding is provided to 116 centres. A total of 41 Home Based care projects benefitted 1134 persons at a cost of USD1,875. Government is challenged by an ever increasing demand and limited financial and other resources.

146. The needs of offenders with disabilities for rehabilitation are addressed in consultation with relevant stakeholders with the aim of involving these persons in programmes and services for rehabilitation purposes, as guided by the National Integrated Strategy of Offenders and Policy Procedures of Offenders with Disabilities. These programmes include rehabilitation programmes which are intended to reintegrate offenders into society. These are accessible to offenders without disabilities, as well as to some categories of offenders with disabilities. However, the country is challenged by a lack of specific policy to inform these programmes with regard to addressing the specific needs of offenders with disabilities.
147. Formal training on habilitation and rehabilitation is provided to rehabilitation personnel at undergraduate and post-graduate levels. In-service training programmes are also offered to nurses, medical officers and other members of habilitation and rehabilitation teams. To ensure an effective continuum of services, rehabilitation personnel offer training to families and care-givers to orientate, and in some cases involve them in habilitation and rehabilitation programmes. This initiative includes rehabilitation personnel informing persons with disabilities as well families and care-givers on the use of assistive devices and maintenance thereof. In-service training is also provided to staff at residential facilities to improve the quality of care offered.
148. An additional approach to supporting habilitation and rehabilitation programmes involves government offering financial support to DPOs. An example of this approach is funding provided to the SA National Council for the Blind by the DSD. In addition to this, DSD has funded Deaf Federation of South Africa (DEAFSA), Disabled People South Africa, Epilepsy South Africa, SAFMH and NCPPDSA. Funding supports rehabilitation, education and training services as well as assistive devices as a means to encouraging the full participation of persons with disabilities in social and economic development.

## **U. ARTICLE 27: Work and employment**

149. Section 9 of Constitution provides for the elimination of unfair discrimination and for the development of enabling legislation. The most significant labour laws that provide protection to persons with disabilities are the Employment Equity Act 55 of 1998 (EEA) and the Labour Relations Act 66 of 1995 (LRA) and the codes that have been published in terms of these laws, as noted in the section on *Implementation of the General Principles and Obligations*. These acts and codes give effect to the equality clause, the right to fair labour practices, as well as the international and foreign norms in respect of fair labour treatment of persons with disabilities

## **150. Employment Equity for Persons with Disabilities**

150.1. The Employment Equity Act requires of designated employers, i.e. employers employing more than 50 employees, to develop and submit annual employment equity plans and reports to the Department of Labour. These plans should include self-determined targets for, among others, the employment of persons with disabilities, as well as reasonable accommodation measures that will be undertaken.

150.2. The Employment Equity Report for 2010, published in October 2011, provides the following aggregated employee percentage population distribution of persons with disabilities by race and gender for all employers:

- Persons with disabilities constituted 1,4% of top management, with white males dominating this category with 63% representation;
- Persons with disabilities constituted 1,2% of senior management, with white males (44,2%) and white females (19,4%) constituting 63,6%;
- Persons with disabilities in the professionally qualified category constituted 1% of the total work force, with white disabled employees constituting 55,7% of this category;
- Persons with disabilities constituted 0,8% of the skilled workforce, with males constituting 64% of this group.

150.3. Persons with disabilities accounted for approximately 0.83% of the total number of employees by all employers. Their representation is more likely to be concentrated at the lower occupational levels, as more than 60% of the 43913 persons with disabilities reported by employers occupy semi-skilled, unskilled position and temporary positions. The race and gender representation of persons with disabilities is very similar to that of the general workforce. Much more has to be done to increase the representation of persons with disabilities in the workforce.

150.4. The report concludes that *“the representation of persons with disabilities has been pretty flat over the years and did not increase by much. Their representation in the table above covers the representation of persons with disabilities across all the occupational levels for 2006 (0,7%), 2008 (0,7%) and 2010 (0,8%).”*

150.5. The public sector, as a designated employer, set its employment equity target for 2005 at 2% of the total work force. It has had to extend this target annually due to the slow progress being made, with a final deadline for the attainment of the 2% target set for March 2013.

150.6. A number of guideline documents have been developed by both the public and private sector in an attempt to accelerate the attainment of employment for persons with disabilities, including the Technical Guidelines published by the Department of Labour, as noted earlier, the JobAccess document published by the Department of Public Service and Administration, the Mining Qualifications

Authority Guide on Reasonable Accommodation for the industry, and the Policy on the Provision of Reasonable Accommodation and Assistive Devices in the Public Service (PRAAD), currently being costed before re-submission to the Cabinet for approval.

150.7. The Department of Labour has awarded a total of USD85,125 in annual subsidies to three organisations for disabled persons (National Council for Persons with Physical Disabilities, the Deaf Federation of South Africa and the South African National Council for the Blind) to support the placement of persons with disabilities in the open labour market between 2008 and 2011.

150.8. 598 persons with disabilities were placed into the formal and informal sector as well as in training during 2008/2009, while 812 were placed during 2009/2010. 271 persons with disabilities were trained in 2008/2009 in short skills development programmes and 123 in 2009/2010. A total of 1 746 disabled job-seekers have been registered in the employment register database in 2010/11; and 961 disabled job-seekers were placed during the same period.

### **151. Supported Employment Initiatives**

151.1. A range of supported/subsidised employment placement options are available, to a large extent due to the high general unemployment rate in South Africa:

- Sheltered Work - work undertaken by persons with disabilities in workshops specifically established for that purpose. People working in sheltered workshops retain their social welfare benefits, typically Disability Allowance, and usually receive a small discretionary additional weekly payment from the work provider
- Integrative Enterprises - sheltered workshops with normal wages
- Supported Employment - a system of support for persons with disabilities in regard to on-going employment in integrated settings
- Open Labour Market

151.2. Sheltered Employment Factories (SEFs) were established more than 60 years ago with ownership vested in the State to provide employment and empowerment opportunities to persons with disabilities who cannot compete in the open labour market. The Department of Labour currently subsidises twelve (12) Sheltered Employment Factories (SEFs) providing employment for 1,100 persons with disabilities.

151.3. The Department of Social Development is responsible for subsidisation of 293 protective workshops in 2012, providing income for 14,212 persons with disabilities, which is a significant increase from the 260 workshops subsidised in 2010, with a total of 6,585 beneficiaries. A budget of USD6,750,000 was utilized on subsidisation of protective workshops since 2008. These workshops are managed by Non-Governmental Organisations. It should be noted that the majority of these facilities are situated in urban centres, despite the majority of

persons with disabilities living in rural areas, which also has the poorest education access outcomes, the least access to public transport, as well as highest general unemployment rates.

	Number of protective workshops			
	Urban	Peri-urban	Rural	Total
<b>South Africa</b>	141	34	118	293

Protective Workshops	Clients Currently Served			% Target Currently Served*		
	Urban	Rural	Total	Urban	Rural	Total
<b>South Africa</b>	<b>10,911</b>	<b>3,301</b>	<b>14,212</b>	<b>2.56</b>	<b>0.79</b>	<b>1.69</b>

151.4. A lack of minimum norms and standards for management and subsidisation of sheltered workshops resulted in inconsistencies between provinces, impeded monitoring and evaluation and in instances, lack of conducive environments for persons with disabilities employed in these workshops. The Department of Social Development has subsequently finalised policy guidelines on the management and transformation of protective workshops aimed at providing decent work and wages, strengthening skills development in these centres and improving employability of persons with disabilities in the open labour market. A training manual to give effect to the guidelines was developed and has been implemented nationally and in all nine provinces, targeting government officials, national organisations for persons with disabilities, disabled peoples organisations and representatives from protective workshops.

151.5. A weakness in the subsidised sheltered employment environment has been the lack of financial support for disabled people organisations who offer income-generating opportunities to their members.

## **152. Supporting Entrepreneurship among Persons with Disabilities**

152.1. The Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000) recognises the economic rights of persons with disabilities to engage in entrepreneurial activities that promotes self-reliance and independent living. Measures include access to opportunities within public sector procurement systems, whereby the supply chain management process aims to empower historically disadvantaged communities and a target of 5% access of all preferential procurement has been set aside for entrepreneurs with disabilities.

152.2. It is regrettably not possible to report on the extent to which this target has been achieved as the National Treasury information system did not disaggregate reporting on the basis of disability by national departments and entities, provincial departments and entities as well as district and local municipalities and metropolitan councils. This gap will be addressed.

152.3. The Industrial Development Corporation (IDC) has set aside USD6,250,000 for financing of enterprises specifically owned by people with disabilities. Uptake has however been slow and this is being addressed in consultation with the Department of Women, Children and People with Disabilities and the Department of Trade and Industry.

### **153. Education and Training**

153.1. As reported in Article 23, the education system is currently not sufficiently en-skilling young people with disabilities for the open labour market or as owners of economically viable small enterprises.

153.2. A very small percentage of young people with disabilities have a Grade 12 qualification that allows them to enter university. A total of 4,977 students with disabilities, including 793 graduating in 2010, were enrolled at institutions of higher education (excluding University of Stellenbosch figures) in 2010.

153.3. Almost 33% of the enrolled students were students with visual disabilities, and this group constituted 44% of graduates. This is however also the group said to be the least likely to access decent work in the open labour market. A study conducted at the Nelson Mandela Metropolitan University in 2010, (published in 2011) highlighted a number of factors which contribute to this low labour market absorption rate which need to be addressed.

153.4. The Sectoral Education and Training Authorities (SETAs) were established in terms of the Skills Development Act, Act 97 of 1998. The 21 SETAs are expected to direct and facilitate the delivery of sector-specific skills interventions that help achieve the goals of National Skills Development Strategy and address employer demand for skilled labour. The National Skills Development Strategy III, released in 2012, acknowledges that previous programmes have failed to achieve equal access for people with disabilities, despite the 4% target that had been set, and re-commits to *“significantly open up opportunities for skills training for people experiencing barriers to employment caused by various forms of physical and intellectual disability.”*

154. A total of 5,133 out of 9,541 enrolled learners with disabilities registered in learning programmes across 15 SETAs for the reporting period successfully completed their learnerships, with 2,339 successfully gaining employment after the completion of their learnerships. Ten of the 15 reporting SETA's reached the 4% target, with 2 SETAs exceeding the target and the remaining 3 under-performing. The Services SETA introduced a reasonable accommodation subsidy for learners with disabilities requiring such support to improve participation in their learnership programmes in 2012.

## V. ARTICLE 28: Adequate standard of living and social protection

155. The focus of the South African Government's Programme of Action aims to address the fundamental challenges of poverty, inequality and unemployment. Whilst there has been a significant increase in uptake of social assistance grants over the past 15 years, the focus is on providing social grant beneficiaries with alternative income sources through useful work as well as training.

### 156. Social Security

156.1. Persons with disabilities who are indigent qualify for a range of social assistance grants, including disability grants (USD150 per month, 2012); child support grants (children aged 0-14 years, USD35 per month, 2012), care dependency grants (children with disabilities requiring 24 hour care) (USD150 per month, 2012), grant-in-aid (persons who require regular attendance by other persons, USD35 per month, 2012), foster care grant (USD96,25 per month, 2012), war veterans grant (USD152.50 per month, 2012) and older persons grants (USD150 per month plus USD2,500 per annum for those over 75 years, 2012). Workers are furthermore protected through unemployment insurance benefits as well as compensation for injury on duty.

156.2. 2010/11 uptake and expenditure rates on social assistance grants to persons with disabilities were:

Grant	2011/12 Uptake	2011/12 Expenditure ZAR	2011/12 Expenditure USD
Disability Grant (permanent and temporary)	1,198,131	1,4b	155,555,556
Care Dependency grant	114,993	38m	4,750,000
Grant in Aid	536,747	413,3m	51,662,500

Disaggregation for older persons grants, war veteran grants, foster child grants and child support grants is not available.

A major anti-corruption clean-up of the social security system in 2010/11 resulted in an 8% drop in the number of persons accessing disability grants:

#### Disability Grant Recipients, 2004 – 2010 (South African Social Security Agency)

	2006/07	2007/08*	2008/09	2009/10
Temporary	1,107,528	1,141,529	1,135,446	1,057,442
Permanent	214,598	278,140	280,764	249,329
<b>Total Disability</b>	<b>1,322,126</b>	<b>1,419,669</b>	<b>1,416,210</b>	<b>1,306,771</b>

	2006/07	2007/08*	2008/09	2009/10
<b>Grant recipients</b>				
<b>%</b>	11%	11%	11%	9%

### **157. Household Income Support through Useful Work**

157.1. The Expanded Public Works Programme (EPWP) is one of government's flagship programmes aimed at providing poverty and income relief through temporary work for the unemployed to carry out socially useful activities. All public bodies from all spheres of government (in terms of their normal mandates and budgets) and the non state sector (supported by government incentives), are expected to deliberately optimise the creation of work opportunities for unemployed and poor people in South Africa through the delivery of public and community services.

157.2. Phase 2 of the EPWP was launched in April 2009 with the aim of creating 2 million full time equivalent (FTE) jobs for poor and unemployed people in South Africa so as to contribute to halving unemployment by 2014, through the delivery of public and community services. This translates to 4,5 million (short and ongoing) work opportunities. The average duration of employments is assumed to be 100 days. The Community Work Programme (CWP), launched in 2009, provides an employment safety net by giving participants a minimum number of regular days of work, typically two days a week or eight days a month, thus providing a predictable income stream over a number of years for participants. The programme targets to reach 1 million beneficiaries by 2014, bringing the overall total target for 2014 for the EPWP to 5,5 million direct beneficiaries.

157.3. The EPWP as well as CWP has a set target of 2% of the opportunities in its programme being directed to disabled beneficiaries, which translates to a total of 110,000 persons with disabilities for the period 2009-2014. The programme has increasingly under-performed on the 2% target, and work is currently being done to understand the root causes that have to be remedied to achieve targets:

Year	Number of disabled participants	% of total
Oct-09	3,016	0.48%
Nov-10	2,845	0.44%
Dec-11	1,582	0.19%
<b>Total:</b>	<b>7,443</b>	<b>0.63%</b>

### **158. Food Security**

158.1. The South African Constitution provides that everyone has the right to have access to sufficient food and water. In the 2010/2011 financial year food security was reprioritised as one of the top priorities for South African government (State of Nation Address, 2010). This is in line with South Africa's millennium development goal which aims to halve the proportion of people who go hungry

over the period 1990 and 2015. Several government departments work in a coordinated manner to ensure food security in South Africa –

- The Department of Health runs the Integrated Nutrition Programme,
- The Department of Agriculture, Forestry and Fisheries develops and facilitates the implementation of agrarian reform policies and targeted programmes aimed at enhancing the contribution of subsistence and smallholder producers to food security.
- The Department of Social Development provides social support to those who are most vulnerable to food insecurity.
- The school nutrition programme provides a basic meal per day to indigent learners

158.2. Disaggregated statistics on the number of disabled beneficiaries and/or participants in food security programmes are currently not available.

### **159. Adequate housing and basic services**

159.1. Persons with disabilities with an income less than USD437.5 per month are eligible for government housing subsidies. The normal subsidies are supplemented with additional funding to provide for the specific needs in relation to the disability and impairment and the environmental barrier experienced. Government and the disability sector acknowledge that many persons with disabilities living in informal settlements and in shacks are further disadvantaged by not having access other basic amenities including sanitation and clean water. Municipalities are therefore required to keep a register of people with disabilities living in informal settlements with the aim of accelerating housing provision for this group. Capacity constraints within the majority of municipalities have detracted from the successful implementation of the targeted support for people with disabilities, both as it relates to accelerated access to housing as well as to interpretation of the specifications for reasonable accommodation measures to be applied.

159.2. Seventy three (73) residential facilities providing accommodation to 2,304 residents with disabilities received government subsidies in 2011/12. The total budget for 2011/12 was USD 4,575,126, which was insufficient to meet the national minimum norms and standards adopted for residential facilities. Training aimed at improving the quality of care in these facilities benefited 7,853 staff. It is acknowledged that inequalities between urban and rural facilities remain.

159.3. Both government and the disability sector, as expressed in the submission by the SA Federation for Mental Health, remain committed to improve community-based supported housing for persons with disabilities.

## **W. ARTICLE 29: Participation in political and public life**

160. The right to participate fully in political and public life for persons with disabilities has been evident in South Africa since the historic 1994 elections.

### **161. *The Right to Vote***

161.1. The Independent Electoral Commission, established in terms of Chapter 9 of the Constitution, oversees all national, provincial and local elections in South Africa. The Electoral Act (Act 73 of 1998) makes provision for voters with disabilities to be assisted by a person of their choice where necessary, as well as for persons with disabilities to register as special voters, which allows them to vote on a predetermined day before election day either at the voting station or at their place of residence.

161.2. The numbers of voters with disabilities who participate in elections are not available given the constitutional imperative to maintain the secrecy of the vote and the regulatory requirements on the details to be entered into the national common voters roll, the Electoral Commission does not record the details of disability for registered voters.

161.3. In preparation for the 2011 municipal elections, the Electoral Commission signed a Memorandum of Understanding with the South African National Council for the Blind which, among others, resulted in availing a braille based Universal Ballot Template (UBT) to visual impaired voters who wished to vote without having to disclose their choice to anyone. The Electoral Commission has indicated that, due to the positive feedback received on the use of the UBT, the use thereof will be extended to other categories of voters who are at risk of spoiling their votes due to for example unstable hand-writing. The electoral legislation is currently under review to, among others, legally provide for the use of the UBT in the voting process.

161.4. Specific initiatives aimed at levelling the playing fields for disabled voters that were undertaken by the Electoral Commission at provincial level during past elections have included:

- The Western Cape provincial office is a member of the Western Cape Disability Network, which serves as a platform to exchange election-related information between the sector and the Electoral Commission. In 2009 the provincial office printed a Braille information pamphlet for blind and visually impaired voters;
- Ten deaf voter education trainers were trained in Limpopo Province. These deaf trainers provided nine workshops throughout the province to deaf voters. A workshop was also held targeting voters with visual impairments.
- The Mpumalanga Provincial Electoral Office hosted a workshop targeting disabled people organisations before the 2009 as well as 2011 respectively;

- Eight workshops were undertaken in KwaZulu Natal for persons who are blind and deaf ahead of the 2009 elections, and a further six workshops were conducted for these target groups before the 2011 elections;
- Twenty four deaf voter education facilitators were trained ahead of the 2009 elections in the Northern Cape, and a voter education workshop was conducted for deaf and blind voters ahead of the 2011 elections;
- Six workshops targeting disabled people organisations were held in the North West province ahead of the 2009 and 2011 elections respectively;
- Seven persons with disabilities were trained as voter education facilitators in each of the regions of the Eastern Cape;
- Four civic and voter education workshops targeting disabled people organisations were conducted in the Free State Province;
- One provincial workshop targeting disabled people organisations in Gauteng Province were held before the 2009 and 2011 elections respectively.

161.5. A challenge which remains is the physical inaccessibility of voting stations in particular in rural areas.

## **162. *Holding Public Office***

162.1. Much advancement has been made for persons with disabilities as candidates in elections. Persons with disabilities have been included on the election lists of various political parties, but in particular on the national, provincial and local proportional lists of the African National Congress. 2012 figures for self-representation of persons with disabilities as public representatives are:

- Parliament (National Assembly and National Council of Provinces): 16
- National Cabinet: 01 (Deputy Minister for Women, Children and People with Disabilities);
- Nine Provincial Legislatures: 8
- Provincial Executive Councils: 3
- Municipalities (eight metropolitan councils, 226 local and 44 district councils): 72

## **163. *Organisations of Persons with Disabilities***

164. The government of South Africa recognises the right of persons with disabilities to be represented through disabled people as well as parents organisations, rather than through organisations for persons with disabilities.

165. Financial support from government to organisations for and of persons with disabilities at national and provincial level is predominantly through subsidisation by the Departments of Social Development, Health and Labour, with a strong bias at this stage towards organisations for persons with disabilities, rather than organisations of disabled persons. This is currently receiving attention. Organisations of persons with disabilities at local level currently receive virtually no direct financial support from government, but do have indirect to funds through the National Development Agency (funded by the Department of Social

Development) as well as the National Lottery Development Distribution Fund (funded by the National Lottery). A few local organisations have managed to secure financing support through the Expanded Public Works Programme Non-Government Sector.

166. In addition, persons with disabilities represent the interests of the disability sector on a number of other public institutions such as the SA Human Rights Commission, the Commission on Gender Equality, the National Youth Development Agency, the Public Service Commission, the National Economic Development and Labour Council (NEDLAC), the National Lotteries Board and its Distributing Agencies, the Unemployment Insurance Fund (UIF), the Commission on Employment Equity, the National Development Agency, the Pan South African Language Board, the National Skills Authority and the South African National Aids Council (SANAC).

## **X. ARTICLE 30: Participation in cultural life, recreation, leisure and sport**

167. South Africa recognises the rights of persons with disabilities to develop and utilise their creative, artistic and intellectual potential, through full participation in recreational, leisure and sporting activities.

### **167.1. Sport**

- 167.2. Sport and Recreation South Africa (SRSA) must, in accordance with its funding policy in terms of section 10(1) (d) of the NSR Act, increase the profile and financial assistance to volunteers, women, senior citizens, neglected rural areas and the disabled, in sport and recreation. The SRSA Funding Policy of 2008 stated that preference will be given to those clients (National Federations) whose activities clearly impact on government priorities and one of them is the “Advancement of women and persons with a disability”.

- 167.3. Moreover, section 10(3) (a) (ii) of the NSR Act provides that no funding will be provided and no recognition as prescribed will be given by SRSA to National Federations where federations exclude persons from the disadvantaged groups, particularly women and people with disabilities, from participating at top level of sport.

- 167.4. The Norms and Standards for Sport and Recreation Infrastructure Provision and Management Volume 1, stipulates that all sport and recreation centres must be designed to allow access to people with disabilities. The draft Safety Regulations stemming from the Safety at Sports and Recreational Events Act, (Act 2 of 2010) make provision that stadiums and other venues in the Republic must have accessible accommodation and facilities, approved by the local authority, for use by spectators with disabilities at an event, setting minimum norms and standards for stadia and venues. Although there are no accurate statistics regarding accessibility of sport and recreation facilities for people with disabilities, statistics

will be available on completion of a sports facility audit planned for the 2012/13 financial year.

167.5. The draft Fitness Industry Bill makes provision that a fitness establishment must, amongst others, have at least a defibrillator and a first aid kit for disabled persons; and sufficient number of staff that is specifically trained to assist persons with disabilities.

167.6. The National Sport and Recreation Plan (NSRP), approved in 2011, provides for the inclusion of special schools for children with disabilities in the Talent Identification and Development Programme through participation in the National Top School Games as well as the SA Youth Olympic Games.

167.7. Although there is no specific school sports policy for children with disabilities, the Memorandum of Understanding signed between the Ministers of SRSA and Basic Education provides for inclusiveness in all programmes. This inclusiveness is also captured in the school sports policy that was published for public comments until 31 March 2012. This policy is now in the process of being finalised.

167.8. Most mass sporting events organised at national and provincial level, involve learners with disabilities from ordinary and special schools. The following data reflects the number of school children with disabilities who participated in competitive school sports programme:

	2007/08	2008/09	2009/10	2010/11	2011/12
Athletics	750	750	600	650	
Basketball	108	108			
Football (boys)	153	153	153		
Netball (girls)	90	90	90		
Mass Participation School Sport (league programme)		9,531	9,567 (74 schools)	8,349 (105 schools)	7,854 (268 schools)

167.9. Three hundred and seven (307) athletes young athletes with disabilities (athletics, equestrian (paradressage), judo (blind and visually impaired), paracycling, adaptive rowing, swimming, wheelchair tennis and table tennis) have received scientific support services (scientific testing and interventions, medical interventions and medical team support) since 2009, with a total of twenty (20) athletes being accommodated on the residential programme, where they receive a full sponsorship for their tuition, books, school uniform (USD 23,125 annual allocation per athlete) and access to sporting facilities, coaching, accommodation and meals.

167.10. Additional financial support from SRSA over the past three years (2008-2011) has been made available through subsidisation of disabled sport organisations:

- SA Deaf Sport Federation received a grant of USD75,749.

- SA Sport Association for Physically Disabled received a grant of USD 46,581.
  - Intellectually disabled constituency received a grant of USD50,625.
- 167.11. Stakeholder engagement takes place in the form of attending Annual General Meetings of the relevant federations, annual consultation workshops with programme stakeholders such as the South African Sport Association for the Physically Disabled (SASAPD). One-on-one meetings are also held annually with SASAPD and all National Federations inclusive of athletes with disability to plan services that will be received by the athletes in the following year.
- 167.12. The South African sport sector agreed in November 2011 that the following indicators should be included in the Transformation Scorecard:
- Percentage of facilities accessible to sports persons with a disability.
  - Percentage of managers with a disability at national and provincial levels.
  - Percentage of participants with a disability at national and provincial levels.
- 167.13. The impact of South Africa's approach to and support for sport for persons with disabilities was amplified during the 2008 and 2012 Olympic Games when swimmer Natalie du Toit and athlete Oscar Pistorius both qualified for both the South African Olympic and Paralympic teams.

#### **168. Recreation and Tourism**

- 168.1. As reported under Article 9, significant progress has been made over the past few years in promoting accessibility to tourism facilities for persons with disabilities. Consultative workshops were held from 2010 to develop norms and standards for universal access in the tourism industry, culminating in the Universal Accessibility in Tourism Action Plan and the Universal Accessibility in Tourism Declaration in 2011.
- 168.2. The South African National Parks (SANPARKS), under whose authority major tourism attractions such as the Kruger National Park and Table Mountain falls, has progressively been working with disability organisations on improving accessibility for tourists with physical and visual disabilities. Its website (<http://www.sanparks.org/groups/disabilities/>) is accessible to persons with visual disabilities and provides detailed accessibility information for each of its national parks.
- 168.3. Major tourism attraction facilities in South Africa will be audited during 2012/13 to assess compliance with universal access principles.

#### **169. Arts and Culture**

- 169.1. The Department of Education provided training to teachers with regard to adapting the Arts and Culture Curriculum in General Education to accommodate learners with disabilities during 2009.

- 169.2. An accessibility audit of facilities being administered by the Department of Arts and Culture (including 25 public entities) conducted in 2009, revealed that 92 facilities required upgrading at an estimated cost of USD 2,875,000. The Department budgets annually to progressively redress this shortcoming.
- 169.3. The Performing Art Policy ensures that 5% of performers contracted for celebration and/or commemoration of national days constitute performers with disabilities.
- 169.4. The Department of Arts and Culture supports a number of initiatives to promote arts and culture among persons with disabilities –
- The Annual Zwakala DeafTV National Championships (in partnership with the South African Public Broadcaster, the Pan South African Language Board) reaches approximately 300 deaf children;
  - The Afrika Sinakho “In the Blood” national touring production showcases performing arts abilities of persons with disabilities in a 80 person cast of both disabled (sight, physical and mentally disabled) and able-bodied artists;
  - The Market Theatre’s “Listen with your Eyes” Festival in 2010 which produced two plays that were aimed at both the Deaf and hearing community;
  - Ad hoc financial support to various disability arts projects upon request;
  - The South African Library for the Blind, established under the South African Library for the Blind Act (Act 91 of 1998) receives an annual grant;

#### **170. *Sign Language and Deaf Culture***

- 170.1. The Bill of Rights guarantees all South Africans freedom of association, and prohibits discrimination that interferes with the right of South Africans to enjoy their culture, or use their language, or to form, join or maintain cultural, religious and linguistic associations.
- 170.2. Sign language does not enjoy recognition as one of South Africa’s official languages. The South African Constitution however mandates the Pan South African Language Board with the responsibility to promote the development, usage and recognition of sign language as the first language of deaf South Africans. The deaf community is represented on the Board, and the public entity also employs deaf persons to give effect to this responsibility.
- 170.3. The deaf community has raised concerns that government measures are insufficient for the effective promotion of the linguistic identity of deaf persons, including ensuring the availability of specific skills-training services for children, adults or teachers who require sign language to access their rights.

## **SEGMENT D: THE SPECIFIC SITUATION OF BOYS, GIRLS AND WOMEN WITH DISABILITIES**

### **Y. ARTICLE 6: Women with Disabilities**

171. South Africa remains committed to the attainment of gender equity and equality, also as it pertains women and girls with disabilities, and as illustrated in the country's extensive legislative and policy framework. South Africa has as such ratified the UN Convention on the Elimination of all forms of Discrimination against Women (CEDAW), as well as the SADC Protocol on Gender and Development.
172. It is however acknowledged that women and girls with disabilities still do not enjoy all human rights and fundamental freedoms on an equal basis with boys and men with disabilities. Black women with disabilities, in particular, bear the brunt of inequality based on race, disability, gender, socio-economic status and class.
173. A major concern with regard to disability and gender is the persisting violence against and victimisation of women and children, and in particular women and girls with disabilities. Estimates of the extent of violence vary, as there is widespread of under-reporting. Disaggregated statistics for violence against women and children with disabilities are not available, and as reported under Article 13, women with communication and/or intellectual and/or psychiatric disabilities experience particular difficulties in accessing justice when their right have been violated.
174. Women with disabilities are represented on the Commission on Gender Equality (CGE), established in terms of Chapter 9 of the Constitution, with the mandate to evaluate government policies, promote public education on gender issues, make recommendations to government for law reform, follow up on complaints and monitor government's compliance with international conventions.
175. Women with disabilities are affirmed through a range of targeted programmes and events by a range of government departments, although it is acknowledged that improved coordination and targeting of these efforts will significantly strengthen impact. Interventions during the reporting period included:
- In 2008, the Department of Communications hosted a Seminar for Rural and Disabled Women in the Northern Cape which aimed at creating awareness on opportunities in the ICT sector, as well as providing women with disabilities with a platform to influence the development of the Department's Gender and ICT Strategy.

## Z. ARTICLE 7: Children with disabilities

176. The Constitution acknowledges the equal human rights of boys and girls with disabilities, a principle which underpins all decision-making with regard to legislation, policies and programmes in South Africa.
177. ***Measures taken to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children***
- 177.1. The Children's Act 38 of 2005, recognises the special needs of children with disabilities as one of its main objectives. Section 6 of the Act calls for all proceedings, actions or decisions in a matter concerning a child, to protect the child from unfair discrimination on the grounds of the disability of the child or a family member of the child, and calls for an enabling environment to respond to the special needs of children with disabilities.
- 177.2. The Strategy towards the Integration of Children with Disabilities was developed in consultation with approximately 2500 stakeholders from national and provincial Departments of Social Development, other key government departments and institutions, as well as stakeholders in the parents, children and disability sectors . The Strategy aims to guide service providers in the implementation of the Children's Act, Act 38 of 2005 to ensure effective mainstreaming of disability considerations across programmes focusing on early childhood development, basic education, health, sport, recreation and justice. The development of the Strategy was under-pinned by research conducted in 2010 on the provisioning of services to children with disabilities by national departments, formalised in a Situation Analysis Report on the Status of Children with Disabilities, due for publication in the final quarter of 2012.
- 177.3. The disability sector and parents organisations participated in the development of a range of guidelines and strategies focusing on, among others, a costing model and implementation plan for child abuse, neglect and exploitation, a strategy on child-headed households, early childhood development and partial care services such as Children and Youth Care Facilities, the National Policy Framework for Children, the draft National Plan of Action for Children (currently being consulted) as well as inclusive education.
178. The National Guidelines for the Care and Prevention of the most common Genetic Disorders, Birth Defects and Disabilities provides guidance for follow up when disability or birth defects have been identified, including referral services and information on rehabilitation services.

## **179. Self-representation by children with disabilities**

- 179.1. Child participation principles require that children with disabilities be included in any consultation with children in general. The annual children's calendar enables children with disabilities to participate in the annual Children's Parliament which coincides with International Mandela Day, the celebration of International as well as National Children's Day, Child Protection Week, as well as thematic child participation workshops where children with disabilities are able to express their views on matters that affect them, for example the 5<sup>th</sup> World Summit on Media for Children (2007), youth and ICT Expos.
- 179.2. Appropriate support is provided to children with disabilities at these workshops. It is however acknowledged that the voices of children with severe communication as well as intellectual disabilities are under-represented in these fora, and that insufficient attention has been given in providing platforms for these children to represent themselves.
- 179.3. Children with disabilities have, in terms of the South African Schools Act (Act 84 of 1996), the rights to represent themselves on School Governing Bodies and Learner Representative Councils. This right is also protected in several other education policies which centrally acknowledge the right of children to have a say in decisions affecting them.

## **SEGMENT E: PROGRESS ON THE IMPLEMENTATION OF SPECIFIC OBLIGATIONS**

### **AA. ARTICLE 31: Statistics and data collection**

180. The Government of South Africa acknowledges the importance disaggregated appropriate information, including statistical and research data, in the formulation of policies to give effect to the Convention.
181. Statistics South Africa, as the state agency responsible for the collection, production and dissemination of official and other statistics, including the conducting of a census of the population, and for co-ordination among producers of statistics, is fully compliant with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles in the collection and use of statistics.
182. Statistics South Africa has significantly re-modelled its approach towards mainstreaming disability considerations into its operations following ratification of the Convention on the Rights of Persons with disabilities, and has aligned its annual household survey as well as census questionnaires to the Washington

Group on Disability Statistics framework. The next national census results are due for release towards the last quarter of 2012, and the agency has undertaken to conduct focused surveys on the situation of children with disabilities aged 0-5 years early in 2013 due to the challenges being experienced with the reliability of information gathered for this age group through the general census questionnaire.

183. Disaggregation of disability-related statistics and data across all government institutions remains a challenge, including the reliability of such data where it exists, remains a challenge. The Department of Women, Children and People with Disabilities is currently finalising a monitoring and evaluation framework to facilitate the standardisation of disaggregating data for reporting on progressive realisation for persons with disabilities.
184. Measures have as such been taken to mainstream disability considerations into government's various research and evaluation projects, the most recent being the national evaluation on early childhood development carried out in 2011/2012.

#### **BB. ARTICLE 32: International cooperation**

185. South Africa acknowledges the importance of international cooperation in support of national efforts towards the implementation of the CRPD. This cooperation, furthermore, should be inclusive of and accessible to persons with disabilities.
186. South Africa has acceded to, or ratified, most of the African regional and international human rights instruments in the area of economic, social, cultural, civil and political rights. South Africa is one of few countries in the world where the Constitution expressly requires that in interpreting and applying the provisions in the Bill of Rights, particular attention should be given to relevant international laws, and even that comparable international experiences should be considered.
187. The African Union's adoption of the Declaration of the African Decade in 2000 places responsibilities on African States to implement Decade Programme Activities. South Africa supports and participates in the African Decade for Persons with Disabilities (2010-2019) and South Africa hosts the Decade's Secretariat.
188. The first stage of implementing an inclusive education and training system in South Africa was funded by Finland and Sweden. Mutual exchanges took place between the countries which benefited not only South Africa, but also Finland, Sweden and other countries in Africa that have been part of the development aid networks of the Nordic countries.
189. The country regularly participates in actions toward facilitating and supporting capacity-building, through the exchange and sharing of information, experiences, training programmes and best practices, for example, within one year after signing

the Convention, South Africa has sent a delegation to attend a conference on mainstreaming the CRPD in Ethiopia, Africa. The conference was a call to implement the CRPD by states parties in the continent.

190. South Africa is also an active participant in JICA programmes focusing on the empowerment of persons with disabilities and strengthening the mainstreaming of persons with disabilities.
191. The country acknowledges that insufficient attention has been given to mainstreaming disability considerations in country-to-country bilateral agreements signed since 2008, in particular in south-south cooperation, and this is being addressed.
192. South Africa is a member of the World Health Organisation, International Labour Organisation and Rehabilitation International, among others, and has through these channels contributed technical expertise in developing guidelines, for example in the development of guidelines for wheelchairs in less resources settings, the revision of the Community-Based Rehabilitation manual and the drafting of the rehabilitation section of the World Disability Report.

#### **CC. ARTICLE 33: National implementation and monitoring**

193. The former Office on the Status of Disabled Persons (OSDP), located in the Presidency since 1997, was replaced with a fully-fledged national focal point with the establishment of the Ministry of Women, Children and People with Disabilities in May 2009 to “emphasize the need for equity and access to development opportunities for the vulnerable groups in our society”. The mandate of the Ministry is to ensure that government translates its constitutional, political and global commitments into measurable and meaningful programmes through improved coordination between government institutions across all three spheres of government, as well as between government, the private sector and civil society, as well as strengthened monitoring of the advancement of the rights of persons with disabilities.
194. The establishment of the Department of Women, Children and People with Disabilities in 2009 had the unintentional consequence of slowing down the transformation agenda in the short term due to the time taken in establishing an administration in the Department as well as resourcing constraints within the Department.
195. All national government departments, provincial administrations as well as district and local municipalities are required to appoint/designate a disability focal person/unit to coordinate the mainstreaming of disability considerations within each of these institutions. These focal points converge in the National Disability Machinery, which is constituted by, among others, the Inter-Departmental

Coordinating Committee, the Provincial Coordinating Forum, and the National Disability Forum which brings civil society on board. A recent review of the National Disability Machinery revealed significant challenges with regards mandate, capacity, functionality and impact of disability focal points and coordinating structures across all three spheres of government, and a significant overhaul of the machinery is currently underway.

196. The South African Human Rights Commission, established by sections 181 and 184 of the Constitution, constitutes the independent monitoring mechanism envisaged in Article 33 of the Convention. It is however acknowledged that the Commission's current capacity does not enable it to meet its obligations as required by the CRPD sufficiently.

## **PART THREE – CONCLUSION**

197. South Africa remains committed to accelerate its national agenda for the progressive realisation of rights of persons with disabilities by, among others
- strengthening its mainstreamed legislative and policy framework,
  - considering the need for disability-specific legislation,
  - strengthening its national disability machinery, including creating more enabling environments for disabled peoples' organisations,
  - strengthening accountability and monitoring through the introduction of disability rights-based indicators into the government-wide monitoring and evaluation system, and above all,
  - accelerating implementation of policies and programmes that aim to provide equal access to persons with disabilities, including disability-specific programmes aimed at addressing barriers to participation.

## **ANNEXURE A: Bibliography**

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- National Health Act, 2003 (Act 61 of 2003)
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- South African Citizenship Act, 1995 (Act 88 of 1995)
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- South African Schools Act (Act 84 of 1996)
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United Nations Convention on the Rights of Persons with Disabilities (Resolution 61/106)

White Paper on Affirmative Action in the Public Service, 1998

White Paper on Transformation of the Public Service, 1997 (Batho Pele)

White Paper on Early Childhood Education (2001)

White Paper on Inclusive Education (2001)

White Paper on Social Welfare, 1997

## **SUBMISSIONS**

Department of Arts & Culture

Department of Basic Education

Department of Communications

Department of Cooperative Governance

Department of Defence

Department of Energy

Department of Health

Department of Human Settlements

Department of Justice and Constitutional Development (late submission not incorporated into draft)

Department of Labour

Department of Mineral Resources

Department of Performance Monitoring and Evaluation

Department of Public Enterprises

Department of Public Service and Administration

Department of Rural Development and Land Reform

Department of Science and Technology (late submission not incorporated into draft)

Department of Social Development

Department of Tourism

Department of Trade & Industry

Government Communications and Information Systems

South African Police Services

South African Revenue Services

Sports & Recreation South Africa  
Statistics SA (late submission not incorporated into draft)  
The Presidency  
Independent Electoral Commission  
Commission on Gender Equality  
National Lottery Board  
Provincial Government of Eastern Cape  
Provincial Government of Free State  
Provincial Government of Gauteng  
Provincial Government of KwaZulu-Natal  
Provincial Government of North West  
Provincial Government of Northern Cape  
Provincial Government of Western Cape  
Gamagara District Council  
Kareeberg District Council  
Karoo Hoogland District Council  
Pixley ka Seme District Council  
Sol Plaatje District Council

### **CIVIL SOCIETY (WRITTEN)**

National Council for Persons with Physical Disabilities in South Africa  
South African Federation for Mental Health  
South African National Council for the Blind

### **PUBLIC HEARINGS IN PARLIAMENT**

#### **i. Civil Society**

A group of women with disabilities who live in the communities of New Crossroads, Browns Farm, Khayelitsha, Phillipi, Harare and Lusaka  
Afrika Tikkun - Empowerment Programme- Children with Disabilities and Their Families Self-help Group, Arekopaneng Centre, Orange Farm  
Association for Hearing Loss, Accessibility and Development  
Blind SA  
Afrika Tikkun/ Centre for Applied Legal Studies, the University of Witwatersrand/  
Werksmans Attorneys (Joint submission)  
CBR Education and Training for Empowerment (CREATE)

Dementia South Africa  
Disabled People South Africa  
Down Syndrome South Africa  
Durban Child and Youth Care Centre  
ECD sub-group of the Campaign on the Right to Education for Children with Disabilities  
Gauge  
Gauteng Consumer Advocacy Movement  
Individual submissions  
KwaZulu-Natal Association for the Physically Challenged  
Mental healthcare users of Gauteng Consumer Advocacy Movement  
Orange Farm Self Help Group  
R2E CWD  
SADECO Quantum Consulting  
Transport Users Group of South Africa  
University of Cape Town Disability Studies, School of Health and Rehabilitation Sciences  
UWC Disability Policy and Legislation Centre  
South African Human Rights Commission

**ii. Submissions by Government Departments & Entities**

Department of Arts and Culture  
Department of Basic Education  
Department of Communications  
Department of Health  
Department of Justice  
Department of Labour  
Department of Public Works (not yet incorporated into draft report)  
Department of Social Development  
Department of Tourism  
Department of Transport  
Department of Women, Children and People with Disabilities  
Pan South African Language Board  
South African Broadcasting Corporation  
South African Police Services



women, children &  
people with disabilities  
Department:  
Women, Children and People with Disabilities  
REPUBLIC OF SOUTH AFRICA

**DEPARTMENT OF WOMEN, CHILDREN AND PEOPLE WITH DISABILITIES**

**TEMPLATE FOR PUBLIC COMMENTS ON THE  
DRAFT FIRST COUNTRY REPORT TO THE UNITED NATIONS ON  
THE IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF  
PERSONS WITH DISABILITIES**

**Period for Public Comment:  
3 December 2012 – 25 January 2013**

Stakeholders are invited to validate the content of the draft report by:

1. Indicating whether they agree/disagree with the content of each article;
2. Providing additional information for the baseline report on both achievements and challenges.

The template can be used to guide structuring of submissions.

Comments should reach the DWCPD before **25 January 2013** at

**[DisabilityRights@dwcpd.gov.za](mailto:DisabilityRights@dwcpd.gov.za)**

Fax: **0862416626**

**DETAILS OF INDIVIDUAL/INSTITUTION MAKING THE SUBMISSION:**

<b>Department/Organisation/Institution</b>	
<b>Name of Person doing Submission</b>	
<b>Designation/Position</b>	
<b>Email address</b>	
<b>Cell Number/Landline</b>	

<b>This submission reflects the viewpoints of my institution/organisation/company:</b>	<b>YES</b>	<b>NO</b>
<b>This submission reflects my personal viewpoints:</b>	<b>YES</b>	<b>NO</b>

**PART ONE: SUMMARY OF CORE DOCUMENT**

Note:

- The 2011 Census statistics will not be used in this report.
- Statistics will be updated in the second periodic report due by May 2014 after engagement with Statistics South Africa with regards interpretation of Census 2011 data.

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

## PART TWO: THE CRPD SPECIFIC REPORT

### Segment A: Measures taken by the state to implement the outcomes of the un conferences, summits and reviews

I agree with the content	YES	NO	PARTIALLY
I disagree with the following:			
Additional information which should be considered:			

### Segment B: The state's alignment with the general provisions of the UNCRPD as outlined in Articles 1-4

#### I. Definition of Disability

I agree with the content	YES	NO	PARTIALLY
I disagree with the following:			
Additional information which should be considered:			

#### II. Implementation of the General Principles and Obligations

I agree with the content	YES	NO	PARTIALLY
I disagree with the following:			
Additional information which should be considered:			

### III. Prioritisation of implementation of CRPD articles

I agree with the content	YES	NO	PARTIALLY
I disagree with the following:			
Additional information which should be considered:			

### Segment C: Progress in implementation of specific CRPD Articles

#### A. ARTICLE 5: Equality and non-discrimination

I agree with the content	YES	NO	PARTIALLY
I disagree with the following:			
Additional information which should be considered:			

#### B. ARTICLE 8: Awareness Raising

I agree with the content	YES	NO	PARTIALLY
I disagree with the following:			
Additional information which should be considered:			

#### C. ARTICLE 9: Accessibility

I agree with the content	YES	NO	PARTIALLY
I disagree with the following:			
Additional information			

which should be considered:	
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**D. ARTICLE 10: Right to life**

I agree with the content	YES	NO	PARTIALLY
I disagree with the following:			
Additional information which should be considered:			

**E. ARTICLE 11: Situations of risk and humanitarian emergencies**

I agree with the content	YES	NO	PARTIALLY
I disagree with the following:			
Additional information which should be considered:			

**F. ARTICLE 12: Equal recognition before the law**

I agree with the content	YES	NO	PARTIALLY
I disagree with the following:			
Additional information which should be considered:			

**G. ARTICLE 13: Access to justice**

I agree with the content	YES	NO	PARTIALLY
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<b>I disagree with the following:</b>	
<b>Additional information which should be considered:</b>	

**H. ARTICLE 14: Liberty and security of the person**

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

**I. ARTICLE 15: Freedom from torture or cruel, inhuman or degrading treatment or punishment**

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

**J. ARTICLE 16: Freedom from exploitation, violence and abuse**

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

**K. ARTICLE 17: Protecting the integrity of the person**

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

**L. ARTICLE 18: Liberty of movement and nationality**

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

**M. ARTICLE 19: Living independently and being included in the community**

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

**N. ARTICLE 20: Personal mobility**

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

**O. ARTICLE 21: Freedom of expression and opinion, and access to information**

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

**P. ARTICLE 22: Respect for privacy**

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

**Q. ARTICLE 23: Respect for home and the family**

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

**R. ARTICLE 24: Education**

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

**S. ARTICLE 25: Health**

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

**T. Article 26: Habilitation and Rehabilitation**

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

**U. ARTICLE 27: Work and employment**

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

**V. ARTICLE 28: Adequate standard of living and social protection**

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

**W. ARTICLE 29: Participation in political and public life**

I agree with the content	YES	NO	PARTIALLY
I disagree with the following:			
Additional information which should be considered:			

**X. ARTICLE 30: Participation in cultural life, recreation, leisure and sport**

I agree with the content	YES	NO	PARTIALLY
I disagree with the following:			
Additional information which should be considered:			

**Segment D: The specific situation of boys, girls and women with disabilities**

**Y. ARTICLE 6: Women with Disabilities**

I agree with the content	YES	NO	PARTIALLY
I disagree with the following:			
Additional information which should be considered:			

**Z. ARTICLE 7: Children with disabilities**

I agree with the content	YES	NO	PARTIALLY
I disagree with the following:			

<b>Additional information which should be considered:</b>	
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**Segment E: Progress on the implementation of specific obligations**

**AA. ARTICLE 31: Statistics and data collection**

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

**BB. ARTICLE 32: International cooperation**

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

**CC. ARTICLE 33: National implementation and monitoring**

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			