

Facilitating an Equal Right to Vote for Persons with Disabilities

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Abstract

Historically and contemporaneously, persons with disabilities have been excluded from exercising their human rights, including the right to political participation. The UN Convention on the Rights of Persons with Disabilities responds to this circumstance and provides a holistic solution. Article 29 addresses the design and implementation of an electoral process that is non-discriminatory, while also requiring states to provide voters with disability-related accommodations and other facilitative measures to enable their equal right to vote. Yet to date, what little attention has been paid to the voting rights of disabled persons has focused on the validity and scope of exclusions, and neither courts nor legislators have turned to the positive side of the ledger, namely, how to enable individuals with disabilities to exercise their franchise. Emerging practices around the globe nonetheless bear out that persons with disabilities can be successfully incorporated in all phases of an electoral process. Further, they can perform a variety of roles beyond exercising the franchise—as voter educators, election commissioners, observers, monitors and committee members, and as candidates. The article reflects evolving state policies and practices by disabled people’s organizations, and draws on our experience working in this field to provide guidance for disability inclusion throughout the ongoing process of pre-electoral, electoral and post-electoral phases that comprise the electoral cycle.

Keywords: Convention on the Rights of Persons with Disabilities (CRPD); disability discrimination; persons with disabilities; political participation

Facilitating an equal right to vote for persons with disabilities

Historically and contemporaneously, persons with disabilities have been excluded from exercising their human rights, including the right to political participation. The UN Convention on the Rights of Persons with Disabilities (CRPD)¹ responds to this circumstance and provides a holistic solution.

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1 Convention on the Rights of Persons with Disabilities, adopted 13 December 2006 (entered into force 3 May 2008).

Article 29 of the Convention addresses the design and implementation of an electoral process that is non-discriminatory, while also requiring states to provide voters with disability-related accommodations and other facilitative measures to enable their equal right to vote.² Yet to date, what little attention has been paid to the voting rights of disabled persons has focused on the validity and scope of exclusions (European Union (EU) Agency for Fundamental Rights 2010) and neither courts nor legislators have turned to the positive side of the ledger, namely, how to enable individuals with disabilities to exercise their franchise.³ The UN Committee on the Rights of Persons with Disabilities, (CRPD Committee), the body that monitors implementation of the CRPD, however, indicated in connection with Communication No. 4/2011, that implementation of the human right to political participation requires the provision of reasonable accommodation and adequate assistance and the repeal of laws that exclude persons with disabilities from voting on the basis of a perceived or actual mental disability, and that such exclusions constitute disability discrimination (UN CRPD Committee 2013: paras 9.4–9.6).

Emerging practices around the globe nonetheless bear out that persons with disabilities can be successfully incorporated in all phases of an electoral process (Lord et al. 2012: Chapter 3). Further, they can perform a variety of roles beyond exercising the franchise—as voter educators, election commissioners, observers, monitors and committee members, and as candidates (Creative Associates International, Inc. 2010: 7). The sections that follow reflect evolving state policies and practices by disabled people’s organizations (DPOs), and draw on our experience working in this field to provide guidance for disability inclusion throughout the ongoing process of pre-electoral, electoral and post-electoral phases that comprise the electoral cycle.⁴

Barriers to political participation

One of the most well-articulated rules of international human rights law, the right to participate in politics and public life, is also one of the more frequently denied rights for individuals with disabilities (Fiala-Butora, Stein, and Lord forthcoming 2014). Disability-related exclusions from political participation take many forms, impact individuals with all types of disability, and invariably lead to or entrench other human rights abridgements (Lord et al. 2012).

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- 2 Article 5’s general requirement of reasonable accommodation to enable the full enjoyment of human rights, and article 12’s mandate to facilitate legal capacity are also especially pertinent. For recent scholarship on the right to vote, see Fiala-Butora, Stein, and Lord (forthcoming 2014).
 - 3 See e.g. *Alajos Kiss v. Hungary*, Application No. 38832/06 (European Court of Human Rights, 20 May 2010), para. 31 (prohibiting blanket prohibitions from voting of persons with intellectual and psychosocial disabilities under guardianship, yet remaining silent on how states ought to support those individuals in voting).
 - 4 Our selection of country examples is derived largely from our respective experiences and thus accounts for emphasis on some regions of the world and not others.

Stereotypes about disability often lead to discrimination against persons with disabilities in decision-making processes generally and in the specific processes of voting, running for office, or participating in public outreach initiatives by political parties. Disability-based animus leads to legislative stereotyping and rules that restrict or even prohibit altogether the right to vote, particularly for persons with psychosocial or intellectual disabilities (Lord and Stein 2013). Discriminatory laws rooted in prejudice may restrict or even prohibit altogether the right to vote, particularly for persons with psychosocial or intellectual disabilities, ostensibly under the guise of protecting the system from fraud or on the basis that disabled voters are not ‘rational’ and therefore cannot exercise the franchise competently. Beyond legislation denying individuals with disabilities the right to vote, as in automatic disenfranchisement in connection with the imposition of guardianship, stereotypes may also serve to exclude persons with disabilities from being included in public outreach by political parties or from consideration as candidates for public office. Finally, legal provisions that preclude persons with disabilities from voting typically fail to provide any process for court challenge or judicial review and are often vague, arbitrary and lacking in legitimate aim or purpose (Fiala-Burtora et al. forthcoming 2014).

The right to political participation may be denied to persons with disabilities for a variety of reasons. Lack of accessible transport for persons with disabilities will impact access to public meetings, voter education activities, registration and voting. Poorly trained election officials may also serve to discourage voters with disabilities from participation. Lack of access to information, such as the timing of public meetings or voter registration requirements, can also be a barrier to participation. Communication barriers frequently exclude persons who are deaf or hard of hearing from accessible information on voting procedures, as well as other important processes such as medical decision making. For individuals with visual impairments, the absence of alternative voting devices or accessible voting methods poses significant barriers. For individuals with disabilities who cannot leave their homes or who reside in hospitals or institutions, mobile voting mechanisms or voting by mail may not be on offer.

Civic and voter education initiatives along with domestic voter observation programmes frequently engage civil society organizations as implementer. DPOs should therefore be included in such efforts in order to ensure effective outreach to voters with disabilities and to strengthen networking among civil society in general. Too often, disability organizations are not involved in such domestic efforts. Relatedly, in the context of international development, donor organizations or service providers may wrongly assume that persons with disabilities are unable to take part or uninterested in doing so. Thus, DPOs are often excluded from participating in projects supporting electoral access, voter education and election monitoring.

Even where efforts are made to effectuate access, they too often fall short or introduce other insurmountable barriers. An exemplar of this tendency is the provision of a wheelchair-accessible voting booth at one polling centre during the United States Presidential elections of 2000, offering up to voters an invalid sample ballot intended for demonstration purposes only, with George Washington and John Adams as the candidates (*Democratic Investigative Staff 2001*: 53). Polling stations in rooms too small to accommodate persons using wheelchairs and voting boxes placed on high tables are also common barriers to physical access.

These and numerous other barriers serve to reinforce the exclusion and isolation of persons with disabilities in political and public life, and, more generally, their participation in decision making in all areas where their interests are affected, whether in the public or private realm.

The UN Disability Convention as a benchmark

While the CRPD is the primary benchmark for assessing the political rights of persons with disabilities, the right to participate in political public life is firmly instantiated in the foundational instruments comprising the human rights legal framework. Thus, article 21 of the Universal Declaration of Human Rights (UDHR)⁵ recognizes the right and article 25 of the International Covenant on Civil and Political Rights (ICCPR)⁶ guarantees to all citizens ‘the right and the opportunity . . . without unreasonable restrictions . . . to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors’. These provisions are shored up in thematically-oriented treaties, such as the Convention on the Elimination of All Forms of Discrimination against Women⁷ (article 7) and the Convention on the Elimination of All Forms of Racial Discrimination⁸ (article 5), as well as regional human rights instruments.

The foregoing standards are given fuller expression and disability-specific content in the CRPD. As the only legally binding international human rights treaty on disability rights, the CRPD explicitly prohibits discrimination on the basis of disability and also contains measures that ensure persons with disabilities are able to achieve full enjoyment of their human rights in political and other spheres (*Lord and Stein 2008*). Article 29 of the CRPD requires states parties to ‘ensure that persons with disabilities can effectively and fully

5 Universal Declaration of Human Rights, adopted by UN General Assembly resolution 217A(III), 10 December 1948.

6 International Covenant on Civil and Political Rights, 16 December 1966 (entered into force 23 March 1976).

7 Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979 (entered into force 3 September 1981).

8 International Convention on the Elimination of All Forms of Racial Discrimination, 7 March 1966 (entered into force 4 January 1969).

participate in political and public life on an equal basis with others', including the right to vote. Interpreted on its own, and together with provisions of cross-cutting applicability in article 3 (general principles), article 4 (general obligations), and article 5 (equality and non-discrimination), the CRPD categorically prohibits all exclusionary practices connected to political participation based on disability status.

The general principles set out in article 3, such as non-discrimination, inclusion, participation and autonomy, serve as an additional check against limitations and exclusions grounded in disability animus. Moreover, article 4(3) expresses the general obligation that states must consult persons with disabilities when developing and implementing legislation and policies to give effect to the CRPD and in other decision-making processes of concern.

General as well as individual assessments of capacity related to the exercise of political rights are prohibited. Across the world many statutes introduce classifications that identify subcategories of individuals with disabilities for restrictions impinging on fundamental rights (EU Agency for Fundamental Rights 2010). The CRPD Committee emphasized this point in the concluding observations it issued on two of the very first reports submitted to it, those of Tunisia and Spain (UN CRPD Committee 2011a, 2011b). In a more recent review, the Committee considered in detail the permissibility of Hungarian legislation permitting the disenfranchisement of individuals with disabilities on the basis of perceived incapacity to vote rooted in their disability status. In its consideration of the merits of Communication 4/2011, the Committee found that

an exclusion of the right to vote on the basis of a perceived or actual psychosocial or intellectual disability, including a restriction pursuant to an individualized assessment, constitutes discrimination on the basis of disability, within the meaning of article 2. (UN CRPD Committee 2013: para. 9.4)

The Committee further found that the discriminatory legislation was neither legitimate nor proportional in terms of safeguarding the integrity of Hungary's political system. Rather, Hungary was obliged to adapt its voting procedures in order to facilitate the right to vote and to ensure that, through the provision of appropriate assistance, persons with intellectual disabilities were able to cast a competent vote.

The obligation not to discriminate on the basis of disability, set forth in article 5 of the CRPD, accordingly asserts a duty to provide reasonable accommodation in the realization of rights, such as voting accommodations (article 29). The CRPD, in addition, requires that states take proactive measures beyond the provision of reasonable accommodation to ensure that voters with disabilities can exercise their rights in practice. Article 9, therefore, provides for accessibility measures to be undertaken in order to facilitate

physical, communication, and information access, all of which are highly pertinent to enabling political participation. In the context of article 29, for example, accessible formats would be required to facilitate inclusive balloting by blind or visually impaired voters, and physical barriers would need to be removed not only on the way into a polling centre, but equally inside the polling station itself. For instance, polling booths are all too often entirely inaccessible for voters who use wheelchairs due to inability to surmount booth thresholds or effectuate turning inside a booth. Further, article 12 requires states to undertake measures to facilitate the legal capacity of persons with disabilities, a core aspect of which is exercising the legal right to vote, for instance through easy-to-read voter information.

Legal framework

The CRPD is now one of the most widely ratified human rights treaties and, as such, should serve as the benchmark against which to review legal frameworks in elections work. Even absent ratification of the CRPD, it is reflective of existing standards set forth in the International Covenant on Civil and Political Rights, among others, and should therefore be regarded as an authoritative interpretation of the more generalized standards on political participation. Constitutional and legal frameworks may not effectively accommodate broad civic participation, particularly for marginalized populations, and may also be inadequate in terms of fostering genuine political competition and the provision of transparent, efficient and electorate-responsive election administration. The legal framework relevant for assessing non-discrimination and equality for voters with disabilities encompasses the legal standards, methods, and procedures for election administration, together with standards for protecting human rights (political and otherwise) embedded in constitutions and/or anti-discrimination legislation, and human rights acts, along with enabling legislation and regulations ([US Agency for International Development \(USAID\) 2000: Appendix C](#)). Thus, beyond electoral laws, a fair and democratic process for political participation must also include related and interconnected human rights protections such as non-discrimination and equality, freedom of speech and assembly, freedom of association, freedom of the press, and recognition of legal capacity, among others.

Various approaches to devising electoral laws may include stand-alone legislation covering presidential, parliamentary and municipal elections, or combined legislation. Separate statutes may address a host of other issues such as voter registration, campaign financing, voting eligibility, electoral complaints and the like. Still other legislation may be pertinent to elections, such as the civil code (particularly insofar as the legal capacity of voters is addressed), administrative law, mass media law, and accessibility codes at the national or municipal levels. Some countries have moved in the direction of universal

electoral codes as a comprehensive piece of legislation covering all aspects of an electoral process (USAID 2000: 23).⁹

Legal frameworks are an essential element of ensuring the participation of persons with disabilities in voting and decision-making processes more generally. Even where persons with disabilities appear to have the right to vote under the constitution or pursuant to electoral law, they may nonetheless be excluded on account of registration requirements such as property ownership, birth registration, employment, or education (Stein and Lord 2011: 31). The nuances of disability rights which, like gender, are cross-cutting and require a deep and comprehensive analysis of a legal framework, are unfortunately beyond the ken of most legal experts undertaking electoral assessments.

Entry points for addressing shortcomings in electoral access for persons with disabilities—notably impermissible exclusions, gaps, and ambiguous provisions—include amendments to the legal framework in order to expand or more adequately protect political rights (Waterstone 2004: 127; International Foundation for Electoral Systems (IFES) 2011b: 7). Administrative regulations can likewise address barriers where implementing measures are underdeveloped (Center for Transitional and Post-Conflict Governance 2005: 11). Finally, participating in the development of codes of conduct for election observers and party agents is an important entry point for disability advocates to provide inputs that can help protect the rights of voters with disabilities and, in addition, improve their voting experience (Lord and Stein 2012: 27). Some illustrations provide a model for comprehensive review and amendment or overhaul of the legal framework for elections. For example, the United States-based National Democratic Institute worked in Macedonia to complete a detailed audit of the existing election law, providing an analytical commentary and facilitating televised hearings to engage civil society organizations and ruling and opposition parties to consider change to the existing law. The resulting new law incorporated some 80 percent of the proposed changes (USAID 2000: 25).

During democratic transition electoral systems are often developed contemporaneously with other constitutional and law reform processes, thereby offering opportunities to secure the rights of persons with disabilities in an integrated way across the legal framework. In some instances, human rights treaty ratification offers the same opportunity for DPO engagement in the development, analysis, and implementation of constitutional provisions and legislation on the delineation of roles and responsibilities of government and civil society related to political participation. In some successful advocacy initiatives, DPOs have drawn on comparative and global best practices and have successfully pressed for disability-inclusive instruments that are key to the development of a sound legal framework to protect the rights of persons

9 Countries include Bosnia, Bulgaria, China, Costa Rica, El Salvador, Ghana, Honduras, Indonesia, Nigeria, Macedonia, Mexico, Mongolia, Philippines, Poland, Romania, Russia, Slovakia, South Africa, Ukraine, and West Bank/Gaza.

with disabilities. As part of ongoing electoral assistance in Egypt following the 2011 revolution, for instance, the disability community has been proposing changes to several relevant pieces of legislation governing elections. In addition, they are pursuing constitutional law reflective of disability rights and advocating for the adoption of a national disability law.¹⁰ Pursuing any one of these reform efforts in isolation would be counterproductive and would miss opportunities for advancing holistic disability rights protection.

Inclusion in pre-election technical assessments

Gauging an electoral environment for the purpose of including persons with disabilities, as well as other marginalized groups, should happen as a matter of course within the general framework of a pre-election technical assessment. These exercises provide an opportunity to identify needs and formulate recommendations for electoral administration reforms and adjustments that are inclusive, accessible, coordinated, and consistent with international disability rights standards (USAID 2000: 7).

Pre-election technical assessments can provide information and analysis of the overall electoral environment together with political, economic, social, and security issues that may have an impact on political campaigns and election procedures, set out recommendations on programming priorities and funding needs, and identify short and long term action strategies that should be taken (Heilman 1999; Sheinbaum, Fremaux, and Seiler 1995). Importantly, these evaluations provide a road map for governments, election management bodies, political parties, and civil society organizations to undertake necessary reforms and implement good practices that foster inclusion and enhance the legitimacy of electoral processes (IFES 2012b; IFES and the Association for Participatory Democracy (ADEPT) 2004; Organization for Security and Co-operation in Europe (OSCE) 2001). Too often, however, assessments of the accessibility of an electoral system to persons with disabilities are not included within general assessment frameworks, but exist as a one-off or ad hoc effort, if at all.¹¹ Nevertheless, standard election assessments touch upon a variety of

10 Thus, for example, Law 73 of 1956, Exercising of Political Rights, contains an exclusion provision for voters with mental disabilities and, in article 3, provides that '[e]xercising political rights shall be suspended for. . . (2) [t]hose who are being treated for mental illnesses and for the period of their treatment'. <http://aceproject.org/ero-en/regions/mideast/EG/Law%20No.%2073%20of%201956%20-%20english.pdf>.

11 Specifically, democracy assistance efforts pay little to no attention to enfranchising persons with disabilities, notwithstanding the fact that many targeted countries have substantial populations of disabled persons on account of poverty, armed conflict, and other factors. See e.g. USAID 2000: 10 (referencing the importance of extending voting rights to historically excluded groups). The International Foundation for Electoral Systems (IFES) has a strong track record of undertaking election access assessments to track the accessibility of an electoral system. These are, however, typically stand-alone assessments designed to fill a gap where a general pre-election technical assessment ignored altogether or barely grazed disability access. For more on the disability-specific assessments, see IFES (undated).

issues with salience for accessibility and advancing citizen participation by persons with disabilities ([International IDEA 2000](#): Appendix A).

The mandate, relative independence, technical readiness, and institutional capacity of an election management body (EMB), along with subordinate election commissions and polling boards, is important insofar as election management bodies can substantially advance or seriously undermine disability inclusion and election access. Likewise, other government agencies tasked with supporting voter registration and election administration processes and adjudicating election-related disputes are implicated in strengthening or inhibiting inclusion for voters with disabilities. The timetable for elections, major deadlines within the campaign, and election preparation is pertinent to ensuring that efforts to design and introduce inclusive practices are fully implemented.

Procedures and systems targeting fraud identification and prevention are an essential feature of assessments, but all too often fraud is used as the primary basis upon which to exclude various categories of voters from the franchise, particularly persons with intellectual and mental disabilities ([Sabatino and Spurgeon 2007](#): 858; [Karlán 2007](#): 925; [Kohn 2007](#): 1076). Accordingly, technical assessments must scrutinize closely and view pessimistically this basis for exclusion insofar as no studies disclose a link between allowing persons with disabilities to vote, with or without facilitated assistance, and a higher rate of electoral fraud, and the purported protection of the electoral system though the disenfranchisement of voters with disabilities is not empirically demonstrated ([Fiala-Butora et al. forthcoming 2014](#)).¹²

Other issues to be covered in assessments include evaluating the accuracy and sufficiency of the voter identification system and the voter registration process/voters registry. Of particular consequence for persons with disabilities is the fact that in many cases children with disabilities are not registered at birth, presenting additional barriers to exercising the franchise ([Stein and Lord 2011](#): 31). Also of consequence is the extent to which assessments cover the adequacy of election budgeting, including the level of funding devoted to targeted outreach and inclusion efforts to enhance opportunities for equal access and participation by persons with disabilities.

Finally, technical assessments examine opportunities for the mass media and domestic monitoring groups to provide information to voters and to oversee the electoral process in addition to assessing media and domestic monitoring competency. Attention should be given to the diversity of domestic monitoring groups and the extent to which strategies of media engagement can enhance the participation of marginalized groups.

12 Indeed, it should be noted that electoral fraud extends beyond balloting and in fact covers aspects of the process that have little or no link to purported fraud linked to allowing persons with disabilities to vote. The principal vehicles of voting fraud are in the design of fraudulent voting registration schemes, irregularities in vote counting and tabulation and/or inaccuracies in the reporting or results. See [Fiala-Butora et al. \(forthcoming 2014\)](#).

Site selection for accessibility

Registration and polling centre site selection is likely to have a major impact on accessibility to voter registration and balloting, particularly insofar as alternatives, such as off-site voting, voting by mail, kerbside voting and mobile voting mechanisms, are by no means universally available (Waterstone 2010: 1100). Even where off-site voting is available, this is not necessarily an adequate solution for persons with disabilities to access the franchise as it may create differential access and impact the voting experience, for instance where a digital divide prevents disabled voters from utilizing the internet (Waddell 1999).

A number of factors should be taken into account in order to achieve barrier-free access to registration and polling centres. Consultation with DPOs is part and parcel of this process and can help identify the specific needs of people with disabilities, such as people who use wheelchairs or other mobility devices. Site selection, such as the identification of polling centres with level ground floor entry, will not only facilitate access for voters with mobility impairments, but will likewise benefit pregnant women, older persons and individuals with temporary or permanent health conditions that limit mobility. In Ghana, most polling stations are outdoors—a decision taken to enhance transparency that nonetheless has positive implications for access (Gyimah-Boadi and Takah 2012: 7). In Canada, in cases where level access at a polling centre is not available, transfer passes are provided to enable voters with mobility impairments to utilize an alternative and accessible polling centre (Elections Canada 2004: 6).

Increased attention is being paid to site selection and accessibility audits. The best practice is for such initiatives to be implemented jointly by DPOs in conjunction with electoral officials. The United States Department of Justice (DOJ), for example, as part of its Project Access Initiative, conducted compliance reviews at polling places in 82 communities across the United States and is working to enforce the accessibility requirements of the Americans with Disabilities Act in the voting context. DOJ reached a settlement agreement with the city of Flint, Michigan, to survey and make accessible all its polling places in time for the November 2012 election; owing to a 2009 settlement, another city, Philadelphia, has implemented accessibility improvements at more than 500 polling places.¹³ Some US states have also initiated their own accessibility programmes to address ongoing barrier removal (Waterstone 2010: 1114). Beyond the United States, and prompted by the ratification of

13 DOJ has, for example, been initiating compliance reviews with 188 localities in 50 states, resulting in 203 settlement agreements on matters such as ‘physical modifications to polling places and/or the provision of curb-side or absentee balloting’ (Project Civic Access Fact Sheet. ADA.gov, <http://www.ada.gov/civicfac.htm>). DOJ also provides a checklist for electoral officials in order to comply with ADA regulations (ADA Checklist for Polling Places, 2004. ADA.gov, <http://www.ada.gov/votingprt.pdf>).

the CRPD, efforts are under way in Jordan to enhance the accessibility of polling centres through the application of the municipality of Amman's accessibility guidelines and the production of a polling accessibility toolkit (IFES 2013b: 13; IFES 2013a; BBC News 2013).

DPOs can often play an important role in raising awareness of accessibility concerns. Witness, for example, the efforts of a DPO coalition in Macedonia that received international assistance and that undertook accessibility audits, complete with tagging sites with stickers indicating accessibility (or otherwise) of polling centres (Global Initiative to Enfranchise People with Disabilities, undated a). In Armenia, DPOs have worked through successive electoral cycles to document physical barriers to polling centres and to undertake barrier removal at certain sites (Global Initiative to Enfranchise People with Disabilities 2004). In other instances, DPOs are utilizing technology to enhance accessibility auditing. For example, in Lebanon, disability advocates used geographical information system (GIS) mapping technology to identify accessible polling centres and incorporate findings into a published guide for the use of voters with disabilities and their families to facilitate voting access (IFES, undated).

Voter eligibility and inclusive registration

Effective access to political processes for individuals with disabilities very often hinges on voter eligibility and/or voter registration. At first instance, persons with disabilities may find that they are ineligible to vote based on discriminatory restrictions in domestic law. For instance, the placement of voting age individuals under guardianship may automatically remove voting rights. These rights may also be removed in accordance with classification systems that impose individualized assessments of voter competence.

Additional barriers may prevent voters with disabilities from being registered to vote. They may never have had the documentation required for voter registration due to poverty, illiteracy, or social stigma resulting either in their not being registered at birth or being denied documentation later on in life (Stein and Lord 2011). Voter registration is one of the main responsibilities of election management bodies and is of fundamental importance for the inclusion of marginalized groups generally. The electoral laws of many countries around the world require voter registration prior to and as a precondition of voting in an election (see generally Pintor and Gratschew 2002; Clottey 2012; IFES 2011c). Registration is a marker of the integrity and legitimacy of an electoral process, and a primary benchmark for successful registration is the registration of marginalized groups (USAID 2000: 26).

In addition, registration offers a unique opportunity, when designed and implemented appropriately, to capture vital information that can enhance the accessibility of an electoral process for persons with disabilities. Notably, information captured and tracked during voter registration can help to identify accessibility needs and highlight accessibility barriers to be removed prior to

the electoral event in question. Increasingly, DPOs are working closely with election management bodies and with civil society voter education initiatives to ensure that the voice and image of persons with disabilities is reflected in voter registration materials (Francisco 2012; IFES 2012a: 1). In some instances, targeted outreach efforts undertaken during registration can ensure that persons with disabilities, who often are not registered to vote, do indeed register. One clear example is the Help America Vote Act which includes specific provisions to ensure equal access to electoral participation, including voter registration.¹⁴ Moreover, the National Voter Registration Act requires that voter registration opportunities be made available at, among other places, state offices providing public assistance or disability services. This provision was designed to increase the registration of poor persons and persons with disabilities who do not have driver's licences and thus will not likely visit motor vehicle registration offices where voter registration is made available (Perez 2012).

Accessible balloting and ballot design

Balloting procedures along with ballot design, procurement and use are important dimensions of accessibility for persons with disabilities. Voters who are blind or who have low vision are particularly at risk of compromised access to printed ballots and other electoral material essential to participate effectively in electoral processes (Fleming 2009). With specific regard to ballot casting, such persons very often have their right to vote independently and in secret compromised. In some countries, electronic voting machines are enhancing access for persons with visual impairments (Mindes 2002; Ghana Association of the Blind 2002). In Western Australia, for example, computer software called 'Vote Assist' allows electors with visual impairments to listen to an audio recording, and by following the instructions and using a numeric keypad, they can cast their vote, obtain a printed ballot paper, and place the ballot paper into the ballot box, thereby preserving both independence and secrecy (Palmer 2013).

When such technology is not available, other solutions have been effectively introduced at low cost. Tactile ballot guides, for example, have been effectively used in Sierra Leone, Ghana, Peru and elsewhere to help secure the right to vote in secret and independently (Global Initiative to Enfranchise People with Disabilities, undated b). Where designed properly, the guides enable ballot papers to be inserted into the guide in one direction only, allowing a blind voter to place the ballot paper in the guide without assistance, thereby ensuring independence and secrecy in the ballot casting process. In Liberia in 2004, key representatives from the disability community worked collaboratively with the National Election Commission and international assistance partners

14 Help America Vote Act of 2002. Pub. L. No. 107-252, *United States Statutes at Large* (166): 1666.

to design and pilot such tactile ballot guides in designated electoral districts (Mindes 2002). Materials on the use of the guide were developed, poll workers were trained on its use, and outreach was undertaken to ensure that blind voters were aware of its availability. It should be noted that designing a tactile—and not Braille—guide is a good example of a locally-driven solution. While well-meaning persons from developed countries often assume that Braille is an accessible solution for blind persons, in many countries, including Liberia, blind persons are not versed in Braille.

Other aspects of ballot design and use trigger concerns about accommodation for disability. During elections in the immediate post-conflict period in Sierra Leone, it was important to consider the procedure for marking ballots for those Sierra Leoneans who experienced forced amputations during the civil war. An accommodation that preserved both the integrity of the balloting process and the dignity of the voters was to allow individuals to mark their ballot by inking their toe, as opposed to their thumb (Morin and Deane 2002).

Inclusive voter education and information

Voter education and information campaigning is directed at enhancing voters' awareness of their voting rights; knowledge about the registration, election, and adjudication processes; understanding of election day issues to be put before the electorate, including terms of candidates, parties, and key issues; and levels of confidence in the electoral system. Differences in communication and information needs must be taken into account in order to accommodate the diversity of the electorate. Variables such as language, literacy, urban vs. rural, cultural traditions and gender all must be taken into consideration in planning for effective education and outreach. Likewise, ensuring the access of persons with disabilities to voter education and information will require various accommodations and modifications, many of which will enhance access for a variety of marginalized groups. For example, illustrative or pictorial information may be useful for a broad range of potential voters, including but not limited to persons with intellectual disabilities and deaf individuals.

In Egypt during the Mubarak regime, DPO activists mobilized to raise awareness about the importance of including persons with disabilities in voter outreach efforts. They engaged a famous Egyptian political cartoonist who drew a series of cartoons illustrating disability rights themes.¹⁵ One of these was developed into an election access poster to support inclusion efforts in the elections happening at the time. The poster depicted a wheelchair user at the bottom of a flight of stairs with a ballot box on the floor at the very top of the staircase. The frustrated voter had beads of perspiration dripping from his forehead whilst trying to figure out a solution to the problem. Such images

15 See Esmail M. EFFAT Abd El-Azim Egypt Cartoonist, <http://effat.8m.com>.

deliver a powerful message of exclusion, and can help enhance the visibility of persons with disabilities within the framework of an election process.

In Quebec, informational materials for electors were adapted to alternative media such as Braille, audiocassette and large print, as well as video cassettes in both Quebec Sign Language and American Sign Language (Leclerc 2010). In addition, all televised messages were subtitled for people with hearing or visual disabilities and a teletypewriter for the deaf (TTY), which provided access to qualified election information officers, allowed access to voter information through an adapted mode of communication (*ibid.*). Finally, throughout each election period, information on the specific measures taken for electors with disabilities was disseminated to all media in Quebec, including some 20 specialized media, and to some 1,500 affected institutions and organizations (*ibid.*).

Finally, DPOs around the world have been highly successful in utilizing mass media to cover election access issues and, significantly, have worked to raise awareness about the voice and image of persons with disabilities in electoral processes, voter education materials, and the like. Too often, media coverage reinforces perceptions of persons with disabilities as passive, helpless individuals as opposed to empowered citizens.

Integrated training of election officials

In Liberia, during the historic 2004 elections in which Ellen Johnson Sirleaf, the first woman African head of state, was elected, DPOs used the electoral process to raise the voice and visibility of disabled Liberians. At the time, Liberian DPOs were aware of the CRPD drafting process and requested, as part of their election work, additional information about international standards on disability to help them draft a national disability law (Lord and Stein 2012: 27).

Election access work with DPOs aimed to foster DPO cooperation through the creation of a coalition that worked along all phases of the electoral process—voter education, voter registration, polling, electoral observation and monitoring, and post-election assessment. One of the more poignant illustrations of successful advocacy occurred during a training of some 50 election officials from the National Election Commission. During the workshop, DPO advocates employed role-playing to illustrate the barriers that they had experienced in the previous elections. Using humour, while conveying a serious message of discrimination and exclusion based on stereotyping and generalized lack of knowledge, a group of disability advocates comprised of persons with various types of disabilities simulated vote casting at a polling station. Drawing on their own individual experiences, the group demonstrated the numerous barriers that can stand in the way of a disabled voter's access and participation, ranging from physical and communication barriers experienced by persons with physical and sensory disabilities to barriers rooted in ignorance and stigma (Lord et al. 2012: Part 4).

The technique of participatory human rights education required little in the way of materials or preparation but drew directly upon the knowledge and lived experience of disabled advocates themselves. These advocates, though not well versed in the intricacies of international standards on political participation or even Liberian electoral law and regulations, were highly knowledgeable about barriers to access and generating strategies to address such barriers. With these barriers thus exposed, and with the attention of election officials effectively captured, the group went on to small group exercises, working alongside election officials to design specific strategies for enhancing access. One exercise reviewed existing voter education posters and then created a new design to show the image of disabled persons (Lord et al. 2012: Part 4). Other exercises developed ideas for making voter observation inclusive of disability access issues, for instance, on voter observation forms. Others sought to address the issue of secret and independent voting for blind voters (ibid.).

Another approach, adopted in Jordan in 2010, targeted members of the election management body for a workshop introducing a detailed framework for addressing inclusion in the forthcoming Jordanian elections. This project, implemented within the framework of a democracy assistance programme, sought to expose election officials to accessibility barriers and possible solutions that could be achieved within the Jordanian context. The workshop ultimately paved the way for a reform of the assisted voting procedure, the integration of an election access module in the cascade training for election officials across the country, and the inclusion of disability access topics in two guides produced by the election management body (IFES 2011d).

Election observation

Election monitoring may be undertaken by a range of different actors, including domestic as well as international monitoring groups, political party agents, the mass media, oversight and regulatory agencies, and national human rights institutions (NHRIs) (OSCE 2010). Election observation serves a variety of functions in supporting the democratic process, among them facilitating the transparency of the electoral process, strengthening public confidence in election results, and providing a check on electoral fraud (Carothers 1997: 19–21). Observation further serves to enhance the legitimacy of democratic institutions, including elected bodies and offices as well as the institutions participating in or contributing to the process, such as election management bodies and national human rights institutions (Carter Center, undated).

Electoral processes provide unique opportunities for assessing and monitoring disability inclusion in voting processes. Moreover, the participation of marginalized groups in observation can be a highly effective way of enhancing the visibility of groups in a political process (OSCE 2004a, 2004b). In order to leverage monitoring to advance the political rights of persons with

disabilities (and indeed, other marginalized groups) specific measures are required to ensure that election monitoring methodology and practice is made fully accessible and inclusive. Electoral process monitoring likewise must be comprehensive in scope if it is to helpfully assess the multitude of possible barriers to inclusion for marginalized groups.

Monitoring encompasses more than balloting and vote counting on election day; assessing election access for persons with disabilities accordingly entails more than mere balloting observation of disabled voters. A holistic approach to monitoring elections to assess the inclusion of marginalized groups, including persons with disabilities, requires that monitoring activities be directed at the entire electoral process, including voter registration; media coverage of election campaigns; election campaigning during the defined period; the aggregation of votes and determination of results; election security issues such as violence and intimidation and election security techniques that may trump election access solutions; and, finally monitoring effective access by all groups to electoral dispute mechanisms (Simpser and Donno 2012).

Policymakers should be made aware of the need to include provisions on disability access in legislation governing campaigns and elections. Disability advocates clearly have a role to play in the legislative drafting process to ensure that their interests are taken into account. Such advocacy can help to ensure that domestic monitors, international observers, and journalists meet their responsibilities in observing and reporting on elections in keeping with disability access.

Training programmes and technical election briefings for domestic monitoring groups, political parties, international observer missions, the diplomatic corps and development community, and journalists provide important opportunities for election access issues to be highlighted and emphasized. Engaging with DPOs and national disability commissions, where they exist, provides a ready source of expertise. In Liberia during the historic 2004 elections, DPOs designed questions for inclusion in the regular election monitoring forms and, in addition, they created their own disability-specific observation forms (Nelson et al. 2008: 16).

Designing an inclusive approach to monitoring electoral processes entails the development of tools to support accessible monitoring efforts. This could include, for example, ensuring the recruitment of disability advocates in monitoring efforts and ensuring that coalition-building strategies include DPOs, a practice that has been utilized with great effect in numerous countries. To illustrate, Armenian local DPOs worked together with the youth coalition to participate in electoral education and monitoring (IFES 2003). In Egypt, a leading coalition of DPOs helped to facilitate election observer training and, in addition, took part as observers on the domestic observer team in cooperation with the Egyptian Human Rights Council, Egypt's national human rights institution (IFES 2011a).

Tools typically developed to guide electoral monitoring processes should incorporate a disability dimension, whether in observer reference guides and checklists, electoral observer reporting forms, databases, or the training curricula and materials for all domestic and international observers. New technologies also provide opportunities for capturing disability access data in the context of election monitoring, whether in tracking inaccessibility at individual polling stations, or highlighting accessible polling stations. Likewise, monitoring deployment plans, public information strategies, and security plans must take access into account and eliminate barriers where identified.

Accessible electoral complaints processes

Judicial review of electoral disputes is standard practice in democracies, although the form it takes varies. Electoral disputes may be adjudicated through the regular court hierarchy or may be expedited through review procedures undertaken by higher courts (Dhal 2008). In some countries, electoral disputes and complaints are addressed by established administrative and judicial bodies that follow special procedures established under election and administrative laws. Elsewhere, electoral disputes are handled through shared competence between regular courts and permanent or temporary election commissions. In some instances, a specialized electoral court with exclusive jurisdiction for election-related cases, at least at the level of appeals, has competence to address election disputes. In Mexico, for example, the Federal Electoral Tribunal oversees the entire election process, resolves disputes, and certifies the validity of election results (Mexican Federal Electoral Tribunal, undated).

While a dearth of data makes it difficult to assess the extent to which electoral complaints mechanisms are accessible to marginalized groups, access to justice generally is rife with barriers for persons with disabilities. Beyond helping to ensure that challenged election results are addressed justly and without delay and that criminal violations of election laws are handled quickly, transparently and fairly, there are a variety of other issues that connect to challenging restrictions and limitations on election rights. These include seeking political office, supporting political parties and candidates, registration and voting itself (Vickery (ed.) 2011). Adjudication systems must likewise handle these matters competently and quickly in a procedural framework that is fully accessible to all, clear, transparent and in keeping with due process standards. This, in turn, facilitates democracy and can usefully enhance overall public confidence as well as awareness of political rights. There are at least two dimensions of election access to consider in the context of election-related disputes. Safeguarding individual rights of political participation is clearly fundamental to the fair adjudication of election complaints. Clarity in election laws and implementing regulations is essential. The legal framework must identify and empower existing bodies, such as courts and election commissions, or new institutions such as electoral courts, to properly

and quickly handle these complaints and disputes. Ambiguous or conflicting jurisdictions among courts and administrative bodies are confusing and unfair to political parties, candidates, the news media and the voting public. The law must clearly define responsibility for receiving and handling different types of complaints and disputes, for investigation, for preliminary adjudication and the appeals process, and for the finality of decision-making in resolving complaints and disputes (*ibid*: 28–31).

An additional dimension concerns the accessibility of electoral complaints rules and procedures, which clearly impact the enjoyment of fundamental political rights. Accessibility in the context of election disputes concerns where, when, how, and in what form complaints or grievances must be filed. The format and formal requirements for election complaints should be clear and specified in the election law or in implementing regulations that are developed by election management bodies. Unfortunately, information as to such details is often sparse and typically does not provide potential complainants with any real sense of the bases on which they might complain, much less address issues of disability access. A case in point is the Western Australian Election Commission that has an extremely abbreviated complaints page on its website ([Western Australian Electoral Commission 2013](#)). While an official form provided for the filing of election complaints may facilitate access, it may also hinder access where it is difficult to find on a website, is not accessible by screen reading technology, or is confusing or written in complex language.

It is also essential to have clarity as to who may bring a complaint and on what basis. Informational materials providing examples of legal bases on which to file a complaint should include examples of access issues, such as denials of voter registration on the basis of disability or inability to cast a vote due to an inaccessible voting procedure. Finally, decisions of complaints mechanisms should be made available, along with the reasons for such decisions. Internet access should facilitate transparency but must conform to web accessibility standards.

Civic education can play an important role in improving the complaint process and encouraging citizens, civil society and electoral participants to do a better job of focusing their complaints and stating allegations ([National Democratic Institute 2010](#); [Vickery \(ed.\) 2011](#): 203–26). Public understanding of rules and procedures, and public confidence in the fairness and openness of adjudicative processes, is fundamental to assuring widespread acceptance of the legitimacy of election outcomes.

In sum, programming should help to improve access to the electoral complaints process through efforts including developing and harmonizing procedures regarding election access for persons with disabilities that include disability accommodation; building the capacity of election officials to effectively address election access in the complaints process through training and technical assistance; and enhancing the understanding and use of the adjudicative process by electoral participants and the general public. Such training

should be directed at the diversity of election access issues, from the accessibility of complaint forms on websites to accommodations provided in the adjudication process.

Election institution building

Strengthening the political participation of persons with disabilities should be an ongoing concern of all governmental institutions with responsibility for democratic decision making including but not limited to election management bodies. In that sense, continuous monitoring for inclusion should take place both pre- and post-election, including in developed democracies, as well as transitional, developing, failed state, or post-conflict contexts.

There are a variety of institution-building initiatives that may be contemporaneous with election assistance or may take place prior to or following an election event. Each has implications for enhancing the participation of individuals with disabilities in the political process. The orientation of new members of legislatures on their rights, responsibilities, and duties is a mainstay of development assistance and is a well honed practice in developed democracies (UN Development Programme (UNDP) 2000: 1; World Intellectual Property Organization (WIPO), undated). As a component of familiarizing new members with parliamentary procedures and standards of ethical and professional conduct, building knowledge about human rights standards is critical and should integrate coverage of the rights of persons with disabilities. The Inter-Parliamentary Union (IPU), to name a prominent example of good practice, provides resources and delivers training for new member orientation (IPU, undated). Of particular note is the series developed and disseminated by the IPU on a variety of human rights subjects that now also includes a book on the CRPD (UN 2007). In some instances, the election of a candidate with a disability may prompt institutional change. Where persons with disabilities are elected to legislatures, accommodations may be required. In Canada, for example, the election of a legislator with a disability prompted the reform of Canadian parliamentary procedures (Lord et al. 2012 : 53–4), and the election of a member of Congress with a disability caused the United States to create accessible entrances to the otherwise unapproachable building (*Wall Street Journal* 2012).

Other entry points for advancing institution strengthening that will help accommodate voters with disabilities consistent with the CRPD and international standards include building capacity in policy analysis and formulation, legislative drafting, setting legislative priorities, and articulating a legislative agenda. Likewise, survey research can be employed to identify public opinion (general and disaggregated) on institutions, issues, policies and policy directions to better inform agenda setting, policy debate, and decision making (Mitchell et al. 2006). Such exercises can be helpful in identifying the barriers that persons with disabilities experience in exercising their political rights.

Enhancing the consultative and deliberative capacity of legislative bodies is likewise an important dimension of inclusion and serves to channel input into public policies by citizens, civil society, and independent experts. Too often, however, the tools of deliberative democracy are anything but accessible to persons with disabilities. For example, public notification processes for bills pending consideration are inaccessible. Systems to receive, process, track, and disseminate input received from the public, whether through national dialogue processes, public hearings, town hall meetings, websites, or other mechanisms, are rife with barriers that make it difficult or impossible for persons with disabilities and DPOs to participate.

Measures to enhance communications and transparency to secure the political participation rights of persons with disabilities include the development of accessible websites that track legislative calendars and afford ready access to the daily records of legislature proceedings, reports from committee hearings, public notifications regarding pending legislation, copies of enacted legislation, and contact information for legislative offices (UNDP 2003; Neuman (ed.) 2002). Other important vehicles for communication on legislative activities include dedicated television or radio channels to broadcast live and/or taped coverage of legislative proceedings. Not all media will be accessible to persons with disabilities, but in some instances, as in televised broadcasts, measures such as closed captioning may be utilized (Neuman (ed.) 2002: 4).

All of these transparency mechanisms have vital implications for the enhancement of access for persons with disabilities, or their outright exclusion, in regard to information about decision-making processes that directly impact their interests. Accessibility features are making their way into electoral programming, even in some of the world's least developed countries. In Yemen, for example, the disability community, and in particular organizations of Deaf advocates, worked closely with the National Election Commission to ensure that televised election information was accessible with the inclusion of sign language interpretation (Lord et al. 2012: Part 2, Chapter 3).

Conclusion

Full and effective participation was the leitmotif of the CRPD drafting process and is one of its core general principles expressed in article 3(c). The CRPD therefore reflects participatory models of democracy according to which stakeholder involvement serves a function beyond facilitating outcomes. Participation serves as an adjunct to democratic institutions, enhances individual freedom and autonomy by allowing one to retain control over one's life, enhances belonging among individual citizens to their community, and fosters education essential for responsible social and political action. For persons with disabilities—much as is the case for all persons—the socializing, educative and freedom-enhancing role of participation in decision making is a precondition to full personhood and rights realization.

This article has demonstrated that the management and administration of elections is a highly complex field that spans a wide range of subject matter and requires the engagement of multiple disciplines. Access and participation by traditionally disadvantaged groups, whether persons with disabilities, women, youth, illiterate persons, or ethnic, linguistic, racial, and religious minorities, require specific and targeted interventions. All components of successful election management should trigger attention to access, including assessments of the extent to which election standards—and the broader legal framework—conform to international standards. Beyond legal measures, election access must encompass civil and voter registry development targeting persons with disabilities; records and technology management with attention to accessibility concerns; and strategic and operational planning for enhanced access. Likewise, inclusive voter and civic education; capacity building and professional development of election management bodies and personnel; development of codes of conduct and professional standards; and election official and poll worker training programmes must integrate election access components. So too must election commodity specifications, procurement, planning, and logistics; the design of ballots and election forms; and procedures and systems to deter and flag election fraud be attuned to identifying and removing barriers that persons with disabilities may experience in these contexts. Attention should be paid to accessibility in the context of applying modern technologies to electoral processes as well as the implications for election budgeting of inclusion. Finally, accessible electoral complaints mechanisms (administrative and judicial bodies) and post-election activities should provide opportunities to redress barriers to election access for persons with disabilities.

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