

## CRPD at 20: Its Evolving Impact on Other International Human Rights Instruments

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*Check against delivery*

Thank you for the invitation to contribute to this discussion.

Twenty years after the adoption of the CRPD, the question is no longer whether it has influenced international human rights law and regional mechanisms – it clearly has.

The more interesting question is how that influence has occurred.

When the Convention was adopted in 2006, it did much more than reaffirm that persons with disabilities enjoy the same rights as everyone else. It challenged disablist assumptions that had long shaped law and policy. And ever since, Validity has been dedicated to using the CRPD across our national and international litigation on behalf of persons with disabilities internationally: pursuing strategic litigation designed to seek systemic recognition and enforcement of disability rights.

The CRPD has been critical in both Europe – where we have a history of large-scale, institutional systems that segregate people with disabilities from society; and in Africa – where persons with disabilities have gone from being objects of charity, including in the realm of international development, to key actors of reform.

First, the CRPD has increasingly influenced how existing regional human rights treaties are interpreted.

In Europe, the jurisprudence of the European Court of Human Rights has evolved significantly since the Convention's adoption. Concepts such as legal capacity, liberty, independent living, access to justice, reasonable and procedural accommodations, community inclusion and personal autonomy now feature far more prominently in disability-related cases than they did two decades ago. Indeed, I hear today that the EU has just adopted a revised directive on victims' rights which recognises and obliges EU Member States to provide reasonable and procedural accommodations in justice processes. That is incredibly significant.

Cases such as *Stanev v Bulgaria* helped move the conversation away from viewing persons with disabilities primarily as recipients of care, protection and control, towards recognising them as rights holders. But we still have a long way to go: the European Convention system still allows for deprivation of liberty of persons of “unsound mind”, alongside those spreading infectious diseases, alcoholics, drug addicts and “vagrants”.

Similar trends can be observed elsewhere. Across Africa, advocates, courts and human rights institutions are drawing on the CRPD to challenge segregation, guardianship, forced

treatment and colonial-era mental health laws, from important cases challenging arbitrary detention of persons with psychosocial disabilities “at the President’s pleasure”, to constitutional challenges against deeply offensive legal terminology referring to people with disabilities as “lunatics”, “weak-minded”, “idiots”, “imbeciles”, “morons”.

Second, the CRPD has inspired the development of new regional standards and instruments.

The leading example is the African Disability Protocol, a regional instrument that builds upon and extends many of the core obligations and rights first articulated in the CRPD, while contextualising these rights within the realities and contexts of African societies.

Third: one of the most significant developments over the past twenty years is that persons with disabilities are increasingly appearing before courts, treaty bodies and regional mechanisms.

This transformation did not occur automatically.

I think of Rusi Stanev, whose case helped reshape disability jurisprudence across Europe.

I think of T.J. in Hungary, whose death forced courts to confront the reality that institutionalisation itself is a cause of great harm and suffering, and must be reviewed critically by courts.

And I think of the recently deceased Sylvester Katontoka from Zambia, whose advocacy challenged colonial-era approaches to mental health and whose work continues to influence disability rights struggles across Africa.

Their contributions remind us that human rights law develops through the persistence of persons with disabilities demanding recognition, dignity and justice.

At the same time, the influence of the CRPD should not be viewed as inevitable or uncontested.

In Europe, the debate surrounding the proposed Additional Protocol to the Oviedo Convention demonstrates that important disagreements remain. The European Court of Human Rights rightfully reserved judgment on whether coercion in mental health care was acceptable under older European standards. That was a wise decision; and now the Additional Protocol must be withdrawn. Rusi Stanev himself would have been deeply offended to learn about the misuse of his name and judgment when justifying this poorly considered regional treaty.

And in Africa, we continue to see prejudicial rulings questioning the testimonies of women with psychosocial disabilities who have experienced sexual violence in mental health facilities, and feet-dragging on reviewing the arbitrary detention of people in criminal justice systems.

As discussions continue regarding UN treaty body reform, it is essential that the innovations pioneered through the CRPD are strengthened rather than diluted. In Africa, we are hopeful that the Disability Protocol will usher in a new era of regional protections of the rights of persons with disabilities in many fields, including the rights to legal capacity and inclusive

education. In Europe, we have some way to go until the European Union stops funding mass segregation and opens up access to the Court of Justice of the EU.

In that sense, the influence of the CRPD continues to evolve.

Twenty years after its adoption, its greatest achievement is not simply that other courts, treaty bodies and regional mechanisms increasingly cite it. They do. The next step is moving beyond jurisprudence to real, concrete changes in lives.

While there are gatekeepers everywhere who would prefer to keep the doors tightly shut, the CRPD continues to inspire collective action and strategic litigation – and my organisation, the Validity Foundation, is deeply honoured to accompany advocates with disabilities in their quest for justice and reform.

For the next twenty years, the question is whether our institutions, courts, governments and regional systems are prepared to follow where that influence leads.

Thank you.