

Legislating for Disability Rights

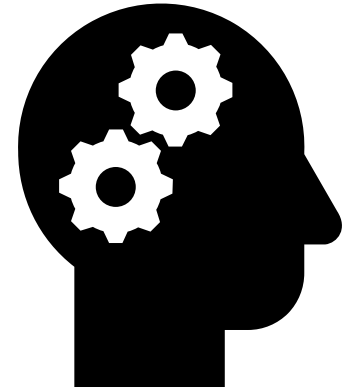
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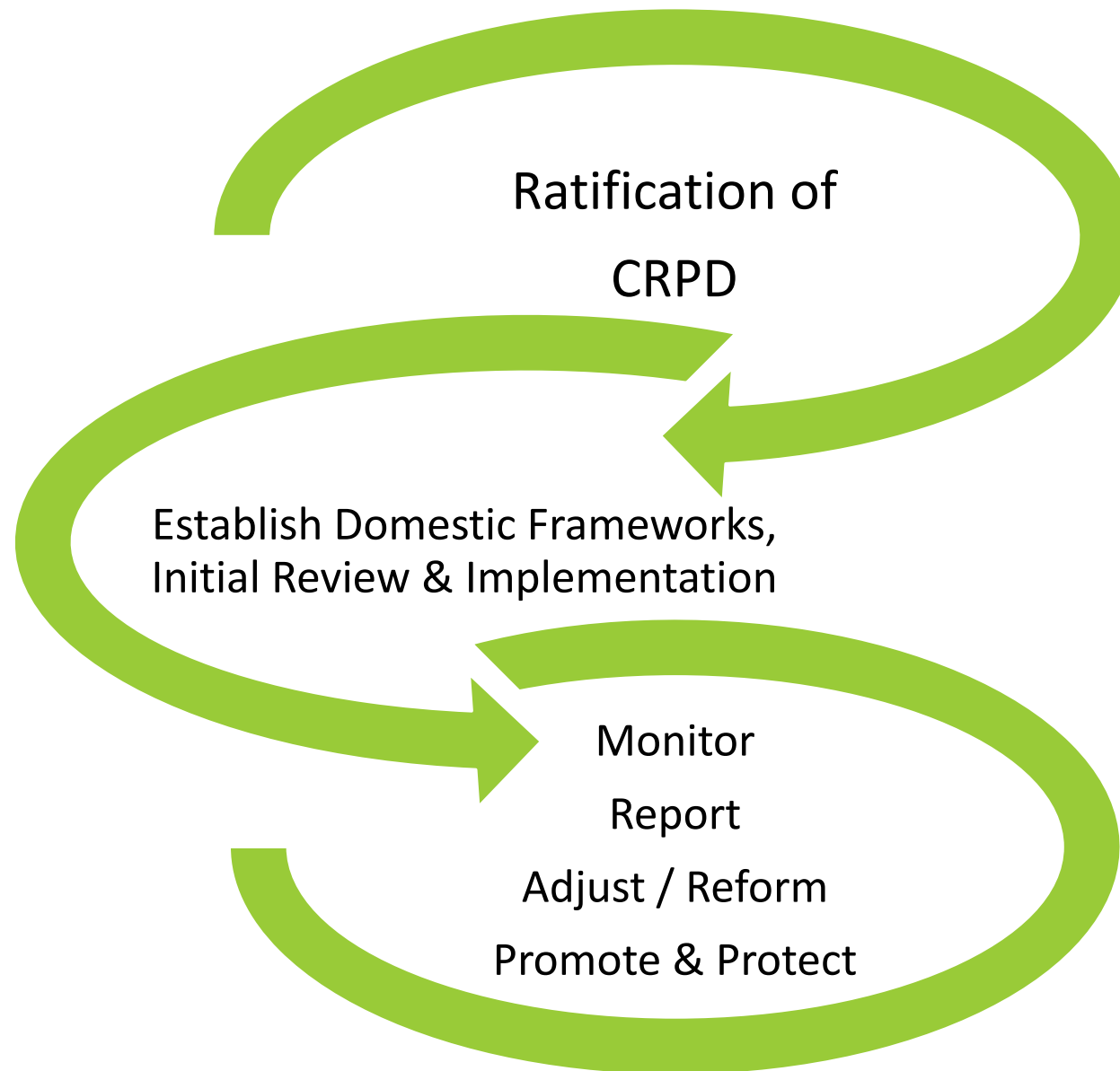
DISABILITY AND DEVELOPMENT CONSULTANT



Presentation Outline

- ❑ State Obligations – Article 4
- ❑ Map for Implementation
- ❑ Administrative Implementation
- ❑ Legislative Review and Reform
- ❑ Tools for Legislative Review
- ❑ Human Rights Principles
- ❑ International Development Legislation
- ❑ Participation of Persons with Disabilities in the Implementation process
- ❑ Monitoring for Progressive Realization





CRPD General Obligations

Article 4 (1): “States Parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability. To this end, States Parties undertake:...”

Article 4 – General Obligations

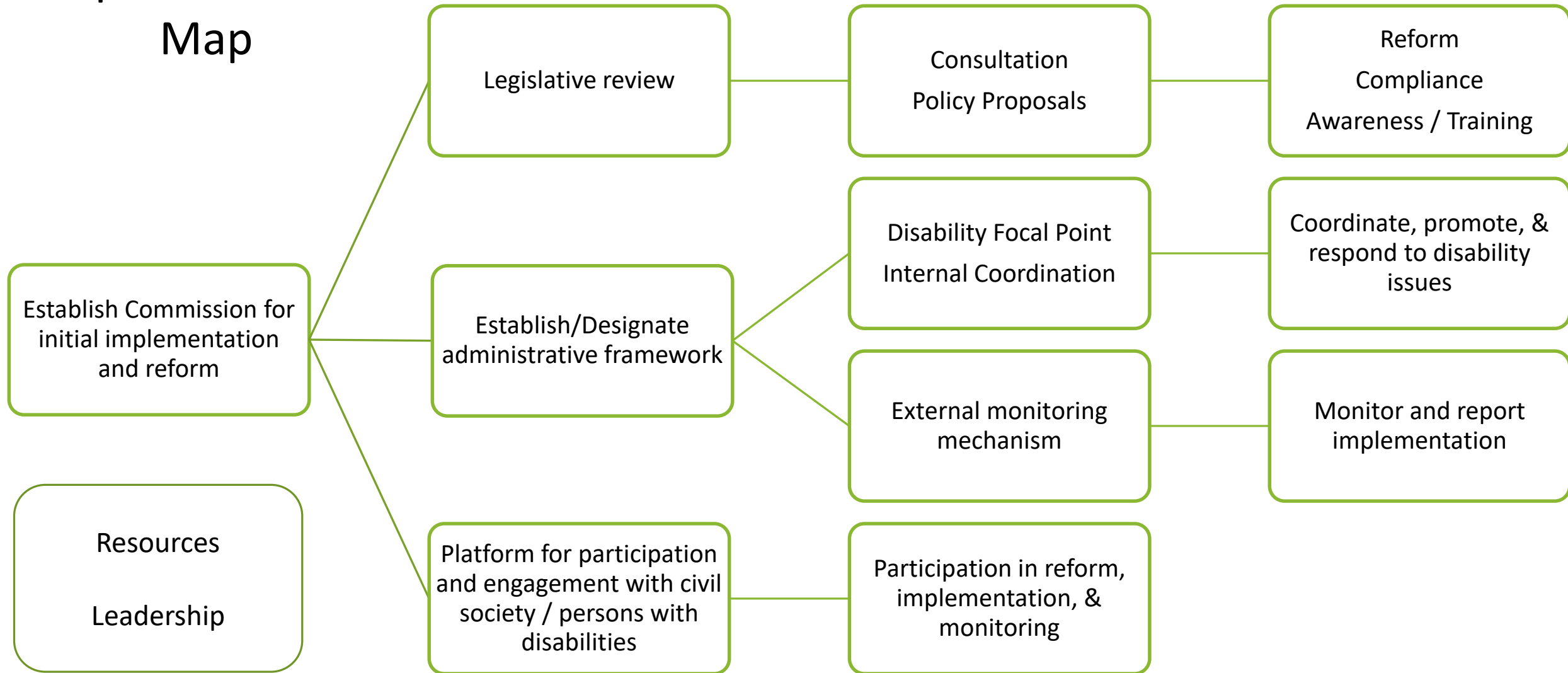
Article 4(a-i): “To adopt all **appropriate legislative, administrative and other measures for the implementation** of the rights recognized in the present Convention;

b) To take all appropriate measures, including legislation, to modify or **abolish existing** laws, regulations, customs and practices that constitute **discrimination** against persons with disabilities;

c) To take into account the **protection and promotion of the human rights** of persons with disabilities in all policies and programmes;”

e) Eliminate discrimination in private enterprises; f) Promote research and development; g/h) research, promote, inform – new technologies; i) train professionals

Implementation Map



Administrative Implementation



Legislative Review – To Consider

What are the legal sources in the country?

- Constitution
- Legislation
- Codes, standards, regulations
- Policies
- Programmes



What is the legal context: does the CRPD automatically become domestic law, or is new legislation required?

Legislative Review – To Consider

- Constitution
- Laws related to marginalized populations and should include people with disabilities
- Disability Specific laws (e.g. disability Act)
- Human Rights laws
- Anit-discrimination legislation
- Budgetary legislation



Legislative Reform

THE GAP

Existing legislation that is not consistent with the CRPD

Laws or policies that discriminate against people with disabilities

Missing legislation to bring domestic law into compliance with CRPD

National
Laws,
Policies, &
Programmes

Full
Implementation
of the CRPD;
Experiences of
Persons with
Disabilities

Question

In your country, which laws and policies will be priority for review and reform?

Examples of Priority Laws: Review & Reform

Domestic Laws to Review	Relevant CRPD Articles (Examples)
Guardianship laws Civil or Criminal law Healthcare law Electoral codes	Article 12: Equal recognition before the law (legal capacity) Article 13: Access to justice Article 25 - Health
Labour law Vocational training legislation	Article 27 – Work and Employment Article 26: Habilitation and Rehabilitation
Education law Construction law / codes	Article 24 – Education Article 9 - Accessibility
Family law Social Protection laws	Article 19: Living independently and being included in the community Article 23: Respect for home and family

Review Tool

From: Annotated review of European Union law and policy with reference to disability (Academic Network of European Disability experts)

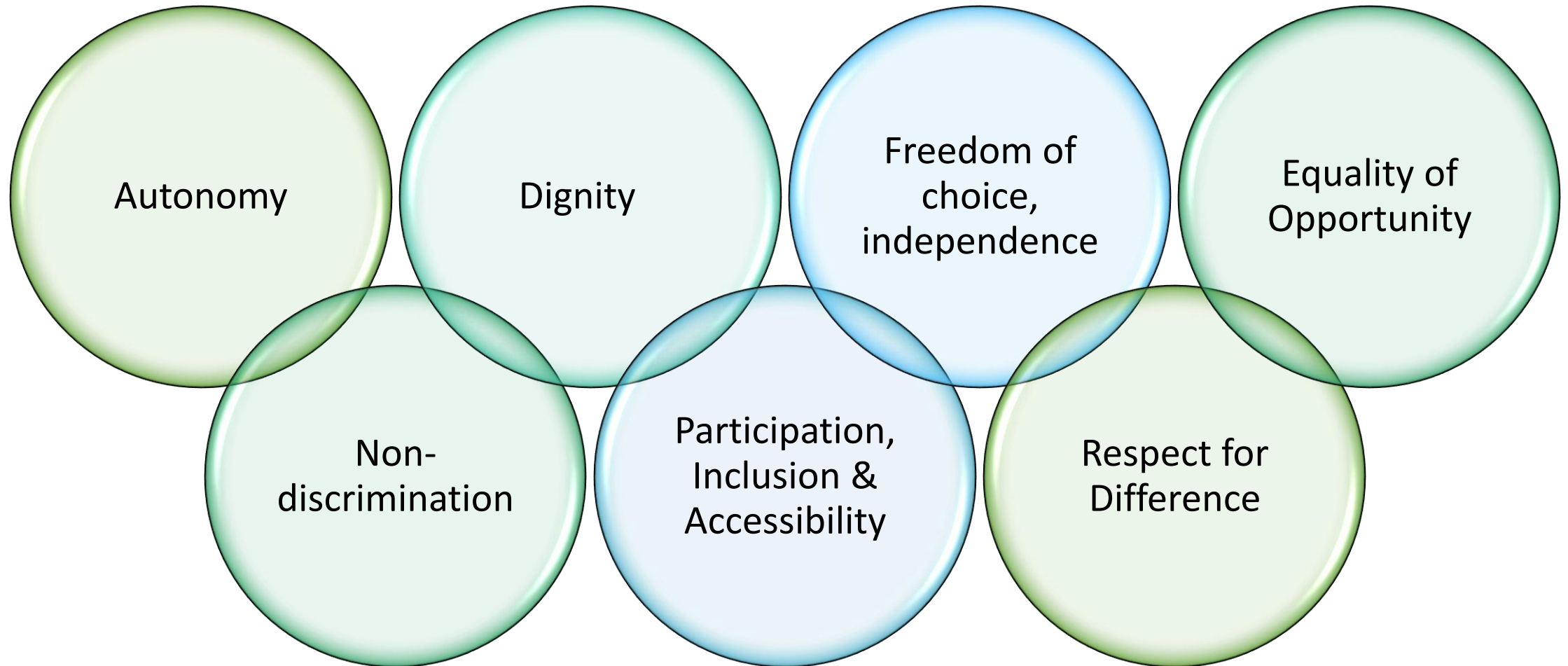
Nr.	Title of instrument	Type of Instrument	Relevant Art(s)	Remarks	CRPD Art(s)
01.07	Directive 2004/27/EC of the European Parliament and of the Council of 31 March 2004 amending Directive 2001/83/EC on the community code relating to medicinal products for human use	Legislative act	Arts 1, 42 (inserting Article 56a)	Obligation to print information in Braille on certain types of packaging containing medicine	9

Legislative Review Tool

From: Disability Rights Promotion International - Systemic Template

International Rights standards (CRPD article)	Question	Definition & items considered in analysis	Relevant policies and laws/policies under analysis	Other sources used in the analysis (e.g. budget, statistics)	Integrated analysis of laws and policies and other sources against the CRPD
Accessibility CRPD, art 9.1, 9.2 abcde	Do the laws of government policies guarantee to persons with disabilities access to physical environment, transportation, information & communications, both in rural and urban areas?	CRPD measures to promote the right to access shall include (insert requirements) e.g. developing minimal national standards & guidelines for accessibility & monitoring their implementation; Providing signage in Braille, easy-to-read-and understanding forms and other forms of live assistances Providing training	A. Constitution B. Legislation C. Policies & Programs D. Codes / Standards	A. Do budgets include funding to ensure legislation (existing / reform are met) B. Is data and statistics collected to monitor accessibility law?	Respond to questions in 2 by assigning: *=Non-compliance **=needs significant reform ***= generally compliant or needs slight adjustment Inclusive of human right principles?

Article 3 – General Principles: Ensuring Human Rights Principles



Full Human Rights Implementations



Law/policy:
Accessibility Laws /
Accessible
transportation systems

Programme/Service:
transportation service
that transports
people with
disabilities around the
community

Non-discrimination
& equality

- General compliance
- Allows for transportation and movement within the community

Autonomy

- non-compliance
- Individuals accessing service can not pick a time for transportation (set-times)

Inclusion,
participation,
accessible

- Non-compliance
- Service is separate from mainstream public bus system (people with disabilities commute in isolation)

International Development Legislation

Article 32: “International cooperation”

- Ensure development programmes are inclusive and accessible
- Provide technical and economic assistance (e.g. accessible technologies)
- Cooperation in research / training and knowledge
- Reform within foreign assistance policies and programs
- Reform policies and codes related to development programming operating within the country
- Moving development policy and programming towards human rights and away from medical perspectives of development



Sustainable Development Goals

- Ensuring disability is include in the national roadmap for SDG implementation and priorities
- Disability inclusive indicators
- Cooperation between disability focal point and the national SDG implementation focal points
- Ensuring SDG monitoring and reporting includes disability indicators



Question

In your country, what are existing examples of participation of people with disabilities related to implementation of the CRPD?

How and where can participation be improved?

Participation of People with disabilities within the Implementation Process - CRPD

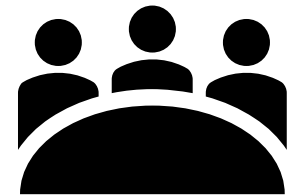
Article 4(3): “In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.”

Article 3(3): “Full and effective participation and inclusion in society”

Article 29: “Right to participate in political and public life”

Successful Engagement

- Accessible:
 - Physical accessibility (accessible locations)
 - Communication (e.g. captioning, sign-language, alternative text)
 - Open and welcoming platforms for participation (round tables)
 - Monetary resources (e.g. transportation)
 - Online Platforms for contributions

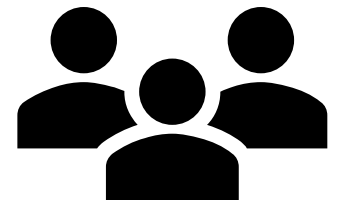


Successful Participation

Diverse:

- Cross disability representation - mobility, sensory, psychosocial, etc.
- Specific populations – socio-economic, ethnic representation, indigenous, gender, children, LGBT, etc.
- Age – seniors, children, youth, adults
- Geographic representation – all regions, rural / urban
- People with disabilities, organizations of people with disabilities, NGOs, interest groups (universities, rights groups), other civil society

Building networks and sustainable partnerships



Types of Participation

- Members of committees, cross-ministry representation,
- Involved during law reform process (review, revising, new drafts)
- Drafting or revising constitution
- Involved in training professions
- Active participation in building policies and programmes
- Community based public platforms
- National treaty reporting process (consultation and representation in person)

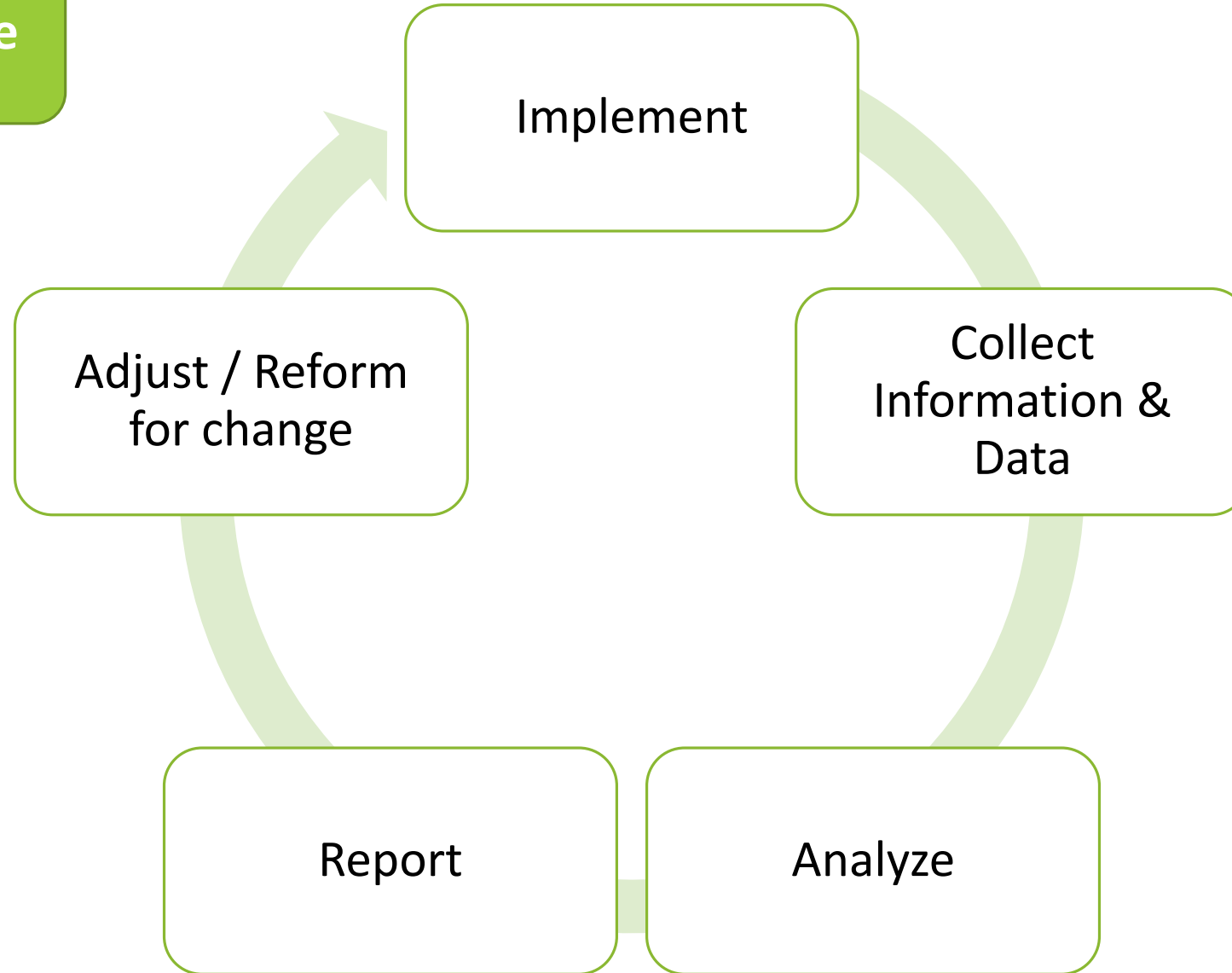
On-going –
Permanent
Engagement

Action based –
Meaningful
Dialogue

Monitoring for Progressive Realization

Article 33: “Establish a FRAMEWORK to protect, promote, and monitor the implementation of the CRPD. This includes identifying an independent monitoring mechanism”

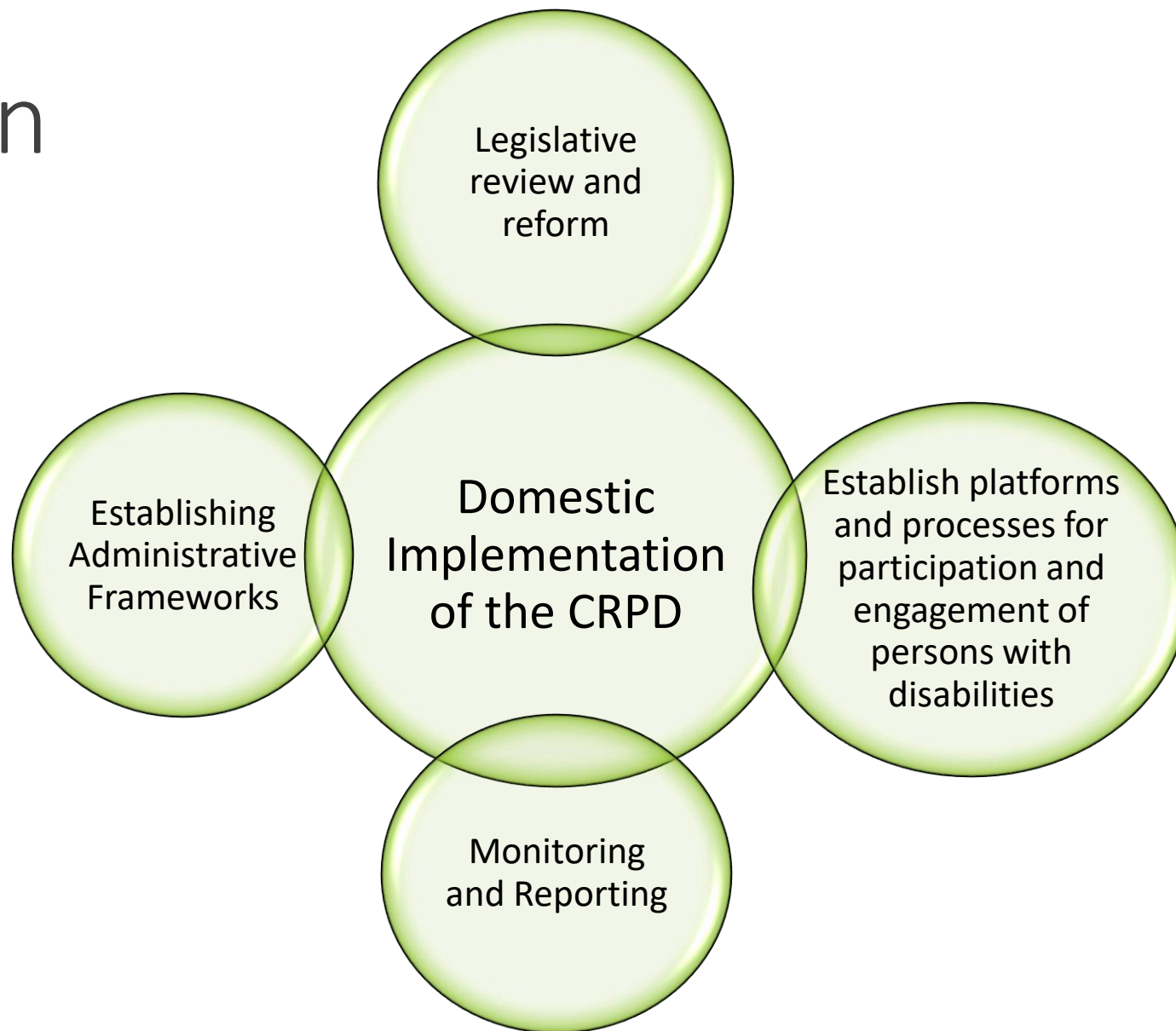
Monitoring Cycle



Monitoring Characteristics

- Collects evidence based information, informs successes, gaps, violations, any information related to optional protocol complaints
- Individual experiences, laws, policies, case law, media, etc.
- Human rights based indicators that can measure progress
- People with disabilities **MUST** participate in this monitoring process
- Monitoring informs reporting to the Committee on the CRPD

Conclusion



Thank You!

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References and Resources

ANED - The Academic Network of European Disability Experts: Annotated review of European Union law and policy with reference to disability.

1. [Unite Nations – Disability. Department of Economic and Social affairs: Handbook for Parliamentarians on the Convention on the Rights of Persons with Disabilities](#)
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4. United Nations Department of Economic and Social Affairs: CRPD - <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>
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<http://www.internationaldisabilityalliance.org/content/united-nations-sustainable-development-goals>
<https://monitor.civicus.org/>
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