Implementation of the Convention on the Rights of Persons with Disabilities:

- Strategies for Implementation -

by

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The Convention on the Rights of Persons with Disabilities is directed at increasing the participation, equality and access of people with disabilities within their societies. In recognising that the family is the "natural and fundamental group unit' of society, and therefore the primary care giver to people with disabilities, the Convention seeks to address the needs of people with disabilities in terms of their rights in society. This, of course, implies that disabled people are to be recognised by law as a special category of people needing protection, support and opportunity.

While the Convention's definition of disabled persons could be seen as somewhat restrictive, defining disabled people as including 'those who have long-term physical, mental, intellectual or sensory impairments", the Convention's supplementary Handbook for Parliamentarians, *From Exclusion to Equality*, takes a more inclusive view of disability, suggesting that there are some 650 million people around the world who live with disabilities and essentially leaves it up to governments and societies to be more precise in drafting their own particular definitions.

The problem the Convention seeks to address is the marginalised existence of many of these 650 million people who have little hope of schooling, employment and health care. The level of disability in a society is correlated against levels of poverty proposing that disability can arise from poor nutrition, lack of access to clean water, low rates of immunization, dangerous working conditions and illiteracy. Thus, in attempting to increase or introduce rights for disabled persons, the Convention faces a seemingly overwhelming task of trying to eliminate discrimination and prejudice, as well as the equally mammoth task of addressing poverty.

It could be suggested that the UN proposed change in philosophy in disability services from 'exclusion to equality' is a paradigm shift in approach to the needs of people with disabilities. Such an accolade would, however, be an exaggeration as the Convention seeks to use standard Welfare State methodology to empower disabled people through a process of legislation. While the Parliamentary Handbook suggests the Convention to be an “effective legal tool” for implementing change, it is in reality a standard and an ideal for ‘best practice’ as it provides guidelines for governments to consider issues of access, participation and equality for people with disabilities (pp:51-55). Accordingly, the Convention does, at it very least, challenge governments to consider the causes of discrimination and prejudice within their societies and how to address them.

As an overview, the content of the Convention can be summarized in terms of proposed principles and rights:

<u>Principles:</u>

Respect for the inherent dignity, autonomy, including the freedom to make one’s own decisions, and independence of persons through:

- Non-discrimination
- Full and effective participation and inclusion in society
- Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity
- Equality of opportunity
- Accessibility
- Equality between men and women
- Respect for the evolving capacities of children with disabilities and for the right of children with disabilities to preserve their identities

<u>Rights:</u>

- Equality between the law without discrimination
- Right to life, liberty and security
- Freedom from torture
- Freedom from exploitation, violence and abuse

- Right to respect of physical and mental integrity
- Freedom of movement and nationality
- Right to live in the community
- Freedom of expression and opinion
- Respect for privacy
- Respect for home and the family.
- Right to education
- Right to health
- Right to work
- Right to adequate standard of living
- Right to participate in political and public life
- Right to participate in cultural life.

The casual reader would be forgiven in noticing the general and expansive nature of these principles and for asking if all these rights could be created and protected by legislation. Indeed, various national governments have expressed reservations about the generalized and generic approach and pointed out that in signing the Convention and accepting the general nature of these rights, they were not prepared to: disregard election legislation; let people without restriction take up citizenship or remain in a country longer than a visa permits, let people enter national service without suitability assessments, allow people to obtain unstratified or categorized health insurance, give people unrestrained access to abortion, or give automatic rights to social security claims.

The Convention itself proposes that a monitoring body in the form of an international committee be established to receive reports from State Parties and respond by way of observations and recommendations back to them. It is further recommended that each State Party establish an independent mechanism to "promote, protect and monitor implementation of the present Convention". Ideally, governments could design a comprehensive and positive statement on the equality and acceptance of people with disabilities to participate as equal citizens under the law and within society. In this light, all discriminatory legislation and administrative procedures could be brought into line with a pro-active move for social change.

As I have indicated, the purpose of the Convention is to encourage national governments, referred to as State Parties, to take “appropriate measures” to enable people with disabilities to have access, opportunities and equality. However, the document is tarnished by the continual use of imperatives demanding that governments ‘must’, ‘should’, ‘ensure’, ‘undertake’, ‘facilitate’, ‘recognise’, ‘adopt’, ‘provide’, ‘promote’, and even ‘combat’. Of course, as sovereign states, demanding that governments do anything is a waste of words. A Convention drawing governments together to agree on the pursuit of standards of best-practice for enhancing the acceptance and rights of disabled persons can but point to ideals and encourage governments to embrace them as their own. A Convention calling for State Parties to agree on a common cause can only be seen as a bonding of like minded governments.

While I do not have the time here to discuss in detail some of the legal issues raised in the Convention, there are a number of very important consideration in drafting national laws. I have already alluded to the issue of state sovereignty and the right of country’s to self determination. There is also the issue of interpreting the right to liberty and where one person’s liberty stops before it impinges on the liberties of someone else. There is the issue of social responsibility and the care for those who cannot care for themselves. There is the issue of the rights and abilities of families to care for their own before and above the infringements of governments. And, quite significant, is the issue of legal capacity: Should a disabled person be designated as having rights to liberty and independent ability when they may be deemed to have limited capacity to comprehend or limited capacity to act on those rights. And, is legal capacity to be extended to all persons with disabilities or are certain persons to be excluded? Unfortunately discussion on all these issues is not clearly delineated in the Convention.

Thus, I suggest, it remains for each government to interpret the document within its own social context and to translate these treaty article imperatives into suitable laws and procedures that advance its own society. Some things will be easier than others, and for many countries, much of what is proposed is already in place or underway. It is a relatively easy step to require all buildings to construct ramps for wheelchairs. But for subjects such as education, the issues of integration will be more difficult. The Parliamentary Handbook suggests that there are many barriers for people with disabilities in obtaining education: Poverty, overcrowded schools, lack of trained teachers and inaccessible curricula, to mention just a few. The Handbook estimates that the school enrolments rates for children with disabilities in developing countries are as low as 1 to 3 percent, meaning that some 98% of children with disabilities do not go to school. While the Convention aims to encourage children with disabilities to attend mainstream school, it wants governments, at the same time, to focus on the best interests of the child as well as pathways to inclusion.

On this issue of inclusion, I am proud to say that my wife, Sheena Reynolds, and I, through our company the British Institute for Learning Development, were the first people in the UAE to successfully place a special needs child with down’s syndrome into a mainstream private school in the UAE in 2001. Fighting the headmaster and parent prejudice almost overcame us but the child is still at school some 9 years later and accepted as a part of the school community. There are now many children with learning problems and special needs attending regular schools in the UAE. The British Institute has seen more than 1,000 children graduate from its programmes to mainstream schools with some 300 children being accepted into UAE schools.

But at this point, I wish to provide an observation and signal a caution: I would like to suggest that legislation for advancing the rights of disabled persons is not enough to change social values. Regardless of culture, many of the problems of prejudice and discrimination can be found to run deep and can be evident within families and the extended family community as well as across society. Prejudice is a very hard thing to try to outlaw.

The caution is that legislation, by itself, can become an enemy rather than a friend to advancing society. We should note that every law we legislate gives birth with 3 sisters: Laws of Administration and Implementation; Laws of Regulation and Policing; and Laws of Judicial overview and Control. The US Congress and Senate, for example, legislates, on average, some 22,000 pieces of legislation during any 2 year session. One has to wonder what was the matter with the previous 22,000 pieces of legislation enacted two years previous. Or, indeed, whether all the legislation in America over the past ten years has made it a better society of advanced its civilization?

If the objective of the Convention is to change the attitudes of society to accept people with disabilities on an equal basis, the place to start is for each country to understand the values of its own society. Generic rules arising out of a Western political paradigm need to be considered carefully before introducing them into a Muslim culture.

I wish to suggest that on an issue as significant as increasing the acceptance of persons with disabilities within society, both legislation and a public relations campaign may well be required: something for the Ministry of Social Affairs to consider.

Certainly, there have been a number of successful public relation campaigns around the world to change social habits:

- Picking up garbage – a big campaign in Australia in the 1970s
- Doing exercise and getting out of the house and away from the TV – another big Australian campaign, picked up across America
- Anti-drink driving campaigns, of course, have occurred across many countries
- Drink bottled water, a slow but very success campaign
- Anti-smoking campaigns, which have been probably the world's biggest and international adhered to campaign in history.

But to talk of social change and changing social values, of course, is to talk ethics. By way of definition, ethics is the process of making decisions in the community of others. It is the decision making process of a society. Social norms – its habits, attitudes and values, arise out of the decisions of people in interaction within their community. Accordingly, for a Muslim society, like other societies, to change accepted social norms requires both leadership and a perceived benefit to do so. People don't change their attitudes unless they can see there is a good reason to do so.

In review of the Convention on the Rights of Persons with Disabilities, there is without a doubt many good suggested principles and standards for enhancing the lives of disabled people, but these principles still need to be interpreted into the life of a society in a meaningful way. As a Muslim society with high regard for the laws of religion, the UAE society also has high regard for the laws of government. At the same time, the Muslim society is also a family orientated society and social norms are decided in the context of relationships and human interaction. Indeed, a quick review of social interaction theory may help us see a pathway forward in brining about social change to benefit disabled people.

While social interaction theory has its roots with writers such as Hegel, Cooley, Dewey, Baldwin and Mead, it is the work of George Herbert Mead which I believe to be the most developed on the issue. Social Interaction Theory is built on the supposition that people are involved in a process of action and reaction with each other. Society consists of people in association and interaction and people come to understand themselves as members of a society as they engage in meaningful interactions. The meanings and values of society are passed on to others and to the young as a process of sustaining the society. Thus, societies and their cultures are self-perpetuating because the individuals who comprise them are personal stakeholders in the maintenance and continuance of the system. Social systems are to be understood as self regulating and self-directing because there is agreement among individuals. Thus, societies are not directly responsive to outside calamities, such as financial crisis, nor are they likely to change social behaviours because foreign powers suggest that they should. All this is to point out that people have to embrace change and want to change for change to occur. People have to perceive there is a benefit to change before they will adapt their behaviours to new situations.

Drafting legislation to enhance the condition of life and opportunity for people with disabilities, of itself, will not be enough to bring about social change and reduce discrimination and prejudice.

Just a few years ago, in the hight of the boom period of Dubai, His Royal Highness Sheikh Mohammed bin Rashid Al Maktoum said to his leading people that in considering new projects and new ideas they should look for what added value to the society. This axiom remains true for considering the drafting of laws and regulations for advancing the life of disabled people. While laws are never written for bad reasons, it has to be remembered that laws themselves are often the cause of much heartache and distress. Whether it is a family trying to get their special needs child into a mainstream school and having to fight new as well as old regulations, or burdensome taxes or regulations that reduce the opportunity for new services expanding in the country, laws can be a hindrance rather than a help.

In asking why people were attracted to come to the UAE over the past 7 years, the answer is not found in the many tall buildings that were constructed, the tax-free life, or the wonders of the desert safari. The attraction has been the dynamism of the society: the energy of change, development and imagination that is in such short supply in many other parts of the world. In the new millennium, the UAE had become a land of opportunity. It had become the California Gold Rush of development for the 21st Century. Now, in this period of slowed growth, it is a good time to consider again Sheikh Maktoum’s axiom – how do we add value to society?

To progress, the UAE needs intelligent leadership: Good ideas coming from good men and women. In considering how to advance equality for disabled people, the country’s leaders will seek to initiate change by advancing society for the benefit of everyone. The level of a country’s civilization, they should note, however, is not determined by the level of its technology or wealth, but by the level of its social and cultural development. The UN Convention on the Right of Disabled Persons is proposing to do the seemingly impossible; change social habits and norms through legislation. But changing laws will not of themselves change society. It will require good leaders to touch and change the heart of society, otherwise new laws will carry no value and the life conditions of disabled people will not improve.

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