CHAPTER 2: ACCESSIBILITY

UN Convention on the Rights of Persons with Disabilities

Article 9, Accessibility:

1. To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:

   (a) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;
   (b) Information, communications and other services, including electronic services and emergency services.

2. States Parties shall also take appropriate measures to:

   (a) Develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;
   (b) Ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities;
   (c) Provide training for stakeholders on accessibility issues facing persons with disabilities;
   (d) Provide in buildings and other facilities open to the public signage in Braille and in easy to read and understand forms;
   (e) Provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public;
   (f) Promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information;
   (g) Promote access for persons with disabilities to new information and communications technologies and systems, including the Internet;
   (h) Promote the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost.

Article 2, Definitions (excerpts):

"Reasonable accommodation" means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms;

"Universal design" means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. "Universal design" shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.

OBJECTIVES

The exercises and background information contained in this chapter will enable participants to work towards the following objectives**:**
- Define accessibility and the related concepts of **reasonable accommodation** and **universal design**
- Explain the importance of accessibility for people with disabilities
- Understand the interrelation between accessibility and other human rights
- Identify ways in which the accessibility of people with disabilities has been promoted or denied
- Understand the provisions related to accessibility in the UN **Convention on the Rights of Persons with Disabilities** (CRPD).

GETTING STARTED: THINKING ABOUT ACCESSIBILITY

Any discussion of the human rights of people with disabilities necessarily includes the issue of "accessibility." No one can enjoy a human right to which they do not have access, and the barriers that currently prevent people with disabilities from fully enjoying their human rights are abundant. Indeed, it is these barriers that are part of the concept of "disability" itself. As noted in the Preamble of the CRPD:

(e) *Recognizing* that disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others.

The forms that barriers to accessibility take can be many and varied, including:

- Physical: These barriers include environmental barriers, especially those that exist in the built (in other words, human-made) infrastructure. They are some of the first barriers that people think of when considering access for people with disabilities, as they are the most obvious. For example, many people are now aware of the importance of ramps for wheelchair access to buildings with stairs or the need for curb-cuts in side-walks to facilitate street-level access. Other physical barriers may be less obvious, however. For example, many people are unaware of the barriers faced by little people, who frequently have to interact with a built-environment primarily designed for "average-sized" people. In addition, people may not be sufficiently aware of the need for tactile or high colour-contrast surfaces to assist people with visual impairments as they navigate streets and buildings.

- Informational: Both the form and content of information can constitute barriers to access for people with disabilities. For example, publications or websites in small print or without adequate visual contrast may be inaccessible to people with low vision. Television that does not include captioning, subtitles, or in-set sign language interpretation will be inaccessible to people who are deaf. Similarly, television programming may also be inaccessible to people who are blind unless audio-description is available. Information that is not in Braille or other appropriate tactile forms may be inaccessible to people who are blind. In addition to form, the content of information is also of critical importance. For example, information that is not provided in plain language is unlikely to be accessible to many people with intellectual disabilities.

- Institutional: These include legislation, practices, or processes that actively prohibit or fail to facilitate access by people with disabilities. For example, in some countries people with psycho-social disabilities are expressly prohibited from participating in voting, while other people with disabilities may be unable to vote because of the absence of legislation or practice that ensures that they can both gain physical access to polling venues or voting booths and have access to the ballot and other voting information once they are there.

- Attitudinal: Perhaps the most pervasive barrier is the attitudes of many people. Sometimes people's myths and stereotypes about people with disabilities can cause societies unconsciously to create accessibility barriers. In other cases barriers are created or maintained simply because people are unaware of their existence and the detrimental effect they have on the lives of persons with disabilities. For example, a restaurant owner may mistakenly believe that their restaurant is accessible to wheelchair users because there are "only a couple of steps" at the entrance, and may not appreciate the need for people to be able to enter and exit safely and independently. Such lack of awareness can have especially detrimental consequences in the area of technology. Although technology has the potential to enhance access for people with disabilities, technological advances that occur without incorporating accessibility features can create barriers. For instance, at a time when people increasingly rely upon mobile phones and the internet as sources of information and means of communication, many of the devices and software programmes available are not usable by people who are deaf, blind or deafblind, leading to further marginalization and exclusion of these groups.

Ensuring accessibility is of critical importance because it directly affects the enjoyment of the full range of human rights by people with disabilities. In other words, lack of access can prevent people with disabilities from fully enjoying any human right. In addition, specific barriers to access can have a negative effect on the enjoyment of multiple human rights. For example, the lack of accessible transportation not only prevents enjoyment of the right to liberty of movement, but it can also prevent people with disabilities from travelling to places of work, education, health care, rehabilitation, culture, sports, and other venues where different human rights can be enjoyed. The lack of accessible information about political processes not only inhibits the ability of people with disabilities to enjoy the right to participate in political and public life, but it can also make it difficult to make informed choices about issues affecting other human rights. For instance, if a voter with a disability is deciding how to vote in a referendum determining how a local authority provides emergency services (e.g., police, fire, ambulance, rescue services), it will be essential for that person to have access to the information they need to make an informed choice. These examples demonstrate that human rights are indivisible, interdependent, and interconnected.

Ultimately, accessibility is fundamental to ensure the inclusion and participation of people with disabilities as full and equal members of society. Regardless of the human right in question, discussion of how that right can fully be enjoyed must include consideration of access – not just for some but for all people with disabilities.

EXERCISE 2.1: Getting Started Thinking About Accessibility

Objective: To simulate an informational accessibility barrier
Time: 20 minutes
Materials: Paper and pens

1. Brainstorm:
As a group, make a list of basic grocery items that a person in your community might purchase on a day-to-day basis. Write or draw these items on separate pieces of paper.

2. Simulate:
Split the group into pairs. Have one person from each pair select one of the pieces of paper on which a grocery item is listed. Without speaking, that person must now communicate what that item is to his or her partner.

Alternate Version: Play this like charades where two teams guess what the player is trying to communicate.

3. Discuss:
- How easy was it for participants to communicate the items to their partners?
- Did either person experience any frustration during the exercise?
- If so, what was the source of that frustration?
- What does this exercise illustrate about the barriers to accessibility that people with disabilities face on a daily basis?

Approaches to Accessibility: Understanding Universal Design

As indicated in Article 2 of the CRPD, the use of universal design is intended to ensure access "by all people, to the greatest extent possible, without the need for adaptation or specialized design." Universal design is especially important in situations where it is difficult to predict exactly what each individual user's accessibility needs will be. When creating a new product, service, or program or when constructing a building, sports arena, or park, following universal design principles can ensure access by as many potential users as possible.

These principles include:

- **Equitable use:** The design is useful and marketable to people with diverse abilities;
- **Flexibility in use:** The design accommodates a wide range of individual preferences and abilities;
- **Simple and intuitive:** The use of the design is easy to understand, regardless of the user's experience, knowledge, language skills, or current concentration level;
- **Perceptible information:** The design communicates necessary information effectively to the user, regardless of ambient conditions or the user's sensory abilities;
- **Tolerance for error:** The design minimizes hazards and the adverse consequences of accidental or unintended actions;
- **Low physical effort:** The design can be used efficiently and comfortably with a minimum of fatigue; and
- **Size and space for approach and use:** The appropriate size and space is provided for approach, reach, manipulation, and use regardless of user's body size, posture, or mobility.[1]

EXERCISE 2.2: What Does It Mean to Enjoy Accessibility?

Objective: To understand what it means to enjoy accessibility
Time: 30 minutes
Materials: Chart paper and markers or blackboard and chalk
Paper and pens

1. Brainstorm/Imagine:

Ask participants to brainstorm some typical life activities that most people in your community do (e.g., going shopping, going to work, going to school, talking to friends, taking public transportation, eating in a restaurant, attending a religious service, attending a cultural or sports event). List these.

Next ask them to name some typical people with disabilities, including people with physical, sensory, learning, intellectual, psycho-social, and multiple disabilities. As suggestions are given, ask each participant to write them down on a separate slip of paper using the format "You are …" and adding more description including an imagined sex and age for the suggested person (e.g., "You are a middle-aged man who uses a wheelchair"; "You are a twenty-year-old woman

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1   "Principles of Universal Design". 2007. *The Center for Universal Design.*
        http://www.design.ncsu.edu/cud/about_ud/udprinciples.htm

who is bipolar"; "You are a teenage girl with Downs Syndrome"; "You are a man of seventy who is deaf and dyslexic"). Encourage everyone to contribute at least one example.

Collect the slips of descriptions, fold them, and place in an open container.

2. Analyze:
Divide participants into pairs and ask each pair to choose two activities from the list (more than one couple may have the same activity). Then ask each couple to draw one of the descriptive slips.

Give these instructions:
   a. The slip you drew is your "identity" for the rest of the exercise;
   b. Imagine what it would be like for "you" to participate in the activities you have chosen;
   c. What barriers to access might you encounter? Consider -
      •   Physical barriers
      •   Informational barriers
      •   Institutional barriers
      •   Attitudinal barriers
   d. What would it take for you to be able to participate? What accessibility features would you need?

To the Facilitator: You may need to remind participants of the differences in the different kinds of barriers and illustrate each.

3. Report:
Ask each group to describe who they "are" and what activities they chose. Then ask each to name the accessibility features they would need to be able to participate in their activities. List these needs on a chart like the one below and retain it for use in Exercise 2.2. Be sure to ask for informational, institutional, and attitudinal as well as physical barriers.

Barrier	Accessibility Feature Needed

4. Discuss:
   •   Did the group's definition of "accessibility" differ depending upon the person you have in mind, or does it stay the same for all people?
   •   How would you define "accessibility" so that it fits all these cases?
   •   How does having accessibility make a difference in the lives of individual people with disabilities? In the life of the community?
   •   How does *not* having accessibility make a difference in the lives of individual people with disabilities? In the life of the community?

Approaches to Accessibility:
Understanding Reasonable Accommodation

One approach to accessibility involves application of the principles of **universal design**, which focuses on the overall usability of the product, service or environment itself. However, universal design is not yet used everywhere and may not always succeed in providing access for every individual. In these instances, a second approach to accessibility, that of reasonable accommodation, is needed. As defined in the CRPD and as practiced in a number of countries, "**reasonable accommodation**" describes a process through which necessary and appropriate modifications, adjustments, or provisions are made, in order to accommodate the accessibility needs of a particular person. In other words it is a specific response to the unique accessibility needs of an individual.

Reasonable accommodation requires discussions between the provider and the user in order to ensure that the accommodation meets the access needs of the user and can be implemented by the provider. The provision of the accommodation is not required where doing so would impose a "disproportionate or undue burden" on the person providing the accommodation. What is considered reasonable will vary depending upon the size and resources of the person or organization providing the accommodation. The reasonableness of an accommodation will also vary over time, as new solutions to accessibility issues become available. In general what providers assume is feasible usually falls below the level of what is possible.

Because of the typically individualized nature of the accommodations, reasonable accommodation is a process that is often used in educational and employment settings, where long-term accessibility solutions for specific individuals may be necessary to facilitate their enjoyment of the rights to education or work. For example, in an educational setting someone with a learning disability might be accommodated through the provision of a dedicated note-taker or perhaps the allowance of extra time on exams. In an office environment, reasonable accommodation might include ensuring that the workspace is navigable for a wheelchair user or providing special software or other assistive technologies to facilitate computer use by someone with a visual impairment.

The approach of reasonable accommodation differs from that of universal design. Universal design treats all users the same and reasonable accommodation treats specific users differently. However, the goal of both approaches is the same: full accessibility that ensures the full inclusion of all people with disabilities in society on an equal basis with others.

EXERCISE 2.3: Understanding Barriers to Accessibility

Objective: To identify barriers to accessibility faced by people with disabilities
Time: 30 minutes
Materials: List of life activities generated in Exercise 2.2

1. Discuss:
Using the list of needed accessibility features generated in Exercise 2.2, ask participants to assess to what extent these accommodations are available in this community. Record responses on a chart like that below.

To the Facilitator: If participants don't know the answer, put a question mark and discuss where this information could be obtained.

Accessibility Feature	Never Available	Somewhat Available	Generally Available	Usually Available	Always Available

2. Discuss:
- What accessibility features are most available in the community? Why do you think this is?
- What accessibility features are least available? Why?
- Are people with certain disabilities provided with more accessibility features than others? Which? Why?
- Are people with certain disabilities provided with fewer accessibility features than others? Which? Why?

To the Facilitator: In asking why some accessibility features are more generally available than others, always seek to establish whether advocacy by people with disabilities has brought about some of these accessibility features.

3. Evaluate:
- What accessibility features are most needed in your community? Be sure to think broadly about all the different people with disabilities who might need accessibility features, so that no groups of people are left out.
- What can be done to see that these needs are met?

WHAT DOES HUMAN RIGHTS LAW SAY ABOUT ACCESSIBILITY?

Accessibility as it has been discussed above is not elaborated in any detail in international human rights law until the 1993 UN **Standard Rules on the Equalization of Opportunities for Persons with Disabilities**. However, there are references to "access" and related concepts that can be found in earlier documents. For example, Article 21 of the **Universal Declaration of Human Rights** (UDHR) refers to the right of everyone to "equal access to public service in his country." Article 26 of the UDHR also refers to the need for tertiary, professional and higher education to be "equally accessible to all on the basis of merit."

The **International Covenant on Civil and Political Rights** (ICCPR) contains one express reference to "access" in Article 25, which address the right of people to "have access, on general terms of equality, to public service in his country."[2] Similarly, the **International Covenant on Economic, Social and Cultural Rights** (ICESCR) only references accessibility in the context of equal access to education in Article 13.[3] Nevertheless, General Comment No. 5 of the **Committee on Economic, Social and Cultural Rights**, the treaty body that monitors implementation of the ICESCR, specifically highlights the need for States Parties to the ICESCR to ensure that people with disabilities enjoy full access to transportation, health care services, places of work, housing, health care, education, cultural and recreational venues, and other programs, services, and places relevant to the enjoyment of economic, social, and cultural rights.

The **Convention on the Rights of the Child** (CRC) contains more frequent references to the concept of access, including in Article 17 (access to information), Article 24 (access to health care services and education about health and nutrition), Article 28 (access to education), and Article 37 (access to legal assistance if deprived of liberty).[4] In addition, Article 23 specifically addresses the rights of children with disabilities, and notes the need for States Parties to ensure "effective access" of children with disabilities to:

> *…education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.*

The UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities (Standard Rules) provides more elaboration on accessibility for people with disabilities in Rule 5, addressing physical, informational, and communication accessibility. For example, Rule 5 calls on States to remove obstacles to participation in the physical environment and promote accessibility through the development of standards and guidelines, training of architects and other construction professionals, and the consultation of organizations of people with disabilities. Rule 5 also calls for information to be provided in different accessible formats, for the media (e.g., television, radio, newspapers) to provide accessible services, for new computer and other technologies to be made accessible initially or be retrofitted later, and for sign language and other interpreters to be made available to those who need them.

The Convention on the Rights of Persons with Disabilities (CRPD) is the first legally binding international instrument to provide in-depth articulation of the responsibilities of governments to thoroughly address accessibility so that people with disabilities may "live independently and participate fully in all aspects of life." Specifically, Article 9 requires States to ensure that people with disabilities are able to access a comprehensive range of venues, facilities, and services on an equal basis with others. In providing examples, Article 9 references a variety of places and services, such as "buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces," as well as "information and communications" and emergency services, all of which have the potential to impact a wide variety of other human rights. Furthermore, Article 9 includes "other facilities and services open or provided to the public, both in urban and in rural areas," ensuring that accessibility is not only addressed in cities, but also for people with disabilities living in rural communities.

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2   See http://www.unhchr.ch/html/menu3/b/a_ccpr.htm
3   See http://www.unhchr.ch/html/menu3/b/a_cescr.htm
4   See http://www.unhchr.ch/html/menu3/b/k2crc.htm

In order to achieve accessibility, Article 9 requires States to identify and eliminate obstacles and barriers to accessibility. The provisions that elaborate the specific measures to be undertaken are quite detailed and attempt to capture the wide range of access needs of different people with disabilities in different contexts. They include:

- Developing and monitoring implementation of minimum accessibility standards and guidelines
- Providing training on accessibility for stakeholders
- Promoting design, development, production, and distribution of information and communications technologies that address accessibility early in their development, and that are provided at minimum cost
- Promoting access to new information and communications technologies and systems, "including the internet"
- Providing signage for the public in Braille and other easy to read and understand forms
- Providing live assistance (such as guides, readers, and sign language interpreters)
- Promoting other "appropriate forms of assistance and support" to ensure access to information.

As with other articles in the CRPD, the scope of Article 9 is not limited just to State actors, such as local and national governments, government agencies, and government corporations. Article 9 also implicates private actors, requiring States to "ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities." In other words, although the Convention is not directly legally binding upon private actors (as only States can be bound by international treaties), it obligates States to act to ensure that private actors over whom they have control act in a manner consistent with the goals and obligations of Article 9. Such private actors might include restaurants, taxi companies, supermarkets, and other businesses offering facilities and services to the public.

It should be noted that Article 9 is located towards the beginning of the CRPD. As with Articles 1-8, Article 9 is intended to inform and assist in the interpretation and implementation of all the human rights elaborated in the CRPD. For example, if someone were seeking to implement Article 13, Access to justice, an important starting place would be Article 9 when considering how to improve the accessibility of, for example, courthouses or the criminal justice system. This approach also explains why accessibility concepts are often not addressed in great detail or sometimes not at all in specific articles of the CRPD: the drafters of the CRPD intended Article 9 to be the common reference point for all issues of accessibility.

Taken as a whole, States' obligations with regard to accessibility include:

1. Obligation to respect by refraining from engaging in any act, custom or practice that creates barriers to accessibility;
2. Obligation to protect by ensuring that non-State or "private" actors (such as businesses that offer services and facilities to the public) do not create or fail to remove barriers to access for people with disabilities;
3. Obligation to fulfill by affirming that States must take proactive action (such as indicated in the provisions outlined in Article 9) to ensure accessibility for people with disabilities.

In short, international human rights law strongly supports accessibility for people with disabilities, so that people with disabilities may live independently and fully participate in all aspects of life.

EXERCISE 2.4: Understanding Accessibility

Objective: To review and understand the accessibility provisions of the CRPD
Time: 45 minutes
Materials: Chart paper and markers or blackboard and chalk

1. Review:
Divide the participants into small groups. Ask each group to work together to paraphrase Article 9 in common language and give some examples of how it could be enjoyed and make a difference for people with disabilities in their community. Given the length of Article 9, you may want to ask different groups to address specific sections, especially if you feel that particular sections have already been addressed through previous exercises.

2. Paraphrase:
Read Article 9 aloud, pausing at each comma or natural section to ask different groups for their paraphrase. Discuss the meaning of the section until everyone can agree on a paraphrase. Write the final paraphrase of Article 9 on chart paper.

3. Give examples:
Ask for examples of how accessibility could be enjoyed and make a difference for people with disabilities.

4. Discuss:
How can Article 9 of the CRPD be used to set national disability rights agendas and formulate platforms of action for submission to political parties or government decision-makers? What would it mean in your country?

EXERCISE 2.5: Making a Commitment to Promote Accessibility

Emphasize that human rights involve both rights and responsibilities.
- Ask if after learning about accessibility for people with disabilities, the group is ready to think about taking concrete action.
- Acknowledge that, although there is still much planning and information gathering to do, commitment to creating change is also very important.
- Explain that you would like to ask each participant to name one individual action, however small, that she or he is willing and able to take in the next month to promote the accessibility of people with disabilities to ensure their full enjoyment of all human rights. (One example of an action might be investigating whether there are national accessibility standards governing the built environment, government websites, etc. If standards exists, participants may wish to see whether they are enforced, and if not, they may wish to engage in advocacy to encourage the government to adopt such standards.)

For planning advocacy for the human rights of people with disabilities, see Part 3, "Advocacy! Taking Action for the Human Rights of People with Disabilities," p. 229.

The BBC: Taking a Holistic Approach to Accessibility

The BBC is perhaps best known internationally for its television and radio news and entertainment programs. However, when the BBC undertook a review of its commitment to accessibility for people with disabilities, it looked beyond subtitles and audio description in its programming. Recognizing the diversity of services that it provides, as well as its role as an employer, the BBC committed itself to a comprehensive review of all of its activities, including:

- Provision of television licenses
- Development, production and broadcasting of news, educational and entertainment programming
- Provider of web-based information
- Participant in the switch-over from analogue to digitally-based broadcasting
- Customer-service provider
- Public actor subject to the UK's Disability Discrimination Act.

As part of its overall commitment to disability, race, and gender diversity, the BBC adopted a "Disability Equality Scheme" (DES), which was developed through consultation with organizations of people with disabilities as well as employees with disabilities. Through surveys and focus groups, the BBC gathered information on the accessibility of its current activities, where people felt there were problems, and ways in which it could improve its performance in the future. For example, most people surveyed indicated that they did not face barriers in purchasing their television licenses, but they did face problems accessing customer service departments and felt that the organization did not always understand the issues facing people with disabilities.

The DES (which runs from December 2006-2009) sets forth a detailed action plan and procedures for performance monitoring, assessment, and review. The DES operates in conjunction with the BBC's "Broader Approach to Promoting Disability Equality." Together, the policies address access for viewers and customers with disabilities and also address accessibility in other areas, such as employment of staff with disabilities; employment of program makers, writers, actors and presenters with disabilities; utilization of digital, internet and other technologies to promote disability access and inclusion; and training and educational materials to promote staff awareness.[5]

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5   "The BBC's Disability Equality Scheme". 30 Apr. 2007. *BBC Home*.
     http://www.bbc.co.uk/info/policies/diversity.shtml#DES1

USEFUL RESOURCES ON ACCESSIBILITY

- Access Exchange International: Accessible Transportation Around the World: http://www.globalride-sf.org/index.html
- American Council of the Blind - helpful resources for blind and visually impaired persons: http://www.acb.org/resources/index.html
- The Center for Universal Design: Environments and products for all people: http://www.design.ncsu.edu/cud/about_ud/udprinciples.htm
- *Design for Accessibility: A Cultural Administrator's Handbook*. National Assembly of State Arts Agencies: http://www.nea.gov/resources/Accessibility/pubs/DesignAccessibility.html
- General Comment No. 5 of Committee on Economic, Social and Cultural Rights: http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/ 4b0c449a9ab4ff72c12563ed0054f17d?Opendocument
- *International Best Practices in Universal Design: A Global Review.* Canadian Human Rights Commission: http://www.chrc-ccdp.ca/whats_new/default-en.asp?id=376
- Manila Declaration on Accessible Information and Communication Technologies (ICT): http://www.un.org/esa/socdev/enable/maniladecl.htm
- UN Global Audit of Web Accessibility: http://www.un.org/esa/socdev/enable/ gawanomensa.htm
- W3C Web Accessibility Initiative – policies addressing web accessibility: http://www.w3.org/WAI/Policy/