

### 3) How can we make the UN disability Convention successful?

#### By the end of Section 3 you should

1. Understand what a "State Party" is
2. Understand how a country can become a State Party to a convention
3. Understand what it means for a convention to "enter into force"
4. Understand what "ratification" is, why it is important, and how it can happen

#### What needs to happen for the Convention to be a success?

After the Convention negotiations have finished and the final text of the Convention is adopted by the United Nations, there are two things that need to follow for the Convention to be successful:

- Two steps from a final draft Convention to becoming International Law:

**Step 1** - Signing and Ratification: Countries need to *sign and ratify* the Convention. When they do this the country is then called a "States Party" to the Convention. (We'll discuss in more detail what "ratification" is in a moment.)

If a country has chosen not to become a States Party to the Convention, the country is not legally required to comply with the obligations set out in the Convention. With that in mind, we want as many countries as possible to become States Parties, so that persons with disabilities in as many countries as possible can benefit from the provisions of the disability Convention!

**Step 2** - "Entering into force" - making sure enough countries "sign on". It is worth noting though that even a country that becomes a States Party will not be required to comply with the detailed provisions of the Convention *unless* the Convention has entered into force. Typically, a human rights convention will specify that a certain number of countries must become States Parties before the convention is activated. This 'activation' is known in international law as "entering into force."

When a convention enters into force, all States Parties must comply with the legal obligations of the convention. We do not yet know how many countries will need to become States Parties for the disability Convention to enter into force, but a typical number used in other human rights conventions is 20 countries. This we should see as a minimum, and keep in mind that ideally we want every UN Member State to become a Party to the Convention.

- A new International Law - what now?

Once we have enough States Parties to the Convention and the Convention has entered into force, then the next step is to *implement* the Convention. Implementation involves States Parties taking whatever actions they need to in order to comply with their legal obligations under the

Convention. For some countries implementation will require a lot of work, while in other countries they will need to do less work.

In all countries, though, successful implementation will take time and require close collaboration between the government and the disability community. Successful implementation will also require careful *monitoring*, both at the national and international level. It is this monitoring that will enable us to see how States Parties have progressed in implementing the Convention, and whether any States Parties are violating the human rights of persons with disabilities as set out in the Convention.

Although implementation is a major issue, and one that will require very hard work in the years to come, getting countries to sign and ratify the Convention is an essential first step in getting the Convention to become activated and entered into force. It is for this reason that the focus of this toolkit is on ratification, and figuring out just how we can work to get as many countries as possible to become States Parties as quickly as possible!

### **What is “ratification” and why is it so important?**

As we have just discussed, we want as many countries as possible to become States Parties to the disability Convention, and now we will look at how countries go about doing that. Many people think that the way a country becomes Party to a convention is to sign it. However, signing a convention does *not* make a country a States Party – signing only makes the country what we call a “signatory” to that convention. Being a signatory means that the country has indicated that it agrees with the main idea of the convention, that it agrees it will not take any action to violate the main idea of the convention, and that it is interested in becoming a Party in the future. Being a signatory does *not* mean that the country is legally required to comply with all the specific provisions of the convention, as it must when it is a States Party.

So what must a country do to move from being just a signatory to becoming a States Party? The answer is that it must “ratify” the convention. That is why ratification is so important. *It is the essential step needed to make a country a States Party and legally bind it to comply with the provisions of the convention.* It is worth noting here that there can be a big gap in time between a country signing and ratifying a convention. Some countries are quick to sign up to conventions, but take years to actually ratify them, and until they ratify they are not obliged to comply with the obligations described in the conventions. Other countries may take less time, and some countries even sign and ratify all at the same time – we call this second approach “accession” and say that the country has “acceded” to become a States Party. Do not worry about the terms though – the important thing to remember here is that we need countries to both sign *and* ratify the disability Convention. The following sections of the toolkit examine what is involved in ratification, and how we can get involved in convincing our governments to sign *and* ratify!

### **How does ratification happen?**

How ratification occurs is very much dependent upon the country in question, as each country has its own rules and procedures for the ratification of conventions. Typically, a country's parliament, cabinet, president and/or prime minister will have responsibility for ratifying conventions, and in some cases a combination of those different actors will be responsible. For example, in the United States, the President ratifies with the advice and consent of the Senate, meaning that *both* have a role to play in deciding whether or not the United States will become a Party to a convention. In the box "Who Decides" we show some examples of how ratification occurs in other countries.

So, depending upon the country, different actors have different formal decision-making roles in ratification. In each country different procedural rules will apply regarding how conventions are presented for ratification and (if the parliament ratifies) how many votes are required to approve ratification. Before engaging in any advocacy to get *your* country to ratify the disability Convention, you should find out *how* ratification occurs in your country, and *who* is responsible for making the decision to ratify conventions!

As well as knowing who the *formal* ratification decision-makers are in your country (such as the parliament, president etc.), you should also know which actors have *informal* influence over those decision-makers.

For example, in a country where the President or Prime Minister has the official power to decide whether to ratify a convention, it is very useful to know who else has informal influence over the President or Prime Minister's decision. It could be an individual, or a group of individuals that have informal influence, but knowing who these people are can be critical in ensuring that your advocacy around ratification reaches the right people and is successful.

The last thing to be aware of is what happens immediately after a country has decided to ratify a convention. Usually, the country will submit a document (known as a "ratification instrument") to the secretariat for the convention – for the disability Convention countries would probably submit their ratification instrument to the United Nations Secretary General. The ratification instrument lets other countries know that a country has officially decided to become a States Party to a convention, and it helps the United Nations know how many countries have become States Parties and who those countries are.

#### WHO DECIDES?

- In India, the President has the power to ratify conventions
- In Mexico, the Senate has the power to ratify conventions
- In the United Kingdom, the Parliament has no formal involvement in treaty-making, but in many cases the executive ratifies after Parliament has had an opportunity to consider the convention in question and give its consent. In rare cases there may even be a public referendum before ratification occurs.
- In Ecuador, the Congress has the power to ratify conventions
- In Tanzania, the Parliament has the power to ratify conventions

**Exercise: How does your country ratify a human rights convention?**

### **Exercise: Who influences the decision-makers?**

- What are “RUDs?”

Along with the ratification instrument, a country may also submit some “reservations, understandings and declarations,” also known as “RUDs.” RUDs can be used by countries to exempt themselves from particular provisions in a convention, or to describe how they think specific language in a convention should be interpreted. Countries cannot add more RUDs after they have filed their ratification instrument, but they can give up their RUDs at a later time, meaning that a RUD does not necessarily have to last forever. How RUDs are dealt with can actually be quite complicated, and we won’t go into those details here. It is important only to know that your country may decide to file a RUD when it ratifies the disability Convention, and if that happens you should find out what the proposed RUD is and how it may affect persons with disabilities in your country. Ideally we hope that countries will want to ratify the disability Convention without filing any RUDs. However, some would say that it is better for countries to be able to use RUDs and become Parties to the disability Convention, rather than choose not to become Parties at all.

### **RESOURCES**

You may find it useful to know what other UN human rights conventions your country has signed and ratified (or acceded to). This document from the Office of the High Commissioner for Human Rights shows the ratification status of all the UN human rights conventions as of March 2006. (The first page of that document explains how to read it and what the different acronyms mean.)