



Judicial Guardianship of Global Norms: Courts, Disability Rights, and the Role of the United Nations

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On June 10, 2025, Ms. Heba Hagrass, the United Nations Special Rapporteur on the Rights of Persons with Disabilities, reflected on both the progress and ongoing challenges involved in promoting inclusivity for individuals with disabilities. During the [18th Conference of State Parties](#) to the [Convention on the Rights of Persons with Disabilities](#) (CRPD), held in New York from June 10 to 12, 2025, she noted that the world has become increasingly uncertain and divided over the past year. She also remarked that multilateralism is under pressure and that funding for human development, including support for the rights of persons with disabilities, is decreasing. Despite these challenges, she highlighted that the world possesses strong frameworks to ensure that persons with disabilities are not left behind.

Her assertions are accurate. Over the past two decades, significant progress has been made toward advancing and promoting the rights of persons with disabilities. For example, 2026 will mark the 20th anniversary of the Convention, now the [second-most ratified](#) UN human rights treaty, with 192 state parties. Likewise, in April 2025, 74 governments endorsed the [Amman-Berlin Declaration at the 3rd Global Disability Summit](#), showcasing their commitment to and cooperation with disability-inclusive development.

However, despite this progress, Ms. Hagrass also [emphasized](#) a growing pushback against human rights. Indeed, [many individuals with disabilities around the world](#) continue to express concerns about inadequate support and assistance, cuts to essential services, and regressive reforms.

In this context, the UN Rapporteur urged stakeholders to seize [two immediate opportunities](#): First, she emphasized the [2025 Second World Summit for Social Development](#), which focused on eradicating poverty, ensuring decent employment, and easing social integration—key issues for persons with disabilities. Second, she called for institutionalizing the five-year-old [UN Disability Inclusion Strategy](#) to ensure the UN has the necessary resources to implement the CRPD’s standards domestically and to promote inclusion at every level of government.

Ms. Hagrass’s second call to action is particularly relevant, considering how the UN’s approach to disability rights could be more effectively integrated into justice institutions. For individuals with disabilities, access to justice is often complicated by [systemic barriers](#). These challenges include physically inaccessible legal institutions—such as courts and police stations—for people with impaired mobility, as well as facilities that, while being accessible, lack adequate accommodations for various disabilities.

Despite these inadequacies, the role of domestic courts in advancing and protecting the rights of persons with disabilities has evolved significantly over the years, particularly in light of the CRPD, which the UN championed as a human right. Yet, Ms. Hagrass's call to institutionalize the UN Disability Inclusion Strategy at the global level requires an urgent response. This would involve training legal professionals to understand disability rights and CRPD standards better and to interact with individuals with disabilities in a respectful and dignified manner. As mentioned above, improving accessibility in courthouses and other justice institutions is also crucial.

From a judicial decision-making perspective, courts play a crucial role in ensuring that national laws comply with international standards and in providing remedies for violations of disability rights. Judges interpret and apply rules to protect individuals with disabilities from discrimination, ensure their access to services, and uphold their autonomy and dignity. While legislation typically serves as the foundation for legal protections, these laws are effectively implemented through court decisions. To illustrate this, below are some specific rulings that have historically impacted disability rights.

Discrimination and Equality

Disability discrimination cases often arise in employment, education, housing, and public services. Courts have played a vital role in interpreting anti-discrimination laws and ensuring their effective application.

In the United States, for example, [the Americans with Disabilities Act](#) (ADA) (1990) prohibits discrimination against individuals with disabilities in employment, public services, public accommodations, and telecommunications. In the landmark case

Bragdon v. Abbott (1998), the U.S. Supreme Court held that the ADA's prohibition on discrimination extends to individuals with HIV as a disability. This ruling confirmed that disability rights protections apply to individuals with chronic conditions that may not be immediately visible but still significantly limit major life activities.

In Canada, the Canadian Charter of Rights and Freedoms (1982) and the Canadian Human Rights Act (1977) also prohibit discrimination based on disability. In Cox v. Hamilton (2001), the Ontario Court of Appeal determined that the city's failure to provide accessible public transit violated the rights of persons with disabilities. This decision underscored the importance of reasonable accommodations in public services.

Reasonable Accommodation

A crucial aspect of disability rights is the concept of "reasonable accommodation." This means that employers, service providers, and public authorities are required to modify their practices to meet the needs of individuals with disabilities, provided such modifications do not create an undue burden. Domestic courts have assessed what qualifies as a "reasonable" accommodation on a case-by-case basis.

Similarly, in Harrison v. University of British Columbia (2009), the British Columbia Human Rights Tribunal ruled that universities must provide accommodations for students with learning disabilities, including extra time for exams. This measure was deemed reasonable under Canadian human rights law and emphasized the importance of individualized accommodations to ensure that individuals with disabilities can effectively participate in educational settings.

Access to Public Services and Facilities

Access to public services and facilities is an area where courts have developed critical jurisprudence. Ensuring that persons with disabilities can access transportation, healthcare, and other public services without discrimination is essential to upholding their rights.

In the UK, for example, the Equality Act of 2010 consolidates protections against disability discrimination across various sectors, including employment, education, and public services. In the case of London Borough of Lewisham v. Malcolm (2008), the House of Lords ruled that a person with a disability cannot claim compensation for indirect discrimination unless they can show that they were treated less favorably because of their disability. This decision sparked discussions over how to interpret indirect discrimination and led to reforms aimed at providing stronger protections for people with disabilities in public services and facilities.

International Human Rights Standards and Tribunals

Change has extended beyond the domestic level; international human rights instruments and tribunals have established minimum standards for the treatment of individuals with disabilities. Domestic courts frequently refer to these standards when interpreting national laws.

The CRPD, adopted in 2006, is a comprehensive treaty that protects and promotes the rights of individuals with disabilities. This framework recognizes key principles such as equality, non-discrimination, participation, accessibility, and inclusion. Although the CRPD cannot be directly enforced in domestic courts unless it is incorporated into national law, integrating international frameworks into domestic legislation would significantly influence judicial interpretations and the development of disability rights jurisprudence.

In this context, one notable case is [*D. v. The Republic of Ireland \(2007\)*](#), in which the European Court of Human Rights addressed a case that highlighted the importance of providing disability accommodations for access to healthcare. The Court ruled that failing to provide adequate healthcare for individuals with disabilities could violate the European Convention on Human Rights (ECHR). The ruling also emphasized the implications for implementing accessibility standards under the CRPD.

The ECHR has also addressed critical issues such as the right to a fair trial, non-discrimination, and the right to live independently. In the case of [*X and Others v. Austria \(2013\)*](#), for example, the European Court of Human Rights determined that the Austrian government violated the ECHR by institutionalizing individuals with disabilities without their consent. This ruling emphasized the rights of persons with disabilities to live independently and to be included in community life, as outlined in Article 19 of the CRPD.

Final Comments

The examples outlined above are just a few best practices adopted by judiciaries in accordance with or guided by international standards. However, more work must be done to address the ongoing challenges. Many courthouses and legal facilities remain physically inaccessible. Courts and legal offices often lack necessary accommodations. Institutional policies or practices sometimes implicitly exclude disabled individuals. These are but some of the many issues faced by individuals with disabilities.

Despite these obstacles, in recent years, domestic courts have increasingly acknowledged the intersectionality of disability rights with other social justice issues, such as gender,

race, and socio-economic status. Courts are expanding the scope of protections not only to recognize disability rights formally but also to ensure their practical implementation.

In particular, judges are becoming more aware of how different forms of discrimination intersect, disproportionately affecting individuals with disabilities from marginalized communities, particularly in areas like employment, education, and healthcare. More efforts must be made to ensure that individuals with disabilities are fully integrated into every facet of society, considering both physical accessibility and social inclusion.

The courts are essential to these efforts. However, as noted by UN Special Rapporteur Hagrass, the necessary legal frameworks and standards must first be established at the international level to be integrated into domestic law. For multilateralism to succeed, multiple countries must cooperate to tackle global challenges that have a significant domestic impact, such as the international recognition of the rights of persons with disabilities.

In summary, when examining the intersection of disability rights and court systems, it is essential to prioritize inclusive policymaking that considers the diverse needs of various demographics. These efforts should consider relevant international frameworks and strategies established by the UN, including the CRPD, the [General Comment No. 3 \(2016\)](#), and the [International Principles and Guidelines on Access to Justice for Persons with Disabilities](#).

Implementing multilateral strategies to address the rights of persons with disabilities will result in more comprehensive and coordinated policies. This approach ensures decision-making processes include the voices of those affected and encourages the exchange of best practices and resources across different sectors and borders. Paraphrasing the [UN Secretary General](#) Antonio Guterres: “We can no longer be a platform for change when persons with disabilities cannot access that platform, to speak.” Similarly, if states are to truly uphold the rule of law and guarantee access to justice, everyone, including individuals with disabilities, must be able to navigate the justice system effectively and equitably.

About the Author

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Trained as a social scientist, Mónica holds a Doctor of the Science of Law (J.S.D.) and a Master of Laws (LL.M.) from the University of California, Berkeley School of Law. She was selected to participate in the prestigious “Mellon Sawyer Seminar on the Dilemmas of Judicial Power in Comparative Perspective” in 2007 and 2008 at the Center for the Study of Law and Society. She graduated *cum laude* from the ITAM Department of Law (*Licenciada en Derecho*) and has been a licensed attorney in Mexico since 2005. Before joining Berkeley Law, Dr. Castillejos-Aragón clerked for four years at the Supreme Court of Mexico and later worked for three years as a deputy legal director and a supervising attorney at Mexico’s Attorney General’s Office.