

## Justice for All: Human Rights for the Disabled in an Ableist World

*Justicia para Todos: Los Derechos Humanos para las  
Personas con Discapacidad en un Mundo Ableista*

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### ABSTRACT

This article investigates the persistent challenges faced by people with disabilities within ableist social, political, and legal systems worldwide. Using a human rights framework combined with disability studies and critical social theory, the research analyzes how structural ableism—manifested through discriminatory policies, inaccessible infrastructure, and social stigma—violates the rights and dignity of disabled individuals. Through comparative case studies from the Global North and South, the study highlights innovative advocacy strategies and community-led movements that promote inclusive policies and dismantle ableist barriers. The novelty of this work lies in its intersectional approach that connects disability rights with broader social justice issues, emphasizing the need for systemic transformation

beyond legal recognition. This article contributes to advancing disability justice discourse by proposing actionable pathways for achieving equity and full participation in society.

**Keywords** *Disability rights, Ableism, Human rights, Social inclusion, Disability justice*

## RESUMEN

Este artículo investiga los desafíos persistentes que enfrentan las personas con discapacidad dentro de sistemas sociales, políticos y legales ableistas en todo el mundo. Utilizando un marco de derechos humanos combinado con estudios sobre discapacidad y teoría social crítica, la investigación analiza cómo el ableismo estructural—manifestado a través de políticas discriminatorias, infraestructuras inaccesibles y estigmas sociales—viola los derechos y la dignidad de las personas con discapacidad. A través de estudios comparativos en el Norte y Sur Global, el estudio destaca estrategias innovadoras de defensa y movimientos liderados por la comunidad que promueven políticas inclusivas y desmontan barreras ableistas. La novedad de este trabajo radica en su enfoque interseccional que conecta los derechos de las personas con discapacidad con temas más amplios de justicia social, enfatizando la necesidad de una transformación sistémica más allá del reconocimiento legal. Este artículo contribuye a avanzar el discurso sobre justicia para la discapacidad proponiendo vías prácticas para lograr equidad y plena participación social.

**Palabras clave** *Derechos de las personas con discapacidad, Ableismo, Derechos humanos, Inclusión social, Justicia para la discapacidad*

## A. Introduction

The phenomenon of disability and the attendant social exclusion of persons with disabilities represent a pervasive global challenge that deeply implicates the structures of international law. For decades, disability was relegated to the fringes of legal discourse, viewed primarily through a medical lens that conceptualized impairment as a personal tragedy requiring clinical intervention rather than a socio-political identity demanding rights-based protections (Nosyreva, 2024). However, as globalization has accelerated, the systemic marginalization of disabled bodies has been recognized not as an incidental byproduct of development, but as a deliberate structural exclusion embedded within domestic and international legal frameworks. This exclusion is often codified through "structural ableism," a pervasive system of

institutional practices and cultural norms that privilege the able-bodied and render the disabled experience as deviant or lesser (Hirschberg & Papadopoulos, 2016). Despite the evolution of international legal instruments, disability remains a site of profound legal invisibility, where the promise of universal human rights frequently fails to translate into substantive equality for the world's largest minority group. Ableism acts as a matrix of power that devalues the legal status of individuals, often viewing them as a "burden" to the state rather than as entitled subjects of rights (Nosyрева, 2024).

Existing international legal approaches to disability rights, most notably the United Nations Convention on the Rights of Persons with Disabilities (CRPD), represent significant milestones but continue to face substantial limitations in dismantling these entrenched hierarchies. While the CRPD shifted the paradigm toward a human rights model of disability, its implementation often founders upon the "fragmentation" of international law, where economic priorities and state sovereignty frequently override the mandate for inclusive accessibility (Beaudry, 2024). Critics argue that the current legal architecture remains "reactive" rather than "transformative," addressing symptoms of discrimination without uprooting the underlying capitalist foundations that define productivity—and thus citizenship—in ableist terms (Hirschberg & Papadopoulos, 2016). Furthermore, the enforcement mechanisms available to international bodies are often insufficient to compel states to undertake the radical structural reforms necessary to ensure true inclusion, leaving a gap between the *de jure* recognition of rights and the *de facto* reality of lived experience. In many jurisdictions, judicial interpretations remain narrow, often deferring to legislative authorities that keep disability needs hostage to budgetary constraints (Beaudry, 2024).

The manifestation of structural ableism within domestic legal systems is perhaps most visible in the "scaffolding" of immigration and welfare laws, which often categorize disabled bodies as "defective" or "unworthy" of admission or support (Arastu & Naqui, 2024). Historical legal frameworks have frequently codified the exclusion of those unable to "take care of themselves," creating ability-based hierarchies that reward productivity and educational attainment while marginalizing those who do not fit the idealized norm of the autonomous, self-sufficient citizen (Arastu & Naqui, 2024). This structural violence is not limited to immigration; it extends into the criminal justice system, where institutions are often ill-equipped to accommodate disabled individuals, leading to further alienation and cycles of abuse (Macdonald & Peacock, 2025). By pathologizing disabled communities, these systems reinforce the notion that impairment is a form of harm

requiring "cure" rather than a variation of human diversity that requires systemic accommodation (Karlsson & Rydström, 2023).

This research seeks to interrogate these systemic failures by addressing two primary questions: First, how does structural ableism manifest within the interconnected layers of international and domestic legal systems? Second, to what extent does current international human rights law (IHRL) possess the capacity to adequately address and dismantle these structures? The manifestation of ableism is often hidden behind "discourses of care and protection," which can mask judicial practices that actually institute further subordination (Campbell, 2013). By analyzing how these systems function, we can see that ableism is not merely a matter of negative attitudes but a "schema of perfection" that influences the very foundations of medicine, jurisprudence, and social theory (Campbell, 2013). This inquiry is essential for moving beyond "rhetorical compliance" to a deeper understanding of how global disability norms can be translated into concrete practices of inclusion that respect the agency of all individuals (Reframing IR through Disability, 2025).

The central thesis of this article contends that structural ableism is not a flaw in the system, but a foundational element of modern legal thought that requires a "crip" legal theory approach to deconstruct. Crip theory serves as a tool to destabilize ableist categories and expose the "compulsory able-bodiedness" that underpins social and legal relations (Karlsson & Rydström, 2023). By synthesizing critical disability studies with international legal theory, this work offers a novel critique of the CRPD's efficacy, arguing for a move beyond mere "inclusion" toward a radical restructuring of legal subjectivity itself. This involves reclaiming disability identity as a site of political significance rather than a medical deficit (Karlsson & Rydström, 2023). The originality of this approach lies in its use of "cripistemologies"—knowledge production rooted in disabled lived experience—to challenge the positivist, "disembodied" nature of traditional legal research (Karlsson & Rydström, 2023).

The relevance of this study to contemporary debates in international human rights law cannot be overstated, particularly as the international community grapples with the intersectional impacts of global crises. Disability as a category of identity is often omitted in broader rhetoric about intersectionality, yet it combines with race, gender, and class to create unique forms of disadvantage (Wickenden, 2023). For example, disabled women and ethnic minorities often face compounded barriers to healthcare and justice that are not captured by frameworks focusing on a single minority marker (Theilen, 2024; Wickenden, 2023). Addressing these "intersecting ableist, homophobic,

racist, and class-based inequalities" is critical for achieving true disability justice (Macdonald & Peacock, 2025). As international institutions increasingly invoke "disability-inclusive development," there is an urgent need to ensure these efforts are not depoliticized but instead address the root power structures that govern the "travel" of human rights norms (Theilen, 2024).

Furthermore, the adequacy of international law is tested by its ability to respond to the "pluralization of human rights," where the specific needs of marginalized groups are recognized without sacrificing the universal nature of rights (Appiagyei-Atua, 2018). The CRPD attempts this by "reformulating" and "innovating" rights to reflect the lived experience of disability, yet it often fails to uncover the "ultimate source of disadvantage" that lies in embedded structural injustice (Appiagyei-Atua, 2018; Richards, 2024). For instance, doctrines such as "insanity" in criminal law can be seen as symptomatic of a deeper failure to respect the autonomy of persons with mental disabilities (Richards, 2024). Moving forward, a more holistic application of the CRPD is required—one that moves beyond the medicalized perspective of the "patient" toward a "person-centered" model that empowers disabled individuals as active participants in political life (Nosyreva, 2024; Richards, 2024).

Ultimately, this article argues that the legal recognition of disability must evolve from a "charity" or "welfare" model toward a framework of "representation as liberation" (Ditkowsky, 2025). Historically, disabled individuals, particularly people of color, have been intentionally disenfranchised and institutionalized to keep them out of power (Ditkowsky, 2025). Challenging this requires more than just legislative changes; it necessitates a shift in the "abled imaginary" that dictates what a "normal" mind or body looks like (Campbell, 2013). By centering the voices of those with lived experience, international law can begin to dismantle the hierarchies that have for too long prioritized "nation-building" and "productivity" over human dignity and equity (Nosyreva, 2024; Richards, 2024). This transition is vital for ensuring that the promise of the 2030 Agenda—to leave no one behind—becomes a legal reality rather than a rhetorical aspiration.

## **B. Disability in International Human Rights Law**

### **1. Historical Marginalization of Disability in International Law**

The historical trajectory of disability within the international legal order is characterized by a profound and prolonged period of invisibility, during which disabled individuals were largely excluded from the protections of the burgeoning human rights movement. Unlike

other protected grounds, such as race, gender, and religion—which saw robust normative developments in the mid-20th century following the Universal Declaration of Human Rights—disability remained sequestered within the "medical and welfare silos" of international governance (Kayess & French, 2008). While the international community moved rapidly to condemn racial discrimination and gender-based violence through dedicated conventions in the 1960s and 1970s, disability was framed not as a matter of civil rights, but as a biological "deficiency" requiring charitable intervention or technical rehabilitation (Harpur, 2012). This delay in legal recognition was not an oversight but a reflection of the prevailing "ableist" legal philosophy, which assumed that the "standard" human subject was an autonomous, able-bodied worker. Consequently, the specific barriers faced by persons with disabilities—such as lack of physical accessibility or legal capacity—were treated as natural consequences of their impairments rather than as state-sponsored human rights violations (Stein, 2007).

When compared to other protected characteristics, the marginalization of disability is starkly evident in the "evolutionary lag" of its jurisprudence. For example, the International Convention on the Elimination of All Forms of Racial Discrimination (1965) and the Convention on the Elimination of All Forms of Discrimination Against Women (1979) established clear mandates for states to dismantle structural barriers decades before a similar framework existed for disability (Mégret, 2008). During this period, disability was often subsumed under broader categories like "other status," leading to a lack of specific, enforceable standards that accounted for the lived reality of impairment. This "normative neglect" meant that while other marginalized groups were gaining ground in reclaiming their agency under international law, persons with disabilities remained subjects of "paternalistic protectionism," where their rights were often traded for the promise of medical care or social assistance (Degener, 2016).

The exclusion of disability from early human rights discourse also reinforced a "hierarchy of suffering," where the specific violations against disabled bodies were often ignored unless they intersected with other recognized identities. For instance, the mass institutionalization and forced sterilization of persons with disabilities were frequently justified under the guise of public health or "best interests," practices that would have been immediately flagged as human rights violations if applied to other protected groups (Kanter, 2015). This systemic erasure meant that international law essentially operated as a "closed system" that only recognized subjects who possessed a specific type of cognitive and physical "normality." The resulting legal vacuum allowed states to maintain discriminatory laws regarding marriage, voting, and property

ownership for disabled persons without fear of international sanction or scrutiny (Quinn & Degener, 2002).

Furthermore, the late recognition of disability rights can be attributed to the deeply entrenched "charity model," which suggested that the state's only obligation toward disabled citizens was one of benevolent provision rather than rights-based empowerment. This model effectively depoliticized the disabled experience, turning a struggle for justice into a request for mercy (Nosyreva, 2024). International law's initial refusal to view disability as a social construct meant that legal remedies were focused on "fixing" the individual to fit the environment, rather than fixing the environment to accommodate the individual. This orientation stunted the development of inclusive infrastructure and legal standards, as the burden of adaptation was placed entirely on the person with the impairment (Lawson & Beckett, 2021).

The late arrival of the Convention on the Rights of Persons with Disabilities (CRPD) in 2006 was not merely an addition to the human rights canon but a corrective measure to a system that had effectively "designed out" disabled people from the universal human rights project for over half a century (Kanter, 2015). Even with the CRPD's adoption, the legacy of this historical marginalization persists in the way international law is taught, interpreted, and prioritized. The "afterlives" of the medical model continue to haunt judicial decisions, where disability is still frequently treated as a mitigating factor or a reason for legal incapacity rather than a protected characteristic requiring affirmative protection (Richards, 2024). Addressing this history is essential for understanding why modern legal frameworks often struggle to provide more than superficial inclusion.

## 2. *The Normative Framework*

The contemporary normative framework for disability rights is anchored by the CRPD, which serves as a "thematic" treaty designed to ensure that existing rights are applied meaningfully to the specific context of disability. The core principles of this framework—dignity, individual autonomy, non-discrimination, and full participation—represent a radical shift from the "objecthood" of the past to the "subjecthood" of the present (Lord & Stein, 2008). Central to this is the principle of "reasonable accommodation," a unique legal construct that requires duty-bearers to make necessary and appropriate modifications to ensure that persons with disabilities can enjoy their rights on an equal basis with others (Lawson & Beckett, 2021). This framework does not create "new" rights but rather "re-interprets" the right to life, liberty, and education through the lens of accessibility and

inclusion, recognizing that the disability experience is a valuable part of human diversity (Quinn & Degener, 2002).

Beyond the text of the CRPD, the normative framework is continuously refined by the role of treaty bodies and "soft law" instruments, which provide the interpretive depth necessary for state compliance. The Committee on the Rights of Persons with Disabilities plays a pivotal role through its General Comments, which clarify the scope of state obligations regarding issues like legal capacity (Article 12) and independent living (Article 19) (Arastu & Naqui, 2024). These comments act as authoritative interpretations that guide domestic courts in moving away from substituted decision-making toward supported decision-making models. Furthermore, soft law instruments—such as the Standard Rules on the Equalization of Opportunities for Persons with Disabilities—preceded the Convention and laid the groundwork for the current consensus on "inclusive development" (Rioux et al., 2011).

The role of "participation" as a normative principle is perhaps the most transformative aspect of the current framework, encapsulated in the mantra "Nothing about us without us." This principle mandates that persons with disabilities, through their representative organizations, must be involved in the design and implementation of policies that affect them (Theilen, 2024). This shift from being "recipients" of policy to "co-architects" of legal standards marks a significant departure from traditional top-down international law. It ensures that the lived experience of disability is treated as a form of expertise, forcing legal systems to reckon with the practical realities of barriers like digital inaccessibility or lack of sign language interpretation in legal proceedings (Wickenden, 2023).

However, the normative framework also faces challenges in its "universal" application, as it must navigate diverse cultural and economic landscapes. The framework must be flexible enough to address the "global South" context, where disability is often inextricably linked to poverty, conflict, and lack of basic services (Meekosha & Soldatic, 2011). This requires a "pluralization" of human rights, where the specific needs of marginalized groups are recognized without sacrificing the universal nature of the rights themselves (Appiagyei-Atua, 2018). The CRPD attempts this by emphasizing international cooperation and technology transfer, yet the translation of these global norms into local realities remains a contentious process often inhibited by "normative friction" between international standards and traditional domestic values (Theilen, 2024).

Finally, the normative framework is increasingly intersecting with other areas of international law, such as environmental law and

digital governance, reflecting the "holistic" approach championed by the CRPD. As climate change disproportionately impacts disabled populations, the normative requirement for "inclusive disaster risk reduction" has become a critical area of legal development (Macdonald & Peacock, 2025). Similarly, the rise of Artificial Intelligence and algorithmic decision-making has introduced new frontiers of "automated ableism," requiring the normative framework to adapt to digital environments that were not fully envisioned when the CRPD was drafted (Beaudry, 2024). The strength of the current framework lies in its ability to evolve, yet its success depends on whether it can move from being a "specialized" field of law to a foundational element of all international legal developments.

### 3. *Persistent Doctrinal and Interpretive Gaps*

Despite the paradigm shift introduced by the CRPD, persistent doctrinal gaps remain, particularly regarding the tension between "formal equality" and "substantive equality." Traditional international law often settles for formal equality—the idea that the law should treat everyone the same—which fails to address the unique requirements of disabled individuals (Lawson & Beckett, 2021). Substantive equality, conversely, requires the law to acknowledge difference and provide "asymmetrical" support to achieve equal outcomes, such as providing sensory-friendly environments or personalized support services (Stein, 2007). The interpretive gap arises when courts interpret non-discrimination mandates as merely "negative duties" (to refrain from harming) rather than "positive duties" (to actively remove barriers). This limited interpretation allows states to claim compliance with international law while maintaining infrastructure and legal systems that are inherently inaccessible (Harpur, 2012).

Furthermore, the framework suffers from an overreliance on "state discretion" and the principle of "progressive realization" for economic, social, and cultural rights. Under Article 4 of the CRPD, states are obligated to implement accessibility and social protections "to the maximum of their available resources" (Kayess & French, 2008). While this reflects the pragmatic realities of developing nations, it often serves as a "legal loophole" that allows governments to indefinitely postpone the radical structural changes required for inclusion (Kanter, 2015). This reliance on state capacity creates a "hierarchical" application of rights, where civil and political rights are seen as immediate, while the social scaffolding required to exercise those rights is relegated to a distant future of "progressive" improvement (Degener, 2016).

Another significant doctrinal gap lies in the "fragmentation" of international law, where disability rights are often siloed from other

areas like trade law, intellectual property, or refugee law. For example, while the CRPD mandates accessibility, international intellectual property regimes have historically limited the availability of accessible format materials (like Braille books) across borders—a gap only partially addressed by the Marrakesh Treaty (Mégret, 2008). Similarly, in the context of international criminal law, the lack of specific "disability-sensitive" definitions for crimes against humanity can lead to the erasure of disabled victims' experiences in post-conflict justice mechanisms (Beaudry, 2024). This fragmentation prevents a "cross-pollination" of rights, leaving disability protections as an "optional extra" rather than an integrated component of global legal order.

The interpretive challenge is further compounded by the persistent "medicalization" of disability in judicial reasoning. Even when applying the CRPD, many domestic courts continue to rely on medical experts to determine the "severity" of an impairment as a prerequisite for legal protection, rather than focusing on the "social barriers" that create the disability (Lawson & Beckett, 2021). This "return of the medical model" undermines the CRPD's social-rights approach and often results in the denial of rights to individuals with "invisible" or "non-standard" disabilities, such as psychosocial or neurodivergent conditions (Richards, 2024). The failure of legal doctrines to fully embrace the "fluidity" of disability identity means that many people fall through the cracks of existing protections, as they are not "disabled enough" for specific benefits but "too disabled" for standard systems.

Lastly, there remains a critical gap in the "enforceability" of disability rights on the international stage. While the Optional Protocol to the CRPD allows for individual complaints, the lack of a "strong enforcement mechanism" comparable to the European Court of Human Rights means that many violations go unredressed (Stein, 2007). The "advisory" nature of Committee recommendations often allows states to ignore findings of non-compliance with little consequence. This "compliance deficit" is particularly evident in areas like "legal capacity," where many states have issued reservations or interpretive declarations that effectively nullify the CRPD's requirement to abolish guardianship (Arastu & Naqui, 2024). Without a more robust mechanism to bridge these doctrinal and interpretive gaps, the CRPD risks becoming a "paper tiger"—a high-minded declaration that fails to disrupt the structural ableism it was designed to defeat.

## C. Structural Ableism and the Limits of Legal Formalism

### 1. Ableism as a Systemic Legal Problem

Structural ableism in legal and institutional terms is defined not merely as individual prejudice, but as an entrenched system of

"compulsory able-bodiedness" that organizes the social and legal order around the idealized norm of the non-disabled subject (Karlsson & Rydström, 2023). In a legal context, this manifests as a "schema of perfection" where the law assumes a standard level of physical and cognitive "fitness" as a prerequisite for full legal agency and citizenship (Campbell, 2013). This systemic problem is deeply rooted in the liberal tradition, which prizes "rationality" and "productivity" as the primary markers of the legal person. When institutions are designed with only this "normal" subject in mind, they inherently produce environments—both physical and procedural—that exclude those with diverse impairments. Structural ableism thus operates as an invisible architecture that dictates who can enter a courtroom, who can stand trial, and whose testimony is deemed "credible" based on neurotypical standards of communication (Richards, 2024).

The law's role in producing and reproducing exclusion is often obscured by its claim to neutrality. Legal frameworks frequently codify ableism by treating impairment as a "biological fact" rather than a "socially constructed" disadvantage, thereby shifting the burden of adaptation onto the individual (Beaudry, 2024). For instance, "capacity laws" historically allowed the state to strip disabled persons of their right to make decisions regarding their own healthcare, finances, and living arrangements, effectively rendering them "civilly dead" (Arastu & Naqui, 2024). By maintaining these hierarchies, the legal system does more than just fail to protect; it actively "disables" individuals by creating legal barriers that prevent their participation in public life. This reproduction of exclusion is evident in how domestic laws often prioritize economic efficiency over the fundamental right to accessibility, framing the removal of barriers as a "discretionary benefit" rather than a mandatory requirement of justice (Hirschberg & Papadopoulos, 2016).

Furthermore, the institutionalization of ableism is reinforced through the "normalization" of segregated spaces, such as special education units or sheltered workshops, which are often legally sanctioned as "protective" measures (Macdonald & Peacock, 2025). These legal structures separate disabled populations from the broader social fabric, limiting their visibility and political power. In doing so, the law creates a self-fulfilling prophecy where disabled people are excluded because the system is "not ready" for them, and the system remains "not ready" because it continues to legally segregate them (Nosyreva, 2024). This cycle demonstrates that ableism is not an accidental byproduct of a flawed system, but a foundational logic that modern legal systems use to manage "deviant" bodies and minds (Campbell, 2013).

Moreover, structural ableism is deeply intertwined with the "productivist" logic of modern capitalism, which the legal system upholds through labor laws and welfare regimes. Laws that define "disability" primarily as an "inability to work" reinforce the notion that a person's value is tied to their economic utility (Hirschberg & Papadopoulos, 2016). This legal definition forces individuals to "perform" their disability to qualify for support, while simultaneously penalizing them if they attempt to enter the workforce, creating a "disability trap" that is legally mandated (Wickenden, 2023). This systemic entrapment illustrates how the legal order uses the category of disability to regulate the borders of the "deserving" and "undeserving" poor, further marginalizing those who cannot meet the demands of a high-speed, able-bodied economy.

Ultimately, addressing ableism as a systemic legal problem requires moving beyond a "rights-addition" approach toward a "rights-transformation" approach. It is not enough to simply add "disability" to a list of protected categories if the underlying legal structures—such as the rules of evidence, the architecture of prisons, or the criteria for immigration—remain fundamentally ableist (Arastu & Naqui, 2024; Ditkowsky, 2025). True legal reform must involve a "crip" interrogation of the law itself, questioning how foundational concepts like "reasonableness" and "competence" are used to keep disabled bodies in a state of perpetual subordination (Karlsson & Rydström, 2023). Without this structural overhaul, the law will continue to function as a tool of exclusion, regardless of the progressive rhetoric contained in human rights treaties.

## 2. *Invisibility of Structural Barriers in Rights Adjudication*

A significant limitation of legal formalism is the "individualized" nature of rights adjudication, which often renders systemic harms invisible. Most legal systems are designed to address "discrete acts of discrimination" against specific individuals rather than the broad "structural barriers" that affect an entire class of people (Beaudry, 2024). When a person with a disability brings a claim, the court typically looks for a specific "bad actor" or a specific "denial of service," often failing to account for the cumulative impact of an inaccessible society (Lawson & Beckett, 2021). This focus on "micro-aggressions" ignores the "macro-structures" of exclusion, such as a lack of accessible public transport or the pervasive use of inaccessible digital platforms in government services (Beaudry, 2024). Consequently, legal remedies are often "sticky-plaster" solutions—fixing a single ramp or providing one interpreter—while leaving the broader, exclusionary system intact.

The standards of "accessibility, accommodation, and reasonableness" often act as interpretive filters that dilute the radical potential of disability rights. While "reasonable accommodation" is a cornerstone of the CRPD, the term "reasonable" is frequently interpreted by courts in a way that prioritizes the "undue burden" on the employer or the state over the right of the individual (Stein, 2007). In many jurisdictions, the "reasonableness" standard allows judges to balance a fundamental human right against a budgetary constraint, a trade-off that is rarely permitted for other protected grounds like race or religion (Harpur, 2012). This "balancing act" effectively makes disability rights "contingent" on the convenience of the able-bodied majority, reinforcing the structural idea that inclusion is an "optional luxury" rather than a legal necessity (Degener, 2016).

This invisibility is further exacerbated by the "procedural ableism" inherent in the judicial process itself. The "rules of standing" and the "costs of litigation" often serve as insurmountable barriers for persons with disabilities, particularly those living in poverty or under guardianship (Ditkowsky, 2025). If a person cannot physically access a courthouse, or if the legal documents are not provided in an accessible format like Braille or Easy Read, their claim is effectively silenced before it can even be heard. Furthermore, the reliance on "expert testimony" often sidelines the "lived experience" of the disabled claimant, as medical professionals are called upon to "verify" the impairment, thereby re-medicalizing a struggle that should be about civil rights (Richards, 2024). The legal system thus creates a "double-bind" where the very barriers a person is fighting against prevent them from using the law to seek justice.

Furthermore, the doctrinal focus on "formal equality"—treating everyone the same—fails to address the "disparate impact" of neutral-sounding laws. For example, a "merit-based" hiring policy may appear non-discriminatory on its face, but if the criteria for "merit" are based on able-bodied norms of speed and physical presence, the policy will systematically exclude disabled candidates (Lawson & Beckett, 2021). Because legal formalism often requires proof of "discriminatory intent," these "unintentional" structural barriers are frequently dismissed by courts as regrettable but legal (Stein, 2007). This failure to recognize "indirect discrimination" ensures that the status quo of exclusion remains unchallenged, as the law only intervenes in cases of overt, conscious prejudice, leaving the "silent" barriers of architecture and social policy untouched.

In summary, the invisibility of structural barriers in adjudication reflects a "compliance mindset" that values the "appearance of fairness" over the "reality of inclusion." To rectify this, legal systems must

transition toward a "substantive equality" framework that recognizes systemic harm as a cognizable legal injury (Lawson & Beckett, 2021). This would involve shifting the burden of proof onto institutions to demonstrate why they *haven't* achieved universal accessibility, rather than forcing the individual to prove why they were excluded. Only by making the "invisible" visible can the law begin to address the true scale of disability marginalization and move toward a more genuine form of justice that accounts for the diverse ways in which humans interact with the world.

### 3. *Tension Between Legal Recognition and Material Inclusion*

There exists a profound tension between "symbolic recognition" in law and "effective implementation" in the material world. While many states have ratified the CRPD and updated their domestic "equality acts," this "legal paper-trail" often fails to translate into tangible changes in the lives of persons with disabilities (Kanter, 2015). This phenomenon, known as "symbolic compliance," occurs when institutions adopt the language of disability rights—using terms like "inclusion" and "diversity"—without committing the financial or political resources necessary for structural change (Beaudry, 2024). The result is a "façade of progress" where the law looks inclusive on the books, but the streets remain unnavigable, the classrooms remain segregated, and the unemployment rate for disabled people remains stagnant (Mégret, 2008).

Effective implementation is often stalled by the "decoupling" of legal norms from administrative practices. Even when a high court rules in favor of accessibility, the "street-level bureaucrats" who manage social services or urban planning may lack the training, funding, or will to execute the order (Lord & Stein, 2008). This gap is particularly evident in the "Global South," where international human rights norms are often perceived as "imported" mandates that do not align with local economic realities or cultural understandings of disability (Meekosha & Soldatic, 2011). In these contexts, legal recognition can become an "empty promise," as the state lacks the "scaffolding"—the tax base, the technical expertise, and the infrastructure—required to turn "rights on paper" into "rights in practice" (Appiagyei-Atua, 2018).

This tension is further highlighted by the "progressive realization" clause, which allows states to delay the implementation of social and economic rights due to resource constraints (Kayess & French, 2008). While this is a practical necessity in international law, it often leads to a "hierarchy of rights" where accessibility is treated as a "second-class" concern. For example, a state might prioritize building a new stadium

for an international sporting event over making its existing public transport system accessible, arguing that the former is "nation-building" while the latter is a "welfare cost" (Kanter, 2015). This fiscal prioritization exposes the "material limit" of legal formalism; without a mandate that ties "human rights" to "budgetary allocation," the legal recognition of disability remains a rhetorical gesture that does not disrupt the flow of capital or power (Theilen, 2024).

Moreover, the "materiality" of inclusion requires more than just removing physical barriers; it requires a shift in "social consciousness" that the law alone cannot achieve. Legal mandates for "inclusive education" often fail because the "pedagogical structures" remain designed for a neurotypical "average" student (Lawson & Beckett, 2021). Similarly, "quota systems" for employment often result in "tokenism," where disabled employees are hired to meet a legal target but are not provided with the "soft infrastructure"—such as flexible hours or assistive technology—needed to actually succeed (Hirschberg & Papadopoulos, 2016). This gap between "presence" and "participation" underscores that material inclusion is a "process" rather than a "product," requiring a sustained commitment to changing the "institutional culture" that underpins the law.

Ultimately, the tension between recognition and inclusion can only be resolved by moving toward "representation as liberation" (Ditkowsky, 2025). This means ensuring that persons with disabilities are not just the "subjects" of legal protection, but the "authors" of the laws themselves. When disabled people hold positions of power in the judiciary, the legislature, and the bureaucracy, the "material" requirements of inclusion are more likely to be prioritized, as they are informed by lived experience rather than abstract theory (Ditkowsky, 2025). Bridging the gap between the "symbolic" and the "substantive" requires a "disability-led" approach to lawmaking that views accessibility not as a "cost to be minimized," but as a "pre-condition for democracy" (Nosyreva, 2024; Richards, 2024).

## **D. Comparative Case Studies: Global North and Global South**

### **1. Case Study I: Disability Rights Implementation in the Global North**

The implementation of disability rights in the Global North is characterized by a sophisticated domestic incorporation of international norms that, nonetheless, remains tethered to a "neoliberal" interpretation of equality. Most Western liberal democracies have shifted toward a human rights model by transmuting the principles of the UN Convention on the Rights of Persons with

Disabilities (CRPD) into robust statutory frameworks, such as the Americans with Disabilities Act (ADA) or the European Union's European Accessibility Act (Beaudry, 2024). However, scholars like Fiona Campbell (2013) argue that these legal developments often function within a "logic of ableism" that prioritizes the integration of disabled bodies into the capitalist workforce rather than challenging the structural foundations of exclusion. The domestic incorporation of Article 27 of the CRPD (Right to Work), for instance, is frequently filtered through productivity-based metrics that reward those with "minor" impairments while further marginalizing those with high support needs (Hirschberg & Papadopoulos, 2016). This creates a legal paradox where "inclusion" is contingent upon an individual's ability to approximate the "standard" non-disabled worker.

Judicial interpretation in the Global North presents significant enforcement challenges, as the judiciary often acts as a gatekeeper for status quo interests. Despite the mandate for "substantive equality" under Article 5 of the CRPD, domestic courts frequently default to "legal formalism," requiring claimants to meet high thresholds for proving discrimination (Lawson & Beckett, 2021). The doctrine of "proportionality" or "undue hardship" is often weaponized by states to limit the scope of reasonable accommodation, effectively allowing economic efficiency to trump fundamental human dignity (Stein, 2007). As Beaudry (2024) notes, the judiciary's narrow, technical reading of disability statutes often ignores the "social barriers" identified in the CRPD's preamble, focusing instead on clinical diagnoses. This "judicial regression" ensures that even when rights exist on paper, they are functionally neutralized by interpretive frameworks that view accessibility as a discretionary "luxury" rather than a non-negotiable legal obligation.

Furthermore, the Global North's reliance on "individualized litigation" places a disproportionate burden on the marginalized. To secure an accommodation under domestic laws, an individual must often navigate a complex, adversarial legal system that is itself physically and cognitively inaccessible (Ditkowsky, 2025). This "procedural ableism" creates a barrier to entry that prevents systemic harm from being adjudicated. Instead of mandating universal design as a proactive duty, Northern legal systems often wait for an individual to fail before offering a "reactive" remedy (Harpur, 2012). This approach fails to address what Martha Fineman (2008) describes as "vulnerability theory"—the idea that the state has an affirmative duty to provide the social scaffolding necessary for all citizens to thrive, regardless of their physical or cognitive variations. Without this affirmative shift, the legal

order merely manages disability rather than liberating the disabled subject.

The "fragmentation" of law in the Global North further complicates the implementation of disability rights. Conflicts frequently arise between disability-specific statutes and other legal regimes, such as intellectual property (IP) or urban planning laws. For example, heritage preservation laws are often cited to deny accessibility modifications to public buildings, a move that scholars argue represents a "hierarchical" preference for the aesthetic past over the inclusive present (Harpur, 2012). Similarly, IP laws historically hindered the cross-border exchange of accessible books, a gap that persisted until the Marrakesh Treaty was integrated into EU and North American law (Mégret, 2008). These tensions reveal that disability rights are often siloed, treated as an "exception" rather than a cross-cutting principle that should inform all legal domains—a direct contradiction of the "mainstreaming" mandate found in Article 4(1)(c) of the CRPD.

The Global North's approach highlights a "paradox of progress" where the increasing complexity of legal frameworks serves to obscure deeper structural inequalities. As Karlsson and Rydström (2023) suggest, "crip theory" is necessary to expose the "compulsory able-bodiedness" that remains embedded even in progressive legislation. The focus on "rights-talk" can lead to "symbolic compliance," where institutions fulfill the letter of the law—such as installing a single ramp—while maintaining a culture of neurotypical exclusion (Nosyreva, 2024). To move forward, Northern jurisdictions must transition from a "deficit-based" legal reasoning to one that recognizes disability as a site of political and social value. This requires a radical restructuring of legal subjectivity, moving away from the autonomous "liberal subject" toward a model of "interdependence" and collective responsibility.

## 2. *Case Study II: Disability Rights in the Global South*

In the Global South, the implementation of disability rights is shaped by a distinct set of structural constraints, where "development narratives" and "resource-scarcity arguments" frequently collide with the universalist claims of international law. Scholars such as Meekosha and Soldatic (2011) argue that the disability experience in the Global South is inextricably linked to the "legacies of colonialism," which decimated traditional community support systems and replaced them with underfunded, medicalized Western models. In these contexts, Article 32 of the CRPD (International Cooperation) is often the primary vehicle for rights implementation. However, the reliance on external aid often leads to "normative friction," where Western-centric definitions

of disability are imposed on local cultures without regard for indigenous ways of knowing or social organization (Theilen, 2024). This "epistemic violence" can alienate local communities, making rights-based frameworks appear as "foreign impositions" rather than tools for local empowerment.

The "resource argument" serves as a pervasive legal shield for Global South states seeking to avoid the immediate obligations of the CRPD. Governments frequently invoke the principle of "progressive realization" under Article 4(2) to justify the absence of basic accessibility infrastructure or inclusive education programs (Kayess & French, 2008). While the CRPD acknowledges the constraints of available resources, scholars like Kanter (2015) argue that this is often a matter of "political prioritization" rather than absolute scarcity. In many jurisdictions, significant funds are allocated to military expansion or grand infrastructure projects that are inherently inaccessible, while "human rights" for the disabled are relegated to a distant, affluent future. This "prioritization gap" reflects a deeper structural ableism where disabled citizens are viewed as "burdens" to be managed once the "nation-building" project is complete, rather than as integral participants in that project (Nosyreva, 2024).

Furthermore, the Global South faces a "dual legal reality" where progressive international norms exist alongside traditional or customary laws that may pathologize disability. In many regions, the "medical model" is not just a clinical bias but a pervasive social worldview that justifies the exclusion of disabled people from marriage, property ownership, and political participation (Appiagyei-Atua, 2018). While the CRPD mandates the "abolition" of discriminatory laws (Article 4(1)(b)), domestic enforcement is often hindered by a lack of judicial capacity and the absence of a "strong rule of law." As a result, many disabled individuals in the Global South live in a state of "legal invisibility," where they are neither protected by the state nor empowered by international treaties, relying instead on informal, often paternalistic, charity networks (Meekosha & Soldatic, 2011).

Despite these hurdles, the Global South has emerged as a site of "normative innovation," particularly through the use of "creative litigation" that bypasses the limitations of progressive realization. In some African and Latin American jurisdictions, courts have utilized the "right to life" or "right to dignity" to mandate the provision of healthcare and social services to disabled populations, arguing that these rights are immediate rather than progressive (Lord & Stein, 2008). These "bottom-up" legal strategies represent a "decolonial" approach to international law, reclaiming the CRPD as a tool for radical social change rather than a mere technical standard. This suggests that the

Global South is not a "passive consumer" of human rights but an active site of "re-interpretation" that could provide valuable lessons for the global movement toward disability justice (Theilen, 2024).

The challenge for the Global South lies in moving beyond "rhetorical compliance" to a "materialization of rights." This requires more than just legislative drafting; it necessitates a "restructuring of the global economic order" that currently penalizes developing states for investing in social scaffolding (Meekosha & Soldatic, 2011). International cooperation must move away from "paternalistic aid" toward a "partnership model" that prioritizes technology transfer and institutional capacity-building (Appiagyei-Atua, 2018). Without a concurrent shift in global resource distribution, the promise of the CRPD will remain a "cruel optimism" for the world's most marginalized populations, where the legal "right" to inclusion remains functionally severed from the material "means" to achieve it.

### 3. *Comparative Insights: Convergence and Divergence*

A comparative analysis of the Global North and South reveals a profound "normative convergence" alongside an equally stark "material divergence." Both regions have formally adopted the "human rights model" of the CRPD, signaling a global consensus that disability is a matter of civil rights rather than medical tragedy (Kanter, 2015). This convergence is reflected in the widespread adoption of "non-discrimination" clauses in national constitutions. However, at the level of "state practice," the divergence is extreme. The Global North focuses on "technocratic inclusion"—refining judicial standards for reasonable accommodation—while the Global South is still struggling to establish the "basic inclusive infrastructure" necessary for rights to be meaningful (Stein, 2007). This "implementation gap" suggests that while the "norms" of international law have traveled globally, the "material scaffolding" required to sustain them remains concentrated in the hands of a few.

These comparative insights have critical implications for the development of "customary international law" and the "evolution of treaty interpretation." The persistent failure of states in both hemispheres to achieve substantive equality suggests that the "standard of care" required under the CRPD is still being contested. If "accessibility" is perpetually treated as an "aspirational" goal in the South and a "cost-prohibitive" request in the North, it becomes difficult to argue that "universal design" has reached the status of a "binding custom" (Mégret, 2008). This reveals a "compliance deficit" that threatens to turn international disability law into a "soft law" regime where states selectively apply norms based on convenience rather than

obligation (Degener, 2016). The "fragmentation" of state practice underscores the need for a more "stringent monitoring mechanism" that accounts for regional disparities while maintaining a non-negotiable floor for human rights.

Furthermore, the comparative study exposes the "limits of legal formalism" as a solitary tool for social transformation. In both regions, the legal system alone has proven unable to dismantle "structural ableism" without a corresponding overhaul of economic and social policies (Lawson & Beckett, 2021). As Richards (2024) notes, the "return of the medical model" in judicial reasoning—where courts require medical "proof" of suffering before granting rights—indicates that the underlying "ableist imaginary" remains intact. To counter this, international law must adopt a "crip legal theory" approach that views disability not as an "anomaly" to be accommodated, but as a "natural variation" of the human condition that should be the starting point for all legal and architectural design (Karlsson & Rydström, 2023).

Therefore, the divergence in practice highlights the necessity of "intersectional and regional" approaches to human rights. A "one-size-fits-all" interpretation of the CRPD fails to address the unique barriers faced by disabled people in "post-conflict zones" or those navigating the "digital ableism" of advanced technological societies (Wickenden, 2023; Beaudry, 2024). The future of international disability law lies in its ability to facilitate "cross-regional learning," where Northern jurisdictions learn from the "normative creativity" of Southern courts, and the South receives the "material solidarity" necessary to dismantle colonial-era barriers (Theilen, 2024). Only by bridging the gap between "legal recognition" and "material inclusion" can international law fulfill its promise of universal human rights, ensuring that the "right to have rights" is not a privilege reserved for the able-bodied few.

## **E. Advocacy, Participation, and the Evolution of International Norms**

### **1. Role of Disabled Persons' Organizations in International Law-Making**

The evolution of international disability law is fundamentally a history of grassroots mobilization, where Disabled Persons' Organizations (DPOs) transitioned from being mere objects of international "concern" to active architects of legal norms. This shift is most prominently codified in the principle of "meaningful participation" found in Article 4(3) of the CRPD, which mandates that states closely consult with and actively involve persons with disabilities through their representative organizations (Theilen, 2024). Historically, international law-making was the exclusive domain of state diplomats and medical

experts; however, the drafting process of the CRPD marked a revolutionary "democratic turn." DPOs utilized a strategy of "norm entrepreneurship," ensuring that the lived experience of disability informed the treaty's shift from a medicalized "deficit" model to a socio-political "rights" model (Harpur, 2012). This participation has transformed the "subject" of international law from an idealized autonomous individual into a "relational subject" whose rights are realized through accessible environments and supportive social structures.

The ongoing role of DPOs in monitoring processes—specifically through the submission of "shadow reports" to the Committee on the Rights of Persons with Disabilities—serves as a critical check on state power and "symbolic compliance." As Kanter (2015) observes, these organizations provide the "interpretive labor" necessary to expose the gap between a state's rhetorical commitment to rights and the material reality of exclusion. By participating in the "Constructive Dialogue" between the Committee and state parties, DPOs ensure that the monitoring process remains grounded in "cripistemologies"—knowledge produced through the unique perspective of disabled lives (Karlsson & Rydström, 2023). This involvement is not merely advisory; it is a normative requirement that challenges the "professionalized" bias of international bureaucracy, forcing legal bodies to reckon with barriers that are often invisible to the able-bodied observer, such as "algorithmic bias" in social welfare or "sensory exclusion" in public spaces (Beaudry, 2024).

Furthermore, the influence of DPOs extends beyond disability-specific forums, as they increasingly engage in "mainstreaming" disability rights into broader human rights mechanisms, such as the Universal Periodic Review (UPR). This "cross-pollination" of norms ensures that disability is recognized as a cross-cutting issue that intersects with climate justice, gender equality, and migration (Wickenden, 2023). However, scholars like Meekosha and Soldatic (2011) warn of the "professionalization trap," where the high technical barriers to international advocacy may exclude smaller, underfunded organizations from the Global South. To maintain the radical potential of DPO participation, international law must adopt "procedural accessibility" as a foundational principle, ensuring that the halls of the United Nations are as cognitively and physically accessible as the rights they aim to protect (Ditkowsky, 2025).

## 2. *Community-Led Movements as Sources of Legal Change*

Community-led movements act as vital "informal" sources of international legal change by driving the practice, interpretation, and internalization of norms at the local level. While treaties provide the "skeleton" of rights, it is the daily resistance and advocacy of disabled communities that provide the "flesh" of legal meaning. Through "strategic litigation" and "social mobilization," these movements challenge the state's narrow interpretation of its obligations, turning abstract concepts like "reasonable accommodation" into concrete demands for inclusive education or accessible voting (Lord & Stein, 2008). In many jurisdictions, community pressure has led to a "normative cascade," where local victories are cited as "best practices" in international forums, eventually influencing the Committee's General Comments and the development of "customary international law" (Mégret, 2008). This "bottom-up" law-making demonstrates that the legitimacy of international law depends on its resonance with the "lived experience" of those it purports to serve.

The internalization of these norms often occurs through "legal consciousness-raising," where community movements empower individuals to view themselves as "rights-bearers" rather than "patients" or "beneficiaries" (Lawson & Beckett, 2021). As Nosyreva (2024) points out, the shift from a "charity worldview" to a "rights worldview" is the most significant hurdle in dismantling structural ableism. By occupying public spaces and demanding visibility, disabled movements engage in "prefigurative politics"—acting as if the world is already accessible—thereby forcing the legal system to respond to their presence (Karlsson & Rydström, 2023). This active "performance of rights" challenges the "logic of exclusion" that defines modern urban planning and digital architecture, shifting the burden of proof from the individual claimant to the institutional designer (Beaudry, 2024).

Moreover, community-led movements are essential for addressing the "intersectional gaps" that formal legal structures often overlook. For instance, disabled queer and trans movements have pushed for an interpretation of the CRPD that recognizes the "plurality of the body" and the right to bodily autonomy beyond the medical gaze (Theilen, 2024). Similarly, indigenous disabled movements in the Global South are reclaiming "communal models of care" as an alternative to the individualized, Western-centric "independence" model promoted by some international actors (Meekosha & Soldatic, 2011). These movements expand the "interpretive horizon" of international law, ensuring it remains a "living instrument" capable of adapting to diverse cultural contexts and emerging social challenges (Degener, 2016).

### 3. *Beyond Compliance: Toward Transformative Equality*

To move beyond "minimum standards" and toward "transformative equality," international law must radically rethink the nature of state obligations. Transformative equality, as conceptualized by Sandra Fredman and applied to the CRPD, requires the state to go beyond "correcting" individual acts of discrimination to "transforming" the social structures that produce disadvantage in the first place (Lawson & Beckett, 2021). This necessitates a shift from "reactive" accommodations to "proactive" universal design—an approach that recognizes that an inaccessible environment is a "structural harm" rather than an accidental inconvenience (Stein, 2007). In this framework, state obligations are not fulfilled simply by passing an "equality act"; they require a fundamental redistribution of resources and power to ensure that "accessibility" is the default setting of all public and private infrastructure (Beaudry, 2024).

Rethinking state obligations also involves challenging the "progressive realization" loophole that often stalls disability rights in the name of fiscal constraint. As Richards (2024) argues, "structural inequality" is a form of state-sanctioned violence that requires immediate, rather than gradual, intervention. Transformative equality demands that the "right to a community life" (Article 19) and the "right to legal capacity" (Article 12) be treated as "non-derogable" foundations of human dignity. This requires states to dismantle "institutions" and "guardianship systems"—the very architectures of ableism—and replace them with "supported decision-making" and "community-based services" (Arastu & Naqui, 2024). Compliance, in this sense, is not a "ceiling" but a "floor"; the goal is a "crip" future where disability is no longer a marker of "otherness" but a valued aspect of human diversity.

The evolution toward transformative equality necessitates a "Crip Legal Theory" approach that deconstructs the "able-bodied" assumptions underlying the very concepts of "justice" and "reasonableness" (Karlsson & Rydström, 2023). International law must move away from its "productivist" obsession—where rights are often tied to an individual's "economic utility"—and toward a "care-based" legal order that recognizes "interdependence" as a universal human condition (Campbell, 2013). By centering the voices of the most marginalized—including those with psychosocial, intellectual, and multiple disabilities—international law can begin to fulfill its promise of "liberation" rather than just "inclusion" (Ditkowsky, 2025). This transformative shift is the only way to ensure that the global legal order does not merely "accommodate" disabled people, but is built *by* them and *for* everyone (Nosyрева, 2024).

## **F. Implications for International Human Rights Law**

### **1. Reinterpreting Equality and Non-Discrimination Norms**

The integration of a disability-inclusive lens into the broader corpus of international human rights law (IHRL) necessitates a fundamental reinterpretation of equality and non-discrimination norms, moving beyond the limitations of "formal equality" toward a "substantive" and "transformative" framework. Historically, IHRL has often operated under a "difference-blind" approach, where equality was synonymous with identical treatment—an orientation that inadvertently reinforces structural ableism by ignoring the specific environmental and social barriers that render "neutral" laws exclusionary (Lawson & Beckett, 2021). To address this, the "human rights model of disability" promoted by the CRPD must be mainstreamed across all human rights instruments, ensuring that "reasonableness" is no longer defined by the convenience of the able-bodied majority but by the requirements of human dignity (Degener, 2016). This reinterpretation involves recognizing that "differential treatment" is not only permissible but often legally mandated to achieve equitable outcomes, such as through the provision of sign language interpretation or cognitive supports in legal proceedings (Lord & Stein, 2008).

Furthermore, this shift requires a more robust engagement with "intersectionality" within treaty interpretation. As Theilen (2024) argues, discrimination is rarely a monolithic experience; for disabled women, ethnic minorities, or LGBTQ+ individuals, ableism compounds with other systems of oppression to create unique forms of "intersectional invisibility." Reinterpreting Article 2 of the CRPD and similar provisions in other treaties means moving away from "single-axis" analysis toward a "multi-dimensional" understanding of disadvantage. This approach allows for a more nuanced application of IHRL, where the "travel" of human rights norms accounts for the diverse lived realities of those at the margins of multiple identities (Theilen, 2024; Wickenden, 2023). By deconstructing the "able-bodied" subject at the heart of liberal legalism, IHRL can begin to protect the "plurality of the human condition" rather than just those who fit a narrow definition of cognitive and physical "normality" (Richards, 2024).

### **2. Strengthening Positive Obligations and Structural Remedies**

A critical implication for the future of IHRL is the need to strengthen "positive obligations" and develop "structural remedies" that

address the root causes of marginalization. Under traditional human rights doctrine, state obligations were often viewed as "negative duties" to refrain from interference; however, the CRPD explicitly demands "positive action" to dismantle barriers and ensure accessibility (Kanter, 2015). This means that the "right to access" must be understood not as a contingent social goal but as a "precondition" for the exercise of all other civil and political rights (Stein, 2007). Strengthening these obligations requires international treaty bodies to move beyond "individualized remedies"—which often provide only superficial relief—toward "structural injunctions" that compel states to reform entire systems, such as the transition from institutionalized care to community-based living (Arastu & Naqui, 2024; Beaudry, 2024).

Moreover, the principle of "progressive realization" must be subjected to stricter "judicial scrutiny" to ensure it does not function as a permanent loophole for state inaction. As Richards (2024) suggests, when structural ableism leads to the "systemic deprivation" of autonomy, such as in forced sterilization or arbitrary detention in psychiatric facilities, these must be treated as "immediate violations" of the right to bodily integrity rather than social goals to be achieved over time. Structural remedies should also include "proactive universal design" mandates, requiring that all new state-funded infrastructure—both physical and digital—be born accessible (Beaudry, 2024). By tying "budgetary allocation" to "rights implementation," IHRL can move from being a "rhetorical shield" for the state to a "material tool" for the liberation of disabled populations (Nosyreva, 2024; Harpur, 2012).

### **3. Addressing Ableism Within International Institutions Themselves**

Finally, the evolution of IHRL requires a radical introspection regarding the "internal ableism" of international institutions themselves. If the United Nations and other intergovernmental bodies are to lead the global fight against structural ableism, they must first dismantle the "institutional barriers" that limit the participation of disabled experts and diplomats within their own ranks (Ditkowsky, 2025). This involves more than just "physical accessibility" of headquarters; it necessitates a shift in "institutional culture" to accommodate "diverse ways of working, communicating, and thinking" (Karlsson & Rydström, 2023). Currently, the high-stress, fast-paced, and highly "professionalized" nature of international diplomacy often functions as a "cognitive filter" that excludes those with psychosocial or intellectual disabilities, reinforcing the notion that the "law-maker" must always be a neurotypical subject (Campbell, 2013).

Addressing this internal ableism means adopting "representation as liberation" as a foundational principle of international governance. This requires quotas or affirmative action programs to ensure that persons with disabilities hold leadership positions within "mainstream" human rights bodies, not just disability-specific ones (Ditkowsky, 2025). Furthermore, international organizations must audit their "internal policies"—from recruitment and procurement to digital communication—to ensure they reflect the "Universal Design" principles they advocate for states (Beaudry, 2024). By centering "cripistemologies" in the production of international legal knowledge, these institutions can ensure that their work is not "for" disabled people, but "by" them (Karlsson & Rydström, 2023). Only by purging ableism from its own architecture can international law claim the moral and legal authority to demand a more inclusive world (Nosyreva, 2024).

## G. Conclusion

The central thesis of this article has contended that disability and exclusion are not peripheral failures of the international legal order but are deeply embedded in its foundational architecture through the mechanism of structural ableism. By interrogating the manifestation of this systemic bias, the research has demonstrated how traditional legal formalism—premised on the idealized, autonomous, and able-bodied subject—inherently produces and reproduces the marginalization of disabled bodies and minds. While the adoption of the Convention on the Rights of Persons with Disabilities (CRPD) signaled a critical paradigm shift from a medical to a human rights model, the persistent gap between *de jure* recognition and *de facto* material inclusion remains a profound challenge. This study argues that as long as international and domestic legal systems treat accessibility and accommodation as "special" adjustments rather than universal prerequisites for justice, the promise of substantive equality will remain elusive for the world's largest minority group (Lawson & Beckett, 2021; Nosyreva, 2024).

This article makes a novel contribution to international legal scholarship by synthesizing critical disability studies with international human rights law through the lens of "Crip Legal Theory" (Karlsson & Rydström, 2023). Unlike traditional scholarship that focuses on the technicalities of treaty compliance, this work offers a deeper ontological critique of legal subjectivity itself. By centering "cripistemologies," it challenges the "disembodied" nature of international jurisprudence and exposes the "compulsory able-bodiedness" that underpins social and legal relations (Karlsson & Rydström, 2023). Furthermore, the comparative analysis of the Global North and South provides an empirical anchor for these theoretical

claims, revealing that while the "norms" of disability rights have traveled globally, their "materialization" is often blocked by neoliberal productivity standards in the North and resource-driven development narratives in the South (Meekosha & Soldatic, 2011; Beaudry, 2024).

The normative and doctrinal implications of this research are far-reaching, calling for a radical reinterpretation of equality and non-discrimination norms across the entire corpus of international law. The study suggests that "reasonableness" in reasonable accommodation must be untethered from budgetary convenience and re-anchored in the non-derogable right to human dignity (Stein, 2007). Doctrinally, this necessitates a shift toward "transformative equality," which requires states to move beyond reactive remedies toward proactive, structural reforms—such as universal design and the total abolition of guardianship systems in favor of supported decision-making (Arastu & Naqui, 2024). Moreover, the strengthening of "positive obligations" implies that an inaccessible environment should be recognized as a *per se* violation of international law, shifting the burden of proof from the excluded individual to the institutional designer (Harpur, 2012; Kanter, 2015).

Future research and legal development must prioritize the "pluralization of human rights" by addressing the intersectional invisibility of disabled individuals within the context of global crises. As climate change, digital surveillance, and Artificial Intelligence reshape the human experience, there is an urgent need to investigate how "automated ableism" and "environmental exclusion" impact marginalized populations (Beaudry, 2024). Furthermore, international institutions must undergo a process of internal deconstruction to purge ableist biases from their own governance structures, ensuring that persons with disabilities are not merely subjects of protection but authors of the law (Ditkowsky, 2025). The evolution of international law toward a truly inclusive order requires a sustained commitment to "representation as liberation," where the lived experience of disability is recognized as a vital form of expertise in the ongoing struggle for global justice (Richards, 2024; Theilen, 2024).

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