

EDITORIAL

The editors of the *African Disability Rights Yearbook (ADRY)* are pleased to announce the publication of the third volume of the *ADRY*. Whilst maintaining the foundational structure of the inaugural issue, namely, a tripartite division between articles, country reports and commentaries on regional developments, the 2015 *Yearbook* has added, a new feature in the form of a book review section.

Section A of the 2015 volume features six chapters. The majority of chapters in this section emanate from papers which were presented at the conference on the human rights of women with disabilities that was convened by the Centre for Human Rights in November of 2014. The papers were subsequently reworked for publication in the *Yearbook*. The first two chapters focus on the sexual and reproductive health and rights of women. The first chapter is against the backdrop of the persistence of disability-related discrimination that is detrimental to the sexual and reproductive health of women. Lucyline Nkatha Murungi and Ebenezer Durojaye make a case for exploring synergies between the Convention on the Rights of Persons with Disabilities (CRPD) and the Protocol to the African Charter on Human and Peoples' Rights and maximally using the synergies to respect, protect, promote and fulfil the sexual and reproductive health and rights of women. In the second chapter, using the CRPD as a human rights benchmark, Itumeleng Shale puts the sexual and reproductive health and rights spotlight on Lesotho. The author evaluates the extent to which the country's legal and policy framework for protecting women's sexual and reproductive health is consonant with the state obligations arising from the CRPD.

The third chapter by Dianah Msipa highlights that competence to testify and access to justice in respect of witnesses with intellectual disabilities who have experienced sexual assaults and abuse are areas that have historically been at the receiving end of discriminatory laws and practices. Focusing on the criminal justice systems of South Africa and Zimbabwe and drawing from normative standards developed by the CRPD and critical disability theory, the author argues that any assessment of the competence of witnesses with intellectual disabilities to testify should now be for the purposes of determining requisite accommodations rather than findings of incompetence and excluding testimonies. In the fourth chapter, with a spotlight on the African and Latin American regions, Marina Mendez Erreguerena examines the provision of care for persons with disabilities and interrogates the intersection between gender equality and support for the carers. The author observes that, in contrast to the global North, the provision of care in the African and Latin American regions is mainly undertaken by women in family settings and in the form of 'informal care' which is not formally recognised or supported through resource allocation by the state. The author makes a case for reforming law and policy to recognise the contribution and rights of carers.

The fifth chapter by Jim Nyanda highlights that girls with disabilities experience more than a single axis of discrimination. It focuses on access to education in Malawi. Against the backdrop of standards laid down by the CRPD, the chapter assesses the extent to which the Disability Act of Malawi of 2012 is compliant with the international human rights to education. The author argues that the Act falls short of the state obligations imposed by the convention in a number of respects.

The last chapter by Justice Srem-Sai breaks from the focus on women and girls with disabilities to examine the justiciability of socioeconomic rights in the legal system of Ghana. This is with a view to creating an enabling legal environment for the realisation of the rights of persons with disabilities at the domestic level. The chapter's point of departure is that the justiciability of socioeconomic rights is a central assumption in the regime of disability rights inscribed in the CRPD which Ghana has ratified. Against a backdrop of the Constitution of Ghana in which socioeconomic rights are inscribed only as directive principles (rather than justiciable rights) and domestic judicial interpretation which has been equivocal on the justiciability of socioeconomic rights, the author argues that in order to clearly render socioeconomic rights justiciable, it would serve well to amend the Constitution of Ghana and accord socioeconomic rights a clearer status.

Furthermore, it is suggested that Ghana can look at other jurisdictions, including India and South Africa and draw normative guidance on juridical mechanisms for the enforcement of socioeconomic rights.

In Section B of the *ADRY*, a new set of countries are reported on – six in all – thus adding to the stock of countries that were reported on in the 2013 and 2014 volumes. The country reports in this volume are on: **Eritrea** by Futsum Abbay; **Lesotho** by Itumeleng Shale; **Sierra Leone** by Romola Adeola; **Swaziland** by Simangele Daisy Mavundla; **Morocco** by Arlene Kanter assisted by Inviolata Sore and Daniel Van Sant; and **Tunisia** also by Arlene Kanter assisted by assisted by Sore and Daniel Van Sant.

Section C contains two commentaries that address African regional dimensions. The first commentary by Enoch McDonnell Chilemba discusses the emergence of disability-specific legislation in the African region through the prism of a selected range of African countries. The discussion seeks to establish whether domestic legislative initiatives are compliant with the CRPD. Against the backdrop of the right to political participation in article 29 of the CRPD, the second commentary in this section by William Aseka Oluchina, seeks to evaluate the extent to which African regional human rights systems and selected African states are compliant with the convention's standards.

As indicated at the beginning of this editorial, a new feature in this third volume of the Yearbook is a book review section. In this volume, Tsitsi Chataika reviews *The development of disability rights under international law: From charity to human rights* (2014) by Arlene Kanter.

The financial assistance of the Open Society Foundations, in particular the Higher Education Support Project (HESP), Human Rights Initiative (HRI) and Open Society Initiative for Southern Africa (OSISA) is gratefully acknowledged.

Editors
Charles Ngwena (convening editor)
Ilze Grobbelaar-du Plessis
Heléne Combrinck
Serges Djoyou Kamga