CHAPTER THREE

IMPLEMENTATION OF ARTICLE 33 CRPD IN THE UNITED KINGDOM: THE NEED TO CONSOLIDATE CIVIL SOCIETY ENGAGEMENT

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INTRODUCTION

Whilst the United Kingdom (UK) has designated its Article 33(1) government and 33(2) statutory bodies, the mechanisms by which DPOs and disabled people are involved in these is less clear. The situation is further challenged with devolution in the UK, with several executive, parliamentary and human rights commissions operating separately and in collaboration with each other depending on the legislative framework applicable in that particular jurisdiction. This chapter will examine the choice of bodies designated under Article 33 in the UK, looking at the focal point, national framework, and then the role of civil society. It will argue that further thought needs to be given to coordination between them and consolidation of the mechanisms by which civil society organisations and in particular DPOs can engage with government and the human rights commissions.

I. THE RATIFICATION PROCESS

The UK signed the CRPD on 30 March 2007, the Convention came into force in May 2008, and the UK ratified on 8 June 2009. The government selected the Office for Disability Issues (ODI) as the focal point and the four equality and human rights commissions as the independent mechanism under Article 33 CRPD.

There was a considerable amount of discussion at the national level prior to and immediately post ratification on the reservations and declarations the government wished to submit under the CRPD² and limited

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reference on how Article 33 would work in practice. In fact, at a meeting held in February 2009, it was apparent that the implementation of Article 33 had not yet been fully considered by many of the players, in particular civil society organisations. Indeed, because of the relatively innovative aspect of Article 33 as a clause in international treaties, it is probably fair to say that at that stage relatively little was known about how this would work in practice. The only precedent for this was the national preventive mechanism under the Optional Protocol to the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). OPCAT requires states to designate or establish independent national bodies to carry out visits to places of detention in order to prevent torture or other abuse, and undertake a broad preventive mandate. Work evaluating how these national bodies were able to operate under an international treaty was in its early stages and very few were cross-referencing the findings from this, in a torture field, to that in the disability field. Lessons learnt from OPCAT, such as the likely need for greater funding in order for the work to be done, and the impact that such designation would have on the institution, were therefore not fully considered. Furthermore, as only one of the bodies in the UK, namely the Scottish Human Rights Commission, would be designated both as the national preventive mechanism under OPCAT and as part of the framework under Article 33 (2) CRPD, the opportunities for cross-over and linkage were limited. In the UK, therefore, Article 33 was a new idea for many of those who would be engaged with it, whether that was the NHRIs, government departments or civil society.

II. Article 33 CRPD

The designation of the focal point in Article 33(1) and the national framework in Article 33(2) was undertaken by the government laying an explanatory memorandum before parliament in March 2009. There was no other legislative process to designate these bodies.

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