

Report on the Working Group, January 2004.

**REPORT ON THE WORKING GROUP MEETING OF
THE AD HOC COMMITTEE MEETING**

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INTRODUCTION.

The Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities [herein the Convention] by decision adopted on 27 June 2003 to establish a Working Group [herein WG]. The aim of the WG was to prepare and present a draft text. The draft text was intended to be the basis of discussion for the Ad Hoc Committee of the Convention.

The WG met at the United Nations Headquarters in New York for one session of ten working days in January 2004. This was endorsed by the General Assembly in resolution 58/246 of 23 December 2003. The composition of the WG is as follows: government representation, representatives of non-governmental organizations and for the first time representatives of a national human rights institution¹ represented by the South African Human Rights Commission.

OPERATIONAL ISSUES

The opening session of the WG was presided over by the Chair of the Ad Hoc Committee, the Ambassador of Ecuador Luis Gallegos Chiriboga who then facilitated the appointment of the New Zealand Ambassador Don MacKay as the Coordinator of the WG. An agenda was adopted at the first meeting of the WG.

As the WG was not mandated to negotiate a final text the focus was on preparing approaches and consolidating the various texts for consideration by the Ad Hoc

¹ Cameroon, Canada, China, Colombia, Comoros, Ecuador, Germany, India, Ireland, Jamaica, Japan, Lebanon, Mali, Mexico, Morocco, New Zealand, Philippines, Republic of Korea, Russian Federation, Serbia and Montenegro, Sierra Leone, Slovenia, South Africa, Sweden, Thailand, Uganda, Venezuela; Disability Australia Limited, Disabled Peoples' International, Disabled Peoples' International (Africa), European Disability Forum, Inclusion International, Inter-American Institute on Disability, Landmine Survivors Network, Rehabilitation International, World Blind Union, World Federation of the Deafblind, World Federation of the Deaf, World Network of Users and Survivors of Psychiatry and the South African Human Rights Commission (representing national human rights institutions).

Committee. The WG adopted by consensus its report which will be made available to the Ad Hoc Committee for further consideration in May 2004.

While the South African Human Rights Commission was representing National Human Rights Institutions the delegate was behind the flag “ South African Human Rights Commission”. This technical issue was raised with DESA and it was later noted in documentation that the South African Human Rights Commission was representing National Institutions. On the 8th January the representative volunteered to chair an informal group on monitoring. This informal meet three times and an intervention was developed. While consensus was not reached on all the issues, it was presented at plenary. It raised a number of issues that due to time constraints were not resolved.

SUBSTANTIVE ISSUES.

While the entire discussion was relevant to national human rights institutions this section seeks to highlight some of the more contentious/important issues raised from the point of view of National Institutions. The principles of non-discrimination and equality as well as the interdependence of rights were included. The Preamble also makes reference to the core international human rights instruments and the importance of participation of persons with disabilities. The purpose and the general principles reflect the human rights principles as do most of the provisions. The most contentious issue that directly related to national institutions was the section on monitoring. The Draft Article 25 on monitoring National implementation framework states that :

1. States Parties shall designate a focal point within Government for matters relating to the implementation of the present Convention, and give due consideration to the establishment or designation of a coordination mechanism to facilitate related action in different sectors and at different levels.

1. States Parties shall, in accordance with their legal and administrative system, maintain, strengthen, designate or establish at the national level a

framework² to promote, protect and monitor implementation of the rights recognised in the present Convention.

The original intervention by the representative of National Institutions spelt out the role of national human rights institutions in the process of the promoting, protecting and monitoring the implementation of the Convention. It also put forward some possible functions inter alia, national institutions could engage in;

- promoting awareness of the provisions of the Convention to persons with disabilities and to the general population;
- monitoring national legislation, policies and programmes to ensure consistency with the Convention;
- undertaking or facilitating research on the impact of the Convention or of national legislation;
- developing a system for assessing that impact on persons with disabilities;
- and hearing complaints about failure to observe the Convention.

The representative of the National Institutions felt strongly that specific reference to National Institutions should find place in the text. This view was not supported by India, Japan, China, the EU and Canada. Due to time constraints the WG was able to consider the issue of international monitoring of the draft Convention. This issue was raised by mainly NGO participants as key to the effectiveness of the Convention. This was not a view shared by all members.

There also was a sense that in view of the ongoing process of reviewing the UN treaty monitoring bodies we should wait to see what conclusion is arrived. While this is useful, this should not preclude the more robust approach of ensuring that national institutions are recognized as one of the mechanism at a national level to monitor

implementation and raise awareness. It is clear that there was not overwhelming support for the inclusion of national institutions into the text of the Convention and if this is something that is to be pursued it will require lobbying of both NGO, as well as governments and more support from existing national institutions.

GENERAL OBSERVATIONS.

The WG was well attended by members. The level of discussion was high and greatly enhanced by the participation of persons with disabilities.

There was insufficient support for the inclusion of national institutions as one of the mechanisms for monitoring at a national level. Member States were very cautious about monitoring and more so the role the of national institutions. This requires lobbying on behalf of National Institutions. It will also require like minded National Institutions to brainstorm around our role in the Convention.

There generally was a sense achievement and constructive spirit of engagement in process that has not been easy. It would appear that the adoption of the Convention may not be so far way.

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