

SEVENTH ANNUAL MEETING



THE ASIA PACIFIC FORUM OF NATIONAL HUMAN RIGHTS INSTITUTIONS

...a partnership for human rights in our region

PROPOSED UN CONVENTION ON THE RIGHTS OF PEOPLE WITH DISABILITIES

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CONTENTS

1.	PURPOSE.....	2
2.	BACKGROUND	2
2.1	Establishment of Ad Hoc Committee.....	3
2.2	Recommendations of Ad Hoc Committee.....	4
3.	ARGUMENTS FOR A DISABILITY CONVENTION	5
3.1	Enhancing Existing Treaties.....	5
3.2	Formulating a New Instrument.....	6
4.	THE ROLE OF NATIONAL INSTITUTIONS AND APF	7
4.1	National Human Rights Institutions	7
4.2	Asia Pacific Forum of National Human Rights Institutions.....	9
5.	RECOMMENDATIONS.....	9
6.	APPENDIX 1 – STUDY ON HUMAN RIGHTS AND DISABILITY	11
7.	APPENDIX 2 – REPORT OF THE AD HOC COMMITTEE.....	21
8.	APPENDIX 3 – DRAFT RESOLUTIONS	28

1. PURPOSE

The New Zealand Human Rights Commission requested that Asia Pacific Forum of National Human Rights Institutions (APF) to place the proposed development of a United Nations (UN) Convention on the Rights of People with Disabilities on the agenda for the 7th Annual Meeting of the APF.

The purpose of this paper, prepared by the New Zealand Commission, is:

- (i) to explore arguments for the development of a new UN Convention on the Rights of People with Disabilities
- (ii) to explore the role of national human rights institutions (NHRIs) and the role of the APF in that process.

2. BACKGROUND

While the major UN conventions relate “indirectly to the rights of persons with disabilities”¹ only the UN Convention on the Rights of the Child² makes explicit reference to the issue of disability.³

In addition, apart from the UN Convention on the Rights of the Child, international human rights instruments with explicit reference to people with disabilities are generally non-binding⁴ such as, for example, the UN Declaration on the Rights of Disabled Persons⁵ and the UN Standard Rules on Equalisation of Opportunities for Persons with Disabilities 1993 (“Standard Rules”).⁶ With regard to the Standard Rules, while they were drafted and adopted as an alternative to a convention, they are neither comprehensive nor legally binding.⁷

¹ Commissioner Charlotte McClain, South African Human Rights Commission, address to 4th Conference of African Human Rights Institutions 14-16 August 2002 Kampala Uganda

² Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989 Entered into force on 2 September 1990 in accordance with article 49.
<http://www.unhchr.ch/html/menu2/6/crc/treaties/crc.htm>

³ Articles 2 and 23 provide, respectively, for the principle of non-discrimination irrespective of disability and for the rights of the disabled child.

⁴ Though, on this point, note ILO Convention Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983, which has been ratified by 73 countries including countries represented by Forum members and applicants such as Australia, Mongolia, Philippines and the Republic of Korea.

⁵ Proclaimed by General Assembly resolution 3447 (XXX) of 9 December 1975.
<http://www.unhchr.ch/html/menu3/b/72.htm>

⁶ The Standard Rules were adopted by the United Nations General Assembly, forty-eighth session, resolution 48/96, annex, of 20 December 1993. <http://www.un.org/esa/socdev/enable/dissre00.htm>

⁷ Nonetheless the Standard Rules have contributed to the establishment of new legislation and national policies in a number of countries. This has been assisted by the Special Rapporteur on Disability who has monitored their implementation. UN Special Rapporteur on Disability, Day 8 NY August 7 2002, Ad Hoc Committee on Disability Convention

Over the last twenty years many advocates have pushed for the development and adoption of a legally binding international treaty specifically focused on the issue of disability. For example, the first independent expert review of the World Programme of Action in 1987 came to the conclusion that a thematic convention or human rights treaty on disability was necessary.

Initiatives in favour of a convention on the rights of disabled people were also taken by Italy in 1987 and Sweden in 1988; but these initiatives were not supported at the UN General Assembly. Sweden's proposed draft text for the convention was subsequently re-drafted to become the Standard Rules.

A meeting of international disability related non-governmental organisations (NGOs) in March 2000 adopted the Beijing Declaration on the Rights of People with Disabilities.⁸ This Declaration called for a wide consultation process between NGOs, UN organisations and governments aimed at the preparation and adoption of an international convention to promote and protect the rights of people with disabilities.

More recently the final declaration of the World Conference against Racism, held in Durban, South Africa in September 2001, included the following invitation to the General Assembly:⁹

“... to consider elaborating an integral and comprehensive international convention to protect and promote the rights and dignity of disabled people, including, especially, provisions that address the discriminatory practices and treatment affecting them;”¹⁰

2.1 Establishment of Ad Hoc Committee

In December 2001 the UN General Assembly passed a resolution establishing an Ad Hoc Committee:

“to consider proposals for a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities, based on the holistic approach in the work done in the field of social development, human rights and non-discrimination, taking into account the recommendations of the Commission of Human Rights and the Commission for Social Development.”¹¹

⁸ This NGO declaration was adopted by Disabled Peoples International, Inclusion International, Rehabilitation International, the World Blind Union and the World Federation of the Deaf. <http://www.unescap.org/decade/beijdeclarfin.htm>

⁹ This was an initiative of the government of Mexico.

¹⁰ Paragraph 180 of the Programme of Action of the Final declaration of World Conference on Racism, September 2001. <http://www.unhchr.ch/html/racism/Durban.htm>

¹¹ United Nations General Assembly Resolution 56/168 adopted 19 December 2001

The General Assembly recognised that governments, UN bodies and NGOs had not been successful in promoting the “full and effective participation by and opportunities for persons with disabilities in economic, social, cultural and political life”. Expressing deep concern “about the disadvantaged and vulnerable situation faced by 600 million persons with disabilities around the world” the General Assembly stated it was “conscious of the need to advance in the elaboration of an international instrument”.¹²

2.2 Recommendations of Ad Hoc Committee

The Ad Hoc Committee met over the period 29 July to 7 August 2002. It decided that accredited NGOs could participate in its work in various ways, and extended an invitation to regional commissions, UN bodies and mechanisms, experts, national human rights institutions as well as national disability institutions to participate in its future sessions.¹³

It recommended that:

- the Ad Hoc Committee hold its second session in New York in May/June 2003;
- the Secretary-General implement measures to facilitate accessibility to United Nations premises, technology and documents for people with disabilities and invited persons with disabilities and experts to present proposals on this issue..

The Ad Hoc Committee drafted a General Assembly resolution¹⁴, in which the preamble:

- stressed the importance of active participation by NGOs in the work of the Ad Hoc Committee, recognising the important contribution by NGOs in the promotion of human rights and fundamental freedoms of persons with disabilities;
- underlined that the consideration of proposals for a convention shall complement concrete efforts to further mainstream the disability perspective into the implementation of international obligations and into the monitoring mechanisms of the six core UN human rights conventions, as well as the process of implementing and strengthening the Standard Rules;
- welcomed the work of national, regional and international meetings of governments, experts and NGOs contributing to the Ad Hoc Committee’s work;
- reaffirmed the need to promote and protect the equal and effective enjoyment of all human rights and fundamental freedoms by persons with disabilities, aware of the contribution a convention could make in this regard and thus convinced of the need to continue the consideration of proposals.

The draft resolution’s substantive recommendations were that the General Assembly should:

¹² id.

¹³ At Appendix 3 of this paper there are draft General Assembly resolutions (A/56/L.82 and A/56/L.83, July 2002) relating to the accreditation and participation of NGOs and people with disabilities in the Ad Hoc Committee.

¹⁴ See Appendix 2 for the Text of the Ad Hoc Committee’s Report and Recommendations

- encourage States to hold meetings or seminars to contribute to the work of the Ad Hoc Committee;
- request the Secretary-General to seek States, UN bodies and organisations' views on proposals for a convention including:
 - Questions relating to its nature and structure;
 - Elements to be considered including the work done in the field of social development, human rights and non-discrimination;
 - Follow-up and monitoring issues;
 - The complementarity between a new instrument and existing instruments.
- request the Secretary-General to provide the Ad Hoc Committee with a comprehensive report comprising views submitted before its 2nd session;
- invite regional commissions and inter-governmental organisations, NGOs, *national* disability and *human rights institutions* and independent experts to “make available suggestions and possible elements to be considered in proposals for a convention”.¹⁵

3. ARGUMENTS FOR A DISABILITY CONVENTION

In advancing the promotion and protection of disability rights at the UN treaty level the following broad approaches of (i) enhancing existing treaties and/or (ii) formulating a new thematic disability instrument could be taken.

3.1 Enhancing Existing Treaties

Despite the lack of a disability focus in the major UN treaties, a recent study of the current use and future potential of UN instruments in the context of disability¹⁶ found that they had “considerable if under-appreciated normative relevance in the context of disability”.¹⁷ In addition, at a recent conference on this topic, Justice Barrington commented that “these conventions do reach the issue of disability and have great untapped potential”.¹⁸ One approach in advancing the promotion and protection of disability rights would therefore be to further enhance existing international treaties and instruments.

Arguments in favour include:

1. There is legal recognition of disability in existing treaties.

¹⁵ *id.*

¹⁶ Quinn/Degener, ‘A Study on Human Rights and Disability’, OHCHR United Nations 2002. For further information see the Executive Summary in Appendix 1 of this paper.

¹⁷ “The current and Future Potential of the UN Human Rights instruments in the context of disability – results of a study” Prof Gerard Quinn address at Dublin conference Feb 2002 ‘Towards a UN Convention on the human rights of persons with disabilities’

¹⁸ Keynote address, Mr Justice Barrington Dublin conference Feb 2002 ‘Towards a UN Convention on the human rights of persons with disabilities’

2. Disability protocols/monitoring mechanisms to supplement existing machinery can be introduced relatively easily.¹⁹
3. Building on existing instruments is the best way to “mainstream” disability within the UN treaty system.

Arguments against include:

1. There may be disputes or doubts that all treaties apply to disability.
2. Multiple protocols could confuse the human rights framework for disabled people.
3. Better results for disabled people can be achieved if disability rights and freedoms are consolidated in one comprehensive instrument.

3.2 Formulating a New Instrument

The authors of the recent study on Human Rights and Disability²⁰ are of the view that a new instrument is needed; not because existing treaties are inadequate but because a coherent and integrated human rights approach to disability cannot be developed under the present treaty system.

Arguments in favour include:

1. The existing treaties were not drafted with regard to disability and are sometimes just not detailed enough to prevent abuse of human rights.
2. A special convention would give status, authority and visibility to disability in the human rights area that can not be achieved through refinement of the Standard Rules or the core 6 conventions.
3. A single thematic instrument could considerably move forward the process of mainstreaming disability under the core treaties.
4. A new treaty would create a strong monitoring mechanism and give impetus to the implementation process.
5. Adding a new treaty will complement existing international standards for disability rights.

Arguments against include:

1. Disabled people are already protected by existing UN instruments.
2. There are already heavy treaty obligations (creating an undue burden on states parties).
3. There will be confusion caused by an overlapping between instruments (treaties, the Standard Rules etc) and the new convention.

¹⁹ For example the Commission on Human Rights resolution 2000/51 of April 2002 entitled “Human Rights of Persons with Disabilities” invites treaty bodies and their Special Rapporteurs to include the rights of persons with disabilities in the monitoring of the implementation of the relevant human rights instruments

²⁰ See note 16 supra

4. It would be quicker and easier to refine existing instruments (e.g monitoring protocols).
5. Monitoring mechanisms are unproven to work for disabled people – there are capacity and resource issues for the UN and they are not a substitute for domestic enforcement mechanisms or the need for strong national human rights institutions and NGOs.

The above two approaches are not mutually exclusive and on balance it would be advisable to formulate a new international instrument specifically dealing with disability while at the same time enhancing existing international instruments.

4. THE ROLE OF NATIONAL INSTITUTIONS AND APF

4.1 National Human Rights Institutions

In April 2002 the UN High Commissioner for Human Rights stated that “it will be of utmost importance that not only States but also National Human Rights Institutions and NGOs are able to contribute their experience to the elaboration of the new Convention”. Such a role would be consistent with the powers and functions of many national institutions as defined by the Paris Principles.

At the recent 4th regional conference of African Human Rights Institutions Commissioner Charlotte McClain of the South African Human Rights Commission recently stated that:

“...disability related exclusion and marginalisation are concerns for Human Rights bodies such as National Institutions. For far too long, this has not been the case. For far too long, issues pertaining to persons with disabilities have been seen as charitable and or welfare related. Today we must heed an urgent call to make the paradigm shift from the welfare model to a more developmental rights based model, one that puts persons with disabilities at the core and makes provision for us to have rights and responsibilities.

“...Ladies and Gentlemen, there has been much talk here about the accessibility of national institutions. I would like to take this opportunity to impart some advice on this point. For persons with disabilities accessibility does not just mean proximity. It means reasonable accommodation. It means a BARRIER FREE environment.

“The full and effective integration of persons with disabilities in social life and development requires the creation of a barrier free society premised on a society for all...

“...The principle of the equalization of opportunities for persons with disabilities is guided by the recognition that persons with disabilities have historically been marginalized and excluded from development economic and political. Therefore

the inclusion of this principle is critical to the advancement of equality of persons with disabilities and greater democracy.

“These enunciated overarching principles summon and oblige all national institutions to take up the responsibility and challenges of building a rights based society that has at the center all persons disabled or not. The process has begun. It is now up to national institutions to come on board to collaborate with disabled people organizations in raising awareness around issues towards the elaboration of the Convention. I do not believe that it is an optional extra – I firmly believe that it is our mandate.”²¹

Mr Brian Burdekin, Special Advisor on National Institutions to the UN High Commissioner for Human Rights, recently strongly recommended that all NHRIs conduct a round of consultations with the major NGOs in their respective countries on protecting the rights of people with disabilities and addressing systemic discrimination. Mr Burdekin noted that:

“Chapter 12 of the Study on Human Rights and Disability sets out a range of observations, comments and recommendations designed to enhance the future use of the United Nations human rights system in the context of disability. These recommendations are addressed to a wide variety of stakeholders, including States, NHRIs, treaty-monitoring bodies, OHCHR, the Commission for Human Rights, and disability NGOs.

“The Study acknowledges the important role played by NHRIs in raising levels of awareness of the rights of persons with disabilities throughout society, and recommends that NHRIs – whether operating on a regional basis or otherwise – actively consider forming a working group on disability and human rights. Such a forum would enable them to deepen their understanding of disability as a human rights issue and to engage in useful exchanges of experience. National institutions should be facilitated in this regard, to the extent possible, by the Office of the High Commissioner for Human Rights.”²²

Under the Paris Principles, National Institutions should have a mandate to carry out the following actions in relation to the development of the proposed Disability Convention:

- Review the situation of disability rights in their own countries;
- Recommend to their governments the value of a Disability Convention;
- Determine their contribution at any UN regional or international discussion;
- Ensure that NGOs:
 - are informed of the proposals for a Disability Convention;
 - have the opportunity to participate in any national considerations whether to support a Convention;

²¹ See note 1 supra

²² Extract from letter from Mr Brian Burdekin, Special Advisor on National Institutions to the High Commissioner to National Institutions, September 2002

- have the opportunity to contribute whatever they think should be included in a Disability Convention.

Finally, it should be noted that the debate at the Ad Hoc Committee is a timely reminder to national institutions that they should improve their own accessibility to people with disabilities.

4.2 Asia Pacific Forum of National Human Rights Institutions

The APF has not, to date, included a disability focus in its work programme.

When Mr Burdekin recently drew NHRIs' attention to UN General Assembly resolution 56/168 establishing an Ad Hoc Committee to consider proposals for a new UN convention, he noted that the regional meetings of NHRIs in the Asia Pacific, Latin America and Europe were an opportunity to consider substantial discussions on disability issues. Mr Burdekin stated that "I very much hope that these meetings will adopt resolutions or consensus decisions concerning their participation in the next session of the General Assembly's Ad Hoc Committee".²³

It is considered that the main issue for the APF is how it can best support its members to play an active and constructive role nationally and in the Ad Hoc Committee and other UN forums as appropriate in relation to:

- effective participation in the process of considering proposals for a Disability Convention;
- reviewing the merits of the development of proposals for a Disability Convention.

5. RECOMMENDATIONS

1. That Forum member institutions consider the recommendations of the Ad Hoc committee that:
 - i. Human rights institutions make available suggestions and possible elements to be considered in proposals for a convention;
 - ii. Organisations' views be sought on proposals for a convention including
 - Questions relating to its nature and structure;
 - Elements to be considered including the work done in the field of social development, human rights and non-discrimination;
 - Follow-up and monitoring issues;
 - The complementarity between a new instrument and existing instruments.
2. That Forum member institutions consider what role they can play in responding to recommendations of the Ad Hoc committee in relation to the

²³ id.

development of a convention (a) at the national level and (b) in the regional forums within the UN system;

3. That Forum member institutions consider how they can best respond to recommendations that national institutions should consult with NGOs in their respective countries in relation to the development of a convention;
4. That Forum member institutions adopt reasonable efforts to facilitate the participation of persons with disabilities in the course of NGO consultations;
5. That the APF take steps to develop a disability rights component within its work programme;
6. That Forum member institutions request that the Forum secretariat provide support, as requested and to the extent possible, for the activities of its member institutions in responding to the Ad Hoc Committee's recommendations.
7. That Forum member institutions request that the Forum secretariat, in cooperation with its member institutions, develop and advocate proposals for a possible new convention for the consideration of the Ad Hoc Committee.

6. APPENDIX 1 – STUDY ON HUMAN RIGHTS AND DISABILITY

Executive Summary

The present study is about the current use and future potential of the United Nations human rights instruments in the specific field of disability.

Over 600 million people, or approximately 10 per cent of the world's population, have a disability of one form or another. Over two thirds of them live in developing countries. Only 2 per cent of disabled children in the developing world receive any education or rehabilitation. The link between disability and poverty and social exclusion is direct and strong throughout the world.

A dramatic shift in perspective has taken place over the past two decades from an approach motivated by charity towards the disabled to one based on rights. In essence, the human rights perspective on disability means viewing people with disabilities as subjects and not as objects. It entails moving away from viewing people with disabilities as problems towards viewing them as holders of rights. Importantly, it means locating problems outside the disabled person and addressing the manner in which various economic and social processes accommodate the difference of disability - or not, as the case may be. The debate about the rights of the disabled is therefore connected to a larger debate about the place of difference in society.

The disability rights debate is not so much about the enjoyment of specific rights as it is about ensuring the equal effective enjoyment of all human rights, without discrimination, by people with disabilities. The non-discrimination principle helps make human rights in general relevant in the specific context of disability, just as it does in the contexts of age, sex and children.

Non-discrimination, and the equal effective enjoyment of all human rights by people with disabilities, are therefore the dominant theme of the long-overdue reform in the way disability and the disabled are viewed throughout the world.

The process of ensuring that people with disabilities enjoy their human rights is slow and uneven. But it is taking place, in all economic and social systems. It is inspired by the values that underpin human rights: the inestimable dignity of each and every human being, the concept of autonomy or self-determination that demands that the person be placed at the centre of all decisions affecting him/her, the inherent equality of all regardless of difference, and the ethic of solidarity that requires society to sustain the freedom of the person with appropriate social supports.

The shift to the human rights perspective has been authoritatively endorsed at the level of the United Nations over the past two decades. This is best exemplified by the United Nations Standard Rules on the Equalization of Opportunities for People with Disabilities, adopted by the General Assembly in resolution 48/96 of 20 December 1993.

The Rules are monitored by a United Nations Special Rapporteur, Bengt Lindqvist, who has received his mandate from the United Nations Commission for Social Development. The Rules, and especially the role played by the Special Rapporteur, continue to make a vital contribution to the process of raising consciousness about the human rights of persons with disabilities and in stimulating positive change throughout the world. The United Nations human rights treaty bodies have considerable potential in this field but have generally been underused in advancing the rights of persons with disabilities. The study focuses on the bodies monitoring six main United Nations human rights treaties: the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and the International Convention on the Elimination of All Forms of Racial Discrimination. The main thesis of the study is that the process of disability reform that is taking place across the globe could be immeasurably strengthened and accelerated if greater and more targeted use were made of these instruments.

It has to be emphasized that the primary responsibility for ensuring respect for the human rights of persons with disabilities rests with States. That is, the use and value of the United Nations human rights machinery is vindicated by meaningful domestic reform. The human rights instruments provide not merely guidance, but place obligations on States parties to reform.

States parties are demonstrably moving in the direction of the human rights perspective on disability. Recent research shows that 39 States in all parts of the world have adopted non-discrimination or equal opportunity legislation in the context of disability. States parties' dialogue with the human rights treaty bodies is constructive in the context of their efforts to secure disability reform; a significant amount of good practice now exists on a worldwide basis which can be usefully propagated through the human rights treaty system.

The shift to the human rights perspective is also reflected in the fact that national institutions for the promotion and protection of human rights throughout the world have begun to take an active interest in disability issues. This is important since these institutions help in providing a bridge between international human rights law and domestic debates about disability law and policy reform. National institutions are strategic partners in the process of change, and their increasing engagement on the issue of human rights for persons with disabilities is a highly encouraging sign for the future. People with disabilities themselves are now framing their long-felt sense of grievance and injustice into the language of rights. Isolated injustices need no longer be experienced in isolation. NGOs working with disability issues such as the collaborative project Disability Awareness in Action are beginning to see themselves also as human rights NGOs. They are beginning to collect and process hard information on alleged violations of the human rights of persons with disabilities. While still relatively limited, their human rights capacities are growing. A similar process of self-transformation is under way within traditional human rights NGOs, which are increasingly approaching disability as a

mainstream human rights issue. This is important, since these NGOs have highly developed structures, and the development of a healthy synergy between disability NGOs and traditional human rights NGOs is not only long overdue, but inevitable.

All in all, the time is right for a stock-taking of the current use and future potential of the United Nations human rights instruments in the context of disability.

Aims of the study

The study has three main aims.

The first aim is clarify the relevance of the six United Nations human rights treaties to disability. In order to do this, the study will identify the various obligations of States parties under the treaties and explain how the relevant enforcement mechanisms work in the context of disability. We hope that it will constitute a useful reference work for all stakeholders, including the States parties, the treaty monitoring bodies, the Office of the High Commissioner for Human Rights, national human rights institutions and civil society. It does not purport to be exhaustive. It creates added value for the existing literature by demonstrating the relevance of the human rights protections provided for under the six treaties to disability. More refined analysis will be needed as the debate moves on.

The second aim of the study is to review how the system actually works in practice with respect to disability, by looking at how States parties report to the treaty monitoring bodies on human rights and disability and how the treaty monitoring bodies respond. A total of approximately 147 recent periodic State party reports were examined. They were selected on the basis of the availability of documentation and to ensure a reasonable geographic spread. No criticism of any State party is intended. The object of this analysis was simply to derive some sense of how States parties saw themselves as discharging their obligations in the specific context of disability. Indeed, no criticism is intended of the treaty monitoring bodies. Their attention and scarce resources are drawn in many different directions, and the fact that they have developed a sense of the relevance of the various human rights treaties in the context of disability attests to their understanding that disability is a human rights issue. While our analysis with respect to the evaluative component of the study does not purport to be scientific, it nevertheless provides a sufficient basis for general conclusions to be drawn - conclusions that we hope will help to mainstream disability issues in a more sustained and focused manner.

The third aim of the study - the main one - is to provide options for the future. As such, it provides observations, comments and recommendations as to how the various stakeholders might enhance the use of the six human rights instruments in the context of disability. The study aims at strengthening the system, while arguing for the adoption of a thematic convention on the rights of persons with disabilities. For a variety of reasons, the authors conclude that such a convention is necessary and would underpin - and not undermine - the existing instruments in the field of disability.

Outline of the study

The study is divided into three parts.

Part 1 examines the nature of the shift to the human rights framework of reference in the context of disability. It is composed of three chapters.

Chapter 1 explains the relevance of human rights values and doctrine to disability. It asserts that the core problem in the field of disability is the relative invisibility of persons with disabilities, both in society and under the existing international human rights instruments. It concludes that the main human rights challenge is accommodating the difference of disability and making people with disabilities visible within the treaty system.

Chapter 2 recounts briefly how the shift of perspective was given authoritative expression in a wide variety of instruments adopted in the context of the United Nations system over the past two decades. It sets the stage for an examination of how the United Nations human rights treaty system is currently accommodating the rights of persons with disabilities.

Chapter 3 presents the United Nations human rights treaty system and provides the bridge between so-called “soft law” and “hard law”. One important operating principle of the study is that it is necessary to cross over this bridge and to make full use of the human rights treaties in the context of disability.

Part 2 of the study is an evaluation of the current use of the United Nations human rights instruments, providing a detailed analysis of the actual and potential relevance of each of the six human rights treaties in the context of disability. This part is composed of six chapters corresponding to the six treaties.

The analysis contained in Part 2 is intended to be part expository and part evaluative. The expository dimension involves making the contents of the treaties transparently relevant in the context of disability. Each of the rights protected is examined and its relevance elucidated. The evaluative part is made up of a series of case studies on how the provisions of the respective treaties are applied in general in the context of disability.

Chapter 4 deals with freedom and disability under the ICCPR. This treaty is looked at first because the key ethic of the worldwide disability rights movement is freedom and participation. In other words, what people with disabilities aspire to most is to have access to the same rights - and civic responsibilities - as all other persons. Consistent respect for the ICCPR rights of the disabled would not merely protect people with disabilities against abuses, but would also be a huge help in breaking down barriers to the mainstream. In the sample of States parties’ reports surveyed, many States continue to report on disability as a welfare issue and not as a rights issue under the ICCPR. The authors found approximately nine individual complaints addressing disability issues submitted to the Human Rights Committee under the first Optional Protocol to the

Covenant. Most were found to be inadmissible. At least one complaint has led to very positive case law on the treatment of prisoners with disabilities. In essence, the Committee held that it is the duty of States parties to accommodate prisoners with special needs. This shows an awareness on the part of the Committee that it is not enough to treat all persons the same, but that added allowance (or “reasonable accommodation”) may be necessary to make rights “real” for people with disabilities. This positive normative development offers great promise for persons with disabilities.

Chapter 5 deals with the ethic of social justice and disability in the context of disability. Disability is one of the best areas in which to assert and prove the indivisibility and interdependence of civil, political, economic, social and cultural rights. Using formal law to break down barriers to the mainstream is necessary but not sufficient. People with disabilities must be afforded freedom, but also the means to take advantage of it. This can be done by providing relevant social supports and, in particular, by respecting economic, social and cultural rights. The authors decided to place this chapter after the one on the ICCPR in view of the standing danger that ICESCR rights will be viewed as being of primary importance in the context of disability since they are so obviously connected with social support. In the admirable General Comment No. 5 on persons with disabilities adopted by the Committee on Economic, Social and Cultural Rights in 1994, the Committee views the rights in the Covenant as providing the indispensable means of empowering people with disabilities in their own lives and providing ongoing support for a life of active participation in society. The right to health (art. 12), for example, is interpreted by the Committee as having a direct link to participation in society. In the sample of States parties’ reports surveyed, States parties tend not to draw the link between ICESCR rights and the achievement of the goals of independence, autonomy and participation. Notwithstanding this, General Comment No. 5 remains a landmark and the Covenant in general has a hugely important role to play in sensitizing all stakeholders to how appropriate social supports and rights can best be used to break down barriers and enable people with disabilities to participate in all spheres of life.

Chapter 6 deals with the important question of protecting people with disabilities against torture and cruel, inhuman or degrading treatment under the Convention against Torture. This is especially relevant to the many millions of people with disabilities who live in institutions or in other types of residential care. Disability reinforces the imbalance of power in many such institutions and heightens the vulnerability of people with disabilities to abuse. Disability issues tend not to figure prominently in the sample of periodic reports surveyed. One individual complaint concerning the situation of disabled prisoners that was submitted to the Committee against Torture (CAT) was ruled inadmissible on the grounds that domestic remedies had not been exhausted.

Chapter 7 deals with the Convention on the Elimination of All Forms of Discrimination against Women insofar as it is relevant to women with disabilities. General Comment No. 5 refers to a tendency to think of people with disabilities as genderless. The Committee on the Elimination of Discrimination against Women (CEDAW) has itself adopted General Recommendation No. 18 on women with disabilities which requests States parties to include information on women with disabilities in their periodic reports

with respect to their exercise of several rights contained in the Convention. In the sample of periodic reports surveyed there was little consistent reporting on the double discrimination experienced by women with disabilities.

Chapter 8 deals with the Convention on the Rights of the Child insofar as it is relevant to children with disabilities. The Convention is unique among the human rights treaties in that it contains a specific article on disabled children (art. 23). This article is, of course, without prejudice to the general applicability of all of the Convention's provisions to children with disabilities. The Committee on the Rights of the Child (CRC) has an impressively high level of awareness of disability issues. In 1997, it held an important day of general discussion on disabled children which has had a very positive impact on how the Committee addresses the situation pertaining to children with disabilities. The Committee seems to be well on the way to developing a coherent perspective on children with disabilities.

Chapter 9 deals with another sub-group of the disabled, namely disabled persons who also belong to racial or other minority groups. While such persons may be discriminated against largely on account of their race, the possibility of double discrimination cannot be discounted. Indeed, the phenomenon of double discrimination on the ground of race and disability was expressly acknowledged at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Many States parties already include information on discrimination on the ground of disability on a regular basis in their periodic reports to CERD, generally by providing background information on their general anti-discrimination laws. This provides CERD with a useful opportunity for dialogue with States parties on double discrimination.

Part 3 of the study outlines options for the future. It is composed of four chapters.

Chapter 10 contains the authors' analysis of a detailed questionnaire that was sent out to disability NGOs around the world. There were about 80 responses from international NGOs, regional NGOs and domestic NGOs from every part of the world. The response rate was good given the time constraints. It had been decided to send the questionnaire to disability NGOs and not to traditional human rights NGOs in order to gauge whether and how they address the issues as human rights issues and what their views on the existing treaty system are.

An analysis of the responses reveals the extent to which the disability NGOs have themselves made the transition to the rights-based perspective on disability. Many of the NGOs that responded to the questionnaire stated that they saw themselves primarily as human rights NGOs. Many of them use United Nations human rights doctrine in their work. Some of them already have some experience of engagement with the United Nations human rights treaty system and generally had positive things to say about this experience. Most of them felt inhibited by a general lack of material and human resources and were deterred by the seeming inaccessibility of information about how the human rights treaties work in the context of disability.

These findings are highly positive. They show how the shift to the human rights perspective is being mirrored in the self-understanding of the disability NGOs, who are interested in engaging with the United Nations human rights machinery. They also reveal factors inhibiting such engagement. The analysis of the findings could usefully be complemented in the future by an analysis of how traditional human rights NGOs are themselves beginning to absorb disability as a mainstream human rights issue. Doubtless a convergence of perspective is now under way.

Chapter 11 looks at the experiences and views of national human rights institutions and factors in their views. It contains the authors' analysis of a questionnaire sent to national institutions and, again, the response rate was good given the time constraints. An analysis of the responses reveals that national institutions are in fact acutely aware of the human rights perspective on disability. Many of them have already produced important studies and reports on the question of the human rights of persons with disabilities. Some of these reports have been highly influential in helping to reform domestic disability law and policy. All of the respondent national institutions expressed a keen interest in the field and also a willingness to step up their activities in this regard. This is a highly positive and encouraging finding and augurs well for the future.

Chapter 12 sets out a range of observations, comments and recommendations designed to enhance the future use of the United Nations human rights system in the context of disability. For the sake of completeness, they are addressed to a wide variety of stakeholders in the field.

State practice with respect to periodic reporting on disability is clearly improving. This is, no doubt, due to the increasing attention paid to disability and human rights in the United Nations system over the past two decades and especially under the United Nations Standard Rules on the Equalization of Opportunities for People with Disabilities. With respect to the States parties, the authors make three recommendations designed to ensure heightened visibility for disability in the treaty system. Specifically, they recommend: (a) that States parties step up their efforts to report regularly on the situation affecting the rights of persons with disabilities; (b) that they consult with disability NGOs when compiling their respective periodic reports, it being understood that final responsibility for reports rests exclusively with the States parties; and (c) that they consider nominating persons with disabilities for membership in the six treaty monitoring bodies.

The treaty monitoring bodies do an excellent job overall on the issue of disability given their limited resources and the obvious need to deal with a wide variety of issues and groups. Again, the spirit and language of the United Nations Standard Rules has had an impact in this regard. The following recommendations are made in the spirit of assisting the treaty monitoring bodies to enhance further their treatment of disability issues. Specifically, the authors recommend: (a) that they emulate the good practice of the Committee on Economic, Social and Cultural Rights and adopt general comments on the nature of State obligations under the respective treaties in the context of disability; (b) that they emulate the good practice of the Committee on the Rights of the Child by setting aside a thematic day of discussion, or similar occasion, on disability; (c) that the list of issues sent to States parties by those treaty monitoring bodies that issue such

documents more regularly request information on the enjoyment of human rights by persons with disabilities, in keeping with the thematic priorities to be set in general comments; (d) that the dialogue with States parties feature disability issues on a more regular basis; (e) that concluding observations contain references to disability, where necessary, in order to identify areas where more sustained attention is required and to request more detailed information from States parties in subsequent reports; (f) that concluding observations be used more regularly to highlight good practice for the benefit of all the stakeholders.

The Commission on Human Rights and the Office of the High Commissioner for Human Rights have demonstrated their engagement with the issue of human rights and disability. This is important at the symbolic level, but it is also significant from a practical point of view given the pivotal role played by the Office in the overall United Nations human rights system. The authors' recommendations in this regard are geared towards enhancing this engagement. Specifically, they recommend that the Commission on Human Rights encourage the Office: (a) to make knowledge concerning the relevance and operation of the United Nations human rights system in the specific context of disability more accessible by adding a disability-specific dimension to its web site (with appropriate and extensive links to the relevant activities of other sectors of the United Nations, the specialized agencies and national institutions); (b) to plan, after consultation with the stakeholders, a series of more focused thematic studies and practical manuals on subjects such as the human rights of institutionalized persons, the right to education for disabled children, the principle of non-discrimination and the value of human diversity in the context of genetics, bioethics and disability, and the human rights issues connected with intellectual disability; (c) to assign at least one staff member on a full-time basis to the question of disability and human rights issues; (d) to indicate that it welcomes applications for internships from disabled persons; (e) to play a role in stimulating university-based human rights programmes to become more actively involved in human rights and disability; (f) to take a leading role in advancing the cause of the human rights of persons with disabilities within the wider United Nations system, with due regard to the equal ownership of the issue by all relevant institutional stakeholders. It is important that the human rights perspective on disability continue to be increasingly mainstreamed throughout the United Nations system, including in the relevant development activities. It is also important that the issue should be multi-tracked among all the concerned entities. More guidance from OHCHR could aid immeasurably in the process of mainstreaming, as well as enhance the contributions of the various and diverse elements of the system. The authors also recommend that the Office explore options for bringing together the treaty monitoring bodies to discuss the relevance and the potential contribution of their respective treaties in the context of disability.

With respect to the United Nations Commission on Human Rights, the authors recommend that it maintain and enhance the process of mainstreaming disability as a human rights issue in its work and that it give active consideration to the appointment of a special rapporteur on the human rights of persons with disabilities. The authors believe that there is a need for such an entity to raise the visibility of the disability issue as a human rights issue and to provide a focal point for disability in the human rights system.

With respect to the national human rights institutions, the authors recommend that they actively consider forming a forum or working group on disability and human rights. Such a forum would enable the national institutions to develop a deeper understanding of disability as a human rights issue and enable them to exchange valuable experiences.

With respect to civil society, the authors recommend that the disability NGOs combine their resources and form an international Disability Human Rights Watch or similar body that could help raise levels of awareness as well as human rights capacities within the disability sector. Such a grouping should develop close ties with the mainstream human rights NGOs in order to learn from their experiences and also in order to influence them to adopt disability as a human rights issue. The authors highlight good practice in the form of funding from the Swedish International Development Agency for a project on the human rights of children with disabilities. Given that the majority of people with disabilities live in developing countries, the authors believe that other donor countries should fund human rights projects in the area of disability as part of their development, democratization and human rights programmes.

Chapter 13 deals with the possibility of augmenting the existing human rights system in the context of disability with the adoption of a thematic treaty on the rights of persons with disabilities. In November 2001, the General Assembly adopted a historic resolution to establish an ad hoc committee, open to the participation of all Member States, to consider proposals for a comprehensive and integral international convention to protect and promote the rights and dignity of persons with disabilities, based on the holistic approach in the work done in the field of social development, human rights and non-discrimination and taking into account the recommendations of the Commission on Human Rights and the Commission for Social Development.

The authors find the arguments for such a convention to be highly persuasive. It would enable attention to be focused on disability and would tailor general human rights norms to meet the particular circumstances of persons with disabilities. It would add visibility to the disability issue within the human rights system. It would have practical advantages for all the stakeholders inasmuch as States parties would be clearer on their precise obligations in the disability field, and civil society would also be able to focus on one coherent set of norms rather than six different sets of norms. These advantages were long ago spelled out by Leandro Despouy, the Special Rapporteur of the Sub-Commission, in his study on disability, *Human Rights and Disabled Persons*, published in 1992. The authors view such a convention as underpinning – and not undermining – the web of existing human rights treaties insofar as they relate to disability. That is, such a convention should enable the relevant treaty monitoring body to develop normative expertise in the field, and this should, in turn, help to stimulate the mainstreaming of disability into the existing human rights system. A convention would address collectively people with physical, sensory, mental or intellectual disabilities. The drafting process should provide an occasion for considering how best to use all human rights – civil, political, economic, social and cultural – to achieve the goal of full participation in

society of people with disabilities. The convention should include appropriate protections, especially for those persons with disabilities who are institutionalized.

All in all, the United Nations is entering an exciting phase of its activities in the field of human rights and disabilities. Disability issues are being brought home into the human rights domain. The authors are confident that the range of suggestions and recommendations contained in the study and outlined above will lead to more and better use of the six human rights treaties in the context of disability. They are also confident that a thematic treaty would immeasurably advance the rights of persons with disabilities, while at the same time enhancing the capacity of the existing instruments to respond appropriately.

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7. APPENDIX 2 – REPORT OF THE AD HOC COMMITTEE

Report of the Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities

New York, 29 July-9 August 2002

I. Introduction

1. In its resolution 56/168 of 19 December 2001, the General Assembly decided to establish an Ad Hoc Committee to consider proposals for a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities, based on the holistic approach in the work done in the fields of social development, human rights and non-discrimination and taking into account the recommendations of the Commission on Human Rights and the Commission for Social Development. The Assembly also decided that, prior to its fifty-seventh session, the Ad Hoc Committee should hold at least one session of a duration of 10 working days.

II. Organizational matters

A. Opening and duration of the first session

2. The Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities held its first session at United Nations Headquarters from 29 July to 9 August 2002. In the course of its session, the Ad Hoc Committee held 19 plenary meetings and one meeting for panel discussions.
3. The Division for Social Policy and Development of the Department of Economic and Social Affairs acted as the substantive secretariat, while the Disarmament and Decolonization Organs Servicing Branch of the Department of General Assembly Affairs and Conference Services served as technical secretariat of the Ad Hoc Committee.
4. The 1st meeting of the Ad Hoc Committee was opened by the Vice-President of the General Assembly, Eladio Loizaga (Paraguay). Nitin Desai, Under-Secretary-General for Economic and Social Affairs, speaking on behalf of the Secretary-General, made a statement.

B. Officers

5. At its 1st, 5th and 7th meetings, on 29 and 31 July and 1 August 2002, respectively, the Ad Hoc Committee elected the following officers by acclamation:

Chairman:

Luis **Gallegos** (Ecuador)

Vice-Chairmen:

Enrique **Manalo** (Philippines)

Jeanette **Ndhlovu** (South Africa)

Karina **Mårtensson** (Sweden)

C. Agenda

6. At its 1st meeting, on 29 July 2002, the Ad Hoc Committee adopted its provisional agenda, as contained in document A/AC.265/L.1*, as follows:
1. Opening of the meeting.
 2. Adoption of the agenda.
 3. Organization of work.
 4. General debate on issues concerning a new international instrument on disability, including proposals for a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities.
 5. Recommendations of the Ad Hoc Committee.
 6. Adoption of the report of the Ad Hoc Committee to the General Assembly at its fifty-seventh session.
 7. Other business.

D. Documentation

7. The Ad Hoc Committee had before it the following documents:
- (a) Note by the Secretary-General (A/AC.265/1);
 - (b) Provisional agenda (A/AC.265/L.1);
 - (c) List of participants (A/AC.265/INF/1);
 - (d) Comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities (Working paper submitted by Mexico) (A/AC.265/WP.1);
 - (e) Comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities (Position paper by the European Union) (A/AC.265/WP.2);
 - (f) Comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities (Position paper by China) (A/AC.265/WP.3);
 - (g) Compilation of international norms and standards relating to disability (A/AC.265/CRP.1);
 - (h) Human rights of persons with disabilities (A/AC.265/CRP.2);
 - (i) Interregional Seminar and Symposium on International Norms and Standards relating to Disability (A/AC.265/CRP.3);

- (j) Report of the United Nations Consultative Expert Group Meeting on International Norms and Standards relating to Disability (A/AC.265/CRP.4);
- (k) Indicative timetable of work (A/AC.265/CRP.5);
- (l) Critical issues and trends related to disability and human rights: emerging issues and concepts (A/AC.265/CRP.6).
- (m) Report of the Expert meeting on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disability (A/57/212)

III. Organization of work

8. During its plenary meetings (29-31 July 2002), the Ad Hoc Committee heard general statements made by the representatives of the following countries: Argentina, Australia, Brazil, Canada, Chile, China, Croatia, Denmark (on behalf of the European Union), the Dominican Republic, India, Indonesia, Japan, Jordan, Mexico, Norway, the Philippines, the Republic of Korea, Sierra Leone, South Africa, Uganda, the United States of America and Uruguay. General statements were also made by representatives of the following United Nations specialized agencies and bodies: the International Labour Organization (ILO) and the Office of the United Nations High Commissioner for Human Rights. Representatives of the following non-governmental organizations (NGOs) also made statements: Disabled Peoples' International, Inclusion International, Madre Inc., Support Coalition International, World Blind Union, World Federation of the Deaf and World Federation for Mental Health.
9. At its 8th meeting, on 1 August 2002, the Ad Hoc Committee decided to organize its work in accordance with the thematic approach, including overarching principles/rights, equality in civil and political rights, equality in economic, social and cultural rights, panel discussions, monitoring mechanisms and other topics.
10. At the 14th meeting, on 6 August 2002, upon the request of the Ad Hoc Committee, the Division for Social Policy and Development, Department of Economic and Social Affairs, organized a panel for delegates and representatives of NGOs to exchange views on the issues with representatives of United Nations agencies and programmes. The panel was opened by Odile Frank (Division for Social Policy and Development, Department of Economic and Social Affairs) and moderated by Bengt Lindqvist, Special Rapporteur on Disability of the Commission for Social Development. The following experts presented briefings on agreed subjects: Akiko Ito (Division for Social Policy and Development, Department of Economic and Social Affairs), Jane Connors (Division for the Advancement of Women, Department of Economic and Social Affairs), Mary Beth Weinberger (Population Division, Department of Economic and Social Affairs), Mary Chamie (Statistical Division, Department of Economic and Social Affairs), Brian Burdekin (Adviser to the High Commissioner for Human Rights, Office of the United Nations High Commissioner for Human Rights), Gerald

Quinn (author of the study conducted by the Office of the United Nations High Commissioner for Human Rights), Gulbadan Habibi (United Nations Children's Fund), Steve Miller (ILO) and Javier Vasquez (Pan American Health Organization on behalf of the World Health Organization).

IV. Decision

11. At its 8th meeting, on 1 August 2002, the Ad Hoc Committee adopted the following decision, presented by the Chairman:

Decision on the modalities of the participation of accredited non-governmental organizations in the Ad Hoc Committee to consider proposals for a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities

The Ad Hoc Committee decides:

1. That representatives from non-governmental organizations accredited to the Ad Hoc Committee may participate in the work of the Ad Hoc Committee by:
 - (a) Attending any public meeting of the Ad Hoc Committee;
 - (b) Making statements, given the availability of time, in accordance with current United Nations practice;
 - (c) When time is limited, selecting among themselves spokespersons, on a balanced and transparent basis, taking into account equitable geographic representation and diversity of non-governmental organizations;
 - (d) Receiving copies of the official documents as well as making written or other presentations. Written presentations shall not be issued as official documents except in accordance with Economic and Social Council resolution 1996/31. Furthermore, non-governmental organizations may make their material available to delegations in accessible areas designated by the Secretariat;
 2. That the above modalities shall in no way create a precedent for other ad hoc committees of the General Assembly.
12. The Ad Hoc Committee recalls its decision adopted at the 10th meeting, on 2 August, to extend an invitation to regional commissions, UN bodies and mechanisms, experts, national human rights institutions as well as national disability institutions to participate in its future sessions.

V. Recommendations

13. Ad Hoc Committee recommends that the Committee hold its second session in New York, in May/June 2003 and include the dates and the venue in the relevant resolution to be adopted at the fifty-seventh session of the General assembly.

14. The Ad Hoc Committee invites the Bureau of the Ad Hoc Committee to hold an inter-sessional meeting regarding the preparation and organisation of the second session of the Ad Hoc Committee, including to prepare a provisional agenda, to be issued at least six weeks prior to the second session of the Ad Hoc Committee, containing, inter alia, an indication of the framework for a thematic discussion;
15. The Ad Hoc Committee further invites the Bureau to organize panel discussions at the next session of the Ad Hoc Committee with participation of experts and UN organizations regarding key thematic issues and in this context invites Member States to nominate experts to the panel;
16. With regard to accessibility, and in accordance with General Assembly decision 56/473, the Committee strongly recommends the Secretary General to implement some measures, as first steps, to facilitate the accessibility to the United Nations premises, technology and documents. Therefore, the Committee invites, among others, persons with disabilities and experts, to present proposals in this sense.
17. The Committee recommends to the General Assembly the adoption of the following draft resolution on the Ad Hoc Committee to consider proposals on Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities.

The General Assembly,

Recalling General Assembly Resolution 56/168 by which the Ad Hoc Committee was established, as well as Economic and Social Council resolution 2002/61 on Human Rights of Persons with Disabilities, Economic and Social Council resolution 2002/ 7 on Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities and Economic and Social Council resolution 2002/ 26 on Further Promotion of Equalization of Opportunities by, for and with Persons with Disabilities and Protection of their Human Rights,

Stressing the importance of active participation by non-governmental organizations in the work of the Ad Hoc Committee, and the important contribution of the non-governmental organizations in the promotion of human rights and fundamental freedoms of persons with disabilities,

Underlining that the consideration of proposals for a convention shall complement concrete efforts to further mainstream the disability perspective into the implementation of international obligations and into the monitoring mechanisms of the six core UN human rights conventions, as well as the process of implementing and strengthening the UN Standard Rules on Equalization of the Opportunities for Persons with Disabilities,

Welcoming the work of national, regional and international meetings of governments, experts, and NGOs that contributed to the work of the Ad Hoc Committee,

Reaffirming the need to promote and protect the equal and effective enjoyment of all human rights and fundamental freedoms by persons with disabilities, aware of the contribution that a Convention could make in this regard and thus convinced of the need to continue the consideration of proposals.

1. Takes note with appreciation of the report of the first session of the Ad Hoc Committee;
2. Requests the Secretary-General to transmit the report of the Ad Hoc Committee to the forty-first session of the Commission on Social Development as well as to the Commission on Human Rights at its fifty-ninth session;
3. Decides that the Ad Hoc Committee shall hold, within existing resources, at least one meeting in 2003 of a duration of ten working days, prior to the fifty-eighth session of the General Assembly;
4. Encourages states to hold meetings or seminars to contribute to the work of the Ad Hoc Committee in cooperation with, as appropriate, Division for Social Policy and Development, the Office of the United Nations High Commissioner for Human Rights, the Special Rapporteur on Disability of the Commission for Social Development and non-governmental organizations;
5. Requests the Secretary-General to seek the views of States, Observers, relevant bodies and organizations of the United Nations system, including relevant human rights treaty bodies and the Special Rapporteur on Disability of the Commission for Social Development on proposals for a convention including, inter alia: questions relating to its nature and structure, elements to be considered including the work done in the field of social development, human rights and non-discrimination, as well as the follow-up and monitoring issues and the complementarity between a new instrument and existing instruments;
6. In this regard, further requests the Secretary-General to submit to the Ad Hoc Committee at its second session a comprehensive report, comprising views submitted, to be issued at least six weeks before the commencement of the second session;
7. Invites regional commissions and inter-governmental organizations, within their respective mandates, as well as non-governmental organizations, national disability and human rights institutions, and independent experts with an interest in the matter, to make available to the Ad Hoc Committee suggestions and possible elements, to be considered in proposals for a Convention;
8. Welcomes the contributions of the Special Rapporteur on Disability of the Commission for Social Development and the Office of the United Nations High Commissioner on Human Rights to the work of the Ad Hoc

Committee and invites them to continue to collaborate with the Ad Hoc Committee as well as among themselves in this field;

9. Urges that further efforts are made to ensure the active participation of non-governmental organizations in the Ad Hoc Committee in accordance with its Resolution 56/510 and Ad Hoc Committee Decision on the modalities of participation of the non-governmental organizations in the work of the Committee;
10. Further urges that efforts are made to ensure that accessibility with reasonable accommodation to facilities and documentation is improved for all persons with disabilities, in accordance with its Decision 56/473;
11. Requests the Secretary-General to continue to provide the Ad Hoc Committee with the facilities necessary for the performance of its work; and in this context invites the Secretary-General to reallocate resources to allow the United Nations Programme on Disability, to provide necessary support to the Ad Hoc Committee;
12. Encourages Member States to involve persons with disabilities, representatives of disability organizations and experts in preparatory processes contributing to the work of the AD Hoc Committee;
13. Encourages Member States to include persons with disabilities and/or other experts in the field in their delegations to the meetings of Ad Hoc Committee;
14. Decides to establish a voluntary fund to support the participation of non-governmental organizations, and experts from developing countries, in particular from the least developed countries, and invites Governments, civil society and the private sector to contribute to the voluntary fund;
15. Requests the Secretary-General to forward a comprehensive report of the Ad Hoc Committee to its fifty-eighth session.

VI. Adoption of the report of the Ad Hoc Committee

16. The Committee recommends to the General Assembly the adoption of the following draft resolution on the Ad Hoc Committee to consider proposals on Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities.
17. At the 19th meeting, on 9 August 2002, Jeanette Ndhlovu (South Africa), as Vice-Chairperson with rapporteurial responsibilities, introduced the draft report of the Ad Hoc Committee (A/AC.265/2).
18. At the same meeting, the Committee adopted the draft report to the General Assembly at its fifty-seventh session (A/AC.265/2), as orally amended.

8. APPENDIX 3 – DRAFT RESOLUTIONS

Draft Resolution A/56/L.82
Fifty-sixth session
Agenda items 8 and 119 (b)

Adoption of the agenda and organization of work: reports of the General Committee

Human rights questions: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Mexico, Netherlands, Portugal, Spain, Sweden and United Kingdom of Great Britain and Northern Ireland: draft resolution

Accreditation and participation of non-governmental organizations in the Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities

The General Assembly,

Bearing in mind its resolution 56/168 of 19 December 2001, in which it invited, inter alia, non-governmental organizations with an interest in the matter to make contributions to the work of the Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities,

Welcoming the fact that the Commission on Human Rights in its resolution 2002/61 of 25 April 2002¹ encouraged the Ad Hoc Committee to adopt working methods that would allow for full participation by relevant non-governmental organizations in its deliberations,

1. *Decides* that accreditation of non-governmental organizations to the Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities shall be granted to all non-governmental organizations enjoying consultative status with the Economic and Social Council;

2. *Also decides* that other non-governmental organizations, not accredited previously to the Ad Hoc Committee, may apply to the Secretariat for such accreditation, and that the applications should contain all the information on the competence of the organization and the relevance of its activities to the work of the Ad Hoc Committee specified in paragraph 44 of Economic and Social Council resolution 1996/31 of 25 July 1996; regarding those applications, it further decides that:

(a) The Secretariat shall circulate to all States members of the Ad Hoc Committee a list of new applications for accreditation received from non-governmental organizations no less than four weeks prior to each session of the Ad Hoc Committee, except for its first session, for which the Committee will consider applications received up to the beginning of and during the session;

(b) Accreditation shall be granted in advance of the session in accordance with the procedures and time limits set out in paragraph 46 of resolution 1996/31, on a non-objection basis, except for the first session of the Ad Hoc Committee, for which the time limit for the raising of an objection by a State member of the Ad Hoc Committee shall be no later than seven days from receipt of each list;

(c) The Ad Hoc Committee at the beginning of each of its sessions shall consider and take decisions on new applications against which a State member of the Ad Hoc Committee has raised an objection;

3. *Urges* relevant United Nations bodies, in recognition of the importance of the equitable geographical participation of non-governmental organizations in the work of the Ad Hoc Committee, to assist those non-governmental organizations that lack resources, in particular non-governmental organizations interested in the matter from developing countries and countries with economies in transition, in participating in the work of the Ad Hoc Committee;

4. *Requests* the Secretary-General to disseminate widely to the community of non-governmental organizations all available information on accreditation procedures as well as information on supportive measures for participation in the Ad Hoc Committee;

5. *Decides* that representatives from non-governmental organizations accredited to the Ad Hoc Committee may participate in the work of the Ad Hoc Committee and that the modalities of this participation will be decided by the Ad Hoc Committee during the first week of its first session;

6. *Also decides* that the above arrangements shall in no way create a precedent for other ad hoc committees of the General Assembly.

Draft Resolution A/56/L.83
Fifty-sixth session
Agenda items 8 and 119 (b)

Adoption of the agenda and organization of work: reports of the General Committee

Human rights questions: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Canada and Mexico: draft decision

Participation of persons with disabilities in the Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities

The General Assembly requests the Secretary-General to make, as needed and within existing resources, reasonable efforts to facilitate the participation by persons with disabilities in the meetings and deliberations of the Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities. Such efforts may include but are not limited to:

- (a) The facilitation of entry into United Nations premises by individuals serving as guides, personal assistants or interpreters for persons with disabilities;
 - (b) The holding of meetings in those United Nations conference rooms that are better equipped to facilitate that participation of persons with mobility-related and other physical disabilities;
 - (c) The adoption of a practice whereby documents distributed in the course of one meeting or shortly in advance of a meeting will not be discussed before the next scheduled meeting, thereby affording persons with visual disabilities sufficient time to convert those documents into a format readable by them;
 - (d) The adoption, to the extent necessary and possible, of measures to enable persons with hearing disabilities to participate in the deliberations of the Ad Hoc Committee.
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