

Women's IDC

Proposals on inclusion of gender aspects in a specific article and other relevant articles of the UN Convention (18.01.2006)

New proposals are printed in bold letters.

Women's IDC supports a combination of a specific article in part I of the Convention (article 6), concentrating on equality of women with disabilities, and specific references to women's issues in various relevant articles of the Convention (twin track approach).

Article 6

EQUALITY OF WOMEN WITH DISABILITIES

- *Article 6 should have the objective, to tailor basic obligations, as also included in part I of CEDAW, to disability in order to achieve equality between women and men and elimination of discrimination against women with disabilities.*
- *Important elements:*
 - *Elimination of multiple discrimination*
 - *Positive action to ensure exercise and enjoyment of human rights and fundamental freedom (art. 3 CEDAW)*
 - *The obligation to modify social and cultural patterns of conduct, including the elimination of prejudices and customary practices (art. 5 (1) CEDAW)*
 - *Strategy of gender mainstreaming*

Justification

Article 6 in part I of the Convention highlights the multiple discrimination of women with disabilities. (This is especially of great importance for women with disabilities in developing countries.) It rises the attention of governments and gives the chance that also departments for women's affairs are included into the implementation and monitoring of the present Convention.

CEDAW obliges State Parties to pay special attention to the goal to achieve equality of women with disabilities.

Article 8
RAISING AWARENESS REGARDING DISABILITY

1. States Parties undertake to adopt immediate and effective measures to:
 - (a) raise awareness throughout society regarding disability and persons with disabilities, and to foster respect for their rights;
 - (b) combat stereotypes and prejudices about persons with disabilities in all areas of life;
- (b bis) not perpetuate gender stereotypes and stigmatisation;**
- (c) promote awareness of the capabilities and contributions of persons with disabilities.
2. Measures to this end include:
 - (a) initiating and maintaining effective public awareness campaigns designed to:
 - (i) nurture receptiveness to the rights of persons with disabilities;
 - (ii) change negative perceptions and social prejudices towards persons with disabilities in all matters of [sexuality,] marriage, parenthood and family relations of persons with disabilities;
 - (iii) promote recognition of the skills, merits, abilities and contributions of persons with disabilities to the workplace and the labour market;
 - (b) fostering at all levels of the education system, including in all children from an early age, an attitude of respect for the rights of persons with disabilities;
 - (c) encouraging all organs of the media to portray persons with disabilities in a manner consistent with the purpose of this Convention;
 - (d) promoting disability-sensitive awareness training programmes.

Justification:

Women with disabilities are especially affected by stereotypes and stigmatisation, e.g. by neglecting their female role or able to fulfil any wanted social role.

Article 16
FREEDOM FROM EXPLOITATION, VIOLENCE AND ABUSE

1. States Parties shall take all appropriate legislative, administrative, social, educational and other measures to protect people with disabilities both within and outside the home, from all forms **and threats** of exploitation, violence and abuse.

Handwritten notes at top: "Handwritten notes" and "Handwritten notes" with arrows pointing to the text.

(1bis) For the purposes of this Convention, the term "violence" includes any act of violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to people with disabilities, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.¹

Handwritten note on left: "1672" with a bracket pointing to the text.

(1 ter) When implementing these measures States parties shall take particularly into account that women and girls with disabilities are at great risk of all forms of violence, neglect and exploitation in private or public settings², particular on a basis of sex and disability. Violence against women with disabilities shall be understood to encompass, but not be limited to, the following:

- (a) Physical, sexual and psychological violence occurring in the family or other private sphere, including battering, sexual abuse of female children with disabilities in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;
- (b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational and vocational institutions and elsewhere, trafficking in women and prostitution;
- (c) Physical, sexual and psychological violence caused by forced sterilization and abortion.
- (d) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs. ³

2. States Parties shall also take all appropriate measures to prevent exploitation and all forms of violence and abuse by ensuring, inter alia, appropriate forms of gender sensitive assistance and support for persons with disabilities and their families and caregivers, including through the provision of information and education on how to avoid, recognise and report instances of violence and abuse.

3. In order to prevent the occurrence of exploitation, all forms of violence and abuse, States Parties shall provide access to gender-sensitive remedies and ensure that all facilities and programmes designed to serve persons with disabilities are effectively monitored by competent and independent authorities.

¹ Adapted from Article 1 Declaration on the Elimination of Violence against Women, General Assembly resolution 48/104 of 20 December 1993

² from the second facilitator's text, August 2005, for article 16 para 1

³ Article 2 Declaration on the Elimination of Violence against Women

4. States Parties shall take all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disabilities who become victims of any form of exploitation, violence, or abuse, including through the provision of protection services **and accessible, acceptable and affordable shelters and services**. Such recovery and reintegration shall take place in an environment that fosters the health, welfare, self-respect, dignity and autonomy of the person **and takes into account the specific needs of women with disabilities**.
5. States Parties shall put in place effective legislation, **measures** and policies to ensure that instances of exploitation, violence, and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted.

Justification:

According UN sources women with disabilities are twice as much victims of gender based violence as women without disabilities. Furthermore they are subject to forced sterilisation and abortion. Therefore special references to their situation, including the various forms of gender based violence and gender-sensitive measures for victims of violence have to be included into this article.

Article 23

RESPECT FOR THE HOME AND THE FAMILY

1. States Parties to this Convention shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family and personal relations, and in particular shall ensure, on an equal basis with others:
 - (a) that persons with disabilities are not denied the equal opportunity to [experience their sexuality,] have sexual and other intimate relationships and experience parenthood ~~[in accordance with national laws, customs and traditions of general application];~~
 - (b) that the right of all [men and women] [persons] with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending **partners spouses** is recognised ~~[and that spouses should be equal partners];~~
 - (c) the rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children [and to have access to information, reproductive and family planning education, the means necessary to enable

them to exercise these rights and the equal opportunity to retain their fertility **on a non-discriminatory basis and on a basis of equality between men and women. to the extent that these are permitted by national laws of general application**].

2. States Parties to this Convention shall ensure the rights and responsibilities of persons with disabilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount. States Parties shall render appropriate assistance to disabled persons in the performance of their child-rearing responsibilities.
3. States Parties shall ensure that a child is not separated from his or her parents against their will, except when competent authorities determine, in accordance with national laws and procedures of general application and subject to judicial review or other forms of administrative review as established by law, that such separation is necessary in the best interests of the child. In no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents.

Justification:

The sentence "in accordance to national laws, customs and traditions" restricts this human right.

"Spouses" has to be replaced by "partners" to guarantee free choice of partnership and founding a family.

Article 24

EDUCATION

1. States Parties recognise the right of people with disabilities to education. With a view to achieving this right without discrimination, **and** on the basis of equal opportunity **and on a basis of equality between men and women**, States Parties shall ensure an inclusive education at all levels and life-long learning, directed to:
 - (a) the full development of the human potential and sense of dignity and self worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;
 - (b) the development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;

- (c) enabling persons with disabilities to participate effectively in a free society.
2. In realising this right, States Parties shall ensure:
- (a) that persons with disabilities are not excluded from the general education system on the basis of their disability, and that children with disabilities are not excluded from free and compulsory primary and secondary education on the basis of their disability;
 - (b) that persons with disabilities can access inclusive, quality, free primary and secondary education to the extent possible in the communities in which they live;
 - (c) reasonable accommodation of the individual's requirements;
 - (d) that persons with disabilities receive the support required, within the general education system, to facilitate their effective education. In exceptional circumstances where the general education system can not adequately meet the support needs of persons with disabilities, States Parties shall ensure that effective alternative support measures are provided, consistent with the goal of full inclusion;
 - (e) the development of initial and continuing training, which incorporates disability awareness, the use of appropriate communication means and modes, educational techniques and materials to support persons with disabilities, for all professionals and staff who work at all levels of education.
3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall:
- (a) facilitate the learning of Braille, alternative script, orientation and mobility skills, and facilitate peer support and mentoring;
 - (b) facilitate the learning of sign language and the promotion of the linguistic identity of the Deaf community;
 - (c) ensure that the education of children who are blind, deaf, and deaf/blind is delivered in the most appropriate languages and modes of communication for the individual, and in environments which maximise academic and social development.
4. States Parties shall take appropriate measures to ensure quality education to students with sensory disabilities through the employment of teachers who are fluent in sign language or Braille, including teachers with disabilities.
5. States Parties shall ensure that persons with disabilities may access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on the basis of equality of opportunity. To that end, States Parties shall render appropriate support to persons with disabilities.

6. States shall ensure that women and girls with disabilities are not denied their right to education and shall take steps to ensure their full enjoyment of that right in particular by ensuring that they benefit from educational curricula and skills development that do not perpetuate gender stereotypes and stigmatisation. States shall ensure an environment in which girls and women with disabilities can learn without harassment, with appropriate role models and with access to gender-sensitive services.⁴

Justification:

This amendments are necessary for the education levels and literacy rates of women with disability are significantly lower than those of men with disabilities.

Article 25

HEALTH

States Parties recognise that persons with disabilities have the right to the enjoyment of the highest attainable standard of physical and mental health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services, including health-related rehabilitation. In particular, States Parties shall:

- (a) provide persons with disabilities with the same range and standard of **affordable** health services as provided other persons, [including sexual and reproductive health services] and population-based public health programmes;
- (b) provide those health services needed by persons with disabilities specifically because of their disabilities including early identification and intervention as appropriate, and services designed to minimise and prevent further disabilities including amongst children and the elderly;⁵
- (b bis) **develop and disseminate policies and programs in fields such as family-planning and parenthood, pregnancy, childbirth and the post-natal period that are inclusive to women with disabilities and protect them against any form of coercive treatment to ensure that disabled women are enabled to decide freely and responsibly on the number and spacing of their children, without discrimination based on disability;** ⁶

⁴ cp. Second Facilitator's proposal, August 2005

⁵ Comment Lydia la Rivière Zydel: "This is a very tricky article. It could be interpreted very double! Does this mean early interventions, too. It should be rephrased differently."

⁶ cp. Second facilitator's text, August 2005, for Art. 23 or 25

- (c) provide **these accessible and acceptable** health services to persons with **disabilities**, as close as possible to people's own communities, including in rural and remote areas;
- (d) require health professionals to provide care of the same quality to persons with disabilities as to others, **taking into account the specific needs of women with disabilities,⁷** and on the basis of free and informed consent by, where necessary, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training, **accessible general information** and the promulgation of ethical standards for public and private healthcare;
- (e) prohibit discrimination against persons with disabilities in the provision of health insurance, and life insurance where permitted by national law, which shall be provided in a fair and reasonable manner.

Justification:

These amendments are necessary to enable women with disabilities to decide freely about motherhood.

Article 26

HABILITATION AND REHABILITATION

1. States Parties shall take effective and appropriate measures to enable persons with disabilities to attain their maximum independence, fullest physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life. To that end, States Parties shall organise, strengthen and extend comprehensive habilitation and rehabilitation services, particularly in the areas of health, employment, education and social services, in such a way that:
 - (a) habilitation and rehabilitation services and programmes begin at the earliest possible stage, **and** are based on the multidisciplinary and **gender-sensitive** assessment of individual needs;
 - (b) habilitation and rehabilitation services and programmes support participation and inclusion in the community and all aspects of society, and are available to persons with disabilities as close as possible to their own communities, including in rural areas;

⁷ co, Women's Caucus Response, August 2005

- (c) **these services do not discriminate against girls and women with disabilities, are gender-sensitive and promote access for girls and women with disabilities.**
- 2. States Parties shall promote the development of initial and continuing training for professionals and staff working in habilitation and rehabilitation services.

Justification:

Women with disabilities are underrepresented with even under 30% in developed countries in these areas. Therefore the proposed amendments are necessary.

Article 27

WORK AND EMPLOYMENT

States Parties recognise the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall set an example through employment of persons with disabilities in the public sector, and shall take other appropriate steps to safeguard and promote the realisation of the right to work, including measures to:

- (a) protect through legislation persons with disabilities with regard to conditions of recruitment, hiring and employment, continuance of employment, career advancement, working conditions, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, and the redressing of grievances;
- (b) ensure that persons with disabilities are able to exercise their labour and trade union rights in accordance with generally applicable national legislation;
- (c) enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services, and vocational and continuing training;
- (d) promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining and maintaining and returning to employment;
- (e) promote opportunities for self-employment, entrepreneurship and starting one's own business;

- (f) encourage employers to hire persons with disabilities through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures;
- (g) ensure that reasonable accommodation is provided to persons with disabilities in the workplace;
- (h) promote the acquisition by persons with disabilities of work experience in the open labour market;
- (i) promote vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities;
- (j) **ensure that women with disabilities are not denied their rights to work on a basis of equality and are protected from sexual or other harassment at the workplace. States parties shall ensure that the needs of women with disabilities during pregnancy, child birth and child care are met.**

Justification:

Three quarters of women with disabilities worldwide and up to 100% in some developing countries are excluded from the workforce. Additionally when working they often are subject to sexual exploitation.

Article 29

PARTICIPATION IN POLITICAL AND PUBLIC LIFE

States Parties shall guarantee to persons with disabilities their political rights and the opportunity to enjoy them on an equal basis with others **and shall take effective measures to ensure equal enjoyment of these rights by women with disabilities**, and **to this end** undertake to:

- (a) ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others in accordance with national laws of general application, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, by:
 - (i) ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;
 - (ii) protecting the right of persons with disabilities to vote by secret ballot in elections and public referenda, without intimidation, and to stand for elections and to hold office and perform all public functions at all levels of government;

- (iii) guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request allowing assistance in voting by a person of their own choice;
- (b) actively promote an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:
 - (i) participation in non-governmental organisations and associations concerned with the public and political life of the country, including the activities and administration of political Parties;
 - (ii) forming and joining organisations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.
- (c) **ensure that discrimination against women with disabilities in political and public life is eliminated and actively promote their participation in these fields, including where appropriate through the use of quotas, targets and other appropriate measures.**

Justification:

These amendments are necessary to ensure that women with disabilities get better opportunities to participate in political and public life for they are underrepresented in these areas so far.

Article 31

STATISTICS AND DATA COLLECTIONS

1. Where necessary, States Parties undertake to collect appropriate information, including statistical data, to enable them to formulate and implement policies to give effect to this Convention. The process of collecting and maintaining this information should:
 - (add before a)
 - (0) **involve both men with disabilities and women with disabilities and their organisations in the design of relevant indicators and the collection and analysis of the data;**

(0.1) enable States Parties to disaggregate all data on the basis of disability, impairment⁸ and sex and ensure that the data provides information on issues that may affect differently women with disabilities and men with disabilities;

- (a) comply with legally established safeguards to ensure confidentiality and respect for the privacy of persons with disabilities, including legislation on data protection;
- (b) comply with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles of statistics.

2. The information collected in accordance with this Article shall be used to assess the implementation of States Parties obligations under this Convention, and shall also be used to identify and address the barriers faced by persons with disabilities in exercising their rights.

Justification:

Men and women with disabilities have to be included in all stages of data collection to identify the relevant issues and to avoid a purely medical perspective. Only gender disaggregated data show the real situation of women with disabilities and make need for actions evident.

Article 33

NATIONAL IMPLEMENTATION AND MONITORING

[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 co-ordination mechanism to facilitate related action in different sectors and at different levels.

2. States Parties shall, in accordance with their legal and administrative system, maintain, strengthen, designate or establish at the national level a framework to promote, protect and monitor implementation of the rights recognised in the present Convention.]

3. Civil society, in particular ~~persons~~ **men and women with disabilities** and their **representative** ~~respective~~ organisations, shall be involved and participate fully in all levels of the monitoring process.

⁸ definitions according to WHO

Justification:

It has to be ensured that not only men with disabilities but also women with disabilities participate in all levels of the monitoring process. Thus there will be not only a male perspective included but also a female perspective.

Article 34
INTERNATIONAL MONITORING

- *Ensure that article 34 includes requirement that reporting provide specific information on the enjoyment of all rights by women and girls with disabilities.*
- *Ensure that women with disabilities are involved and participate fully in all levels of the monitoring process.*
- *Ensure that experts on the issues of women with disabilities are members of the Monitoring Committee.*
- *Include a provision regarding balanced gender representation of the Monitoring Committee, e.g.:*

In the composition of the Monitoring Committee consideration shall also be given to balanced gender representation on the basis of the principles of equality and non-discrimination.⁹

Justification:

These provisions are necessary to ensure that the female perspective is included in the monitoring process. Thus the chance to forget important areas of the life of women with disabilities is minimized.

⁹ Article 5 Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on 18 December 2002 by GA resolution A/RES/57/199