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ROK Proposal for Articles regarding Women with Disabilities

Chairman's Draft	ROK Proposal
Article 4 GENERAL OBLIGATIONS States Parties undertake to ensure the full realization of all human rights and fundamental freedoms for persons with disabilities without discrimination of any kind on the basis of disability. To this end, States Parties undertake	Article 4 GENERAL OBLIGATIONS States Parties undertake to ensure the full realization of all human rights and fundamental freedoms for persons with disabilities <u>inter alia by mainstreaming a gender perspective in all policies and programs relating to persons with disabilities without discrimination of any kind on the basis of disability.</u> To this end, States Parties undertake
Article 6 WOMEN WITH DISABILITIES	Article 6 WOMEN WITH DISABILITIES 1. <u>States Parties shall take all necessary measures to ensure the full enjoyment of all human rights and fundamental freedoms by women with disabilities.</u> 2. <u>States Parties shall take all necessary steps to enable women with disabilities to live in freedom, safety and autonomy by addressing the multiple discrimination and the particular disadvantages that they face on the basis of their gender and/or disability throughout their life span. These steps shall include, but not be limited to, the following:</u> (a) <u>States Parties shall include a separate reference to the protection of the rights of women with disabilities in laws pertaining to women and persons with disabilities to ensure that women with disabilities are able to live with dignity in freedom, safety, and autonomy.</u> (b) <u>States Parties shall ensure that data collection is done in a gender-</u>

	<u>disaggregated way and that women with disabilities are included in the design and implementation of data collection and programs.</u> (c) <u>States Parties shall take all necessary measures to protect women with disabilities from sexual exploitation, violence and abuse at home, institutional facilities and communities.</u> (d) <u>States Parties shall ensure that women and girls with disabilities are not deprived of their rights to education and take all necessary measures to provide education and skills development commensurate with their capabilities and needs.</u> (e) <u>States Parties shall prohibit any discrimination on the basis of disability and/or gender in the labor market, and take all appropriate measures in particular to ensure related services to women with disabilities in workplace during their pregnancy, childbirth and post-partum period.</u> (f) <u>States Parties shall ensure to protect the reproductive rights of women with disabilities including prohibition of forced sterilization, and to develop and disseminate policies and programs in fields such as family-planning and parenthood, pregnancy, childbirth and post-partum period that fully reflect the needs of women with disabilities.</u>
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Non-paper: **Why a separate article on women with disabilities is needed**

ROK delegation to the Ad Hoc Committee on a
Comprehensive and Integral International Convention on the
Protection and Promotion of the Rights and Dignity of
Persons with Disabilities
January 2006

The Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Right and Dignity of Persons with Disabilities has been working to draft a human rights convention for persons with disabilities. Based on the discussion of the previous six sessions of the Ad Hoc Committee, the Chairperson has prepared a draft text (Chair's text), which will serve as the basis of discussions when the Ad Hoc Committee meets for its 7th session in New York , 16 January-3 February 2006.

During the previous sessions of the Ad Hoc Committee, the delegation of the Republic of Korea has called for the inclusion of a separate article on women with disabilities in the convention, to complement the references to gender perspectives in the preamble and the general principles section of the convention. While many government delegations and NGO constituents have supported the proposal, many other delegations have opposed the inclusion of a separate article on women with disabilities. Reflecting the disagreement, the Chair's text provisionally assigns article 6 to women with disabilities, without indicating the content of the article, as initially proposed by the ROK delegation and amended during the discussions led by the facilitator for the article during the 6th session of the Ad Hoc Committee (see draft article attached).

The ROK's call for a separate article on women with disabilities arises from the following considerations.

- (1) The Ad Hoc Committee's mission is to draft a binding human rights convention, the implementation of which should result in maximum practical gains for the protection and promotion of the human rights of persons with disabilities. Persons with disabilities remain the most vulnerable and neglected of citizens in societies in

general. The situation for women with disabilities is far worse. The consequence of the double discrimination - for being a woman AND disabled – is often a situation of marginal existence where women with disabilities remain invisible in policies and to policy-makers, suffering abuses and neglect. Extra effort is required to bring women with disabilities to the same level of protection as men with disabilities.

(2) Meanwhile, the existing global norms on persons with disabilities, the most notable of which is the Standard Rules on Equalization of Opportunities for Persons with Disabilities (UN General Assembly resolution 48/96 of 1993), are entirely silent on the issue of women with disabilities. The Ad Hoc Committee has an invaluable opportunity to address the gap, to give visibility to women with disabilities and to provide effective, action-oriented language for the protection and promotion of their human rights.

(3) In this regard, general references to gender mainstreaming and gender equality in the convention are a must but insufficient. A stand-alone article addressing the specific needs of women with disabilities is needed, not only because the issue deserves special mention but also because without it, the national implementation of the convention risks leaving behind women with disabilities. For women with disabilities to fully benefit from the implementation of the convention, explicit recognition of their needs and the active involvement of the national machinery in charge of women's issues in the implementation of the convention are required. A stand-alone article would ensure this.

The reservations expressed against the inclusion of a separate article on women with disabilities have generally been along the following lines:

- The principle of universality should be upheld for a human rights convention. The contents of a convention for persons with disabilities must apply equally to all persons with disability. A separate mention of women with disabilities goes against this principle.
- Women with disabilities are a subgroup of persons with disabilities. A separate reference to them in the convention would lead to "listing", by opening up the gate for the inclusion of separate articles for every other subgroups of persons with disabilities in the convention.

- The prominence given to women with disabilities through a separate article puts other persons with disabilities at a disadvantage in securing their rights through the implementation of the convention.
- A separate article on women with disabilities could result in confining them to just that article in the implementation of the convention, and deny them the benefit of other provisions in the convention.
- There is no special need on the part of women with disabilities that warrants special mention in the convention and no need to restate rights that are mentioned elsewhere, such as in the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

In response to the above points, the ROK delegation offers the following views.

- The principle of universality should be upheld as much as possible in drafting an international convention on human rights. But the higher consideration should be that the convention brings about real benefits to the people it aims to protect. Without due regard for the latter, the relevance of the convention is diminished. Language can be included to explain that the particularities included in the text are designed to ensure that the universality is truly applicable to all intended beneficiaries. The inclusion of specific articles such as this one to address real needs on the ground is not without precedent. The Convention on the Rights of the Child includes a separate article of children with disabilities, out of due regard for the special needs of children with disabilities. The Convention on the Elimination of All Forms of Discrimination against Women includes a separate article on rural women. These separate articles in no way diminish the universality of these other conventions.
- Implementation of human rights conventions typically falls short of the universal language of the conventions in their application to women. Discrimination based on sex is prohibited in all the major human rights conventions. Still, a separate Convention on the Elimination of All Forms of Discrimination against Women was needed to fully address the issue. By the same token, a separate article on women with disabilities is needed for a

convention on the rights of persons with disabilities to more effectively address the distinct plight faced by women with disabilities, particularly as women with disabilities are not explicitly mentioned in the Convention on the Elimination of All Forms of Discrimination against Women.

- Gender is a dimension that cuts across all groups and subgroups. Women with disabilities comprise at least half of the population that the convention tries to address. Their special need may not be apparent, and a general reference to gender, while important, will not be as helpful to governments in implementing their obligations under the convention as a more specific articulation of the special needs of women with disabilities would be.
- It is hard to imagine that a separate article on women with disabilities would put men with disabilities at a disadvantage in the implementation of the convention. Indeed, the greater danger could be in the opposite direction: that women with disabilities would be confined to that article only, which is one of the arguments that have been made, as outlined above, against the inclusion of a separate article. The danger can easily be avoided through language in the preamble and in the introduction to a special article stating that the article in no way diminishes the applicability of all other articles in the convention to women. Such language can be easily adopted from other conventions, which have addressed this same concern directly by including reference to it in the text.
- Women with disabilities have special needs in securing their safety from sexual exploitation, violence and abuse as well as in exercising their reproductive rights. Furthermore, due to the existing inequality, they are also in need of special assistance in gaining access to education and employment. These needs are not specifically mentioned in the Convention on the Elimination of All Forms of Discrimination against Women, or any other conventions. If they are not explicitly mentioned in a separate article in this convention, they will not be mentioned anywhere. In the same way that Convention on the Elimination of All Forms of Discrimination against Women articulates with greater precision the equality rights of women that are set forth in the international human rights covenants, this Convention should articulate with greater precision the equality rights of women with disabilities, which are not specifically articulated in CEDAW, or elsewhere.

In light of the above, the ROK delegation strongly believes that the convention on the rights of persons with disabilities should include a separate article on women with disabilities. Such an article would greatly enhance the value and relevance of the convention. The ROK delegation seeks the support of interested delegations on this matter.