

NEW

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 **(DELETE: "[experience their sexuality,]")** have sexual and other intimate relationships and experience parenthood in accordance with national laws, customs and traditions of general application

(JUSTIFICATION: The IDC proposes the removal of the first bracket because there is a close connection between experiencing sexuality and having sexual and other intimate relationships. Also the phrase experience their sexuality challenges more directly the stereotypical belief that persons with disabilities are asexual beings).

- (b) that the right of all **(DELETE: [men and women]) (DELETE SQUARE BRACKETS [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 spouses is recognized **(DELETE: [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 **(Delete Square BRACKETS)** [and to have access to information, reproductive and family planning education, the means necessary to enable them to exercise these rights and the opportunity to retain their fertility.] **(Delete " to the extent that these are permitted by national laws of general application Replace it with "on an equal basis with others") (Add "In no case shall persons with disabilities be subjected to compulsory sterilization ".)**

(JUSTIFICATION: The IDC has asked for right to have access to reproductive and family planning information wherever such information is available to other members of the population. It has asked for the right to retain fertility on an equal basis with others but in view of the fact that persons with disability are commonly subjected to compulsory sterilization it has sought an explicit prohibition of involuntary sterilization).

- (c) 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.

- (d) **(DELETE:** "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: If there are general situations and universal procedures when children can be separated from their parents then the same will also apply to persons with disabilities. To make express provision for that kind of separation in the convention gives the impression that separating parent from child is a special concern in the context of disability. It is for that reason that the IDC draft has sought the deletion of the first part of the paragraph and asked that the article should only include the second part of the paragraph.)

(New 4 "Recognising the right of children with disabilities to family life, States Parties shall undertake:

- (a) to provide early and comprehensive information, services and support to children with disabilities and their families, to promote children's optimum development and to ensure that they are able to be cared for within their family, be an active participant in family life, and to enable their full social inclusion, and equality of opportunity;
- (b) where the immediate family is unable to care for a child with disabilities, to make every effort to provide alternative care within the wider family, and failing that, within the community;
- (c) to provide education and support to families and other caregivers to promote positive attitudes towards disability, prevent concealment, abandonment and neglect of children with disabilities and facilitate inclusion.)

(JUSTIFICATION: Many children with disabilities are still denied the right to family life, either because they are placed in institutions or because they live at home and are excluded from most aspects of family activity. This amendment seeks to introduce obligations on governments to provide the necessary support

and education to families to promote the realisation of the right to family life and strengthen the capacities of families to care for their children. It also seeks to strengthen obligations to challenge the negative attitudes within families and communities, which lead to the denial of rights for children with disabilities.)
