

WORKING GROUP OF THE AD HOC COMMITTEE ON A COMPREHENSIVE AND INTEGRAL CONVENTION ON THE PROTECTION AND PROMOTION OF THE RIGHTS AND DIGNITY OF PERSONS WITH DISABILITIES

1st Session (New York, 5 to 16 January 2004)

Introduction

The 1st session of the Working Group of the **Ad Hoc Committee on a Comprehensive and Integral Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities** took place at the United Nations (UN) headquarters from 5 to 16 January 2004. The Working Group was comprised of representatives from 27 member States, 12 non-governmental organisations (NGOs) and a representative of national human rights institutions. The 27 members States are as follows: **Cameroon, Canada, China, Colombia, the Comoros, Ecuador, Germany, India, Ireland, Jamaica, Japan, Lebanon, Mali, Mexico, Morocco, New Zealand, the Philippines, the Republic of Korea, the Russian Federation, Serbia and Montenegro, Sierra Leone, Slovenia, South Africa, Sweden, Thailand, Uganda and Venezuela.** Among the 12 non-governmental organisations (NGOs) were representatives from **Disability Australia Limited, Disabled Peoples' International (DPI), Disabled Peoples' International (Africa) (DPI-Africa), European Disability Forum (EDF), Inclusion International (II), Inter-American Institute on Disability (IAID), World Federation of the Deaf-Blind (WFDB), World Federation of the Deaf (WFD), and the World Network of Users and Survivors of Psychiatry.** The **South African Human Rights Commission** represented national human rights institutions.

The Working Group met with the aim of preparing and presenting a draft text of a convention, which would be the basis for negotiation by member States. The Working Group took into account all previous contributions submitted to the Ad Hoc Committee by States, observers, regional meetings, relevant UN bodies, regional commissions and intergovernmental organisations, as well as civil society including NGOs. Ambassador **Luis Gallegos Chiriboga** (Ecuador) the **Chairman of the Ad Hoc Committee** opened the first session of the Working Group. At the opening session, the Working Group endorsed the appointment of Ambassador **Don MacKay** (New Zealand) as the **Co-ordinator of the Working Group.**

Background

The Working Group had before it draft proposals submitted by the Chairman of the Ad Hoc Committee, **China, the European Union (EU), India, Mexico, New Zealand and Venezuela.** Other documents submitted by member States included **Australia's** approach to a draft convention, **Costa Rica's** contribution of aspects to be included in the convention, **Japan's** position paper, and the **United States of America's** paper on disability rights law measures in the United States of America (USA). Also, documents were submitted by national human rights institutions based on the African Regional Workshop held in Uganda (5 to 6 June 2003) and the Commonwealth and Asia Pacific Region Workshop held in India (26 to 29 May 2003). In addition, there was a draft based on discussions held in Bangkok (14 to 17 October 2003) and the seminar of Quito (9 to 11 April 2003) as well as position papers and statements made by the International Labour Organisation (ILO), United Nations International Children's Education Fund, DPI, DPI-Japan, EDF, II, International Disability Alliance, Rights into Action-the International Network of Young Disabled People, World Blind Union (WBU), World Network of Users and Survivors of Psychiatry (WNUSP). These various documents were put together as a **Compilation of proposals for a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities (A/AC.265/2003/CRP/13)**¹.

¹ Also see http://www.un.org/esa/socdev/enable/rights/a_ac265_2003_crp13.htm for text.

Overview

With the compilation of various proposals before the Working Group, the meeting got underway with the Co-ordinator reiterating the aim, namely: preparing and presenting a draft text that would be the basis for negotiations at the next **Ad Hoc Committee**². In addition, the Co-ordinator suggested the use of the Chairman's draft proposal as a framework to guide the discussions of the Working Group with the underlying assumption that all the texts in the compilation have equal status. There was general agreement to the Chairman's suggestion and the two-week Working Group meeting discussed the following aspects of the convention: (a) Preamble, (b) Objectives and General Principles, (c) Scope and Definitions, (d) Guarantee of Equality and Non-Discrimination, (e) Guarantee of Specific Rights and (f) National Implementation Mechanisms.

Working Group meeting

In realising the mandate set out for the Working Group, **Ireland** stressed the need to avoid re-drafting rights set out in already existing international conventions and/or creating new rights that do not exist elsewhere. The **WNUSP** emphasised that organisations of people with disabilities who constituted the Working Group come with experience in specific disability issues that may or may not represent the concerns of all persons with disabilities, and for this reason all their views need to be heard.

The general format of the discussion was that the text from the Chairman's draft proposal relating to each aspect of the convention listed above was open for discussion. The discussion focused on the content of each of the aspects with delegates citing relevant and appropriate sections from other proposals to be included in the draft proposal. The delegates in the Working Group discussed the merits of inclusion or deletion of specific language, concepts as well as position statements reflecting the needs of their constituents, in particular, organisations of persons with disabilities. In the event of a lack of general consensus on any aspect of the draft convention among members of the Working Group, the Co-ordinator suggested small group meetings that were held outside the Working Group and facilitated by delegations that had volunteered to do so. The purpose of the small group meeting was to encapsulate the differing views presented by delegates and to offer an amended text of the aspect discussed to the Co-ordinator. The proceedings of the small group meetings were then discussed in the Working Group with documents from the small group meetings made available by the Co-ordinator.

By the end of the two weeks of discussions, the Working Group had developed a compilation of draft articles for consideration by the Ad Hoc Committee (A/AC.265/2004/WG/CRP.4 and Add. 1 - Add. 5).

Draft articles³

1) Preamble

There was general agreement that there would be reference to the six principal human rights conventions and the Working Group recognised that the implementation of the convention is primarily a national responsibility. The Working Group also agreed that national compliance with the provisions of the convention should not be conditional on receiving international development aid or assistance. Nonetheless, several delegations expressed that **international**

² The third Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities is to take place May 24 2002 - June 4 2004 at UN headquarters in New York. The first meeting of the Ad Hoc Committee took place from 29 July to 9 August 2002. The second session was held from 16-27 June 2003.

³ Also see Landmine Survivors Network's comprehensive summaries of Working Group discussions of draft articles at <http://www.worldenable.net/rights/wg1meetsummary04.htm>

co-operation should be considered as an important means to support national efforts for the realisation of the goals and objectives of the convention and to facilitate its implementation. Among them, **Morocco** expressed support for inclusion of language promoting existing and new forms of international co-operation, to support national efforts in the implementation of the convention. **Landmine Survivors Network (LSN)** expressed its support for the inclusion of the principle of international co-operation. **India** expressed that in recognising the difference in the level of development and resources available among developing countries it would be vital for the success of the convention to include international co-operation. The **WNUSP** offered its support for the principle of international co-operation as a way to guarantee that persons with disabilities in all parts of the world will fully enjoy all human rights.

Sierra Leone recommended that among the objectives there should be some reference to international co-operation and development, as one cannot enjoy rights if there are no means to make this possible. The **IAID** stated that persons with disabilities continue to be excluded from development in the context of public policy and government programmes, thus it is of great importance to include international co-operation in the objectives. **South Africa** emphasised the importance of regional and international co-operation, and **Serbia and Montenegro** suggested that the concept of international co-operation be included in the Preamble.

Lebanon stated that the principle of international co-operation should clearly define the partnership between States and other entities, including international organisations. Further support for inclusion of the principle of international co-operation was provided by **Mexico**, indicating that the element of international co-operation, which is not just in the form of assistance or charity, but also the exchange of knowledge and experience, should be in the text. **Jamaica** reiterated that international co-operation is intimately linked to accessibility, mobility and universal design and should be considered in negotiations for development aid. Echoing similar views, the **EDF** indicated that inclusion of the principle of international co-operation could put to an end to using international development aid for developing/building programmes and structures not accessible for persons with disabilities.

Furthermore, the **DPI** highlighted the fact that provision of rehabilitation service is often left by Governments to local NGOs with no resources. These organisations operate at a very small scale on "*pilot projects that are never up-scaled*". These initiatives are too few and far between to make an impact on the lives of persons with disabilities. Within this context, the **DPI** considered that inclusion of the principle of international co-operation can be useful to support initiatives such as provision of rehabilitation services. In addition, the **DPI** suggested that international co-operation does not have to be in the form of funds, but also comprises technical assistance and sharing of experiences.

Despite widespread support for inclusion of the principle of international co-operation, **Canada** and **Ireland** highlighted that including the principle in the Preamble could change the objective of the convention and narrow the possibility of States being party to this convention. The final draft proposal provided to the Ad Hoc Committee represents views expressed both in favour of and against inclusion of the principle of international co-operation⁴.

2) Purpose and General Principles

Without any exceptions, all the delegations emphasised that persons with disabilities should enjoy all human rights. Most importantly, there was considerable agreement on principles of non-discrimination, equality of opportunity, autonomy, participation and inclusion being addressed within the aspects to be outlined in this section of the convention. Among other principles delegations discussed included self-determination (**Thailand**, **Rehabilitation**

⁴ See Annex II of the Report of the Working Group for "summary of the discussions held regarding the issue of international co-operation to be considered by the Ad Hoc Committee" at <http://www.un.org/esa/socdev/enable/rights/ahcwgreportax2.htm>

International (RI)), diversity and the right to be different (**WNUSP**). Furthermore, delegations from **Morocco**, **India**, and **Mexico** expressed need for inclusion of language specific to international co-operation to support national efforts in order to facilitate effective implementation of human rights entitlements of persons with disabilities.

The **Canadian** delegation noted that self-determination has special meaning in international law and therefore suggested the inclusion of components related to self-determination within the principle on autonomy. Also, the **Canadian** delegation expressed concern that including a right to be different would be creating a new right. The **Canadians** and the **Irish** also reiterated their concerns about the inclusion of the principle on international co-operation under this section. **Ireland** expressed that the inclusion of such a principle could be used construed as an excuse for non-compliance by member States in the effective implementation of the entitlements afforded by the convention. In support of its views, Ireland insisted that it did not believe that the principle of non-discrimination or autonomy should be contingent on receipt of international co-operation. The draft proposal provided for the consideration by the Ad Hoc Committee represents these views and is listed under Article 1 outlining the Purpose and Article 2 outlining the General Principles.

3) Definitions

The discussion on definitions of disability and persons with disability drew mixed reactions. **Ireland** asserted that, for the purposes of the convention, it was not necessary to define disability. The **Irish** delegation stressed that an attempt to define disability may lead either to a very restrictive interpretation of the convention as a whole, or would be so vague that it will make it virtually impossible for member States to implement entitlements based on such a definition. However, **Colombia** suggested using the definition provided by the World Health Organisation's (WHO) **International Classification of Functioning, Disability and Health** (ICF). Discussion on whether or not to include a definition was inconclusive. However, there was wide spread agreement that if a definition is included, it should be one that reflects the social model of disability, rather than the medical model.

Venezuela proposed that the convention include a definition of persons with disabilities because they are the subjects of the convention, and proposed the inclusion of the definition provided by their draft proposal. Since the definition does not mention psychosocial disabilities, the **WNUSP** was not in favour of the Venezuelan definition.

Furthermore, **Ireland** considered defining "*language*" as limiting and unnecessary. On the definition of "*communication*", the **WFDB** suggested the inclusion of the reference to finger Braille. The draft proposal provided for consideration by the Ad Hoc Committee represents these views and is listed under Article 3 outlining the Definitions discussed above.

4) General Obligations

Japan suggested inclusion of two elements of general obligations of the States in the convention. They include condemning discrimination against persons with disabilities and agreeing to a policy to pursue elimination of discrimination. Furthermore, delegations from **Colombia**, **Germany**, and **China** stressed the importance of States to have legal, judicial, and administrative measures to eliminate discriminatory practices. **Rehabilitation International** (RI), **EDF**, **Slovenia**, and **WSNUP** called for mainstreaming of disability in policy decisions, and the inclusion of persons with disability in the conception, implementation, design and review of policy decisions.

Sweden indicated that collection of statistics and data on persons with disabilities was not a right and expressed reservations on the inclusion of such a provision in the general obligations of the States. On the issue of statistics and data collection, the **Republic of Korea** and **Venezuela** indicated that the compilation of disability data could help in improving quality of life of persons with disabilities, but could conflict with the privacy of persons with disability.

India supported the concept of **universal/inclusive design** and sought its inclusion in the general obligations of States. **Lebanon** suggested that States should not only be required to promote the "*availability*" of universal design, but they should also be obliged to promote its "*use*". Addressing this concept, the **WFD** asserted that information dissemination should also be taken into account and the **WFDB** underlined the need for all devices to be designed from the beginning for all. The draft proposal provided for consideration by the Ad Hoc Committee represents these views as well as the issue of whether or not to include language regarding progressive implementation of economic, social, and cultural rights (issue raised by Sweden) and is listed under Article 4 outlining the General Obligations of the States.

5) Elimination of Stereotypes and Prejudices

The **Republic of Korea** suggested changing the title to read Promotion of Public Awareness as it thought the current title gives negative nuance to the issue of awareness raising. The **WBU** asserted that the portrayal of persons with disabilities in the media should be included in the awareness campaign section of this article. The draft proposal provided for consideration by the Ad Hoc Committee represents these views and is listed under Article 5.

6) Statistics and Data Collection

Sweden indicated that collection of statistics and data on persons with disabilities was not a right and reiterated their reservation about inclusion of such a provision in the General Obligations of the States. On the issue of statistics and data collection, the **Republic of Korea**, the **LSN** and **Venezuela** supported inclusion of a provision indicating that the compilation of disability data could help in improving quality of life of persons with disabilities, but could conflict with the privacy of persons with disability. Similar views were expressed by the **WNUSP**, which reiterated that information collected should be used only for statistical purposes and suggested that the article include language that ensures and protects the right to privacy. The draft proposal provided for consideration by the Ad Hoc Committee represents these views and is listed under Article 6.

7) Equality and Non-Discrimination

While **Ireland**, the **EDF**, and **Mexico** thought that the convention should make specific reference to both **direct and indirect discrimination**, the **WNUSP** thought that the distinction between the two forms of discrimination was not sufficiently clear to be included in the convention. **Canada** cautioned that the distinction was creating confusion and believed strongly that the qualifications should apply to discrimination in general. The **WFD** and the **WFDB** underscored that discrimination of persons with disabilities on the basis of language must be included.

During the discussion on equality and non-discrimination the concept of reasonable accommodation was addressed. The **RI** expressed support to mention that a failure to "*reasonable accommodation*" should itself constitute discrimination. Furthermore, the **RI** delegation stressed that the process for determining what constitutes a "*reasonable accommodation*" should be individualised (centred on the needs of the person with disability) and "*interactive*" (between the individual and the relevant entity concerned, for instance school, work place, community, etc.). There was general agreement that the concept of reasonable accommodation be included in the convention.

A controversial paragraph in the final draft proposal to be considered by the Ad Hoc Committee includes language that has not appeared in any of the core international human

rights treaties⁵. The paragraph states that "*discrimination does not include a provision, criterion or practice that is objectively and demonstrably justified by the State Party by a legitimate aim and the means of achieving that aim are reasonable and necessary*" (para 3). The Working Group discussed three options in this regard including that the paragraph should not appear in the text at all; that the paragraph should be included only as an exception to the specific prohibition on indirect discrimination, and that the paragraph should apply to all forms of discrimination. In addition to those options, several members proposed adding the phrase "*and consistent with international human rights law*" to the end of the paragraph.

8) Right to Life

While the **WFDB** stressed the need for the right to life in this convention, **Ireland** recalled that the **EU** draft proposal does not include an article on the right to life, partly because attempting to define its content would risk undermining this right. **Germany** concurred with **Ireland's** statements, but noted that due to its own history, which includes the mass killing of persons with disabilities, it has a strong interest in an article on the right to life. On a separate note, the **LSN** suggested that the convention should contain a separate draft article on the protection of the rights of persons with disabilities in armed conflict, similar to the approach taken in Article 38(4) of the **Convention of the Rights of the Child**. **Lebanon** and the **RI** were in support of the suggestion made by the **LSN**. The draft proposal provided for consideration by the Ad Hoc Committee represents these views and is listed under Article 8.

9) Equal Recognition as a Person before the Law

The delegations from **Ireland** and **Sweden** thought inclusion of the term "*full legal capacity*" amounted to modifying existing rights/creating a new one, which it did not support. In addition, **Canada** expressed reservation about the term "*full legal capacity*", as children are not generally accepted as having full legal capacity. **Serbia and Montenegro** echoed concerns similar to those of **Ireland**, **Sweden** and **Canada**. In particular, the delegate stressed that the issue of "*full legal capacity*" was dealt with differently in national jurisdictions. However, **II** indicated the article was a key element of the convention and a "*revolutionary proposal*", and asserted that the language of this article would make most European Governments abolish their "*old-fashioned guardianship laws*". On a separate note, the **WBU** and **Jamaica** highlighted the need to include language that addresses discrimination, particularly against people with visual impairments. The **WBU** objected to any language that excluded people with visual impairments by specifying the need for signing documents. The draft proposal provided for consideration by the Ad Hoc Committee represents these views and is listed under Article 9.

10) Liberty and Security of the Person

The **WNUSP** asserted that persons with disabilities have the same rights to the same procedures as all other people who are potentially deprived of liberty. Thus, the delegate of the **WNUSP** argued that that there was no need, and it is indeed discriminatory, to establish a special case for persons with disabilities who are subjected to arrest and detention. **Sweden** suggested that a distinction be drawn between lawful means of depriving someone of liberty and arbitrary arrest and detention. **Lebanon** drew the distinction between legislation and practice of how disabled people are more likely to be subject to unjustified arrest or detention. To strengthen the article, it was suggested that the Ad Hoc Committee consider adding a provision that obliges States to reform laws and procedures that perpetuate the arrest and

⁵ This concept, however, has been developed in the jurisprudence of the treaty bodies. The Human Rights Committee has included it, for example, in its general comment on Article 26 of the International Covenant on Civil and Political Rights.

detention of persons with disabilities on the basis of disability. Furthermore, since there was no general agreement reached regarding the interpretation of liberty and security of persons, the Working Group requested that the Ad Hoc Committee consider whether civil and criminal cases should be dealt with separately. The question on whether the text needs further elaboration on civil cases of deprivation of liberty was also referred to the Ad Hoc Committee. The draft proposal provided for consideration by the Ad Hoc Committee represents these views and is listed under Article 10.

11) Freedom from Torture or Cruel, Inhuman or Degrading Treatment or Punishment

Ireland stated that "*in the most exceptional cases*" forced intervention might be necessary, in which case the principle of protection⁶ of persons with disabilities would apply. However, **Canada** recommended that the question of intervention is more appropriate in a separate article or in the article on health, and should be qualified as "*medical intervention*". Echoing similar concerns, **Slovenia** supported the need to qualify forced interventions, highlighting the exceptional nature of these interventions. The draft proposal provided for consideration by the Ad Hoc Committee represents these views and is listed under Article 11.

12) Freedom from Violence and Abuse

The **WNUSP** asserted that it was important that this convention reflect the full range of protections against violence and abuse, including appropriate measures with legal remedies and efforts to promote social integration. The **WFDB** highlighted abuse that takes place in State-supported institutions and suggested inclusion of language that encapsulated risks of violence and abuse both within and outside the home. The **LSN** suggested inclusion of language that encourages States to make services available to promote physical and psychological recovery of persons with disabilities who have been subjected to violence and abuse. The draft proposal provided for consideration by the Ad Hoc Committee represents these views and is listed under Article 12.

13) Freedom of Expression and the Right to Access to Information and Communication

The **South African Human Rights Commission (SAHRC)** observed that access to information and communication forms an integral part of equality. The **IAID** stressed the essential role that communication and access to information plays in the lives of all people and reiterated experiences shared by members of the Working Group who are visually impaired. In addition, the **WFD** highlighted the need to include language that would guarantee deaf and hard-of-hearing children use of their own national sign language. Furthermore, the **DPI** stressed the need of persons with disabilities to be able to communicate using a form of communication of their own choosing. On the issue of a different mode of communication, **Thailand** emphasised that the failure to mention information and communication technology in this article would limit choices of persons with disabilities. Delegations from **South Africa** and **India** highlighted the cost involved in making available various modes of communication. **Venezuela** stressed the need to develop strategies to encourage mass media to make their services accessible to persons with disabilities and the **WFDB** proposed provision and training of live assistance (i.e., personal assistance) in order to guarantee access to information. The draft proposal provided for consideration by the Ad Hoc Committee represents these views and is listed under Article 13.

⁶ In regard to the principle of protection, the State must ensure that the person with a disability experience no harm as a result of being recipients of services. For example, restrictions on aversive interventions and preferences/presumptions in favour of positive behavioural supports, restrictions on electro-conclusive shock therapy, and restrictions on the use of psychotropic medications or physical restraints and seclusion reflect the principle of protection.

14) Privacy, Home, Protection of the Family and the Right to Marry

Ireland recommended that privacy be addressed in an article that was separate from an article on marriage, family, and relationships. The Irish delegation also noted that the right to marriage is a right, and not a subset of another right. **Germany** concurred with Ireland that members look to Article 16 in the Convention on the Elimination of All Forms of Discrimination Against Women and Article 17 in the International Covenant on Civil and Political Rights for guidance on wording for this article, as well as Standard Rule 9. In particular, the German **delegate** proposed that the issue of sexual violence be addressed in this article as women with disabilities are at particularly high risk.

The **DPI** highlighted that the international human rights framework does not explicitly link the right to family with persons with disabilities and that Standard Rule 9 addressed a range of these issues. The delegate said it was essential that human rights law be strengthened so that persons with disabilities can enjoy that right.

India proposed that the rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children on an equal basis with other persons be in accordance with family-planning policies of member States. The **Indian** delegation also asserted the failure of parents to care for their children may in some cases be directly attributable to disability. In this context, **New Zealand** sought use of positive language reflecting the intent that children should stay with parents when possible, including parents with disabilities. **New Zealand** suggested language that guarantees appropriate assistance to parents with disabilities to enable their children to live with them. The draft proposal provided for consideration by the Ad Hoc Committee represents these views and is listed under Article 14.

15) Living Independently and Being Included in the Community

II expressed strong support of including the principle that persons with disabilities are not obliged to live in an institution or in a particular living arrangement. However, **India** expressed concern that the words "*living independently*" in the title and chapeau of this draft article do not reflect the cultural norm in the Asian context, where extended families are important. The **Indian** delegate worried that the existing title could be construed as an attempt to separate persons with disabilities from their families. In addition, **India** suggested that the number of people (in India) who have severe/multiple disabilities may be greater than the population of some countries and it would not be possible to extend the financial support necessary for independent living. In this context, **DPI-Africa** stressed, "*institutions are not an answer to poverty*" and urged participants to question the notion that institutions are cheaper than having persons with disabilities living in the community.

Among other issues discussed, the **WFDB**, **Lebanon**, and the **Republic of Korea** suggested that the State guarantee provisions such as personal assistance for people with disabilities to live independently and be included in the community. However, **Thailand** raised doubts on whether it would be feasible for States to implement such a provision. **Colombia** echoing similar concerns suggested that, owing to cost, provision of personal assistance be included as a possibility or an option for the State. The draft proposal provided for consideration by the Ad Hoc Committee represents these views and is listed under Article 15.

16) Children with Disabilities

Ireland cautioned the Working Group against providing for less favourable rights than in the **Convention on the Rights of the Child**. Echoing similar views, the LSN noted that the Convention on the Rights of the Child represents a significant development in establishing the principle of autonomy in relation to children with disabilities. The main source of this article is the Convention; however, this draft article is a specific elaboration of children's issues in a

convention where the rest of the text deals with disabilities. In contrast, the Convention does not otherwise deal with disabilities. The draft proposal provided for the consideration by the Ad Hoc Committee represents these views and is listed under Article 16.

17) Right to Education

Germany referred to the Standard Rule 6 and General Comment 5 and 13 of the **International Covenant on Economic, Social and Cultural Rights**, which favour the issue of mainstreaming as a matter of non-discrimination in education. Furthermore, **Germany** commented that it would be an oddity if this convention does not reflect the principle of mainstreaming, as it is a standard developed under international law. The **RI** delegate, echoing similar views, was unequivocal in stating that it was important for the international community to voice support for an exceptionally strong principle of mainstreaming to reverse the exceptionally strong principle of separate but equal, which is so embedded in national laws and policies around the world. In this context, delegations of the **WBU** and **WFDB** expressed concern over the harm inclusive education has caused the **WBU**, and in particular highlighted the harmful effects children with visual impairments endured due to **United Nations Educational, Scientific and Cultural Organisation** (UNESCO) promotion of inclusive education.

Several delegations stressed importance of access to regular and special education services for children with disabilities and highlighted the need to strike a balance between special education and inclusive education. These delegations include the **EDF**, **Thailand**, **Mexico**, **Uganda**, and **Disability Australia Limited**. In particular, **Thailand** was resolute on the article, preferring any particular model of service delivery system, and suggested that the convention avoid referring only to "*regular*" education.

Among other issues, the need to accommodate individual needs and to provide choice was stressed by **Germany** and **Canada**. In this context, there should be provisions specific to children with sensory disabilities to allow, for example that deaf children be taught in sign language. Furthermore, the **WFD** stressed the need for the convention to ensure that children without disabilities learn about disability and reflect the issue of diversity. The draft proposal provided for consideration by the Ad Hoc Committee represents these views and is listed under Article 17.

18) Participation in Political and Public Life

Ireland stated that Article 25 of the **International Covenant on Civil and Political Rights** on voting and elections is confined to citizens, and pointed out that it recognises a "*right to vote*" and "*an opportunity to be elected*" (and not a right to be elected). Ireland emphasised that this be the key principle taken into account when drafting the article on participation in political and public life. **Sierra Leone** highlighted procedural constraints (i.e. requirement of fingerprints, yet many voters did not have hands) prohibiting amputees from participating in political and public life. Similar procedural constraints were highlighted by **DPI-Africa**, recalling that in South Africa not all disabled people could vote in secret, especially people with visual impairments, while the **WFDB** noted that most people with deaf-blindness do not get information about voting rights and suggested inclusion of language in the draft article supporting provision of accessible voting mechanisms that allow people with deaf-blindness to exercise their voting rights. Among other issues, **Canada** and **Ireland** suggested distinguishing differing levels of obligations appropriate for State and non-State entities in this draft article. The draft proposal provided for consideration by the Ad Hoc Committee represents these views and is listed under Article 18.

19) Accessibility

The **LSN** highlighted accessibility in the external environment (i.e. buildings and roads) and the removal of barriers that are external to persons with disabilities. The **WFD** underscored

that accessibility also included modes of communication (i.e. provision of interpreter services for persons with disabilities). In this context, the **WNUSP** and **II** stressed the need to include provisions in the article that would guarantee human and animal assistance (i.e. readers and guide dogs) to facilitate accessibility to public buildings and facilities.

Other issues discussed included whether the concept of public buildings, facilities and services should also extend to privately owned or developed buildings, facilities and services intended for public use, and what level of obligation State parties should place on private owners or developers to ensure access to persons with disabilities. In this context, **Thailand** suggested that the draft article could state "*building and services intended for public use*", thus covering buildings, facilities and services developed by both the private sector and the public. Adding on **Lebanon** highlighted the growing trend of privatisation (i.e. public facilities, services, and buildings being developed by private sector using public funds) and indicated that it limited State's powers in enacting measures related to accessibility. The draft proposal provided for the consideration by Ad Hoc Committee represents these views and is listed under Article 19.

20) Personal Mobility

Canada and the **LSN** stressed the need to distinguish personal mobility from the broader right to liberty and movement as per the provisions of Article 12 (1) of the International Covenant on Civil and Political Rights. Within the context of this draft article, the delegations from **Uganda** and **Mexico** made two specific proposals to be included as follows: (a) addressing awareness raising about mobility issues for persons with disabilities so they are aware of the options available to them, and (b) that the staff persons working with persons with disabilities should be provided training in mobility skills. The draft proposal provided for consideration by the Ad Hoc Committee represents these views and is listed under Article 20.

21) Right to Health

The **RI** stressed the importance of realising that the majority of people with disabilities are not in ill health, so the right to health that they enjoy is the same right to health that everyone else enjoys, except that they are not delivered appropriately. Echoing similar views, the **WNUSP** stressed that persons with disabilities should have access without discrimination to a full range of health care services that should not be exclusive to the person's disability. Furthermore, the **WNUSP** added that the principle of informed consent on the individual level with respect to each treatment should be included in the draft article.

On the issue of "*highest attainable standard of health*", **India** and **Mali** expressed concern. **India** pointed out that rights must correspond to the ability of States to fulfil them, at the same time reiterating **India's** commitment to the obligation to ensure persons with disabilities have access to services on the same level as the general population does. The delegations of the **Disability Australia Limited (DAL)** and **WBU** suggested inclusion of language reflecting the affordability and access to health insurance by persons with disabilities without discrimination on the basis of disability.

The **WFD** and **SAHRC** sought the inclusion of the concept of **Community-Based Rehabilitation (CBR)** in the draft article⁷. Furthermore, **South Africa** and **New Zealand** stressed the importance of ensuring that health and rehabilitation professionals providing services receive appropriate education and training to understand the on-going effect disabilities have

⁷ The CBR is a strategy to promote the sense of "community ownership" and the full participation of disabled people in all its activities. The major objective of the CBR is to enable persons with disabilities to maximize their physical and mental abilities, to access regular services and opportunities, and to achieve full social integration within their communities and societies. This objective uses the broader concept of rehabilitation, i.e. one that includes equalisation of opportunities and community integration. The CBR may also serve as a stimulus for community leaders and social groups to come together. Such a forum would enable a variety of concerns to be addressed, in addition to the needs identified by disabled people themselves.

on a person's life and to build reliable person-professional partnerships. The draft proposal provided for the consideration by the Ad Hoc Committee represents these views and is listed under Article 21.

22) Right to Work

Stressing the importance of the right to work for adults with disabilities, the **IAID** said this article would enhance the principle of autonomy. The delegations from **India** and **Germany** raised the issue of a need to address the special circumstances of women with disabilities, as they often suffer double discrimination. The **RI** suggested inclusion of specific measures that would promote an active, open labour market inclusive and accessible to all persons with disabilities. In terms of accessibility to an open labour market, the term "*reasonable accommodation*" was emphasised by the **RI** as a corollary to the right to non-discrimination and not as a right in itself. The **WNUSP**, **DPI** and the **WBU** suggested inclusion of language that takes into account protection of persons with disabilities from disguised discrimination in the work place (i.e. equal pay for equal work), while **South Africa** raised the issue of including access to transportation as a condition of work that should be protected under the right to work. The draft proposal provided for consideration by the Ad Hoc Committee represents these views and is listed under Article 22.

23) Social Security and an Adequate Standard of Living

Ireland expressed concern over the rights extended to family members of persons with disabilities (i.e. access to assistance from the State in situations of poverty to cover disability-related expenses). Also, **Ireland** highlighted that access to life and health insurance is typically provided by the private sector, which is different from the obligations of the State to provide social security. **Jamaica**, the **IAID**, and **Venezuela** noted that the meaning of "*social security*" differs from State to State, and that the scope of the right to an adequate standard of living is much broader than that of social security. The draft proposal provided for consideration by the Ad Hoc Committee represents these views and is listed under Article 23.

24) Rights to take part in Cultural Life, Recreation, and Leisure

Many delegations agreed on the importance of this article and indicated that cultural life, recreation, and leisure are important to the integral development of persons with disabilities. **Canada**, **Ireland** and **Japan** agreed to the principle of States taking appropriate steps to ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials. On the issue of sports, the **LSN** emphasised the importance of mainstreaming sporting activities for persons with disabilities while the **DAL** and **Thailand** indicated that the draft article should promote both Special Olympics and mainstreaming sporting activities. Furthermore, **Thailand** added that many sports are not offered as mainstream sports and are specific to disability groups. The draft proposal provided for consideration by the Ad Hoc Committee represents these views and is listed under Article 24.

25) Monitoring

Canada suggested that the draft article was overly prescriptive and stressed that it should avoid promoting a "*strong*" monitoring mechanism. **Ireland**, expressing a notion similar to that of **Canada**, suggested there should be no attempt to identify preferred models for monitoring. The Working Group did not have a chance to discuss in detail the wording of the draft provisions and did not reach agreement on issues relating to the role of national human rights institutions in the process of promoting, protecting, and monitoring the implementation of the convention. The draft proposal provided for consideration by the Ad Hoc Committee

represents these views and is listed under Article 25.

Conclusion

At the conclusion of the two weeks meeting, the Co-ordinator affirmed that the Working Group took part in a genuine dialogue between States and NGOs in the development of the draft proposal and congratulated the Working Group on fulfilling its mandate. He also noted that the draft proposal to be to the Ad Hoc Meeting in May/June 2004 "*is a document that represents compromises and the views of no one delegation*".

Membership of the Working Group

Governments (27)	
Asia (7)	
China	Mr Xie Bohua
India	Ms Rajwant Sandhu
Japan	Ms Shikegi Sumi
Lebanon	Ms Nehmat Kanaan
Philippines	Mr Mateo A. Lee
Republic of Korea	Mr Ick Seop Lee
Thailand	Mr Montien Buntan
Africa (7)	
Cameroon	Mr Rodolphe Soh
Comoros	Mr Mohamed El-Marouf
Mali	Mr Issa Konfourou
Morocco	H.E. Mr Mohamed Bennouna
Sierra Leone	Mr Sylvester E. Rowe
South Africa	Ms Sebenzile Matsebula
Uganda	Ms Florence Nayiga Sekabira
Latin America and the Caribbean (5)	
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Ecuador	Mr Miguel Carbo
Jamaica	Mr Floyd Morris
Mexico	H.E. Mr Luis Alfonso de Alba
Venezuela	Mr Lenin Molina Peñalosa
Western Europe and other (5)	
Canada	Mr David Sproule
Germany	Ms Theresia Degener
Ireland	Mr John Biggar
New Zealand	Ms Jan Scown
Sweden	Ms Carina Mårtensson
Eastern Europe (3)	
Russian Federation	Mr Sergey Tolkalin
Serbia and Montenegro	Mr Damjan Tatic
Slovenia	Ms Aleksandra Tabaj
NGOs (12)	
Disability Australia Limited (DAL)	Ms Anuradha Mohit (India)
Disabled Peoples' International (DPI)	Ms Venus Ilagan (Philippines)
Disabled Peoples' International (Africa) (DPI-Africa)	Mr Shuaib Chalklen (South Africa)

European Disability Forum (EDF)	Mr Yannis Vardakastanis (Greece)
Inclusion International (II)	Mr Robert Martin (New Zealand) [assisted by Klaus Lachwitz from Germany]
Inter-American Institute on Disability (IAID)	Mr Luis Fernando Astorga Gatjens (Costa Rica)
Landmine Survivors Network (LSN)	Mr Adnan al Aboudi (Jordan)
Rehabilitation International (RI)	Mr Gerard Quinn (Ireland)
World Blind Union (WBU)	Ms Kicki Nordström (Sweden)
World Federation of the Deaf (WFD)	Ms Liisa Kauppinen (Finland)
World Federation of the Deaf-Blind (WFDB)	Mr Lex Grandia (Denmark)
World Network of Users and Survivors of Psychiatry (WNUSP)	Ms Tina Minkowitz (USA)

National Human Rights Institutions (1)	
South African Human Rights Commission (SAHRC)	Ms Charlotte McClain