

IDA

INTERNATIONAL DISABILITY ALLIANCE

Member organizations:

Disabled Peoples' International, Inclusion International,
Rehabilitation International, World Blind Union,
World Federation of the Deaf, World Federation of the Deaf-Blind,
World Network of Users and Survivors of Psychiatry

Towards a UN Disability Convention

Statement for 2nd Ad Hoc Committee Session, June 2003

I: Ensure that there will be a Disability Convention

Following extensive consultation with our members representing more than 600 million people in the world with a disability the IDA strongly recommends that the UN adopt a convention to protect the human rights of people with disabilities. In that respect IDA recommends that the Ad Hoc Committee establish a task force composed of experts in the field to develop a draft text for the convention. This draft shall recognize disability as a part of human diversity rather than as a medical problem. While IDA acknowledges the World Program of Action and the Standard Rules as important milestones in recognizing the right of disabled persons, we assert that a convention should be a comprehensive Human Rights Treaty, which goes beyond existing instruments in order to manifest the paradigm shift from disability as a social welfare/medical issue to disability as a human rights issue.

II: Fundamental Principles for the Drafting Process

The proposed UN Disability Convention shall build on existing human rights norms and interpret those in the context of disability. The convention shall recognize the obstacles faced by people with disabilities. Based on input from people with disabilities and their organisations a convention shall clearly rest on the fundamental human rights values of the International Bill of Human Rights: dignity and self-determination, equality and social justice. Rather than having a

programmatically the convention shall provide people with disabilities with enforceable human rights. The convention shall have a strong monitoring mechanism in order to give standing to disabled people.

III: Fundamental Rights

1) Civil and political rights:

Right to live

The lives of people with disabilities are threatened e.g. by denial of the necessities of life such as food and water, shelter, medical treatment (or conversely by the imposition of unwanted medical treatment) and eugenic threats.

Freedom from torture and inhuman and degrading treatment

Because disabled people are treated as objects they experience inhuman and degrading treatment in their everyday life, including sexual exploitation, physical violence and forced treatment. Disabled women are especially victimized.

Bodily and psychic integrity

Disabled people's right to refuse treatment is often denied and they are frequently subjects of medical experimentation.

Liberty

Disabled people's liberty rights are frequently infringed by institutionalization and exclusion. Thus, disabled people are denied the right to independent living and self-determination.

Equality

The main obstacle facing people with disabilities is discrimination not impairment. But disabled people can only enjoy full equality rights if governments adopt a structural equality approach and firmly base their policies on the principle of social inclusion.

Association

Disabled people are often prevented from forming their own organisations or *joining* political parties to protect their interests and are denied access to social organisations and existing political parties.

Family/privacy rights

Disabled children are often denied the right to grow up as a part of a family and disabled adults are often denied the right to marry and have and raise children. In particular, disabled women are often victims of forced sterilization and forced abortion.

Recognition as a person before the law

Persons deemed legally incapacitated are systematically denied their citizenship rights such as decisions about medical treatment, ability to sign contracts and to manage their finances. Because of the need for assistance in one area of their life disabled people are often deprived of rights in all areas of life. Because children with disabilities are devalued they are often not registered at birth and are denied a legal name and citizenship.

Freedom of expression

People with disabilities are often foreclosed from mainstream communication and thus are denied the right to freedom of thought, conscience and religion as well as freedom of speech and expression. In particular deaf persons' human rights are violated by denial or prohibition of sign language.

Vote and stand for elections

Disabled people are often denied the right to participate in democratic process by lack of access to voting and prohibition of standing as candidates for election. Blind people in particular are denied the right to secret voting. In addition institutionalized people are deemed incapable of voting.

Citizenship

People with disabilities are often denied full citizenship rights e.g. unequal treatment before the law or denial of effective legal remedies. They are often subjected to arbitrary arrest, detention or exile. Immigration laws often discriminate against people with disabilities.

Recognition of people with disabilities as a minority

Because people with disabilities are not recognized as an insular discrete minority they are foreclosed from democratic processes.

2) Economic, social and cultural rights

Traditionally attempts to recognize the economic, social and cultural rights of people with disabilities have been based on a model of charity and welfare. A convention must enshrine these rights as a basic for liberty and empowerment

Education

Most children with disabilities are denied access to any education and most who receive an education do so in inadequate and/or segregated settings. For example deaf, blind and deafblind children are denied the right to education in sign language or Braille.

Work

Most disabled persons are excluded from the workforce. The right to free choice of employment, to just and favorable conditions of work is denied among others

by being relegated to sheltered workshops. In addition most disabled people do not get adequate vocational training.

Health

Most disabled people have no access to basic healthcare.

Access

Disabled people's right to freedom of movement and information is being violated through architectural, communicational and attitudinal barriers. A convention must oblige state parties to build inclusive systems.

Standard of living

The majority of disabled people live in poverty. They have no access to adequate food, clothing, housing and necessary social service such as rehabilitation. Having a disability should not mean having a lower standard of living, or having to accept unwanted services to obtain the necessities of life.

Culture

Disabled people's right to culture is often violated by being foreclosed from cultural life. In addition, elements of the culture of disabled people, such as sign language and Braille are not recognized and valued. Disabled people are stigmatized by the presentation of false images in popular culture, which creates prejudices and superstition.

3) Right to development

The IDA would welcome the application of so-called 3rd generation human rights in the Disability Convention. Since there is a strong link between poverty and disability, disabled people need to benefit without discrimination from a right to development.

IV: Monitoring Mechanism

Since the Disability Convention shall be a human rights instrument the monitoring mechanism should be similar to that for the existing six core Human Rights Treaties (especially CEDAW and CRC). This will entail state reports, complaint mechanisms (individual/group and state), NGO involvement and investigation powers of the treaty monitoring body. In addition the monitoring process should have the benefit of the involvement of the Special Rapporteur and the panel of experts throughout the monitoring process.

V: Process of Elaboration of Treaty

IDA urges the Ad Hoc Committee to work towards the instalment of a secretariat to facilitate the drafting process. This secretariat should be firmly based within the Human Rights regime of the United Nations. Throughout the process of the elaboration of the convention IDA recommends that the involvement of disabled persons be secured. This means active input of disability and human rights NGOs and inclusion of people with disabilities in government delegations. In addition we recommend that the OHCHR hire disabled staff to facilitate the process.

Almåsa, Sweden, March 2, 2003