

World Blind Union
Position and opinion concerning the
Working Group Draft from January 2004

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- No overlapping.
- No duplication.
- No steps backward.
- No doubt about the right ideology.
- No more than needed.
- No battles without due course.
- No locked positions.

NAME OF THE CONVENTION:

The Convention has a too long name and a better working name would be the:

The International Convention on the Rights of Persons with Disabilities (CRDP)

PREAMBLE:

The first paragraph in the preamble could be:

Acknowledging the importance of establish a comprehensive and integral international convention on the protection and promotion of the rights and dignity of persons with disabilities.

Include in the Preamble that PWD's are men and women, boys and girls, young persons, grown ups, and elderly people.

International cooperation could be mentioned in the Preamble as it appears in the CRC (Convention on the Right of the Child).

There is a need to mainstream international cooperation to also cover the needs of PWD.

PURPOSE**Article 1:**

“Purpose” should remain as an independent article.

GENERAL PRINCIPLES**Article 2:**

The Article is important since it underlines some very fundamental universal principles.

DEFINITIONS**Article 3:**

A definition on disability is not needed at all, and it would be better if each country made provisions of their own.

Definition based on ICF will not be sufficient to guarantee all groups of PWD:s to be covered.

A definition on disability as such can exclude individuals or groups of PWD:s.

It is suggested to write Definitions on:

- Disability
- Persons with disability:
- Accessibility
- Discrimination on the ground of disability
- Language, includes oral-aural language and sign language
- Reasonable accommodation
- Universal Design or Inclusive design

The following issues seems also to need its own definitions

- Reasonable accommodation
- Specific formats, plain language or easy-to-read formats
- Habilitation
- Community based rehabilitation (CBR)
- Severe disabilities
- Self-determination or self-governing
- Mobility or accessibility

GENERAL OBLIGATIONS

Article 4:

The text should not diminish PWD:s rights compared to the rights given in the CCPR, the “Convention on the Civil and Political Rights”.

”... ensure the full realisation of all human rights and fundamental freedoms for all individuals within their jurisdiction without discrimination...”. It can be interpreted as the rights cover PWD who are non-citizens, but not other non-citizens.

PROMOTION OF POSITIVE ATTITUDES TO PERSONS WITH DISABILITIES

Article 5:

STATISTICS AND DATA COLLECTION

Article 6:

It is important that in all data collections and statistics made by State Parties, also provisions are made to include PWD.

Many countries including EU, did not want this Article and felt that it is not a HR issue. The problem could be solved by adding provisions for this in the monitoring part of the Convention or in the preamble.

EQUALITY AND NON-DISCRIMINATION

Article 7:

In the “shopping list” are indigenous people not included.

Both direct and indirect discrimination should be targeted.

Interesting to discuss the issue whether discrimination should apply to PWD's and their opinions and experiences of discrimination or the society's perception.

Para 3, of this Article should be deleted.

Reasonable accommodation is important and could be defined under Article 3, Definitions.

This convention should not limit the definition of reasonable accommodation as it is extremely important for PWD.

RIGHT TO LIFE

Article 8:

The right to life is extremely important and should not be questioned.

The text is giving less protection than we see in the convention on the rights of the child where focus is on the right of survival: "states parties shall ensure to the maximum extent possible the survival and development of the child."

EQUAL RECOGNITION AS A PERSON BEFORE THE LAW

Article 9:

The right should be obtained "on equal footing with other persons".

Para d), is of great importance and **MUST** be kept here, since PWD are often denied the right to own property, marry, become a parent, inherit, sign contracts, hold a bank account, sign their own daily documents, act as witnesses – both at weddings and before the court, or be exposed to forced sterilisation and so on, due to their disability.

LIBERTY AND SECURITY OF THE PERSON

Article 10:

Para (b), it must be total clear that PWD shall not be deprived of the right to liberty in all aspects of life.

A more wide interpretation of “liberty” is needed, which could widen up the concept and not only refer it to legal or jurisdictional interpretation.

FREEDOM FROM TORTURE OR CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Article 11:

This Article must focus on the actions undertaken by states.

FREEDOM FROM VIOLENCE AND ABUSE

Article 12:

This Article must be focused on both individual perpetrators and violence committed by society at large.

Special attention should be paid to women and children in this Article.

FREEDOM OF EXPRESSION AND OPINION, AND ACCESS TO INFORMATION

Article 13:

Access to information should form its own Article.

PWD:s must make choices of their own. The right to self-determination for PWD:s is one of the most crucial rights.

Mode of communication has been used, “format”, is the correct term for blind and deafblind people.

Additional explanations should not be used here, (footnote 42), on specific formats in this paragraph, such as plain language or easy-to-read formats, but could be referred to as a subject under Article 3, Definitions

(... augmentative communication modes) is not adequate, rather large print and magnifying systems.

Comments under footnote 43 are very relevant. (...provision and training of live assistance and intermediaries, such as Braille and caption transcribes, note-takers, sign language and tactile communication interpreters, and readers).

RESPECT FOR PRIVACY, THE HOME AND THE FAMILY

Article 14:

“... correspondence” should be replaced with the term “communications”.

Assistance, guides, interpreters of different kinds and independent living must be provided to PWD and included in the text.

In this article it is of extreme importance that PWD maintain the right not to be institutionalised against ones own will.

Obligations for states to find solutions for PWD:s who seek alternative to institutions.

A para on forced sterilisation should be added.

Under (d), it is important that rights, which are given to other parents also are given to parents with disabilities, including support service so as the child may enjoy the same rights as other children.

The right for PWD:s to make choices of their own is important.

The right to self-determination for PWD's is one of the most crucial rights and it must be an acceptable definition on “self-determination”.

LIVING INDEPENDENTLY AND BEING INCLUDED IN THE COMMUNITY

Article 15:

An independent living and inclusion in the society, is a better title.

Para (b), should not be undermined and is fine as it now stands.
 "...persons with disabilities are not obliged to live in an institution or in a particular living arrangement".

Right not to be institutionalised against ones own will, is important.

CHILDREN WITH DISABILITIES

Article 16:

This Article provides a lower standard than in the convention of the rights of the child there the "best interests of the child", is stated.

Habilitation as a concept directed to of children with disabilities is fundamental. Re-habilitation is to re-establish abilities, which have got lost. Habilitation could be defined under Article 3, Definitions.

EDUCATION

Article 17:

Training should be dealt with separated from education.

It is necessary that we speak about education only and do not replace this word the "learning".

The right to lifelong education for PWD:s on equal footing with non-disabled should be included.

Education should cover children and adults on equal footing within the country.

Under para 2 (a), the following words should be included (... can choose inclusive **OR SPECIAL (residential)** and accessible education in their own community...).

Under para 2 (c), employment of teachers with disabilities should rather be referred to in Article 22 Right to Work.

In para 3, footnote 61 second part it says: "...specialist education services and the general education system...". "Specialist education service" is wrongly interpret and should be replaced by **SPECIAL** or **RESIDENTIAL** education.

Inclusive or special educational must not be seen as, either or, but rather as alternative and complementary. Full inclusion is often wrongly interpreted to mean full-scale mainstreaming of all students with disabilities in the same class-room, no matter of disability and no matter of the possibility to utilise the lessons. Students who are Deaf, Blind and Deafblind gain more benefit in schools or classes of their own, with teachers and support staffs who are qualified and skilled in sign language, Braille and tactile communication skills.

Further down in footnote 61: "...individual's ability to choose either the general system or the specialist services." Education is an obligation and must not be interpreted as "specialist service".

In para 4 with footnote 63: "...this issue could be addressed in draft Article 13 on freedom of expression and opinion." This issue should absolutely be dealt with here and not under Article 13.

PARTICIPATION IN POLITICAL AND PUBLIC LIFE

Article 18:

Under para (a), it must be clear spelled out in a separate para that access to secret voting and the right to stand for election are fundamental rights.

Widen the focus so that it covers every kind of communication disabilities (blind, deaf, blind-deaf, learning disability, dyslexia, physical etc).

It is also important to underline the need of access to all kinds of information and election materials.

There is a need to spell out the States obligation to improve accessibility in all areas.

ACCESSIBILITY

Article 19:

Article 19 and 20 must be re-written and merged together. There is some overlapping.

Either the term “built” or “physical” environment should be used, but rather referring to universal design in the environment.

All private own facilities and services intended to be used by the public should be accessible for PWD and should be covered in this convention.

PERSONAL MOBILITY

Article 20:

Article 19 and 20 must be re-written and merged together. There is some overlapping.

There is a need to define the word "mobility" because it is not clear whether it is only relevant for mobility impaired persons or if it covers the need for assistive devices for all kind of PWD:s. Mobility could be defined in Article 3, under Definition.

The Article touches on the subject of rehabilitation but do not reach out to the subject.

Rehabilitation including CBR should rather be included in a new article, which also should merge accessibility and mobility together. Health should be separated from rehabilitation. CBR could be defined under Article 3, Definition.

RIGHT TO HEALTH AND REHABILITATION

Article 21:

Rehabilitation must be separated from health and divided into two separate articles. It is time to see that rehabilitation as a social and human right, which appear after the health aspect of a disability.

There is a need to focus on what disability specifically is and try not to spread it out to all kind of aspects of health and rehabilitation. The focus is missing.

Habilitation should be mentioned on its own since it differs from rehabilitation. Habilitation is gaining skills that people (young persons) have not previously had, rather than the regaining of skills lost. A new definition might be needed. Habilitation could be referred to Article 3, Definitions.

Access to health insurance by PWD without discrimination must be targeted as a right.

Community based rehabilitation (CBR) programs should be ensured, including the working in partnership with local communities and families.

Para (d), should be deleted. No service provided to the public should be offered on a voluntary base for PWD.

Para (e), should be deleted. WHO or other UN organs could deal with prevention of disabilities, it should not be dealt with in this convention.

Para (f), should be deleted. Bio-medical, genetic, and scientific research, cannot be seen as a right for PWD in this kind of Convention texts.

Para (g) and (h), continue to see health as part of rehabilitation, which is a level which would have been abundant for long ago.

Para (j), to share information in the health sector about a person with a disability without the consent from the person in question, is a right could be spelled out here or be formed as a praxis by a Monitoring Committee.

Para (k), no forced medical intervention and forced institutionalisation should be permitted.

Para (l), no forced medical intervention and forced institutionalisation should be permitted on the ground of disability.

Para (m), could be referred to in Article 4, General Obligations.

RIGHT TO WORK

Article 22:

It must be a guarantee that PWD get a chance to enter the labour market in some forms.

PWD shall have the right to earn their own income and support for themselves.

PWD in sheltered employment must be protected against misuse in the labour market. Trade Unions should have a special responsibility.

All forms of exploitation of PWD's in the labour market must be forbidden.

Women with disabilities must be given special legal protection and attentions.

An ongoing vocational training and guidance must be offered to PWD even those in shelter employment.

Reasonable accommodation is very important in this Article, as it is needed to give access for more PWD to enter the labour market. A specific definition on reasonable accommodation could be added to Article 3, Definitions.

Access to the workplace for PWD, including accessible transportation, should be included.

In para (c), self-employment and starting one's own business, should be combined with the possibility to get micro credits to a low interest.

The quota system should not be mentioned in this convention. "Positive measures", is much better and gives each State Parties the possibility to form their own system.

SOCIAL SECURITY AND AN ADEQUATE STANDARD OF LIVING

Article 23:

Article 23 should be divided into 2 articles:

1, which covers social security and

2, which covers adequate standard of living, which was also the approach in the convention on economic, social and cultural rights.

If the word severe disabilities should be used, it needs a definition and should be referred to Article 3, Definitions.

In para 1 (e), it is very strange to mention tax exemptions and tax benefits. This is not a human rights issue.

State Parties should take legislative measures, so as PWD are not discriminated against on ground of disability when signing any kind of contracts with Insurance Companies.

Para 2, it is of great importance that food, clothing, housing and access to clean water, are recognised as a specific right. Access to water is in particular essential for Women with disabilities, who can have difficulties to get access to water due to their disability.

PWD should have the same right and access to the same relative growth that is given other citizens within the country.

PARTICIPATION IN CULTURAL LIFE, RECREATION, LEISURE AND SPORT

Article 24:

Para 1 (c), must also include audio description.

Para 2, on intellectual property, is of utmost importance for deafblind, blind and visually impaired persons.

MONITORING

Article 25:

National Implementation Framework could be used as national plans but should not replace an International Monitoring Mechanism.

The UN Standard Rules on Equalisation of Opportunities for Persons with Disabilities, together with its supplement could serve as a monitoring tool and as a national framework.

INTERNATIONAL MONITORING MECHANISMS

Article 26:

It is very important to guarantee the best and strongest possible international monitoring system.

Other conventions can be of help and support for finding suitable texts.

However, the IDA members have drafted a suggestion to make it possible to start up the discussion.