

DPI Position Paper regarding a new international human rights Convention for Disabled People

The following paper addresses three issues key to the development of a new international human rights convention for disabled people: the nature of the convention; implementation of the convention; and the convention development process. Each of these issues was discussed at the DPI 6th World Assembly in October 2002, and this paper expands upon the positions adopted in the Sapporo Platform and, more specifically, the Sapporo Declaration.

I. NATURE OF THE CONVENTION

We demand a specific international human rights convention that is reflective of the full range of civil, political, economic, social and cultural rights.

There is no question that disabled people are subjects of the international human rights system, and entitled to full enjoyment of all the rights delineated in each of the existing human rights instruments. Yet human rights abuses remain a daily reality for disabled people around the world, in large part because there is currently a gap between the values expressed by the human rights system and the reality of disability. As last year's report for the Office of the High Commissioner for Human Rights stated:

The most important argument for a convention is perhaps that of "visibility"... it has proven extremely difficult to keep people with disabilities in focus in the proceedings of the (other Human Rights) treaty monitoring bodies. To some extent this is due to the relative lack of engagement of the disability NGOs with the treaty monitoring machinery. And to some extent it is due to the lack of general comments by the treaty monitoring bodies on disability - or the kind of forethought that these general comments represent.[\[1\]](#)

DPI supports the position that in order for this divide to be effectively bridged, a specific international human rights Convention for disabled people must be elaborated. Furthermore, DPI believes that this Convention must be based in, and draw from, existing human rights norms and standards and address in concrete terms the economic, social, political and cultural circumstances that adversely impact the human rights condition of disabled people. In addition, the new convention should not be limited to an anti-discrimination framework. DPI fully supports the adoption and implementation of non-discrimination legislation at the domestic level, and nondiscrimination and equality of opportunity must be intrinsic components of any human rights convention for disabled people. Yet there must be scope for the full elaboration of human rights in the context of disability if the international human rights framework is to effectively incorporate the disability perspective.

There are no human rights to which disabled people do not lay claim, and if existing norms and standards are to be placed in a disability context the convention must address the full range of

civil, political, economic, social and cultural rights. The following list is by no means exhaustive, but reflects (in no specific order) some of the rights addressed by existing human rights instruments that should be further elaborated if the convention is to cover the full spectrum of human rights:

1. Stereotyping of groups
2. Non-discrimination and measures to eliminate discrimination
3. Action to guarantee the exercise and enjoyment of rights
4. Participation
5. Accessibility
6. Right to life
7. Torture and other ill-treatment
8. Sexual exploitation and related abuses
9. Slavery, servitude and forced labor
10. Survivor assistance
11. Equality before the law
12. Due process protections
13. Peaceful assembly and association
14. Freedom of thought / opinion and information
15. Political and public life
16. Medical care / health / rehabilitation
17. Employment / social security / income maintenance
18. Housing
19. Education
20. Family
21. Culture and religion
22. Linguistic minorities
23. Recreation and sports
24. Nationality / freedom of movement
25. Refugees / internally displaced persons

II. IMPLEMENTATION OF THE CONVENTION

We demand a strong convention-monitoring mechanism informed by the unique perspective of disabled people to ensure the credibility, legitimacy and efficacy of the convention.

If the convention is to be successful, a strong monitoring mechanism must be established to gauge the levels of implementation and provide guidance on best practices. This monitoring mechanism should be empowered to engage all relevant levels, including states, intergovernmental organizations, non-governmental organizations and individuals. The convention should establish a monitoring body. This body, ideally, should be empowered to do the following:

- Receive and assess regular reports from states parties, with no more than five years between reports.

- Have authority to receive inter-state, non-governmental organization and individual complaints.
- Have authority to conduct investigations into alleged abuses of human rights.
- Have authority to call upon other members of the UN family to assist in producing reports and studies addressing human rights in the context of disability.

Any monitoring mechanism for the convention must be fully informed by disability and human rights expertise. Disabled people are the experts regarding our situation and it is therefore crucial that any monitoring body established under the convention include a majority of disabled people in its composition.

III. THE CONVENTION DEVELOPMENT PROCESS – PROCEDURAL CONSIDERATIONS

Disabled people demand a voice of our own in the development of this instrument. We must be consulted at all levels on all matters that concern us.

Participation of disabled people in decisions that concern us is a fundamental principle that must be reflected in international law and policy. All stakeholders, and first and foremost disability and human rights organizations and their representatives, should be fully involved in the process of developing a new UN convention on the human rights of disabled people.

DPI welcomed the resolution on the "accreditation and participation of nongovernmental organizations" in the Ad Hoc Committee's inaugural session. We therefore, recommend that these working methods be fully implemented in the forthcoming meetings of the Ad Hoc Committee and, furthermore, that they serve as a model for all Regional and National meetings as the process continues to unfold. With equal importance, the resolution states the following:

(The Ad Hoc Committee) *Urges* relevant United Nations bodies, in recognition of the importance of the equitable geographical participation of non-governmental organizations in the Ad Hoc Committee to assist those non-governmental organizations that lack resources, in particular nongovernmental organizations interested in the matter from developing countries and countries with economies in transition, to participate in the Ad Hoc Committee;

Requests the Secretary-General to disseminate widely to the community of non-governmental organizations all available information on accreditation procedures as well as information on supportive measures for participation in the Ad Hoc Committee.

In the remaining four months, before the next Ad Hoc Committee meeting, every effort must be made to ensure information on procedures, notification of regional meetings and the accreditation process be disseminated quickly and clearly to Disabled People and our Organizations around the world. To this end, DPI recommends the allocation of sufficient resources to the United Nations Department of Economic and Social Affairs (DESA) to ensure

that this information is communicated through the DESA website, and other means as deemed necessary to reach the global disability community.

In order to realize the Ad Hoc Committee's goal of inclusion, DPI notes in particular that two key issues must be addressed:

- 1) Access – full access according to the principles of Universal design must be in place to ensure complete access of people with every type of disability to the full proceedings of the Ad Hoc Committee. Should technical information on any aspect of Universal design be required by the Ad Hoc Committee, DPI and other members of the IDA, will be pleased to assist.
- 2) Support, through the UN Voluntary Fund (established by A/Res/57/229), to ensure the full participation at all levels of the process by people with disabilities and their representative organizations, particularly those from developing countries, and countries with economies in transition.

Finally, while acknowledging the obvious importance of independent civil society participation in this process, DPI urges all Member States to participate in the convention development process, and especially encourages Member States to include disabled people as part of their official delegations.

[1] Gerard Quinn, Theresia Degener, et. al. (2002) Human Rights and Disability: The current use and future potential of United Nations human rights instruments in the context of disability, Office of the United Nations High Commissioner on Human Rights, Geneva