

**Chairman's Text
as amended by
the International
Disability Caucus**

International Disability Caucus

Introductory Letter

The document attached is the result of the work described below and represents the views of the International Disability Caucus (IDC) regarding the Chair's text. As it is still a working document, it is considered a draft subject to improvement. It is under the same format as the Chair's text, with additional comments, additions and deletions that are conveniently highlighted

A text reflecting the work of the Ad Hoc Committee to date has recently been released by its Chairman, Ambassador Don MacKay. The "Chair's text" became the subject of keen interest, not only among governmental delegates but also among organizations of people with disabilities. The IDC, a key group in attendance at the Ad Hoc Sessions, has intensively worked over the last 3 months to create a consensus document of reactions and reflections on the Chair's text.

IDC coordinators have worked in small groups on line in order to cover all the substantive articles included in the Chair's text.

Recently, the outcomes of the small groups were brought before the entire Caucus in order to reach consensus on the responses and comments to the Chair's document. Finally, a team of editors from the IDC adjusted the language and a final draft was submitted for Caucus Approval. An estimated 1,200 electronic messages were exchanged while conducting the task.

Thank you for your attention,

The International Disability Caucus
Nothing About Us Without Us!

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IDC Participants

1. ABRAR organization for Care of War Disabled and Protection for Landmines
2. Advocacy Group Disability Rights Morocco
3. Arab Organization of Disabled People
4. Arab Human Rights Foundation
5. Asia Pacific Disability Forum
6. Australian Federation of Disability Organizations
7. Bizchut, the Israel Human Rights Center for People with Disabilities
8. British Disability Council of Disabled People
9. Canadian Association for Community Living
10. Center for International Rehabilitation
11. Central Council of Disabled Persons Sri Lanka
12. Council for Canadians with Disabilities
13. Danish Organization of Disabled people
14. Disability Australia Ltd.
15. Disabled Peoples International
16. European Disability Forum
17. European Network of (ex-) Users and Survivors of Psychiatry (ENUSP)
18. Federation of and for People with Disabilities Kenya
19. Forum of People with Disabilities (Ireland)
20. Forum for Human Rights of People with Disabilities (Costa Rica)
21. Fiji Disabled People's Association
22. GAR-GAAR Disabilities Groups (GDG)
23. Handicap International
24. International Federation Hard of Hearing
25. Ibero-American Network of Organizations of People with Disabilities and their Families
26. Inclusion International
27. Inter-American Institute on Disability
28. International Disability Convention Solidarity in Korea
29. Instituto Paradigma (Brazil) (in application process)
30. Japan Association of Hard of Hearing People
31. Japan Disability Forum
32. Korean Society for Rehabilitation of Persons with Disabilities
33. Landmine Survivors Network
34. Lebanese Council of Disabled People LCDP
35. Lebanese Welfare Association for the Handicapped LWAH
36. National Association of Community Legal Center
37. National Council on Disability Italy
38. National Disability Council of Netherlands
39. National Disability Party
40. National Federation for Yemen Handicapped Societies National Forum of Organizations Working with the Disabled
41. NAS Foundation of People with Disabilities (Egypt)
42. National Rehabilitation and Development Center NRDC
43. Norwegian People's Aid-Lebanon

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44. Peace and Tolerance International Sudan
45. People with Disability Australia Incorporated
46. Persons with Pain International
47. People Who
48. Polio Plus
49. Rehab Group
50. Rehabilitation International
51. Save the Children
52. Sudan Association for Combating Landmines JASMAR
53. Support Coalition International
54. Thailand Association of the Blind (in application process)
55. World Blind Union
56. World Federation of the Deaf
57. World Federation of the Deafblind
58. World Network of Users and Survivors of Psychiatry
59. World Union for Progressive Judaism

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Chairman's Text (as amended by the International Disability Caucus)

(Draft **(REPLACE** "Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities" **BY "International Convention on the Rights of Persons with Disabilities""))**

The States Parties to this Convention,

- (a) *Recalling* the principles proclaimed in the Charter of the United Nations which recognize the inherent dignity and the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world,
- (b) *Recognizing* that the United Nations, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, has proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind,
- (c) *Reaffirming* the universality, indivisibility and interdependence of all human rights and fundamental freedoms and the need for persons with disabilities to be guaranteed their full enjoyment without discrimination,
- (d) *Reaffirming also* the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,
- (e) *Recognizing* the importance of the principles and policy guidelines contained in the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities **(ADD: "and the World Programme of Action Concerning Disabled Persons")** in influencing the promotion, formulation and evaluation of the policies, plans, programmes and actions at the national, regional and international levels to further equalize opportunities for persons with disabilities,
- (f) *Recognizing also* that discrimination against any person on the basis of disability is a violation of the inherent dignity of the human person,
- (g) *Recognizing further* the diversity of persons with disabilities **(ADD: and their right to development in accordance with their own needs and interests)**

(NEW (g) bis: "Recognising the need to promote and protect the human rights of all people with disabilities, including those who demand more intensive support ")

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- (h) *Concerned* that, despite these various instruments and undertakings, persons with disabilities continue to face barriers in their participation as equal members of society and violations to their human rights in all parts of the world,
- (i) *Recognising* the importance of international cooperation for improving the living conditions of persons with disabilities in every country, particularly in developing countries,
- (j) *Emphasizing* the existing and potential contributions made by persons with disabilities to the overall well-being and diversity of their communities, and that the promotion of the full enjoyment by persons with disabilities of their human rights and fundamental freedoms and of full participation by persons with disabilities will result in significant advances in the human, social and economic development of their societies and the eradication of poverty,
- (k) *Recognizing* the importance for persons with disabilities of their individual autonomy and independence, including the freedom to make their own choices,
- (l) *Considering* that persons with disabilities should have the opportunity to be actively involved in decision-making processes about policies and programmes, especially those directly concerning them,
- (m) *Concerned* about the difficult conditions faced by persons with disabilities who are subject to multiple or aggravated forms of discrimination on the basis of race, colour, sex, **(ADD: ethnicity, age)** language, religion, political or other opinion, national or social origin, property, birth or other status, **(ADD: including those who are denied their right to identify as indigenous persons with disabilities)**
- (n) *Emphasizing* the need to incorporate a gender perspective in all **(REPLACE “efforts” BY “actions”)** to promote the full enjoyment of human rights and fundamental freedoms by persons with disabilities,
- (o) *Recognising* that a disproportionately large number of persons with disabilities live in conditions of poverty, and mindful of the need to alleviate the negative impact of poverty on persons with disabilities,
- (p) *Concerned* that situations of armed conflict have especially devastating consequences for the human rights of persons with disabilities,
- (q) *Recognizing* the importance of accessibility to the physical, social **(ADD: cultural)** and economic environment and to information and communication, including information and communication technologies, in enabling persons with disabilities to fully enjoy all human rights and fundamental freedoms,
- (r) *Convinced* that a convention dealing specifically with the human rights of persons with disabilities will make a significant contribution to redressing the profound social disadvantage of persons with disabilities and promote their participation in the civil, political, economic, social and cultural spheres with equal opportunities, in both developing and developed countries,

(NEW s) Recognising that children with disabilities should have full enjoyment of all human rights and fundamental freedoms on an equal

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basis with other children, without discrimination on the basis of disability, and recalling obligations to that end undertaken by states parties to the Convention on the Rights of the Child.

JUSTIFICATION: This text would make explicit that the new Convention applies to children as well as adults with disabilities, and would render them visible as subjects of rights to whom states parties must be accountable.

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Article 1 PURPOSE

(JUSTIFICATION FOR THE MAINTENANCE OF THE ARTICLE: The Chair questions in his cover letter the relevance of the article, as it is not found in other similar Conventions. He also raises the argument that the title of the Convention itself covers the topics addressed in this article so a purpose may not be required. This argument is unfounded, since the final title of the Convention may evolve into a different, shorter one. Moreover, the title of the Convention alone is not legally binding, whereas the text within it is.

Third, the IDC has consistently argued that this Convention should be clear and accessible and a purpose helps in that direction. The IDC therefore supports the retention of this article.)

The purpose of this Convention is to promote, protect, and **(REPLACE “fulfil” BY “ensure”)** the full and equal enjoyment of all human rights and fundamental freedoms of **(ADD: “all”)** persons with disabilities.

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Article 2 DEFINITIONS

For the purposes of the present Convention:

“Communication” includes oral-aural communication, communication using sign languages, and Braille, and tactile communication, large print, audio, accessible multimedia, **(ADD: plain language)** human reader(s) and **(DELETE: “other”)** augmentative **(REPLACE “or” BY “and”)** alternative modes **(ADD: and means)** of communication, including accessible information and communication technology.

(DELETE: [“Disability” ...])

[REPLACE “Persons with disabilities” BY “Person with a disability”]

(ADD: A person with a disability is an individual whose ability to lead an inclusive life in the community of his/her own choice is limited by the separate or concomitant impact of physical, economic, social and cultural environments and/or personal factors that interact with physical, sensory, psychosocial, neurological, medical, intellectual or other conditions that may be permanent, temporary, intermittent or imputed. If a definition of a person with a disability does not exist in a country, the definition in this convention shall be applied and any definition of disability that is applied in their countries' courts of law shall be at least as inclusive and broadly based as the definition contained in this convention.)

(JUSTIFICATION: The IDC proposes not to have a definition on “disability”. IDC does not find a definition of different kinds of disabilities meaningful. However, IDC find it meaningful to define who have the right to be protected by this Convention but not define what is a disability as such.

The reason is that we need to clearly define who has the right to be covered by this Convention. If we do not have such a definition, States may defined what they find best and may exclude disability groups which should be covered and protected by this Convention.)

“Discrimination on the basis of disability” means any distinction, exclusion **(ADD: “denial of reasonable accommodation”)** or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on a basis of equality with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including direct and indirect discrimination. **(ADD: “Discrimination on the basis of disability” shall also include discrimination based on an actual, perceived, past, imputed or future disability, as well as discrimination based on association with a person with a disability. No individual shall be considered to be a person with a disability contrary to his/ her choice.)**

(JUSTIFICATION: The IDC supports the inclusion of the concept of “denial of reasonable accommodation” as a form of discrimination as foreseen in the

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definition of General Comment No. 5 of the CESCR. The IDC considers it very important to include a reference to the acceptance by the person with a disability of what is a reasonable accommodation.)

“Language” includes **(REPLACE “oral-aural languages and sign languages” BY “spoken and signed languages and other forms of non-spoken languages”**

(JUSTIFICATION: The IDC notes that signed languages are visual-gestural languages, while spoken languages are auditory-vocal languages. As it have proven to be difficult for States to understand that sign language is a language with the same qualification as any spoken language, it may take decades or longer to get sign language recognised as a language by States if we do not make provisions in this Convention.)

“National laws of general application” means laws that apply to society as a whole and which do not differentiate in respect of persons with disabilities. “National laws and procedures of general application” and “national laws, customs and traditions of general application” shall have the same meaning, *mutatis mutandis*.

“Reasonable accommodation” means necessary and appropriate modification and adjustments **(DELETE “not imposing a disproportionate burden”)**, **(REPLACE “where needed in a particular case” BY “that is interactive, individualized and subject to the person’s consent”)**, **(REPLACE “to ensure to persons with disabilities the enjoyment or exercise on a basis of equality with others of all human rights and fundamental freedoms” BY “to ensure to persons with disabilities the enjoyment and exercise of all human rights and fundamental freedoms on a basis of equality with others”)**.

“Universal design” and “inclusive design” mean the design of products and environments to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. **(ADD: ““Inclusive and universal design” shall not exclude assistive devices for particular groups of persons with disabilities where this is needed”)**

(JUSTIFICATION: The IDC notes that while the concept of inclusive and universal design is good, this does not do away with the need for assistive devices, and universal design may not be able to address the needs of persons with disabilities whose type of impairment exists in very small numbers in the population.)

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Article 3 GENERAL PRINCIPLES

The fundamental principles of this Convention shall be:

- (a) **(ADD: “Respect for”)** dignity, individual **(REPLACE “autonomy” BY “self determination”)** including the freedom to make one’s own choices, and independence of persons;

(JUSTIFICATION: The IDC would prefer to say “Respect for dignity” instead of “dignity” because one is already born with dignity but it is a matter of ensuring that our dignity is respected. The IDC would prefer the wording self determination instead of autonomy. The reason for this is that autonomy is an attribute that adult human-beings are assumed to possess. It is therefore passive and does not acknowledge the struggle to move away from a situation of deprivation and subordination which is better reflected by the term “self determination”.)

- (b) Non-discrimination;
- (c) Full and effective participation and inclusion in society on an equal basis with others for persons with disabilities;
- (d) Respect for difference and acceptance of disability as part of human diversity and humanity;
- (e) Equality of opportunity;
- (f) Accessibility;
- (g) Equality between men and women.

(NEW (h) Respect for the evolving capacities of children with disabilities and the right to express their views freely on all matters of concern to them and to have them given due weight in accordance with age and maturity.)

(JUSTIFICATION: It is important to ensure equal respect for children with disabilities with all other children, in respect of their evolving capacities and the right to express views. Without such an addition, the principles, by default, exclude children completely, because they, unlike adults, do not have legal capacity or autonomy. By including a reference here to respect for the evolving capacities of children, it will establish the principle, which can be applied throughout the Convention, for example, in relation to medical consent.)

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Article 4

GENERAL OBLIGATIONS

1. States Parties undertake to ensure the full realization of all human rights and fundamental freedoms for persons with disabilities without discrimination of any kind on the basis of disability. To this end, States Parties undertake:
 - (a) to adopt legislative, administrative and other measures to give effect to this Convention, and to amend, repeal or nullify any laws and regulations and to discourage customs or traditions that are inconsistent with this Convention;
 - (b) to embody the rights of equality and non-discrimination on the basis of disability in their national constitutions or other appropriate legislation, if not yet incorporated therein, and to ensure, through law and other appropriate means, the practical realization of these rights;
 - (c) **(REPLACE “to mainstream disability issues into all economic and social development policies and programmes” BY “to integrate the rights of persons with disabilities in all policies and programmes;”)**

(JUSTIFICATION: The IDC supports paragraph 1 c), but would suggest to find a wording which promotes the mainstreaming of disability in all policy areas. Moreover, the word “mainstream” might not be understood everywhere and might prove difficult to be translated. The IDC would also like to suggest an alternative wording to “disability issues”.)

- (d) to refrain from engaging in any act or practice that is inconsistent with this Convention and to ensure that public authorities and institutions act in conformity with this Convention;
- (e) to take all appropriate measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise;
- (f) to undertake or promote the development, availability and use of universally designed goods, services, equipment and facilities, to meet the specific needs of persons with disabilities, which should require the minimum possible adaptation and the least cost to meet the specific needs of a person with disabilities, and to promote universal design in the development of standards and guidelines; new technologies, including information and communication technologies, mobility aids, devices, assistive technologies, suitable for persons with disabilities, giving priority to affordably priced technologies;
- (g) to provide accessible information to persons with disabilities about mobility aids, devices, and assistive technologies including new technologies, as well as other forms of assistance, support services and facilities;

(COMMENT: IDC suggests to move paragraphs f) and g) to article 9 Accessibility)

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- (h) **(NEW (h): “to ensure that any use of public funds and public procurement should be consistent with the purpose and obligations of this Convention;”)**

(JUSTIFICATION: The IDC proposes to include a reference to the use of public funds and public procurement in this article 4 as means to contribute to the Convention’s purpose.)

- (NEW (i) States Parties undertake to ensure that the rights and provisions previously enjoyed by persons with disabilities are maintained when their responsibilities for services and activities are delegated to private entities.)**

(JUSTIFICATION- IDC is concerned about the loss of rights experienced by persons with disabilities when governments hand over their responsibilities to private entities. This can occur, for example, when public services are privatized.)

2. **(REPLACE: “With regard to economic, social and cultural rights, each State Party undertakes to take measures to the maximum of its available resources and, where needed, within the framework of international co-operation, with a view to achieving progressively the full realisation of these rights, except where achieving progressively the full realisation of these rights would result in discrimination on the basis of disability.” BY “In relation to economic, social and cultural rights, States Parties undertake:**

- (a) **to give immediate effect to the aspects of those rights which are capable of immediate implementation including, but not limited to obligations of non-discrimination in the enjoyment of those rights; and**
- (b) **in relation to other aspects of those rights, to take steps to the maximum of their available resources with a view to achieving progressively the full realization of those rights by all appropriate means.)**

(JUSTIFICATION: IDC questions if the reference to international cooperation (which has been taken from the Convention of the Rights of Child) is not in contradiction with what is stated in the covering letter in the section related to article 32 – International Cooperation, which is that international cooperation (or the lack of it) might be used as an excuse by states for not implementing the Convention. In terms of the wording relating to non discrimination, we agree with the objective, but consider that the IDC wording achieves this in a clearer way.)

3. In the development and implementation of legislation and policies to implement this Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve, persons with disabilities **(ADD:**

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“including children with disabilities.”) and their representative organizations.

(JUSTIFICATION: It is a fundamental demand in this Convention that, in the development of policies and legislation in its implementation, persons with disabilities and their representative organisations are consulted. However, adults cannot always represent the perspectives of children. It is for this reason that A12 of the CRC was established. Children have the right to express their views and have them taken seriously in all matters affecting them. There is no doubt whatever, that unless children are expressly mentioned here, governments will fail to address them directly. Children with disabilities will fall between the two Conventions on the exercise of this right. When governments do consult with children on issues relating to the CRC, they almost always exclude children with disabilities. When governments consult on this Convention they will almost certainly only consult adults. Children with disabilities, and their concerns, views and experiences will yet again be rendered invisible.)

(DELETE: “Such issues shall include standards and guidelines for accessibility, the formulation of health, habilitation and rehabilitation legislation and the planning, delivery and evaluation of health, habilitation and rehabilitation services, and the design and implementation of data collection.”)

(ADD: “States Parties should encourage and support economically and in other ways the formation and strengthening of representative organizations of persons with disabilities

(JUSTIFICATION: The IDC supports the inclusion of paragraph 3 of the Chair’s text, but considers unnecessary the second line in this paragraph. IDC considers that consultation and involvement has to happen in all areas and to include a list might not be helpful in this respect.

On the other hand, the IDC proposes a reference to the obligation of States to support economically and in other ways these organisations, as foreseen in Standard Rule 18

(NEW 3 bis: “Each State Party to this Convention undertakes:

- (a) To ensure that any person or class of persons whose rights or freedoms recognized in the Convention are violated shall have, individually or with the support of representative organizations, an effective and appropriate remedy, whether the violation has been committed by persons or entities acting in an official capacity or by private persons or entities;**
- (b) To ensure that any person claiming such a remedy shall have his or her right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State; and**

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- (c) To ensure that the competent authorities shall enforce such remedies when granted.

NEW 3 ter: States Parties recognize that access to effective remedies may require the provision of free legal assistance to persons with disabilities, including sign language interpreters and communication assistance, the provision of information in Braille and other means and modes of communication and the modification or flexible application of existing laws and practice regulating matters of procedure and evidence.”

(JUSTIFICATION: The IDC and many States had proposed to include a reference to remedies in this article.)

(NEW 3 quater: “in all actions concerning persons with disabilities, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies that the rights and interests of indigenous peoples with disabilities will be upheld equally with the rights and interests of all people with disabilities”)

(JUSTIFICATION: The IDC supports the inclusion of a reference in this article to indigenous people with disabilities.)

Nothing in this Convention shall affect any provisions which are more conducive to the realisation of the rights of persons with disabilities and which may be contained in the law of a State Party or international law in force for that State.

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Article 5

EQUALITY AND NON-DISCRIMINATION

1. States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.
2. States Parties shall prohibit any discrimination on the basis of disability and guarantee to persons with disabilities equal and effective protection against discrimination. States Parties shall also prohibit any discrimination and guarantee to persons with disabilities equal and effective protection against discrimination on any other grounds.
3. States Parties undertake to take all appropriate steps to ensure that reasonable accommodation is provided.
4. Measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination on the basis of disability **(ADD: “if they are accepted by persons with disabilities and are in compliance with the principles and rights included in this Convention.”)**

(JUSTIFICATION: To avoid any misuse of these measures, paragraph 4 would be clearer if it states that these measures need to be accepted by persons with disabilities and that they cannot be inconsistent with the principles and rights included in this Convention.)

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[Article 6 WOMEN WITH DISABILITIES]

(NEW:

1. **States Parties shall eliminate the multiple and intersectional discriminations of women and girls with disabilities and take gender specific measures to ensure that women and girls with disabilities enjoy all human rights and fundamental freedoms on the basis of equality with others.**
2. **State Parties shall implement the obligations set forth in this Convention with a gender perspective in mind. To that end States Parties shall:**
 - (a) **adopt appropriate legislative and other measures prohibiting all forms of discrimination against women and girls with disabilities**
 - (b) **take effective measures to ensure freedom, safety and autonomy of women and girls with disabilities and eliminate obstacles to economic and personal development**
 - (c) **undertake necessary measures concerning the increased risk of sexual exploitation, violence and abuse of women and girls with disabilities**
 - (d) **recognize the particular disadvantage of women with disabilities associated with health care and motherhood and ensure to women with disabilities appropriate and free services where necessary in connection with pregnancy, childbirth and post-natal period as well as adequate nutrition during pregnancy and lactation.**
 - (e) **develop national mainstreamed policies and programs pertaining to women and girls with disabilities**

(JUSTIFICATION FOR SPECIFIC ARTICLE: It is important that the Convention ensures that women with disabilities enjoy equality between men with disabilities, non-disabled women and men. To realize this aim, the IDC proposes twin track approach.

This approach means inclusion of language in certain provisions: the preface, general principles, and general obligation, but also the inclusion of a separate article for women with disabilities to clarify complex and unique discrimination against women with disabilities and identify their unique needs, which was unmet by existing international law. Specifically believe that:

It is very meaningful that the separate article in regard to women with disabilities is to be inserted as Article 6.

It will ensure that governments recognize the significance of the issue of women with disabilities before other articles.

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It will ensure that governments realize the significance of gender perspectives and equality between men and women with disabilities and between women with disabilities and women without disabilities. It also specifies that these perspectives will be applied throughout the text.)

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[Article 7 CHILDREN WITH DISABILITIES]

(NEW

- 1. States Parties shall take all appropriate measures to ensure that, in fulfilling their obligations under both the Convention on the Rights of the Child, and the present Convention, all rights shall be implemented fully in respect of children with disabilities.)**

- 2. States Parties shall ensure that reports provided to the relevant treaty body, under the terms of the Convention on the Rights of the Child and the present Convention, shall address fully measures taken to implement all rights in respect of children with disabilities.)**

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Article 8

RAISING AWARENESS (REPLACE “REGARDING DISABILITY” BY “ON THE RIGHTS OF PERSONS WITH DISABILITIES”)

(JUSTIFICATION: The IDC would propose to reword the title which should include the reference to persons with disabilities (as subjects) and not to disability (as an object).)

1. States Parties undertake to adopt immediate and effective measures to:
 - (a) raise awareness throughout society regarding (**DELETE** “disability and”) persons with disabilities, and to foster respect for their rights;
 - (b) combat stereotypes and prejudices about persons with disabilities in all areas of life;
 - (c) promote awareness of the capabilities and contributions of persons with disabilities (**ADD: “sharing the same rights and freedoms as others.”)**
2. Measures to this end include:
 - (a) initiating and maintaining effective public awareness campaigns designed to:
 - (i) nurture receptiveness to the rights of persons with disabilities;
 - (ii) change negative perceptions and social prejudices towards persons with disabilities (**DELETE: “in all matters of [sexuality,] marriage, parenthood and family relations of persons with disabilities;”**)

(JUSTIFICATION: The IDC supports the need to change negative perceptions and social prejudices, but feels that this should cover all areas of life, including (but not exclusively) those mentioned in subparagraph 2 (a) ii).

- (iii) promote recognition of the skills, merits, abilities and contributions of persons with disabilities to the workplace and the labour market;
 - (b) fostering at all levels of the education system, including in all children from an early age, an attitude of respect for the rights of persons with disabilities;
 - (c) encouraging all organs of the media to portray persons with disabilities in a manner consistent with the purpose of this Convention;
 - (d) (**REPLACE** “promoting disability-sensitive awareness training programmes.” **BY** ““**promoting awareness training programmes on the human rights of persons with disabilities**”.”)

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Article 9 ACCESSIBILITY

1. States Parties to this Convention shall take appropriate measures to ensure accessibility for persons with disabilities by identifying and eliminating obstacles to the built environment, to transportation, to information and communications, including information and communications technologies, and to other services, in order to ensure the capacity of persons with disabilities to live independently and to participate fully in all aspects of life. These measures shall apply to, inter alia:
 - (a) the construction and renovation of public buildings, roads and other facilities for public use, including schools, housing, medical facilities, in-door and out-door facilities and publicly owned workplaces;
 - (b) the development and remodelling of public transportation facilities, communications and other services, including electronic services.

2. States Parties shall also take appropriate measures to:
 - (a) provide in public buildings and facilities signage in Braille and easy to read and understand forms;
 - (b) provide forms of live assistance and intermediaries, including guides, readers and sign language interpreters, to facilitate accessibility to public buildings and facilities;
 - (c) develop, promulgate and monitor implementation of minimum national standards and guidelines for the accessibility of public facilities and services;
 - (d) ensure that private entities which provide public facilities and services take into account all aspects of accessibility for persons with disabilities;
 - (e) provide training for all stakeholders on accessibility issues facing persons with disabilities;
 - (f) promote access for persons with disabilities to the new communication technologies and systems, including the Internet;
 - (g) promote the design, development, production and distribution of accessible information and communication technologies at an early stage, so that the information society becomes inclusive at minimum cost;
 - (h) promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information.

(NEW TEXT PROPOSED BY IDC)

- 1. States Parties to this Convention shall require that all entities open to the public or providing services or information to the public, take appropriate measures to ensure full accessibility for persons with disabilities by preventing eliminating new and existing barriers in all facilities and services. These measures shall apply to, inter alia:**

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- (a) all forms of information, communications and other services, including information and communications technologies and electronic services;
 - (b) the production and provision of all types of public materials, information and documents in understandable, accessible and usable formats, languages and scripts, in a timely manner, and without additional cost to persons with disabilities;
 - (c) the development and remodelling of existing and new public transportation facilities;
 - (d) construction and renovation of existing and new buildings and other facilities providing services to the public, including schools, housing, workplaces, medical facilities, roads, indoor and outdoor facilities;
 - (e) mass media, including providers of information through Internet.
2. States Parties shall develop, implement and monitor accessibility standards which will be compulsory for all new facilities and services, and for the renovation of existing facilities and services and ensure that
- (a) non compliance with these standards will be considered discrimination;
 - (b) standards are comprehensive, including health and safety requirements taking into account persons with disabilities;
 - (c) Standards require easy to read and understand signage, including comprehensible formats modes and means, and Braille and tactile signage; and
 - (d) where States set standards for private facilities and services through planning, building and other regulations, States will ensure these regulations contain accessibility standards for people with disabilities and ensure these standards are applied when renovation or change of use takes place.

(JUSTIFICATION: Accessibility needs to be defined through the establishment of accessibility standards which need to be compulsory. If a new or renovated service or facility does not meet these standards, it can not be considered accessible and it therefore will discriminate against persons with disabilities. It is also important that standards are comprehensive)

(MOVED HERE FROM ARTICLE 4 f)

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3. **States shall promote the development, availability and use of inclusive and universally designed goods and services, equipment and facilities, standards and guidelines, that require no adaptation or the minimum possible adaptation, at the least cost, to meet the specific needs of a person with disability.**

(JUSTIFICATION: The development, availability and use of new products in an accessible way using inclusive and universal design principles to meet the specific needs of persons with disabilities, is better placed in the article on accessibility than in Article 4 on General Obligations.)

(MOVED HERE FROM ARTICLE 4 g)

4. **States shall promote the development, availability and use of communication and mobility aids, devices, assistive technologies, designed for persons with disabilities, giving priority to affordably priced technologies. States shall provide accessible information to persons with disabilities about communication and mobility aids, devices, and assistive technologies including new technologies, as well as other forms of assistance, support services and facilities.**

(JUSTIFICATION: Apart from making services, facilities and mainstream products accessible, many persons with disabilities require assistive technologies which need to be affordable)

5. **States Parties shall ensure that laws protecting copyright do not constitute a discriminatory barrier to access by persons with disabilities to any published material and shall establish legitimate means to enable persons with a reading related disability to gain access to material that technological and other protection measures might otherwise exclude;”)**

(JUSTIFICATION: Copyright exceptions are of greatest importance for PWD with print disabilities. This has been reworded and moved here from article 30 of the Chair’s text)

6. **States Parties shall also take appropriate measures to:**
 - (a) **provide professional sign language interpreters, forms of live assistance and intermediaries, including guides and readers to facilitate accessibility to public entities, buildings and facilities;**
 - (b) **provide appropriate forms of assistance, support and service to persons with disabilities to ensure access to and understanding of information and services;**

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- (c) **provide training for all stakeholders on accessibility issues, including service providers, building owners, designers and managers;**
- (d) **ensure that professionals who consult, design and implement services in matters related to accessibility are appropriately qualified and involve people with disabilities and their representative organisations at all stages;**
- (e) **provide free postal services for use by blind and partially sighted persons to carry literature, in whatever format, and equipment produced or adapted for the use of blind and partially sighted persons.**

(JUSTIFICATION: Postal services in many countries are becoming fully liberalised placing at risk the provision of free post for articles for the Blind. Heavy Braille books and bulky equipment is often only available from national centres, so postal costs would prohibit their availability to blind persons.)

- 7. States Parties shall ensure through legislation that no person with a disability is denied access on the ground of disability to any facility or service open to the public.**

(JUSTIFICATION: In most of the cases, the problem of access is related to lack of accessibility, but sometimes also people with disabilities are denied access (to restaurants, hotels, cinemas, etc) on the basis of disability or because they use a guide dog, etc..

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Article 10 RIGHT TO LIFE

States Parties reaffirm (**ADD: “and shall recognize”**) that every human being (**ADD: “in all stages of life”**) has the inherent right to life and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others.

(JUSTIFICATION: The IDC proposes general language to cover all possible groups in all stages of life: girls, boys, women, men, and transsexual. The IDC proposes “shall recognise” to complement instead of “reaffirm” as reaffirm is the language of declarations and is weaker. Using “shall recognize” makes it also more evident, that the “right to life” also includes “the right to survive”)

(NEW: “Disability is not a justification to terminate life.”

(JUSTIFICATION: The IDC proposes this wording as this is a violation that this Convention should address.)

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[Article 11 SITUATIONS OF RISK

States Parties recognize that in situations of risk to the general population persons with disabilities are especially **(REPLACE “vulnerable” BY “neglected”)** and shall take all feasible measures for **(REPLACE “their protection” BY “the protection of their human rights, according to international law.”)**

(JUSTIFICATION: The purpose of article 11: "situations of risk" is, to remind States Parties, that in natural disasters, wars, armed conflicts and other situations of risk, persons with disabilities are often forgotten and left behind.

The terminology “vulnerable” has negative implications, especially when referring to persons with disabilities. The word "vulnerable" does not really reflect the situation of "being forgotten or left behind". The word NEGLECTED is, unfortunately, much closer to reality.

Reference to international laws, such as the Geneva Convention, is necessary, but the risk should be avoided to have language that implies protection against a disability.)

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Article 12

EQUAL RECOGNITION AS A PERSON BEFORE THE LAW

1. States Parties reaffirm **(ADD: “and shall recognize”)** that persons with disabilities have the right to recognition everywhere as persons before the law.

(JUSTIFICATION: complement preambular language with language of obligation.)

2. States Parties shall recognize that persons with disabilities have **(ADD “and are entitled to exercise full”)** legal capacity **(ADD: (capacity to act))** on an equal basis with others in all **(REPLACE “fields” BY “aspects of life”)** **(DELETE: “and shall ensure, to the extent possible, that where support is required to exercise that capacity:”)**.

(JUSTIFICATION: “To the extent possible” should be deleted because it allows States Parties to say that compliance is just not possible. If resource limitations are a concern, any elements subject to progressive realization are addressed in article 4.

Exercise of legal capacity, full legal capacity and specific mention of the capacity to act are all necessary to ensure that legal capacity is properly understood to mean legal autonomy, the right to make one’s own decisions.)

“All aspects of life” is better than “all fields” for understanding in plain language.)

(REPLACE (a) BY NEW PARAGRAPHS 3 AND 4: “the assistance provided is proportional to the degree of support required and tailored to the person’s circumstances, that such support does not undermine the legal rights of the person, respects the will and preferences of the person and is free from conflict of interest and undue influence. Where appropriate, such support shall be subject to regular and independent review;)

(NEW 3. States Parties shall ensure that persons with disabilities are entitled to use support to exercise legal capacity, and that such support meets the person’s requirements, does not undermine the rights or freedoms of the person, respects the will and preferences of the person, and is free from conflict of interest and undue influence.)

(JUSTIFICATION: The last sentence of paragraph 2a implies guardianship-like decision making, which then can/shall be periodically reviewed. This is too prescriptive, and has the message for the States Parties that if they have regular and independent review of guardianship prescribed under their domestic laws then they comply with the Convention.)

Entitlement to use support to exercise legal capacity leaves the choice up to the individual, while “where support is required to exercise legal capacity” suggests

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that someone other than the person with a disability can decide whether support is “required”.

Terms like “degree of support required” and “tailored to the person’s circumstances” suggest decision-making about the person, rather than facilitating self-determination. Ensuring that support “meets the person’s requirements” is more empowering of persons with disabilities who are using support.)

(NEW 4. States Parties shall enact legislation and devise suitable procedures to facilitate access to, while preventing abuse of, supported decision-making.)

(JUSTIFICATION: This paragraph addresses concerns that States Parties must be proactive in developing measures to facilitate access and prevent abuse, without being overly prescriptive. It should be noted that the obligation to ensure that support meets standards designed to prevent abuse and facilitate self-determination is already included in paragraph 2a of the chair’s text, which the IDC has redrafted as paragraph 3.)

[(DELETE (b): “Where States Parties provide for a procedure, which shall be established by law, for the appointment of personal representation as a matter of last resort, such a law shall provide appropriate safeguards, including regular review of the appointment of and decisions made by the personal representative by a competent, impartial and independent tribunal. The appointment and conduct of the personal representative shall be guided by principles consistent with this Convention and international human rights law.”]

(JUSTIFICATION: Paragraph 2b is just the legitimization of guardianship and must be deleted.)

(NEW 5 (OR PLACE THIS PARAGRAPH IN ARTICLE 7): ““States Parties shall take all appropriate measures to ensure that children with disabilities shall be registered immediately after birth, and shall have the right to a name and the right to acquire a nationality.”

(JUSTIFICATION: There is a need to include a provision requiring governments to take the necessary measures to ensure that children with disabilities are registered at birth. This right is contained in the CRC, but children with disabilities are disproportionately likely not to be registered. This denies them citizenship, often also denies them access to health care and education, and can even lead to their death with relative impunity, because there is no official record of their existence. This provision could be included here or in the separate article on children with disabilities.)

6. States Parties shall take all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit;

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(DELETE “and shall ensure that persons with disabilities are not arbitrarily deprived of their property”).

(JUSTIFICATION: Most often substituted decision-making is used to deprive people with disabilities of their property and make them dependent on the substitute decision-maker. Singling out this area implies that the Convention will endorse substituted decision-making and this paragraph is used to protect those under guardianship from abuses in these particular, though vitally important, affairs.)

(NEW 7. “States Parties shall recognize that women with disabilities have a legal capacity equal to that of other adult persons, and shall ensure that women with disabilities have equal opportunities to exercise that capacity. In particular, States Parties shall ensure that women with disabilities have the right to conclude contracts, to administer property and to sign legal documents, and shall treat them equally with all other adult persons in all stages of procedure in courts and tribunals.

(JUSTIFICATION: This wording is based on CEDAW article 15 (2))

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Article 13

ACCESS TO JUSTICE

States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, facilitating their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including the investigative and other preliminary stages

(ADD:

(a) **“State Parties shall ensure such access through, inter-alia, legislative measures, and the provision of accommodations by all justice and law enforcement agencies and related agencies serving or assisting persons in the legal process.**

(b) **Accommodations include, but are not limited to making the language accessible according to the individual’s needs through the use of sign language interpreters and communication assistants and devices, utilizing experts to enhance communication and advise on the implication of the disability on the process, accommodations to evidentiary procedures, and age appropriate accommodations for children.”)**

(JUSTIFICATION: The IDC is concerned about the absence in the Chair’s Text of any mention of accommodations – so key to this issue. The main barrier preventing access to the justice system is not necessarily a physical one, but first and foremost lack of accommodations at the process level.

For example, in cases in which persons with communication disabilities are victims of crime, the police do not know how to question these persons, evidence is not collected adequately, and the courts do not know how to enable these persons to testify. The end result is that cases are closed, most offenders of persons with disabilities go free, and the victims do not receive the protection of the justice system accorded to others.

Participation of persons with disabilities will occur only if the State actively ensures provision of accommodations at all stages of the legal proceedings. However, this issue is unfamiliar in most countries.

Therefore, it is crucial to make specific mention of accommodations as a measure to achieve access to justice, together with generic examples unique to this issue. Otherwise the right will remain vague and without practical results.

We ask to apply this right also to related agencies serving or assisting persons in the legal process, such as victim support centers.

We ask to make mention of legislative measures, since access to justice touches on legal and evidentiary procedures, necessitating employment of legislation.

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As part of mainstreaming the issues of children with disabilities, we ask to add the aspect of accommodations derived from the age perspective.)

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Article 14

LIBERTY AND SECURITY OF THE PERSON

1. States Parties shall ensure that persons with disabilities, on an equal basis with others:
 - (a) enjoy the right to liberty and security of person;
 - (b) are not deprived of their liberty unlawfully or arbitrarily, (**DELETE:** “and that any deprivation of liberty is in conformity with the law”), and in no case shall (**DELETE:** “the existence of a”) disability (**REPLACE:** “justify” **WITH “be a factor in”**) a deprivation of liberty.

(JUSTIFICATION: The provision that “deprivation of liberty shall be in conformity with the law” makes the Convention a least common denominator of domestic laws; if mental health laws give power to the authorities to detain people with psychiatric diagnoses (or suspected of such “disorders”), then this part of the sentence says that this deprivation of liberty is in compliance with the Convention. The same would be true for laws authorizing custody of people deemed “insane” or “of unsound mind”. “In no case shall the existence of a disability justify a deprivation of liberty” does not help to fix the previous concern as deprivation of liberty will be not justified by the existence of the disability, but by other factors that, however, only apply to people with psychiatric diagnoses or suspected of them. This formulation has all the problems the earlier proposal had (“exclusively”, “solely”).)

2. State parties shall ensure that if persons with disabilities are deprived of their liberty through (**REPLACE:** “a civil, criminal, administrative or other” **BY “any”**) process, they (**REPLACE** “have at least the following guarantees” **BY “are entitled to minimum guarantees on an equal basis with other persons deprived of their liberty, and to non-discrimination including accessibility and reasonable accommodation with respect to all relevant information, communication, services, procedures and facilities.”**)

(JUSTIFICATION: Paragraph 2 as a whole is not correctly placed on a basis of non-discrimination. In addition to enjoyment of equal rights, people with disabilities under any form of arrest or detention need to be assured accessibility and reasonable accommodation. Due to the powerless state of prisoners under remand, the interactive process of seeking reasonable accommodation may not be sufficient, and a requirement of systemic accessibility is needed.)

- (a) (**DELETE THIS PARAGRAPH:** to be treated with humanity and respect for the inherent dignity and worth of the human person, and in a manner that respects their human rights, conforms with the objectives and principles of this Convention, and reasonably accommodates their disability;

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(JUSTIFICATION: The element of added value in this paragraph was a requirement of reasonable accommodation, which we recommend should be moved to the chapeau of paragraph 2 as shown. Reasonable accommodation and accessibility should be generalized to all obligations and rights in the context of arrest and detention.)

- (b) **(DELETE THIS PARAGRAPH:** to be provided promptly with adequate accessible information as to their legal rights and the reasons for the deprivation of their liberty;)
- (c) **(DELETE THIS PARAGRAPH:** to be provided with prompt access to legal and other appropriate assistance to:
 - (i) challenge the lawfulness of the deprivation of their liberty and to receive a fair hearing, including the right to be heard before a court or other competent, independent and impartial authority (in which case, they shall be provided with a prompt decision on any such action);
 - (ii) seek review on an equal basis with others of the deprivation of their liberty, including periodic review as appropriate;)
- (d) **(DELETE THIS PARAGRAPH:** to have an enforceable right to compensation in the case of unlawful deprivation of liberty.)

(JUSTIFICATION: Delete subparagraphs 2b, 2c and 2d, which are unnecessary once a basis of equality with others is ensured for all relevant rights.)

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Article 15

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

1. No person with disabilities shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, States Parties shall prohibit, and protect persons with disabilities from, medical or scientific experimentation **(ADD “and interventions aimed at correcting, improving or alleviating any actual or perceived impairment”)** without the free and informed consent of the person concerned.

(JUSTIFICATION: Characterizing forced interventions correctly as a form of torture or other ill treatment would restore dignity to survivors and ensure that the practice is forbidden from this point onwards.)

2. States Parties shall take all effective legislative, administrative, judicial or other measures to prevent persons with disabilities from being subjected to torture or cruel, inhuman or degrading treatment or punishment.

(INSERT REDRAFTED PARAGRAPH MOVED FROM ARTICLE 17:

3. **Every person with a disability has the right to have his or her physical, mental and moral integrity respected.)**

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Article 16

FREEDOM FROM EXPLOITATION, VIOLENCE AND ABUSE

1. States Parties shall take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities both within and outside the home, from all forms of exploitation, violence **(ADD: “threat of violence”)** and abuse.

(JUSTIFICATION: IDC proposed to add “threat of violence” to the list of “exploitation, violence and abuse”. If accepted, this change would need to be made also in the other paragraphs where this list is used.)

2. States Parties shall also take all appropriate measures to prevent exploitation, violence and abuse by ensuring, inter alia, appropriate forms of assistance and support for persons with disabilities and their families and caregivers, including through the provision of information and education on how to avoid, recognize and report instances of violence and abuse **(ADD “in a manner that empowers persons with disabilities and respects their independence from families and caregivers.”)**

(JUSTIFICATION: Persons with disabilities need specific emphasis to ensure that they are protected from abuse.)

3. In order to prevent the occurrence of exploitation, violence and abuse, States Parties shall ensure that all facilities and programmes designed to serve persons with disabilities are effectively monitored by independent authorities.
4. States Parties shall take all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disabilities who become victims of any form of exploitation, violence or abuse, including through the provision of protection services. Such recovery and reintegration shall take place in an environment that fosters the health, welfare, self-respect, dignity and autonomy of the person.
5. States Parties shall put in place effective legislation and policies to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted.
6. **(NEW 6 “States Parties shall ensure that child protection services are age and disability appropriate and adapted, accessible and available to both boys and girls with disabilities.”)**

(JUSTIFICATION: Despite the disproportionate vulnerability of children with disabilities to both sexual and physical violence, very few governments currently address the need to develop child protection services, which are accessible or

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appropriate for children with disabilities. For example, hotlines, and keep safe programmes are largely irrelevant to many children with disabilities. They are less likely to have access to information about their rights, and therefore lack the knowledge to know what they are entitled to challenge. And even if they have that knowledge, they are denied opportunities to report or challenge the abuse. The current draft of Article 16 recognises the importance of addressing the violence experienced by persons with disabilities, but, at present, makes no reference to children. Child protection services are, in most countries, developed in different departments from comparable services for adults. It is important to highlight in the text of this article the need for specific attention to be paid to introducing the necessary changes to existing child protection services in order to render them accessible and appropriate to children with disabilities. It is also important to stress that such services need to be available for both girls and boys and may have to be adapted differently to ensure accessibility to both.)

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Article 17

PROTECTING THE INTEGRITY OF THE PERSON

(DELETE ARTICLE.)

(JUSTIFICATION: IDC proposes to move the newly phrased paragraph 1 to article 15. IDC has proposed to include in article 15 the wording which the Chair has proposed in paragraph 2 of this article. As IDC is also proposing to delete paragraphs 3 and 4, this would mean that there is no need for a separate article 17.)

(REPLACE “States Parties shall protect the integrity of the person with disabilities on a basis of equality with others.” BY “Every person with a disability has the right to have his or her physical, mental and moral integrity respected.” AND MOVE TO ARTICLE 15)

(JUSTIFICATION: The right to respect for integrity of the person is not properly stated in paragraph 1. The Chair’s text refers only to an obligation to “protect the integrity of persons with disabilities on a basis of equality with others,” which is substantially weaker than similar texts in regional instruments. (For example, the American Convention on Human Rights states unequivocally, “Every person has the right to have his physical, mental and moral integrity respected.”))

(MOVE SUBSTANCE OF THIS PARAGRAPH TO ARTICLE 15.

States Parties shall protect persons with disabilities from forced interventions or forced institutionalisation aimed at correcting, improving or alleviating any actual or perceived impairment.)

(DELETE THE WHOLE PARAGRAPH: In cases of medical emergency or issues of risk to public health involving involuntary interventions, persons with disabilities shall be treated on an equal basis with others.)

(JUSTIFICATION: Paragraph 3 discriminates against people with disabilities, since some disabilities are inappropriately treated as medical emergencies or risks to public health. States could say that a psychosocial crisis constitutes either one, and authorize forced administration of psychiatric drugs or electroshock.)

[4. **(DELETE THE WHOLE PARAGRAPH:** States Parties shall ensure that involuntary treatment of persons with disabilities is:

- (a) minimized through the active promotion of alternatives;
- (b) undertaken only in exceptional circumstances, in accordance with procedures established by law and with the application of appropriate legal safeguards;
- (c) undertaken in the least restrictive setting possible, and that the best interests of the person concerned are fully taken into account;
- (d) appropriate for the person and provided without financial cost to the individual receiving the treatment or to his or her family.]

(JUSTIFICATION: Paragraph 4 is nothing but a derogation of the right to free and informed consent, based on disability.)

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Article 18 LIBERTY OF MOVEMENT

[States Parties to this Convention (**ADD: “recognize the right of persons with disabilities to liberty of movement and”**) shall take effective measures to respect and ensure the rights of persons with disabilities to liberty of movement on an equal basis with others, including by ensuring that persons with disabilities:

(JUSTIFICATION: The article states “take effective measures” meaning that the governments have an obligation of conduct, but not of result. We would recommend that article 18 be of the same standard as article 12 of the ICCPR on which it is based.)

- (a) have the right to acquire (**ADD: “and change”**) a nationality and are not deprived of their nationality arbitrarily on the basis of disability;

(JUSTIFICATION: Paragraph (a) should also include a reference to the right to change nationality.)

- (b) are not deprived, on the basis of disability, of their ability to possess and utilize documentation of their nationality or other documentation of identification, or to utilize relevant processes such as immigration proceedings, that may be needed to facilitate exercise of the right to liberty of movement;
- (c) have the right to leave any country, including their own.]
- (d) **(NEW (d) “enjoy on an equal basis with others the right to enter and immigrate a country other than their State of origin.”)**

(JUSTIFICATION: An additional paragraph should be added as (d) to ensure that there is an obligation to treat persons with disabilities equally in regard to entry and immigration into a country.)

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Article 19

LIVING (DELETE: “INDEPENDENTLY”) AND BEING INCLUDED IN THE COMMUNITY (ADD: “WITH CHOICES EQUAL TO THOSE OF OTHERS”)

States Parties to this Convention (**ADD: “recognize the right of all persons with disabilities to live in the community with choices equal to those of others and”**) shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of their freedom of choice (**REPLACE “living independently and full inclusion and participation” BY “including to choose their residence, to live, be fully included and participate”**) in the community, including by ensuring that:

(JUSTIFICATION: The chapeau does not clearly affirm that all persons with disabilities have a right to live in the community. Non-recognition of this right accounts for the high number of persons with disabilities still living in institutions. Indeed, the Chair stated in his report from the end of the Sixth Session, that “the key to this draft article... [is] the right of every person with disabilities to live in the community”.

The chapeau is also too ambiguous in the use of Freedom of Choice. In addition, the focus on independence could negatively impact on those who require support to live in the community)

- (a) persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement. (**ADD: “In no case shall a child with a disability be institutionalised on the basis of his or her disability;”**)

(JUSTIFICATION: It is important to add an additional paragraph here stressing that children shall not be institutionalised on the basis of their disability. The current paragraph (a) provides that people with disabilities are not obliged to live in a particular living arrangement, but the situation for children is more complex. Children, generally, lack the right to any control over where they live. It is imperative to challenge the presumption by both professionals and parents that institutional care is the most appropriate accommodation for children with disabilities.)

- (b) persons with disabilities have access to (**ADD: “and information about community services, including support services and that”**) a range of in-home, residential and other community support services, including personal assistance (**ADD: “assistive technologies and peer support”**) necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community (**ADD: “are provided by States Parties in a manner that respects the autonomy, individuality and dignity of persons with disabilities”**);

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(JUSTIFICATION: The current text does not require States to provide supports and services or information about them and does not recognize the right of the person to control these supports and services.)

- (c) community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.
- (d) **(NEW (d) “resources required to realize this right are allocated, based on the individual’s choice, in a fair and equitable manner”**
- (e) **(NEW (e): “provision of mainstream services provided for children, including child protection services, are fully adapted, and equally accessible and available to children with disabilities.”)**

(JUSTIFICATION: There should be an obligation to ensure that all mainstream services for children are adapted, and equally accessible to children with disabilities in order to ensure their optimum social inclusion within their communities. In other words, instead of the emphasis in Article 23 of the CRC to the need for special provision for children with disabilities, the emphasis is on the importance of rendering mainstream services to be more inclusive. Inclusion in the community relies on the provision of inclusive services to which children with disabilities have access. Services should focus on the realisation of human rights of children rather than on the child’s impairment and responding to the ‘special needs’ that must be catered for to enable the child to adapt more effectively. This article could be strengthened through a provision, which places emphasis on the fundamental importance of promoting the development of inclusive environments, which are accessible and available to all children including those with disabilities. It is consistent with the entire philosophy of this Convention, but seeks to ensure that in services, which apply exclusively to children, the same principles apply.)

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Article 20 PERSONAL MOBILITY

States Parties to this Convention (**REPLACE:** “shall take effective measures to ensure liberty of movement with the greatest possible independence for persons with disabilities,” **BY** “ **recognize the right of and shall take effective measures to ensure liberty of individual movement to persons with disabilities, including but not limited to:**”):

(JUSTIFICATION: The article states “take effective measures” meaning that the governments have an obligation of conduct, but not of result.)

- (a) facilitating the freedom of movement of persons with disabilities in the manner and at the time of their choice, and at affordable cost;
- (b) facilitating access by persons with disabilities to high-quality mobility aids, devices, assistive technologies and forms of live assistance and intermediaries, including by making them available at affordable cost;
- (c) providing training in mobility skills to persons with disabilities and to specialist staff working with persons with disabilities;
- (d) encouraging private entities that produce mobility aids, devices and assistive technologies to take into account all aspects of mobility for persons with disabilities.
- (e) **(NEW: “(publicising the range of aids and equipment, assistive technologies used by people with disabilities to facilitate safe and effective mobility and the facilities needed to optimise their use.”)**

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Article 21

FREEDOM OF EXPRESSION AND OPINION AND ACCESS TO INFORMATION

States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise their right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through sign languages, and Braille, and augmentative **(ADD: “and”)** alternative **(ADD: “modes and means of”)** communication and all other accessible means, modes and formats of communication **(ADD: “including electronic communication”)** of their choice, including by:

- (a) providing information intended for the general public in a timely manner and without additional cost to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities;
- (b) accepting and facilitating the use of sign languages, and Braille, and augmentative alternative communication and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions;
- (c) **(DELETE THE WHOLE PARAGRAPH: urging private entities that provide services to the general public including through the internet to provide information and services in accessible and usable formats for persons with disabilities;)**

(JUSTIFICATION: this issue has been moved to article 9 Accessibility)

(DELETE THE WHOLE PARAGRAPH (d): urging the mass media, including providers of information through the Internet, to make their services accessible to persons with disabilities;)

(JUSTIFICATION: same as above)

REPLACE “[developing] [recognizing] [promoting] a national sign language.]” **BY** “**recognising and promoting sign languages;**”

(JUSTIFICATION: There are several countries with more than one sign language)

(NEW (f) “recognizing Braille as the official script for blind persons;”)

(JUSTIFICATION: This is to ensure that States recognize Braille as the script for blind people, and also to ensure that technology is not seen as an acceptable alternative solution which will exclude Braille as a script.)

(NEW (g) “provide training in communication and language skills to persons with disabilities and to interpreters, assistants and intermediaries such as sign language and tactile communication interpreters, note takers, readers and augmentative and alternative communication assistants, to ensure that persons with disabilities can make use of their

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freedom of expression and opinion in their preferred language or mean and mode of communication”)

(NEW (h) “facilitating access by persons with disabilities to high-quality communication aids, devices, assistive technologies, interpreters and forms of live assistance, including by making them available at affordable cost”,)

(NEW (i) “respecting the freedom of expression, opinion and belief of persons with disabilities, including about the experience of disability and the freedom to choose practices of support for well-being, based on personal opinions and beliefs and ensuring that no person with a disability is subject to coercion which would impair the freedom to have or adopt a belief of his or her choice.”)

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Article 22

RESPECT FOR PRIVACY

1. No person with disabilities, regardless of place of residence or living arrangements, shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence or other types of communication or to unlawful attacks on his or her honour and reputation. Persons with disabilities have the right to the protection of the law against such interference or attacks.
2. States Parties shall protect the privacy of personal, health and rehabilitation information of persons with disabilities on an equal basis with others.

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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 **(DELETE: “[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.)

The IDC proposes deletion of the second clause that is in brackets. If the right to have sexual and other intimate relationships and experience parenthood are to be undertaken in accordance with national laws, customs and traditions of general application then this right will become meaningless for a number of persons with disabilities as a number of national laws, etc. expressly deny these rights to persons with disabilities.)

- (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 **(REPLACE** ”equal opportunity to retain their fertility to the extent that these are permitted by national laws of general application].” **BY “opportunity to retain fertility on an equal basis with others.”)**

(JUSTIFICATION: The IDC has asked for right to have access to reproductive and family planning information, the right to retain fertility and an explicit prohibition of involuntary sterilization.)

The Chair’s draft has placed the first two in brackets and not even spoken about involuntary sterilization. The IDC believes that these rights should be incorporated in the article and the bracket around them be removed.)

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- (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: The first part of this paragraph is problematic. 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 is not required. It is for that reason that the IDC draft has only asked that the article should 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

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strengthen obligations to challenge the negative attitudes within families and communities, which lead to the denial of rights for children with disabilities.)

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Article 24 EDUCATION

1. States Parties recognise the right of persons with disabilities to education. With a view to achieving this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive (**REPLACE** “education” **BY** “system”) at all levels and life-long learning (**ADD**: “including access to education beyond primary education, following national educational plans and curriculums”), directed to:

(JUSTIFICATION: To avoid the conflicting term “inclusive education” to be repeated in the text and for not mixing up inclusive education with other interpretation of “inclusive”, it would be good to follow the suggestion of the Facilitator of the old Article 17 and exchange “inclusive education” with “inclusive system”.

- (a) the full development of the human potential and sense of dignity and self worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;
 - (b) the development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;
 - (c) enabling persons with disabilities to participate effectively in a free society.
2. In realising this right, States Parties shall ensure:
 - (a) that persons with disabilities are not excluded from the general education system on the basis of their disability, and that children with disabilities are not excluded from free and compulsory primary and secondary education on the basis of their disability;
 - (b) that persons with disabilities can access inclusive, quality, free primary and secondary education (**DELETE**: “to the extent possible”) in the communities in which they live;
 - (c) reasonable accommodation of the individual’s requirements;
 - (d) that persons with disabilities receive the support required, within the general education system, to facilitate their effective education. (**DELETE**: “In exceptional circumstances where the general education system can not adequately meet the support needs of persons with disabilities, States Parties shall ensure that effective alternative support measures are provided, consistent with the goal of full inclusion;”)

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(JUSTIFICATION: In 2.(d) it is again texts which would minimise the states obligation to provide education on an equal bases with others. The term "exceptional circumstances", will also be difficult to define and who is making this judgement?

It is inconsistent with the goal of inclusion to exclude anyone from the general educational system on any ground. The educational system is not designed to provide support but education. Support needs, not related to education, will always need to be addressed elsewhere.)

- (e) the development of initial and continuing training, which incorporates disability awareness, **(REPLACE** "the use of appropriate communication means and modes, educational techniques and materials to support persons with disabilities, for all professionals and staff who work at all levels of education." **BY** "and prepares all professionals and staff who work at all levels of education, in the use of accessible languages, communication means and modes and in educational materials and techniques that are appropriate in the teaching of persons with disabilities")

(JUSTIFICATION: We consider that the IDC formulation is clearer)

(NEW (e) bis "that educational materials, techniques and assistive devices, languages, communication modes and means are accessible and appropriate to persons with disabilities")

- 3. States Parties shall **(REPLACE** "enable" **BY** "provide access to") **(REPLACE** "persons with disabilities to learn life and social development skills" **BY** "daily life skills and habilitation to children with disabilities in the general education system) to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall:

(JUSTIFICATION: The IDC is concerned with a formulation that PWD should learn "life and social development skills" as it is written. It implies that we lack such skills on the ground of disability and must be taught what others already know. Life long learning is not the same as "life and social development skills".)

- (a) facilitate the learning of Braille, alternative script, orientation and mobility skills, **(ADD: "augmentative and alternative communication modes and means, techniques and strategies")** and facilitate peer support **(DELETE: "and mentoring")**;

(JUSTIFICATION: Under 3(a) it is suggested to add further alternative communicational modes and means as it is not enough with "alternative script".)

- (b) facilitate the learning of sign language and the promotion of the linguistic identity of the Deaf community;
- (c) ensure that the education of children who are blind, deaf, and **(REPLACE** "deaf blind" **BY** "deafblind") is delivered in the most

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appropriate languages (**ADD: “including sign languages”**) and modes of communication for the individual, and in environments which maximise academic and social development.

4. States Parties shall take appropriate measures to ensure quality education (**ADD “in settings of their own if so desired”**) to students (**REPLACE :”with sensory disabilities” BY “who are blind, deaf or deafblind”**) through the employment of teachers who are fluent in sign language or Braille, (**REPLACE “including teachers with” BY “and who have experience of their own “**) disabilities.

(JUSTIFICATION: Paragraph 4 refers to students with sensory disabilities and the IDC propose a reference here to the actual groups which are covered by this term. The term “sensory disabilities” is not a totally accepted term within IDC)

5. States Parties shall ensure that persons with disabilities may access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on the basis of equality of opportunity. To that end, States Parties shall render appropriate support to persons with disabilities.

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Article 25 HEALTH

States Parties recognise that persons with disabilities have the right to the enjoyment of the highest attainable standard of **(DELETE: “physical and mental”)** health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services, including health-related rehabilitation. In particular, States Parties shall:

(JUSTIFICATION: The IDC does not want to differentiate “physical and mental” health, so delete this distinction.)

- (a) provide persons with disabilities with the same range and standard of affordable health services as provided other persons, **(DELETE SQUARE BRACKETS)** [including sexual and reproductive health services] and population-based public health programmes **(ADD: “in an accessible environment”)**;

(JUSTIFICATION: the Chair has bracketed: “[including sexual and reproductive health services]”. This text is important for persons with disabilities and the brackets must be deleted. We must also make sure that health service is accessible)

- (b) **(REPLACE: “provide those health services needed by persons with disabilities specifically because of their disabilities including early identification and intervention as appropriate, and services designed to minimise and prevent further disabilities including amongst children and the elderly;” BY “provide all required health services and services which are disability specific including provision of support to persons with disabilities of all ages”)**
- (c) provide these health services as close as possible to people's own communities, **(DELETE: “including in rural areas”)** **(ADD: “in accordance with an individual’s informed consent”)**;

(JUSTIFICATION: The IDC suggests the inclusion of “...in accordance with an individual’s informed consent.” The possibility of choice must be included both for the reason of access to professionalism or as a choice for persons with disabilities persons with disabilities themselves.)

- (d) require health professionals to provide care of the same quality to persons with disabilities as to others and on the basis of free and informed consent by, **(REPLACE “where necessary” BY “inter alia”)**, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities **(ADD: “including gender, life-cycle and age requirements”)** through training and the promulgation of ethical standards for public and private healthcare;

(JUSTIFICATION: “Where necessary” would allow for interpretation on what it means with “necessary” so must be deleted. “Where necessary” suggests that

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not even awareness-raising or promulgation of ethics codes will be required, so there is no real obligation at all. But we have to add "inter alia" so that they cannot say that just because they did awareness-raising they complied with their obligations to ensure free and informed consent. They could do awareness-raising but if PWD have no legal right to informed consent, then there is no remedy and awareness-raising is just a "feel-good" exercise that means nothing.)

(NEW (d) bis “ensure that choices among different treatment options are available for persons with disabilities, including but not limited to paramedic, alternative health services, second opinions, counselling, therapies, peer support, including health service provided by organizations of persons with disabilities”)

(JUSTIFICATION: IDC wants to see reference to peer support and access to alternative choices)

(NEW (d) ter “informed consent of persons with disabilities, is required prior to and during course of medicinal, surgical, therapeutic, or other interventions and modalities; informed consent requires disclosure of the experimental nature of any intervention and all other available information about the nature, adverse effects and benefits of the intervention. No child shall be sterilised or undergo any forced correcting surgery or medication on the ground of disability;

(JUSTIFICATION: This text has been drafted to ensure that among other things persons with disabilities are not subject to forced sterilisation or interventions of any “mental corrections”. The current text does not adequately protect children with disabilities from decisions by parents or other adults with parental rights from giving consent to sterilisation of children. The amendment seeks to protect children with disabilities from having sterilisation imposed before they are recognised in law as having the capacity to give informed consent.)

(NEW (d) quater “ensure that persons with disabilities have access to their unedited health and medical records, and are entitled to give or withhold consent to disclosure of this information to third parties;”)

- (e) prohibit discrimination against persons with disabilities in the provision of health insurance, and life insurance (**DELETE:** “where permitted by national law”), which shall be provided in a fair and reasonable manner.

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Article 26

HABILITATION AND REHABILITATION

1. States Parties shall take effective and appropriate measures to enable persons with disabilities to attain **(ADD: “and maintain”)** their maximum **(ADD: “individual”)** independence, fullest physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life. To that end, States Parties shall organise, strengthen and extend comprehensive habilitation and rehabilitation services **(ADD: “and programs, applying to all persons with disabilities irrespective of gender, culture, age, covering all stages in life, degree, duration and complexity of disability and place of residence”)**, particularly in the areas of health, employment, education and social services, in such a way that:

(JUSTIFICATION: Habilitation and rehabilitation services must be individualised and targeting the specific need of a disability, “one size does not fit all”. If this is not expressed, the states may habilitation and rehabilitation services that are generic and may not fit anybody.

Gender, age, cultural and other factors related to persons with disabilities must also be considered when planning for habilitation and rehabilitation programs. If not, there will be a risk that the programs will favour one group (young men) and not reach out to other groups.)

- (a) habilitation and rehabilitation services and programmes begin at the earliest possible stage **(ADD: “in accordance with the individual’s free and informed consent”)**, and are based on the multidisciplinary **(ADD: “and comprehensive”)** assessment of individual needs **(ADD: “developing plans which are established which are time-limited, fully implemented and assist individuals to meet their actual life goals and personal aspirations”)**;

(NEW (a) bis:”the privacy of personal information is respected by staff and others providing services and no one should be required to follow habilitation and rehabilitation programmes against individual’s wishes;

- (b) habilitation and rehabilitation services and programmes support participation and inclusion in the community and all aspects of society, and are available to persons with disabilities as close as possible to their own communities, including **(ADD: “the concept and strategy expressed in the policy of community based rehabilitation (CBR) including”)** in rural areas.

(JUSTIFICATION: Developing countries have successfully provided habilitation and rehabilitation services through CBR programs, which must be promoted and developed. If CBR is not recognised in the convention, no further development of the concept will be seen.)

NEW (b) bis “habilitation and rehabilitation plans and courses aim to reach and sustain the independence and self-determination of persons

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with disabilities, and that persons with disabilities have the right to design, direct, change or reassess the plans over the period of life”)

(JUSTIFICATION: Independence and self-determination are important part of habilitation and rehabilitation programs. Persons with disabilities must have influences over the programs addressing their training and individual capacity building.

If persons with disabilities cannot influence habilitation and rehabilitation programs, the text will be interpreted as this is an offer by the states and the professionals to provide what they can and want to offer to persons with disabilities.)

2. States Parties shall promote the development of initial and continuing training for professionals and staff working in habilitation and rehabilitation services.

“NEW 3. States Parties shall promote the design, development, production, availability and knowledge of communication and assistive technologies designed for persons with disabilities, as they relate to rehabilitation and habilitation, giving priority to affordably priced technologies”

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Article 27

WORK AND EMPLOYMENT

States Parties recognise the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall **(REPLACE: “set an example through employment of persons with disabilities in the public sector” BY “prioritize public employment for persons with disabilities who fulfil the professional requirements requested by the corresponding public organizations”)**, and shall take other appropriate steps to safeguard and promote the realisation of the right to work, including measures to:

- (a) protect through legislation **(ADD: “applicable to all forms of employment, the rights of”)** persons with disabilities with regard to **(ADD: “non-discrimination in”)** conditions of recruitment, hiring and employment, continuance of employment, career advancement, working conditions, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, and the redressing of grievances;
- (b) ensure that persons with disabilities are able to exercise their labour and trade union rights **(REPLACE: “in accordance with generally applicable national legislation” BY “on an equal basis with others”)**.
- (c) enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services, and vocational and continuing training;
- (d) promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining and maintaining and returning to employment;
- (e) **(REPLACE “promote opportunities for self-employment, entrepreneurship and starting one's own business;” BY “to offer micro-enterprise opportunities for self-employment initiatives and development of own businesses for persons with disabilities, facilitating access to subsidized credit and technical advice”)**
- (f) encourage employers to hire persons with disabilities through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures; **(ADD: “including the statutory provision of special equipment, personal assistance, income support and adaptations to the workplace;”)**

(JUSTIFICATION: IDC considers that it is essential to ensure that persons with substantial and complex disabilities have Opportunities to find mainstream jobs and to enter the labour market via supported employment. this will happen only

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if they and their employers can call upon additional support when it is needed, including equipment, personal assistance, income support and adaptations to the workplace to ensure protection from discrimination)

- (g) ensure that reasonable accommodation is provided to persons with disabilities in the workplace;
- (h) promote the acquisition by persons with disabilities of work experience in the open labour market;
- (i) promote vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities.

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Article 28

ADEQUATE STANDARD OF LIVING AND SOCIAL PROTECTION

1. States Parties recognise the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing, housing, and to the continuous improvement of living conditions including access to clean water, and shall take appropriate steps to safeguard and promote the realisation of this right without discrimination on the basis of disability.
2. States Parties recognise the right of persons with disabilities to social protection, and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realisation of this right, including measures to:
 - (a) **(REPLACE** “ensure access by persons with disabilities to appropriate and affordable services, devices and other assistance for disability-related needs;” **BY** “**Provide persons with disabilities the necessary services, devices and other assistance for their disability-related needs, as well as the necessary financial means to purchase these.**”)
 - (b) ensure access by persons with disabilities, [particularly women and girls with disabilities and the aged with disabilities,] to social protection programmes **(ADD: “including adequate income maintenance schemes”)** and poverty reduction strategies;

(JUSTIFICATION: 4. There is no mention of an income maintenance scheme as it has been broadly encompassed in paragraph 2.b with the wording “access to social protection program.” We propose to maintain a reference to income maintenance as access to mainstream social protection program might not cover in a proper way income maintenance issue.)

- (c) **(REPLACE** “ensure access by persons with disabilities and their families living in situations of poverty to assistance from the State to cover disability-related expenses (including adequate training, counselling, financial assistance and respite care), which should not become a disincentive to develop themselves;” **BY** “**ensure that autonomy is preserved in the delivery of social assistance and participation in social insurance scheme, including by prohibiting provision of any service or benefits contingent on acceptance of any other service, and that services always contribute to the full participation of people with disability in the community.**”)

(JUSTIFICATION: The Chair’s text is confusing with regards to the distinction between support scheme designed to cover extra cost related to disability and social assistance that is related to poverty. In paragraph 2.c the link between support to cover extra cost and poverty is not relevant as the extra cost support

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shall ideally not been mean-tested. We therefore propose to maintain the coverage of extra cost in paragraph 2.a, as it is in August IDC draft and the deletion of present paragraph 2.c.

The IDC considers that a list of services or assistance is not relevant as it can exclude needed services, so we propose that the list mentioned in the Chair text in para 2.c is deleted. The Chair's text still in paragraph mentions (which should not become a disincentive to develop themselves) with regards to benefit. The IDC opposes this reference)

- (d) ensure access by persons with disabilities to public housing programmes.

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Article 29

PARTICIPATION IN POLITICAL AND PUBLIC LIFE

States Parties shall guarantee to persons with disabilities their political rights and the opportunity to enjoy them on an equal basis with others, and undertake to:

- (a) ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others in accordance with national laws of general application, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected (**ADD: "inter alia"**), by:

(JUSTIFICATION: The manner in which the right is presently drafted it makes it seem like that lack of access is the only reason for depriving persons with disability of the right to vote. Accordingly, the last sentence of article 29 (a) could be reworded as follows " including the right and opportunity of persons with disability to vote and be elected INTER ALIA by" The inclusion of inter alia underscores the fact that the initiatives are only illustrative and not exhaustive.)

- (i) ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;
 - (ii) protecting the right of persons with disabilities to vote by secret ballot in elections and public referenda, without intimidation, and to stand for elections and to hold office and perform all public functions at all levels of government;
 - (iii) guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request allowing assistance in voting by a person of their own choice;
- (b) actively promote an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:
 - (i) participation in non-governmental organisations and associations concerned with the public and political life of the country, including the activities and administration of political Parties;
 - (ii) forming and joining organisations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.

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- (c) **(NEW c “State Parties shall ensure that persons with disabilities be consulted and involved on an equal basis with others in all policy making exercises and decision-making processes to enable inter alia due appreciation of the disability dimension in such policies and be afforded an appropriate leading role on issues concerning persons with disabilities.”)**

(JUSTIFICATION: Clause (c) of the old article 18 obligated that persons with disabilities should be consulted in all public decision-making has been deleted. The IDC has been stressing that there is a disability perspective to all policies and hence such consultation should be explicitly guaranteed by the Convention. The IDC seeks such consultation both in assertion of the citizenship rights of persons with disability and because there is a disability dimension to every policy and such dimension should be fore-grounded at the design stage and not be inducted as an add on.)

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Article 30

PARTICIPATION IN CULTURAL LIFE, RECREATION, LEISURE AND SPORT

1. States Parties recognise the right of persons with disabilities to take part on an equal basis with others in cultural life, and shall take all appropriate measures to ensure that persons with disabilities:
 - (a) enjoy access to cultural materials in all accessible formats;
 - (b) enjoy access to television programmes, films, theatre, and other cultural activities, in all accessible formats; **(ADD: “and languages including, but not limited to audio description, captioning and sign language, electronic text, in audio and multi-media formats”)**
 - (c) enjoy access to places for cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, and, as far as possible, enjoy access to monuments and sites of national cultural importance.

2. States Parties shall take appropriate measures to enable persons with disabilities to have the opportunity to develop and utilise their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of society.

3. **(DELETE WHOLE PARAGRAPH “3.** States Parties shall take all 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, while respecting the provisions of international law.”

(JUSTIFICATION: IDC proposes to have this paragraph in article 9 on accessibility)

4. Persons with disabilities shall be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including sign languages and deaf culture.

(NEW Bis 4. “States Parties recognise the right of indigenous persons with disabilities to take part on an equal basis with others in cultural life, and shall take all appropriate measures to ensure that indigenous persons with disabilities have the same cultural rights and access as non disabled indigenous people to their cultural and spiritual activities and practices”)

5. With a view to enabling persons with disabilities to participate on an equal basis as others in recreational, leisure and sporting activities, States Parties shall take appropriate measures to:

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- (a) encourage and promote the participation, to the fullest extent possible, of persons with disabilities in mainstream sporting **(ADD” recreational and leisure”)** activities at all levels;

(JUSTIFICATION: People with disabilities are fighting to be included in mainstream physical activities, not just at the sporting level, but also at the recreational and leisure levels. It is important that we specifically extend the important protections found in clause (a) to these types of recreational and leisure activities.)

- (b) ensure that persons with disabilities have an **(ADD “equal”)** opportunity to organise, develop and participate in disability-specific sporting and recreational activities, and to this end, encourage the provision, on an equal basis with others, of appropriate instruction, training and resources;

(JUSTIFICATION: “Opportunity” must be qualified. The type, or degree, of opportunity to organize, develop and participate must be qualified with the word “equal.” Opportunity can infer many different levels of participation, organization and development. In order to guarantee that opportunity is not construed too narrowly, we must insert ‘equal’ before ‘opportunity.’ At a minimum, it could mean allowing wheelchair athletes access to a muddied field where accessible transportation does not reach and their chairs cannot traverse.)

- (c) ensure that persons with disabilities have **(ADD “full”)** access to sporting **(ADD: “leisure”)** and recreational and tourism venues;

(JUSTIFICATION: “Access” must be qualified. The term ‘access’ must be qualified by inserting the word “full” before ‘access.’ By doing this, we are guaranteeing that people with disabilities not only gain the right to set foot in the door, but also the right to enjoying all of the venue’s services and views. Access to Leisure Venues. This clause omits special protection for leisure venue access. Without specific mention of leisure, people with disabilities run the risk of losing their right to access places such as public parks.)

- (d) ensure that children with disabilities have equal access to participation in play, recreation, and leisure and sporting activities, including those in the school system;

- (e) ensure that persons with disabilities have access to services from those involved in the organisation of recreational, tourism, leisure and sporting activities.

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PART III

Article 31

STATISTICS AND DATA COLLECTION

1. Where necessary, States Parties undertake to collect appropriate information, including statistical data, to enable them to formulate and implement policies to give effect to this Convention. The process of collecting and maintaining this information should:
 - (a) comply with legally established safeguards to ensure confidentiality and respect for the privacy of persons with disabilities, including legislation on data protection;
 - (b) comply with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles of statistics.
2. The information collected in accordance with this Article shall be **(ADD: “only”)** used to assess the implementation of States Parties obligations under this Convention, and **(DELETE: “shall also be used”)** to identify and address the barriers faced by persons with disabilities in exercising their rights.

(JUSTIFICATION: The IDC would like to express its concerns regarding the misuse of Statistics Indicators that presuppose that the lives of disabled people have less value than those of people without disabilities and can be used to discriminating people with disabilities from public and other services, such DALYs (disability adjusted life years))

3. **(NEW 3. “Statistics should be maintained only in aggregated format and integrated into the general statistics of the country”**
4. **(NEW 4. “States Parties shall assume the responsibility for the dissemination of these statistics and ensure their accessibility to people with disabilities and others.”)**

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[Article 32 INTERNATIONAL COOPERATION]

1. **(NEW: “Ensure that resources are dedicated to eradicate the extreme poverty that face people with disabilities, their exclusion and the difficulties they face to obtain access to services.**
2. **Ensure that sufficient resources within existing and future development and other aid efforts are allocated towards helping people with disabilities and used towards the inclusion and empowerment of people with disabilities, the empowerment of disability organizations and their enhancement.”**
3. **Ensure that disability issues are fully integrated into all aspects in development policy, development programs, humanitarian and emergency measures in accordance with this treaty. All donors and recipients are obliged to ensure that all funds spent on generic and specific services, programs and infrastructure are inclusive of and accessible to people with disabilities at all levels of decision making, implementation and use.”**

(JUSTIFICATION: The IDC underlines both, the necessity of the mainstreaming of all International Cooperation policies and programs, and the need of having specific programs that address the needs of people with disabilities. Moreover, we encourage including a provision that particularly mentions the appropriate use of existing funds for international cooperation: no International Cooperation funding should be used to create barriers for disabled people.

Programmes of international co-operation should always take full account of the interests of persons with disabilities.

- *Representative organisations of persons with disabilities should always be consulted when developing international development projects and programmes.*
- *International co-operation programmes should also give special attention to the establishment of the rights of persons with disabilities that are set out in the Convention.)*

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Article 33

NATIONAL IMPLEMENTATION AND MONITORING

1. [States Parties shall designate a focal point within government for matters relating to the implementation of the present Convention, and give due consideration to the establishment or designation of a coordination mechanism to facilitate related action in different sectors and at different levels.
2. States Parties shall, in accordance with their legal and administrative system, maintain, strengthen, designate or establish at the national level a framework **(ADD: “including a national monitoring body”)** to promote, protect and monitor implementation of the rights recognized in the present Convention.] **(ADD: “The establishment, composition and operation of the national monitoring body shall be in compliance with the highest international standard regarding national monitoring bodies. “)**

(JUSTIFICATION: The dual roles are important to keep, i.e. a) a focal point in Government and b) an independent national mechanism. Consistent with the IDC proposal, in (b) we would suggest that the word “framework” be complemented with “national monitoring body”)

3. Civil society, in particular persons with disabilities and their representative organisations, shall be involved and participate fully in all levels of the monitoring process. **(ADD: “Membership of the national monitoring body shall include persons with disabilities who reflect equitable representation of persons with disabilities with diverse disability experiences.)**

(JUSTIFICATION: With respect to c) there needs to be a significant role for DPOs in national monitoring, that is not just limited to liaison. 17(3) of the Standard Rules state “Organizations of persons with disabilities should have considerable influence in the national coordinating committee in order to ensure proper feedback of their concerns.”)

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Article 34

INTERNATIONAL MONITORING

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PART IV Article XX SIGNATURE

The present Convention shall be open for signature by all States.

Article XX RATIFICATION

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article XX ACCESSION

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article XX ENTRY INTO FORCE

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article XX AMENDMENT

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.
2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.

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3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

Article XX RESERVATIONS

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General

Article XX DISPUTE SETTLEMENT

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention that is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State Party may at the time of signature or ratification of the present Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of the present article. The other States Parties shall not be bound by that paragraph with respect to any State Party that has made such a declaration.

3. Any State Party that has made a declaration in accordance with paragraph 2 of the present article may at any time withdraw that declaration by notification to the Secretary-General of the United Nations.

Article XX DEPOSITARY

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article XX AUTHENTIC TEXTS

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The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

The Secretary-General of the United Nations shall transmit certified copies of the present Convention to all States.

IN WITNESS THEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

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