

# ...Towards Visibility of Disabled Women in the UN-Convention



## Proposals to complement the Draft Convention in order to fulfil the Principles of Gender Mainstreaming



Last Revision: November 19, 2004

### Preamble

After paragraph (n), which refers to the general gender perspective there should be a new paragraph, e.g.:

*“o) Recognizing that women and girls with disabilities are subject to multiple discrimination and therefore suffer particular disadvantages*

*and that specific measures are needed to ensure full enjoyment of their human rights, their fundamental freedoms and full participation (and) of all rights set forth in this convention on the basis of equality,“*

The first part of the sentence corresponds to the EU proposal made during the 3<sup>rd</sup> session of the Ad Hoc Committee (cp. report, A/AC.265/2004/5). Nevertheless we find it important to emphasize already in the preamble that special measures are needed to fight discrimination against women with disabilities. In our opinion, this would not be a novelty within human rights instruments as the reference to measures can also be found in the last paragraph of the preamble of the Convention on the Elimination of Discrimination against women (CEDAW): “Determined to implement the principles set forth in the Declaration on the Elimination of Discrimination against Women and, for that purpose, to adopt the measures required for the elimination of such discrimination in all its forms and manifestations.”

As far as the EU has also proposed to refer to the specific risk of violence against women with disabilities in the preamble (cp. report, A/AC.265/2004/5) we are convinced that this should be done in the specific draft article 12.

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## **Art. 2 – GENERAL PRINCIPLES**

Here we propose a new paragraph (f) as also recommended by Canada, Mexico, Costa Rica and Norway during the third session of the Ad Hoc Committee and by the International Disability Caucus in their paper August 31, 2004.

*“The fundamental principles of this Convention shall be:*

*(a) ...*

*...*

*(f) equality between women and men.”*

## **Art. 4 – GENERAL OBLIGATIONS**

During the third session, Kenia proposed the following paragraph which should be supported:

*“g) to provide particular protection and support for persons with disabilities who are vulnerable on account of situations such as conflict and natural disasters or because of their status as children, women and persons living with HIV/AIDS.”*

Moreover, we refer to the recommendation of Korea concerning an article “15 bis: “Women with Disabilities” (cp. report, A/AC.265/2004/5). Paragraph 2. (a) of this Korean proposal could also be included into Art. 4:

*“(..) To include a separate reference to the protection of the rights of women with disabilities in laws pertaining to women and persons with disabilities;”*

This suggestion corresponds to the standard of German legislation; e.g. Book 9 of the Social Code – Rehabilitation and Participation of Disabled Persons as well as the German Act to guarantee the Equality of Rights of Persons with Disabilities have separate references to the special needs of women with disabilities.

## **Art. 5 – PROMOTION OF POSITIVE ATTITUDES TO PERSONS WITH DISABILITIES**

Besides the general prejudices people with disabilities have to face, women with disabilities in addition encounter prejudices precluding them from their self-determined lifestyle as women, e.g. concerning issues of partnership, motherhood, design of their professional life and other women-specific needs.

Therefore, this article should be complemented by three paragraphs:

*“1. States Parties undertake to adopt immediate and effective measures to:*

*(a) ...*

*(b) Combat stereotypes and prejudices about persons with disabilities, especially about girls and women with disabilities;”*

*“2. These measures shall include, among others:*

*(a) ...*

*(b) promoting awareness, including in all girls and boys from an early age and at all levels of the education ...“*

Furthermore a new paragraph 2. (e) should list specific measures in this context:

*“(e) promoting awareness about existing and possible contribution of women with disabilities to the development of society, the welfare of the family, the social significance of maternity of women with disabilities and their role in the upbringing of children;”*

This proposal complies with the penultimate paragraph in the preamble of CEDAW.

A good alternative is the recommendation made by Qatar during the third session in the context of article 2. (a) (cp. report, A/AC.265/2004/5). This proposal should definitely be supported but we would prefer to place it in article 5:

*“the promotion of measures to change prevailing negative attitudes towards the marriage and sexuality of persons with disabilities, especially girls and women with disabilities, and their founding a family, and the encouragement of the media to play an important role in removing such negative attitudes;*

## **Art. 6 – STATISTICS AND DATA COLLECTION**

Due to the report of the fourth session of the Ad Hoc Committee (cp. report A/59/360), the draft article has been shortened and the gender-disaggregated data collection has been omitted. Therefore the latest version has to be complemented as follows:

*“Where necessary, States parties undertake to collect appropriate and gender-disaggregated information ...“*

Or:

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*„Where necessary, States parties undertake to collect appropriate information, disaggregated by gender, to enable them to formulate ...“*

In our opinion, it is absolutely vital to codify at least gender-disaggregated data collection as suitable data is paramount in recognizing gender-specific problems and taking effective measures.

We also refer to the Korean version in their proposed article “15 bis: Women with Disabilities”:

*“(.) Incorporate women with disabilities in social surveys and statistics collection efforts and collect gender-disaggregated data on persons with disabilities;”*

### **Art. 7 – EQUALITY AND NON-DISCRIMINATION**

The list of other grounds for discrimination that has been deleted according to the report of the fourth session should be included into the preamble (cp. report A/59/360). As women with disabilities always have to face double discrimination, it is important to make this clear in article 7 which has a key position within the convention.

### **Art. 8 – RIGHT TO LIFE**

This article is to be complemented as proposed in the paper of the “International Disability Caucus“ of August 31:

*„State Parties reaffirm the inherent right to life of all persons with disabilities, and shall take all necessary measures to ensure its effective enjoyment by girls and boys, women and men in all stages of life.“*

### **Art. 10 – LIBERTY AND SECURITY OF THE PERSON**

If women with disabilities are deprived of their liberty they have to be treated according to their specific needs. Therefore we propose as follows:

*„2. States Parties shall ensure that if persons with disabilities are deprived of their liberty, they are:*

*(a) treated with humanity and respect for the inherent dignity of the human person, and in a manner that takes into account the needs they have because of their disabilities and their sex;*

*(b) ...“*

Moreover we support the Mexican proposal during the third session (cp. report A/AC.265/2004/5) making the following amendment:

*“4. The States Parties shall commit to make a thorough revision of their legal frame, in criminal and civil matters as well as in execution of sentences, in order to take into consideration the different types of disabilities as well as the gender perspective and adapt their legal frame to guarantee the respect of the human rights of the persons with disabilities who are deprived of their freedoms for the commission of a crime.“*

## **Art. 12 – FREEDOM OF VIOLENCE AND ABUSE**

In order to emphasize the gender-specific risk for women with disabilities of becoming a victim of violence and to call on states to take effective measures, paragraph 1 phrase 1 should be completed as follows:

*“States Parties recognise that persons with disabilities are at greater risk, both within and outside the home, of violence, injury or abuse, neglect of negligent treatment, maltreatment or exploitation, including gender based forms of violence such as sexual exploitation, abuse, forced sterilization, forced marriage and isolation.*

An alternative is the EU proposal for the preamble during the third session, but we would prefer to place the phrase in article 12:

*“States Parties recognise that persons with disabilities, in particular women and girls, are at greater risk, both within and outside the home, of violence, injury or abuse, neglect of negligent treatment, maltreatment or exploitation, including sexual exploitation and abuse – “*

Accordingly, paragraph 1 phrase 2 is to be completed as follows:

*“States Parties shall, therefore, take all ... measures to protect persons with disabilities ... from all forms of violence ... including gender based forms of violence such as sexual exploitation, abuse, forced sterilization, forced marriage and isolation.”*

Or:

*“States Parties shall, therefore, take all ... measures to protect persons with disabilities, in particular women and girls, ... from all forms of violence ....”*

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Paragraph 3 codifies measures to prevent violence. We encourage complementing this article with measures to strengthen the self-confidence of women in order to put them in a position to fend off violence and abuse, e.g.:

*“3. States Parties shall take all appropriate measures to prevent violence, ..., by ensuring ... support ..., including the provision of information and the promotion of exercises for women and girls with disabilities to strengthen their self-confidence.”*

The Indian proposal made during the third session should also be supported:

*“3. States Parties shall take all appropriate measures to prevent, violence ... sexual exploitation and abuse, especially against children and women with disabilities, ...“*

#### **Art. 14 – RESPECT FOR PRIVACY, THE HOME AND THE FAMILY**

As already emphasized in the context of article 5, women with disabilities face prejudices and barriers in reference to their role as a contributing member of the family, partner, wife and mother. Therefore, it is very important to make women visible in article 14.

We appreciate that the draft refers to women with disabilities in article 14 paragraph 2. (b). This must not be changed. According to the report of the third session of the Ad Hoc Committee, the Holy See strongly supports the paragraph as well.

With regard to paragraph 2. (c) and (d) of article “15 bis: women with disabilities”, recommended by Korea, article 14 could be completed as follows:

*„2. States Parties ... shall ensure:*

*...*

*“(g) The protection of the motherhood of women with disabilities by developing and disseminating policies and programs for assistance based on the recognition of the special needs of women with disabilities in pregnancy, childbirth and post-partum health care and child care;*

*(h) That women with disabilities are not deprived of their right to work due to their pregnancy or childbirth, and provide the necessary assistances in this regard;”*

Again the proposal of Qatar (cp. above to article 5):

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“(..) the promotion of measures to change prevailing negative attitudes towards the marriage and sexuality of persons with disabilities, especially girls and women with disabilities, and their founding a family, and the encouragement of the media to play an important role in removing such negative attitudes;

## **Art. 15 – LIVING INDEPENDENTLY AND BEING INCLUDED IN THE COMMUNITY**

We encourage to complement paragraph 1. (c) which addresses community support services by emphasizing community support for mothers and fathers with disabilities:

„1. States Parties to this Convention shall take effective and appropriate measures to enable persons with disabilities to live independently and be fully included in the community, including by ensuring that:

(a) ...

...

(c) That persons with disabilities have access to a range of ... support .... and that special attendance is given to mothers and fathers with disabilities.“

During the third session of the Ad Hoc Committee, Korea has proposed a specific article addressing women with disabilities. We have reservations that a specific article could result in reducing measures for women with disabilities on those stated in this one article and that states would only report on the basis of this article. But we are convinced that the strategy of gender mainstreaming has to be included throughout the convention, not only in one article.

Nevertheless, the paragraphs proposed by Korea can well be included in specific articles.

## **Art. 16 – CHILDREN WITH DISABILITIES**

The headline should be changed to „Girls and Boys with Disabilities“.

## Art. 17 – EDUCATION

In paragraph 1., the word "children" should be replaced by „girls and boys“. Moreover we propose to codify the equality of chances between girls and boys, e.g.:

*“1. States Parties recognize the right of all persons with disabilities to education on a basis of equality of men and women;”*

(Cp. also CEDAW Art. 10.)

## Art. 21 – RIGHT TO HEALTH AND REHABILITATION

UNICEF has reported that women and children receive less than 20 percent of rehabilitation services. There are too many states where women with disabilities do not have any access to medical services at all, even though they might depend on medical services even more than others. For this reason, we urge the Convention to complete article 21 paragraph as follows:

*“... In particular, States Parties shall*

*(a) Provide persons with disabilities, on a basis of equality of men and women, with the same range and standard of health and rehabilitation services as provided other citizens, including sexual and reproductive health services”*

## Art. 22 – RIGHT TO WORK

This article should also codify the furthering of vocational rehabilitation and the occupation of women with disabilities, e.g.:

*“.... including measures to:*

*(a)....*

*(..) Promote programmes furthering the vocational participation of women with disabilities;”*

Or paragraph (g) could be completed as follows:

*“(g) promote vocational and professional rehabilitation, job retention and return-to-work programs for both women and men;”*

## **Art. 23 – SOCIAL SECURITY AND AN ADEQUATE STANDARD OF LIVING**

The draft specifically refers to women and girls in paragraph 1. (b). This must not be changed.

## **Art. 25 – MONITORING**

An independent, effective and dynamic monitoring mechanism is to be an integral element of the new Convention. The structure should ensure disability and gender balance, with particular emphasis on the participation of women with disabilities. The guidelines for the preparation of reports must be evolved to ensure gender disaggregated reporting by the State Parties and women with disabilities must have access to the monitoring bodies.

We recommend equal participation of women with disabilities and their representing organisations throughout the treaty elaboration, implementation and monitoring process.

### **Throughout the Convention**

The draft talks of „persons with disabilities“. We propose to replace “persons” by women and men” to make women visible.

Berlin, November 19, 2004  
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