

Comprehensive and Integral International Convention on the Protection of the Rights and Dignity of Persons with Disabilities (UN Convention)

A specific article on Women with Disability?

So far there is neither an agreement among delegations nor among NGOs of disabled women whether there should be a separate article on women with disabilities, a mainstreaming of women's issues throughout the convention, or a combination of both.

The German organizations are not completely against a specific article on Women with Disabilities. A specific article on women with disability could well serve to call the States Parties' attention on the disadvantaged situation of women with disabilities worldwide. The Korean proposal, for example, includes important demands that are basic for the advancement of the situation of disabled women.

But considering experiences with the Convention on the Rights of the Child of 1989 (CRC), a specific article could unwittingly serve to limit the benefits of the Convention for women and girls: Also the CRC contains a specific article on children with disabilities, but evaluating the work with the children's convention, we must recognize that a separate article allows States Parties to report on their work only with regard to that article but not on how disabled children are faring in all the human rights areas listed throughout the convention.

Bearing in mind the UN's documents on women with disability and the principle of gender mainstreaming, it would be a step backward, if States Parties acted similar when reporting about the situation of women with disabilities based on this Convention protecting the rights and the dignity of (all) people with disabilities.

Disabled women are not a group

Disabled women and girls represent at least half of "people with disabilities" and not a separate group. But for various reasons there is a great need for actions in order to achieve the full enjoyment of their human rights. To identify and address the needs of disabled women, the Convention must include the gender perspective. It is the only way to motivate States Parties to consider gender issues, and specifically women's issues while taking action and reporting.

The general discussion on that matter shows us that many States refer to older treaties not having a clear gender perspective. Their main argument is that a lean treaty with a neutral language and perspective would more easily become widely accepted. Furthermore they state that if women would be specially mentioned in the Convention other groups have to be mentioned as well.

But notably, political developments and achievements in policy on female rights during the last years can not be ignored: The Fourth World Conference on Women took place in 1995, later on the General Assembly adopted the resolution 52/100 in 1997/1998 and in the meanwhile a majority of Member States committed themselves to the strategy of Gender Mainstreaming. Thus, there is an international consensus that gender issues are part of the UN's work and that has to have an immediate influence, on binding international legislation, and especially on disability policy.

For this reason the German organizations are convinced that Gender issues have to be covered throughout the Convention.

IDC's proposal for a draft article 15bis on Women with Disabilities

Designing a specific article on women with disability as it has been proposed by IDC now has the advantage of not concentrating on specific measures. Specific measures have to be included in the articles that cover the rights giving the basis for these measures.

But the IDC's proposal is referring to gender obligation and principles which gives the chance to include specific measures concerning women with disabilities into all other relevant articles of the Convention.

But there could be a problem when it comes to achieve the states consent on this article as far as it is referring to other human rights treaties.

Within existing UN treaties on human rights, it is not conventional to include legally binding references in one convention for existing conventions that have already been signed and ratified by States Parties. If the UN wants to complement a certain convention, customarily optional protocols are designed, that have to be signed and ratified. Or alternatively, guidelines and general recommendations are adopted by the responsible monitoring committee.

Furthermore, the target of this UN Convention for people with disabilities is to tailor the existing human rights of the existing conventions for people with disabilities. Thus, it is not necessary to refer to other treaties regarding the aim that States Parties shall guarantee women and girls with disabilities the exercise and enjoyment of human rights. The human rights of these treaties are included in the draft Convention for people with disabilities.

So if a specific article is considered to be indispensable it should concentrate on one or two paragraphs codifying basic obligations of States Parties, e.g. to ensure each girl and woman with a disability the enjoyment of all human rights and fundamental freedoms and the obligation to take appropriate measures (cp. IDC draft article 15 bis, Paragraph 1 and 2).

And such an article should be positioned at the beginning of the Convention where also other basic principles and obligations are formulated.

But beside this, disabled girls and women have to be mentioned in the preamble, to highlight their importance, and then their issues must be specifically addressed in all articles.

www.un-disabledwomen.org

Last but not least, again we would like to draw your attention on our internet side "Towards visibility of disabled women within the UN Convention" where we campaign for a broad gender approach throughout the Convention. Meanwhile many up porters from all over the world signed our campaign.

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