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United Nations Update

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UNITED NATIONS UPDATE

TOWARDS AN INTERNATIONAL CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

A UNITED NATIONS WORKING Group (Working Group) wrapped up a two-week meeting on January 16, producing the draft text of an international convention to protect and promote the human rights of persons with disabilities (Draft Text). The Draft Text is the product of a continuing effort by the Working Group and the United Nations General Assembly (General Assembly) to develop a comprehensive set of guidelines that will form the basis of ongoing negotiations between the state representatives at the Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities (Ad Hoc Committee). According to the UN, approximately 600 million people worldwide suffer from disabilities, and at least one quarter of the world's population is touched in some way by a disability.

BACKGROUND

At its 88th plenary meeting on December 19, 2001, the General Assembly established the Ad Hoc Committee to consider proposals in preparing a draft international convention on the rights and dignities of persons with disabilities. The Ad Hoc Committee held its first meeting from July 29 to August 9, 2002, and the second session was held on June 16-17, 2003. The third and fourth meetings will take place this year on May 24-June 4 and August 23-September 3, respectively. At future meetings, the Ad Hoc Committee will continue to work on the Draft Text produced by the Working Group. Established by the Ad Hoc Committee at its second set of meetings in June 2003, the Working Group is comprised of policy-makers, human rights experts, and representatives of disabled persons, and its main task is to synthesize recommendations by governments, NGOs, and UN bodies for the purpose of developing the Draft Text.

FREEDOM FROM DISCRIMINATION

According to Draft Article 2, one of the fundamental purposes of the proposed conven-

tion is to ensure, respect, and protect freedom from discrimination for persons with disabilities. To achieve these goals, the Draft Text provides a framework for equality and non-discrimination; equal recognition before the law; freedom from cruel or inhuman punishment; the right to life, liberty, and security of the person; and the promotion of positive attitudes towards persons with disabilities.

Draft Article 9 calls for the equal recognition of disabled persons before the law by calling on states to give disabled persons full legal capacity on an equal basis with non-disabled persons. States must ensure that disabled persons are provided assistance in proportion to the degree of assistance required, and relevant decisions should be made through procedures established by law.

Draft Article 11 applies the general principles enshrined in the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment to persons with disabilities. To prevent persons with disabilities from becoming the victims of cruel, inhuman, or degrading treatment or punishment, the Draft Text provides that disabled persons should be protected from forced institutionalization, and that they must only be the subject of medical or scientific experimentation with express and informed consent.

Recognizing that persons with disabilities are at greater risk of becoming victims of violence and abuse, Draft Article 12 calls on states to take all possible measures to protect disabled persons both inside and outside the home. The Draft Text obligates states to adopt specific measures aimed at preventing domestic abuse or negligent treatment, including sexual exploitation and abuse. In cases where disabled persons are the victims of violence or sexual abuse, states are required to provide for their physical and psychological recovery. States are also required to provide proper legal remedies against the perpetrators.

PROTECTION OF ECONOMIC, SOCIAL, AND CULTURAL RIGHTS

The Draft Text calls on states to ensure the protection of the economic, social, and cultural rights of disabled persons by implementing legislation that respects the privacy of disabled

persons; allows them to live independently as members of the community; ensures their right to work, education, and health care; and encourages their participation in political and public life. Below are some Draft Articles that seek to achieve these objectives.

Draft Article 19 calls on states to take appropriate measures to identify and subsequently eliminate the various obstacles impeding access by disabled persons to buildings, transportation facilities, information sources, and means of communication.

Draft Article 16 calls on states to recognize that children with disabilities have the right to enjoy a life of dignity, self-reliance, and autonomy, and that states should facilitate the promotion of this right by encouraging children to actively participate in the community. Whenever possible, states should provide free education, health care services, job training, and recreation opportunities to disabled persons. Furthermore, states should offer all appropriate information regarding these services to parents of disabled children, and it should promote a positive outlook among disabled children on their potential to lead a full and enriching life.

CONCLUSION

While the current Draft Text is not currently binding but meant to provide a basis for further negotiations, it is probable that the UN will eventually pass a binding Convention on the Protection and Promotion of Human Rights for Persons with Disabilities. The passage of such a document will have a much needed impact on the lives of persons with disabilities because it will influence domestic social and political norms, provide additional protection for disabled persons against human rights abuses, and give persons with disabilities stronger legal recourse for violations they might suffer. A binding document of this nature would also promote and support the fundamental right for persons with disabilities to pursue lives unencumbered by economic and social obstacles. *HRB*

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